

DÁIL ÉIREANN

AN COMHCHOISTE UM SHAINCHEISTEANNA RÍTHÁBHACHTACHA A THÉANN I GCION AR AN LUCHT SIÚIL

JOINT COMMITTEE ON KEY ISSUES AFFECTING THE TRAVELLER COM- MUNITY

Déardaoin, 22 Iúil 2021

Thursday, 22 July 2021

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí /Senators
Joan Collins,	Pauline O'Reilly.
Patrick Costello,	
Dessie Ellis,	
Denise Mitchell,	
Éamon Ó Cuív,	
David Stanton.	

Seanadóir/Senator Eileen Flynn sa Chathaoir/in the Chair.

Business of Joint Committee

Chairman: Attendees are all very welcome to our virtual public meeting today. Apologies have been received from Deputy Bríd Smith and Senator Ned O’Sullivan.

Before we hear from our witnesses, we have to attend to some committee business. I would like to clarify privilege and remind members that they must be in the Leinster House complex or in the Convention Centre Dublin to attend this meeting. If any member attempts to participate from outside of Leinster House, I will ask them to leave the meeting. I remind witnesses that because they are giving evidence from outside of Leinster House, they may not have the same privilege as if they were in Leinster House. They may think it is appropriate to take legal advice on this matter. They are again reminded that they should not criticise or make charges against any person or damage the good name of any person. They must stop if I say that I think they are breaking the rules.

We have already agreed the minutes from 1 July in our private session. For practical reasons, can we approve the minutes of the committee meeting held on 1 July? Is that agreed? Agreed.

Before we hear from our witnesses, I propose we publish their opening statements on the committee website. The opening statements are from the Free Legal Advice Centres, FLAC, and the Irish Human Rights Equality Commission, IHREC. Is that agreed? Agreed.

Traveller Accommodation: Discussion (Resumed)

Chairman: This is our fourth meeting on Traveller accommodation. On behalf of the committee, I welcome today’s witnesses. We will be discussing legislative policies around funding and accommodation for the Traveller community. The question is basically around implementation at the local level. We will consider two related topics together today, which I hope we will be able to address. The question is around implementation of the policies that are already in place. It is hoped we will get some answers around that today. Our first topic is access to housing and accommodation, including Traveller-specific accommodation, with representatives from FLAC. Our second topic is equality reviews on the provision of Traveller accommodation by local authorities with representatives from IHREC.

From FLAC, I welcome Ms Sinéad Lucey, managing solicitor, and Mr. Christopher McCann, solicitor. I call on Mr. McCann to make his opening statement for five to ten minutes.

Mr. Christopher McCann: I thank the Chair. The Free Legal Advice Centres, FLAC, welcomes the opportunity to participate in this committee’s hearing on the subject of access to housing and accommodation, including Traveller-specific accommodation. Since early 2020 FLAC has operated a dedicated Traveller legal service, supported by the Community Foundation for Ireland and in co-operation with a steering group of representatives from all of the national Traveller organisations. The purpose of the Traveller legal service is to address and highlight the unmet legal need of the Traveller community, through legal representation and the provision of legal training and assistance to Traveller advocates.

Since its launch, the Traveller legal service has received more than 90 inquiries from Travellers and Traveller advocates requesting legal assistance. To date, the Traveller legal service has

formally represented Travellers, either through entry into or bringing proceedings, or preparing a case and issuing pre-action correspondence, in 20 instances. While many of these cases involve the consideration of multiple areas of law, the majority concern housing law issues, such as the failure to provide Traveller-specific accommodation, inadequate standards in Traveller-specific accommodation, evictions and the failure to provide emergency accommodation. FLAC's evidence to the committee is predicated on its experience of providing legal assistance to the Traveller community via the Traveller legal service. It is our firm belief that equal access to justice, an unrealised ideal in the State, must form a core element of addressing the issues being considered by the committee today.

While there is no unitary definition of what the right of access to justice entails, its importance to societies governed by the rule of law is reflected in the recognition of aspects of the right under the Constitution and also international human rights instruments, such as the European Convention on Human Rights and the EU Charter of Fundamental Rights. Access to justice can be conceived of as a gateway right, meaning that it operates as a prerequisite to the fulfilment of other substantive rights. Without the possibility of receiving access to legal information, early advice and representation, an individual's entitlements under the law are rendered illusory. By way of salient example, it took a judgment of the High Court in the case of *University of Limerick and Ryan* to first recognise the State's statutory obligation to make provision for Traveller-specific accommodation.

It is well documented that the State is undergoing a multidimensional housing crisis. One aspect of this crisis is the disproportionately high level of homelessness among Travellers. A long-standing and related aspect is the failure of the State to deliver on its commitments as envisaged by the Housing (Traveller Accommodation) Act 1998, which has resulted in a chronic under-supply of Traveller-specific accommodation. In FLAC's experience, many of the issues faced by Travellers in relation to housing, such as challenging evictions, accessing emergency accommodation, or being provided with Traveller-specific accommodation, are justiciable issues. That is to say, they are issues which require the input and expertise of legal professionals and, if necessary, the judgment of a court, to clarify and enforce entitlements and obligations. Notably, FLAC's experience is in fact consistent with international research, which has found that vulnerable groups are more likely to suffer from justiciable problems.

As it is currently constituted, the State's scheme of civil legal aid does not explicitly extend to the provision of advice and-or representation in cases concerning housing and evictions. Nor could the scheme respond in a sufficiently timely manner to evictions, which in some circumstances see Travellers provided with no notice or a period of 24 hours in which to vacate a site, on pain of potential prosecution and-or having his or her caravan impounded. Civil legal aid is also currently unavailable to parties appearing before quasi-judicial tribunals such as the Workplace Relations Commission. The import of this is that a Traveller who has been discriminated against in the provision of housing or access to Traveller-specific accommodation, an issue which has been very comprehensively highlighted by our co-attendees, the Irish Human Rights and Equality Commission, that Traveller cannot access legal aid to litigate his or her claim with the benefit of advice and representation.

The remainder of FLAC's evidence addresses recommendations for the reform of housing legislation as it relates to Travellers. However, it is our firm submission that any reform of substantive law must be accompanied by an expansion of the scheme of civil legal aid to unambiguously offer and provide advice and representation on matters related to housing, evictions and appearances before quasi-judicial tribunals.

In regard to eviction legislation, a local authority wishing to evict a Traveller living on the roadside or an unofficial site has no fewer than five separate legislative mechanisms to do so. Each of these mechanisms carries with it a risk of prosecution, of the Traveller having his or her caravan, that is to say his or her home, towed and-or impounded, and all but one may be invoked on short or no notice and without prior or subsequent recourse to a court or other independent authority. In particular, under the provisions of the Criminal Justice (Public Order) Act 1994, commonly known as the criminal trespass legislation, the mere presence of a Traveller's caravan on local authority land without explicit permission constitutes an offence. That is an offence for which the Traveller legal service's clients have in fact been prosecuted. In contrast to that situation, a local authority wishing to evict someone from a dwelling which it owns, even where there is no legal basis or right for the person being there, must first apply to the District Court for a possession order. The proceedings are on notice to the person against whom the order is sought and the order may only be granted by the court if it is satisfied that it is proportionate and reasonable, having regard to all the circumstances of the case. In FLAC's submission there is no justification for the disparity between the protections afforded to a squatter in a local authority dwelling and the absence of such protections for Travellers living on unauthorised sites. Indeed, the European Committee of Social Rights has found that Ireland is in fact in breach of Article 16 of the Revised Social Charter for the continued use of certain of these provisions in the absence of adequate safeguards, such as the provision of legal aid, for those against whom the provisions are invoked.

FLAC has therefore recommended for the introduction of reforming legislation to ensure that, other than in the most exceptional circumstances, a family home can never be interfered with, and not until there has been a merits based determination involving a proportionality assessment by a court, and accompanied by a requirement to offer alternative appropriate accommodation to homeless families.

On the issue of Traveller-specific accommodation, in 2018 then Minister of State at the Department of Housing, Planning and Local Government, Deputy Damien English, established an expert group to review the Housing (Traveller Accommodation) Act 1998 and other legislation impacting on the provision and delivery of accommodation for Travellers. The expert group's report was published in July 2019 and it concluded that the 1998 Act must be overhauled, its failings having been evidenced by an extremely high rate of Traveller homelessness, failures to meet the scale of accommodation needed by Travellers and an increase in those living in overcrowded conditions. FLAC considers that the recommendations of the expert group must be implemented in full and without further delay. In particular, FLAC considers it a serious flaw of the 1998 Act that councillors may adopt a programme for the provision of Traveller accommodation for a period of five years, which the local authority is legally bound to implement, yet vote against the delivery of components of that programme with impunity. This pattern of voting for, and then against, Traveller accommodation, has been identified as a significant blockage to the delivery of Traveller accommodation by the Traveller legal service's clients, by the steering group which oversees the service, the expert group report and also independent research commissioned by the Housing Agency.

In circumstances where this committee's current module is examining the issue of access to Traveller-specific accommodation, it cannot ignore the evidence pointing to the actions of councillors in voting down plans for Traveller-specific accommodation as a significant obstacle to be addressed. Accordingly, FLAC concurs with the recommendations of the expert group for the introduction of legislative provisions suspending the reserved function of councillors for the approval of proposals for Traveller accommodation, and also for the introduction of legisla-

tive provisions providing for an alternative and direct route for Traveller accommodation to be provided through An Bord Pleanála.

FLAC's evidence today has addressed a number of issues which are raised in its written submission. These are the matters we wished to discuss in the time available to us today. However, we would really encourage the committee to review and consider the written submission in full, which also refer to the issues of Garda vetting of social housing candidates; standards in Traveller accommodation; the application by local authorities of a local connection test; section 42 of the Irish Human Rights and Equality Commission Act 2014, commonly known as the public sector duty; and an expansion of the Equal Status Acts. My colleague, Ms Lucey, and I are happy to address any questions the committee may have. We thank the Chair for the opportunity to speak to the committee today.

Chairman: Thank you very much for that. Next we have the Irish Human Rights and Equality Commission, IHREC. I welcome Ms Sinéad Gibney, chief commissioner, Mr. Michael O'Neill, head of legal, and Dr. Rosaleen McDonagh, commission member. I call Ms Gibney to make her opening statement for five to ten minutes.

Ms Sinéad Gibney: I thank the Chair for the invitation today. I am joined by commission member, Dr. Rosaleen McDonagh, and our head of legal, Mr. Michael O'Neill. We are delighted to have this opportunity to appear before the committee so quickly after the publication last week of the accounts of our equality reviews into Traveller accommodation. It is very important to us as a commission, which is directly accountable to the Oireachtas, to be able to come before members about these reviews, and the systemic issues that they identify. This is the very first equality review of every local authority in the country.

Let me set out role of the commission and the statutory mandate which underpins these equality reviews. The Irish Human Rights and Equality Commission is Ireland's independent national human rights institution and national equality body. It was established and operates under the mandate of the Irish Human Rights and Equality Commission Act 2014. Section 32 of that Act gives us specific statutory powers to carry out equality reviews and to prepare equality action plans. Equality reviews are a means for an organisation, in this case a local authority, to benchmark or audit its practices, here the delivery of Traveller-specific accommodation, against its obligations under the Equal Status Acts in order to assess whether the organisation, as a service provider, is fulfilling its statutory obligations to ensure equality of opportunity, and an absence of discrimination.

In exercising this legal power, in June 2019 we invited each of the State's 31 local authorities to conduct an audit of the level of equality of opportunity and discrimination that exists in relation to members of the Traveller community who wish to avail of Traveller-specific accommodation. It related to the drawdown by the council of the Traveller-specific accommodation budget provided by the Department of Housing, Local Government and Heritage, and to the council's obligations under the Equal Status Act.

Each council was also asked to conduct a review of its practices, procedures, and other relevant factors in this context, having regard to the Equal Status Act. This is the first time the commission has used this equality review power to audit a public service which is provided in every local authority area. We have chosen to do this to examine, in a more systematic way, the policy and practices governing Traveller accommodation provision around the country. This work is complementary to the public sector equality and human rights duty, as Mr. McCann mentioned, which seeks to promote a more proactive cultural change in public bodies, a culture

where human rights and equality implications of policy decisions and administrative processes are considered as a matter of course.

It is important to note that for the commission, this work has been in addition to other continuing work on Traveller-related discrimination. This work with, and for, Travellers comes under multiple strands of our mandate. It has included the litigation of individual cases through the courts, bringing forward new research to inform and shape policymaking, and using other tools such as our annual grants programme, to support the capacity of local and national Traveller groups, particularly around access to justice. As we appear today the commission has more than 100 Traveller clients on file with our legal team, across specific instances of challenging potential discrimination. The vast majority of these cases are related to accommodation.

After two years of work and correspondence with local authorities, last Wednesday we published accounts of these equality reviews, alongside our annual report. While this publication does not mark the end of this legal process, we considered it important at this key stage to inform people of the work done to date. We particularly wanted to allow stakeholders, including local Traveller advocacy groups, to see, and to use in their own campaigning, our recommendations to each local authority. In preparing for the publication of these equality review accounts, we held meetings with both of the national Traveller representative bodies, and separately myself and Mr. O'Neill held a briefing with almost 40 Traveller local representatives from across the country. As members will have seen, we have done an individual report for each local authority. Each of those reports contains its own individual recommendations from the commission.

What have we learned? I will summarise some of the overarching findings which have emerged. On the underspend in the drawdown of allocated funds, there is evidence that underspend is being driven by both structural issues in how funding is allocated and drawn down, but also by a frequently deficient process for identifying actual and future housing needs. On evidence of poor information gathering to inform decision-making, there is evidence that the process for assessing the number of Travellers in a given local authority area varies from council to council, and that the process itself can be deficient in capturing accurate information. On identifying Travellers' true accommodation preferences, that is, Traveller-specific accommodation versus social housing, is not adequately transparent, nor does it appear to have been independently verified over time. We are concerned that a lack of Traveller-specific accommodation, or exasperation over the conditions in such accommodation, means that Travellers perceive that they have no choice but to apply for social housing. We have also identified specific issues of concern regarding culture and identity, including a lack of analysis of Travellers' perspective in the private rental market; little consideration of Travellers with disabilities; a need for staff training; and the fact that several councils set out indigenous requirements for Travellers to be able to avail of social housing supports and Traveller-specific accommodation. We have identified the need for these local authorities to review this requirement to ensure that there is no discrimination when compared to the requirements on the wider community in access to social housing.

We were particularly concerned that in most of the equality reviews, there was little or no evidence of participation by the local Traveller accommodation consultative committee, LTACC, or of any consultation with local Travellers or Traveller organisations, to inform the equality review. Similarly, while there was some evidence of good practice, in many local authority areas, Travellers had little participation or input in relation to the management of their sites.

This committee has heard extensively about the issues of systemic discrimination as it re-

lates to Travellers and housing. Our commission has also brought forward research with the Economic and Social Research Institute, ESRI, on discrimination and inequality in housing in Ireland, which demonstrates that Travellers are almost ten times more likely to report discrimination in access to housing; while Travellers represent less than 1% of the Irish population, they make up more than 9% of the homeless population; 39% of Traveller households live in overcrowded conditions compared with less than 6% of all households; 84% of Travellers living in caravan or mobile home accommodation reside in overcrowded conditions; and Travellers are exceptionally reliant on social housing, with just under half - 49% - being social renters.

Associated with accommodation problems are a broader set of indicators across healthcare, educational access and decent work which are impacted by the conditions in which we live, including that the life expectancy for male Travellers is 15 years lower than for the settled population and 11 years lower for females; 13.3% of Traveller females were educated to upper secondary or above compared with 69.1% of the settled population; and 80% of the Traveller population is unemployed.

This year the commission is running a public awareness campaign combatting racism, entitled, *Because we're all human. Means we're all equal.* One of the participants in this anti-racism campaign, Mr. Martin Beanz Warde, said something which resonates with how Travellers are so often demonised. He said:

When one of us does something wrong, we all do something wrong. But when one of us does something good it's only one of us. You are the exception to the rule.

We need to ask the question, is the Ireland we want to live in, one where racism is accepted? While Travellers are a distinct ethnic group, we need to stop othering them but rather move to nurturing and valuing the distinct Traveller community and culture as a part of our shared national heritage and culture.

Ireland's provision of Traveller accommodation has drawn widespread international criticism, including from the UN, the Fundamental Rights Agency of the EU and the Council of Europe. The last 12 months alone have been marked by regular and disturbing reports and testimony on Traveller accommodation by organisations and bodies, including the Ombudsman for Children's Office and the Irish Traveller Movement. Our own legal casework over years has shown the appalling conditions in which Traveller families are forced to live. We have worked with a family, including a newborn baby, sleeping in the family car for months, including over winter; families, including members recovering from surgery for serious illnesses, living for long periods on so-called "temporary" halting sites, wholly unsuitable for human habitation; and a family living in settled accommodation in seriously overcrowded conditions, including one child with a significant disability and complex medical needs. These are just a sample of situations we see across the country.

Moving back to our work on these equality reviews specifically, a significant obstacle to overcome is the importance of cultural difference in the treatment of Travellers by the State in providing accommodation. Next year, on 1 March, will mark five years since Ireland recognised Traveller ethnicity. Today, these equality reviews show scant evidence of a full appreciation of the practical implications of cultural difference when providing services and engaging with the Traveller community. Aspects of Traveller culture, such as ethnicity, nomadism, use of caravans and horsemanship, are not adequately provided for in accommodation plans. The commission is clear now, as it was in 2017, that State recognition of Traveller ethnicity needs to be a catalyst for change in how we use resources on policies affecting Travellers. It is essential for our human rights and equality obligations that the State acts to translate that recognition of

ethnicity into real world and appropriate service provision by public bodies across Ireland.

I thank the committee again. We are happy to answer any questions from members.

Chairman: I thank Ms Gibney for a very powerful submission. Before calling members to ask questions or comment, would Dr. McDonagh like to make some short comments?

Dr. Rosaleen McDonagh: I thank the committee. I am delighted to be here. There is systemic and endemic racism towards Travellers and where there is racism, there is poverty. Where there is poverty, there is disability, illness and long-term ill health. My contribution comes from a lifetime of experiencing racism as a woman with a disability. I have lived through nine evictions of our family and I have lived on four different sites, each of them known as temporary, despite us living on them as a family for over eight years in two or three of them. On those sites, issues of maintenance, water access and toilet facilities were a constant worry. There was a lack of refuse and postal services, along with lack of a combination of other services. There was a constant threat of closure and eviction from those sites, which only exacerbated mental health challenges and threats to our physical well-being.

As a woman I know the gendered aspects not only of racism but its combination with other issues. I have watched mothers, children and fathers trying to manage in very difficult circumstances. Some mothers have had cancer, multiple sclerosis or other progressive and degenerative conditions. Children have sound and vision impairments and there are young adults who are deaf and who find it extremely difficult to access services because their accommodation needs are not being met. These are often the hidden stories behind Traveller accommodation issues.

I am very constrained about what I can say because, as the commissioner, Ms Gibney, points out, we are waiting for responses from 31 local authorities. I will make a few comments, if that is okay. There should be an overarching acknowledgement of racism in the matter of Traveller accommodation. It is real and not imagined. There is no use in using words like “discrimination”, “oppression” or “othering” as they do not quite capture what has been happening over the past 30 years.

The make-up of local Traveller accommodation consultative committees needs to be subject to more transparency. I know very well that organisations, both local and national, have played a part but there is also a mandate from within the community. I am not sure what the criteria are for settled people or their organisations to get on those committees. I ask for transparency in looking at who is on those committees, what their mandate is and where that comes from.

If the Chair indulges me for a couple of minutes more, I will speak about leadership. Over my life in Traveller politics, I have seen the incredible work and uncompromising commitment from Traveller activists, including women and men, teenagers, older people and those of us in between. When called upon, we have played our part and taken responsibility. That was particularly evident in recent times with matters arising from Covid-19, with community health workers demonstrating tremendous commitment to the safety of our community, particularly children and those of us with disabilities.

This leadership always feels one-sided, however, and I call on local councillors, politicians and young, vibrant and dynamic settled people looking for a new and more equal relationship with Travellers to show leadership and try to make a new history. This new history should mean an issue like Traveller accommodation should not hold us back in every other area of our lives.

My first input on Traveller accommodation was back in 1995 with a task force on the Traveller community. I am really disappointed that nothing much has changed. The make-up of committees may have changed. Reports may have become more sophisticated in how they are written but one thing has not changed, that is, the lives and living conditions of my community, the Travelling community.

Chairman: I thank Dr. McDonagh for her input this morning. It is important that the committee hears the insights and lived experience of members of the Traveller community who know how real discrimination and racism is for our community. Hopefully, Dr. McDonagh will get another opportunity to contribute when we have questions from Senators and Deputies. I open the floor to members of the committee.

Deputy Joan Collins: I thank the contributors for their opening remarks. I am taken by Dr. McDonagh's comments because lived experience has to be high on the agenda when we are trying to tackle these issues. Generally, the feeling in the community is that it is time for action. All the talking has been done and we need action.

Mr. McCann stated the Traveller legal service had received more than 90 inquiries from the Travelling community. Were they received in a certain timespan, whether one year or ten years? There seems to be a small number of people coming forward on such crucial issues.

Mr. McCann also made a point about the expert group established by the Minister of State, Deputy English, and a few of the issues the group raised. From the point of view of FLAC, will Mr. McCann highlight one or two key recommendations this committee could take up that might make an impact in cutting across the lack of action by local authorities in relation to Traveller-specific accommodation? We have had much legislation and many reports and we have heard a lot of comments on human rights, yet as Dr. McDonagh, who made a submission to the task force in 1999, said, we are still where we were in 1999.

Mr. Christopher McCann: In response to her first question, the 90 inquiries have been received since the launch of the legal service. The service was formed in March of last year and formally launched in July. As everyone will realise, that coincided with the onset of Covid. It is difficult to say whether those 90 inquiries are representative of the number of inquiries that would be received in normal times or reflect the fact that people's minds were on other things. The service we have available consists of one full-time solicitor, namely, me, and my managing solicitor, Ms Lucey, who probably has to help me more than she would like. We are incapable of coping with the demand on issues for which we can see, on an initial analysis, have a legal solution. The response to the Deputy's first question is that the 90 inquiries have been received since March of last year. However, we must also take into account that we formally launched and announced the service only in July.

In relation to the second question, it would be difficult for me to gainsay the findings of the expert group. This was a group of three members with a range of expertise which was specifically looking at why the 1998 Act was under-delivering on Traveller accommodation. Two particular recommendations in that report, which I mentioned, could lead to a significant obstacle being removed insofar as the delivery of Traveller accommodation is concerned. The first of those is to remove the mandate of local councillors when it comes to delivering Traveller-specific accommodation. As I mentioned, under the 1998 Act, councillors need to adopt a programme of accommodation with their plans for the five-year period. We have seen on more than one occasion councillors who voted in favour of a programme then refusing components of that programme. I cannot speak to their reasons for doing that but it seems to be a patent

inconsistency and hard to reconcile with councillors' obligations under the 1998 Act.

The corollary of that is the need for another way to deliver Traveller accommodation. The recommendation of the expert group is that legislative provision should be made to allow a direct request for permission to An Bord Pleanála. Those two associated recommendations, to my mind, would remove a significant obstacle. I stress, however, that the expert report is comprehensive and looks at the issues from every angle. Our firm recommendation would be that every conclusion and recommendation of that report be implemented without delay.

Ms Sinéad Gibney: Deputy Collins asked what the committee could do in terms of actions. I urge members, within their political groupings, to urge their colleagues at local authority level to engage with the equality review process. All local authorities now have until the end of August to come back to us with information on what they have done to address any issues that have been identified, and also anything they plan to do within a certain timeframe. That will bring us to a position where we then consider any potential next steps that we might take. Within that window, it is a good time for councillors who want to show leadership in this area and effect change, as well as staff in those local authorities, to do so. In terms of what members can do, if they were to urge their colleagues to engage with this process, that would be wonderful.

Dr. Rosaleen McDonagh: I ask the Chairman to accommodate my contribution speech by letting me have an extra moment. There are two points. The first is the lack of the use of ethnic equality identifiers. The local authorities are still not using these in full. This is evident in what Ms Gibney said earlier. Those identifiers are important as they also allow Travellers to freely identify their ethnicity. In recent years, we have seen other communities, such as the gay community, flourish and become part of Ireland's fabric of diversity. There is still a stigma in terms of not wanting to have Travellers live in certain areas. That does not only apply to social housing but also with regard to whether Traveller-specific sites are allowed to be built.

I mention how far we as a country have moved. It does not really matter. We have all sorts of legislative practices but the problem, specifically around accommodation, is the lack of implementation. The evidence suggests that this is not happening. I echo the Chair, Senator Flynn. Other communities have had the social mobility to achieve, whether it is a leaving certificate, a new job or being able to move up to senior Civil Service level. Our community has not had that. One or two of us have. That is not enough to implement change. We do not have the social network within those environments for someone to open the door or lower the ramp to pull a Traveller up. It is worrying that in 2021, we still have to deal with the old NIMBYism where people see Travellers and say not in our backyard, not in my cul-de-sac and not in my area. How do we expect a cohort of Traveller children, including deaf and disabled children, to progress in education when they are living in cars, as Ms Gibney said? People are shocked when they hear about people living in cars. Those cars do not have toilets. They are not caravans, mobile homes, camper vans or holiday places. These are environments where there is no place to wash, to go to the toilet or to have something to eat. People make out that there is a facade that somehow we have all moved on and that Ireland has moved on, since we have gay marriage or equality legislation. We have not moved on. Our community is still bound to the old Traveller accommodation.

Deputy Dessie Ellis: I thank everyone for their presentations. As Dr. McDonagh said, there has been little change in the 20 years that I have been involved between being on the council in Dublin and being a Deputy. While there have been some positive changes, on the ground, there is very little change. Many of the same problems seem to crop up. I am curious what effect Covid has had for FLAC. Has it thrown up more challenges in dealing with differ-

ent issues? An example of what I am talking about is the Gavin family on Ratoath Road. There are 15 members of the family and there is an issue with water being cut off. They are getting tankers but have no direct water, which is a disgrace and should not be allowed. Fingal County Council said there is a legal issue with the land which has to be sorted out before it will put running water in. It was originally there but was cut off for a particular reason. Issues such as the redevelopment of St. Margaret's in Ballymun come to me. I have been going to meetings about that for more than ten years. Nothing has changed with the accommodation or the number of people looking for it. In many cases, they are forced to look outside their community and for the housing assistance payment or otherwise. It is a disaster to be pulled out of their own community. That has torn the community apart over the years, with people being pushed out due to issues relating to rent supplement or otherwise and accommodation not being provided.

The equality review is important. There is no doubt that Sinn Féin councillors will engage with that and have good input. We passionately agree that it needs to be ramped up and pushed as much as possible. The discrimination and issues that develop in different communities are frustrating. I still see much of the discrimination that was also happening 20 years ago. We must have people pushing and making sure that we address this so that this is not allowed to continue. How much information does the Traveller community have with regard to FLAC and other bodies? Apart from Pavee Point and such organisations, is the community aware that FLAC exists? Is the community aware of the equality review? I am sure people should have input into it.

Mr. Christopher McCann: The question about the level of knowledge of the Traveller legal service among the wider community would be difficult for me to answer, not being a member of the community and not being on the ground. I emphasise that when the Traveller legal service was established, the premise adopted for how it would work was that we would seek to bring strategic litigation. That is to say that we would seek to bring litigation where the result could potentially be a judgment to enforce or clarify a law or something of that nature. The result can then be used by the wider community or relied on later. The reason for setting the service up in that way is that it is a small service. If we are to be a service for the whole Traveller community, which it is in a certain sense, subject to the need to bring strategic litigation, we would not be able to cope. That is why, in our opening statement and evidence, we have really emphasised the need for reform of civil legal aid. There is a clear amount of unmet legal need but it is at a level which our service could never address alone. In our view, the only entity capable of doing so is the State. Relying on philanthropy to fill a social gap like that is unsustainable.

Ms Sinéad Lucey: FLAC has a telephone helpline and clinics throughout the country. We would recognise that Travellers probably do not access our general services, phone line and clinics. The Traveller legal service was set up because you have to reach out to the community, make sure that it knows that you are there and that a dedicated service exists. Regarding access to legal services for Travellers, the distinct legal issues that impact on the Traveller community do not impact on the general population or the settled community. They may have family law problems that solicitors can deal with and so on but the specific issues regarding Traveller-specific accommodation, evictions and equality are not the common currency of most solicitors so, even if we were to refer Travellers to our clinics, they would probably meet a solicitor who would be unable to deal expertly with their inquiry. That is why, in our submission, we have emphasised the importance of legal services for Travellers being provided by people who are experts on those issues. I just wanted to add that in terms of that analysis.

Dr. Rosaleen McDonagh: I would also like to say that Traveller organisations provide in-

formation on Ms Lucey's service but Traveller organisations are under-resourced. It is not our mandate to be a service provider. Are we being realistic? If you have been evicted or denied accommodation, do you have the emotional, psychological, physical and financial strength in your heart, mind and body to start thinking about going to a solicitor? Some Travellers do, and I admire them, but, on the whole, when you are in the middle of a crisis and are minding a load of small children or your elderly parents, are you able to think about going to the local solicitor, who may not want you there anyway? We do not want to spend our whole lives having to secure our human rights through a legal process. That does not solve the problem as a whole. It may for individuals but, as a community, it does not move us forward and it does not put any responsibility on the local authorities.

Ms Sinéad Gibney: I will add some further detail with regard to Deputy Ellis's question on the involvement of Traveller groups in the equality review process. We engaged with approximately 40 representatives from local groups and held a briefing session ahead of the publication of the data we released just last Wednesday. We are going to follow that up with further engagement with those groups now that they have had a chance to digest it. The reason we are investing in that exercise is that the nature of this power is that it is a persuasive power and an enforcement power. The information we gathered from the local authorities was given to us by those local authorities. As has been identified, there was a real lack of participation from and engagement with the local Traveller communities. It is really important that those communities, groups, families and people now look at the information that has been gathered and validate it, interrogate it and use it for their own campaigning and advocacy work. It is important to build on it. That is important to us and that is why we chose to put it out into the public domain at this stage. We will continue to engage with those groups and to provide any support that we can to help them to use this information to the best effect.

Mr. Michael O'Neill: On foot of what Dr. McDonagh and Ms Gibney said, our experience with regard to litigation is that, if people have to litigate for the most basic life requirements such as shelter or sanitation, the lack of which really offends their basic dignity, the system is fundamentally failing. We do this all the time and we will continue to do it but, even within the confines of the system in which we operate, there are things that can be better. That is really important from our point of view in the context of the recommendations in each individual equality review. This is the spadework. I am talking about putting systems in place and about local authorities writing down what their basic expectations are, how the system works and what people can expect from the system and then implementing that. We accept that in the case of egregious breaches, we will have to continue to deliver legal services, just as FLAC and other legal organisations do. However, beyond that, there are ways to support people, including people within local authorities who are really committed to this area, to look at this through more of an equality lens and to promote the vindication of people's rights even on the basis of the legislation as it currently exists. It is hard work and it takes a bit of time but, if you can get those systems in place, the system will be improved.

Deputy Éamon Ó Cuív: This has been very interesting. Dr. McDonagh hit the nail on the head when she said that it is all about the lack of implementation. To be quite honest, we have a great amount of reports, committees and commissions of investigation but, looking at it through the lens of the people from the Traveller community for whom I work and whom I represent, there has been very little in the nature of implementation or of real change with regard to accessing basic services without difficulty.

I totally agree with Mr. McCann about the issue of Part 8. There is another issue involved,

which is the refusal of local authorities, in many cases, to transfer land to the likes of Cena. That requires the council itself, by which I mean the members, to make a decision. It is a major barrier to spending money, to getting things done and to progress. It is not something we should shirk away from. I was interested in the proposal, because I have been proposing the same thing for a long time, that these should go straight to the board. Let those who have an objection object, but the board should make a decision in line with national policy, which has been clearly outlined here time and again by Government but which is not being followed by the local authorities. When I say that, I mean the actual local authorities because, while there are obviously differences between individuals, in many cases I find that social workers and officials are very sympathetic to the Traveller community. That is not true of all of them, but it is of very many. There is a major structural problem arising from having to go through Part 8.

That leads me on to the set of 31 reports which have been carried out by the Irish Human Rights and Equality Commission. I was looking at the one in respect of County Galway. My specific question is: are these the final recommendations or are we to get a final report? Many of the recommendations are what I would call soft recommendations, by which I mean that you can do the things recommended while not fundamentally changing anything, such as Part 8, on the ground. I have a major issue. I am delighted that the number one recommendation related to the issuance of caravan loans. That is a major challenge at the moment. It is not happening and people are living in freezing conditions in inadequate caravans because that scheme is not working. I have a case with the Ombudsman on behalf of a constituent in this regard. We are pressing to get an answer but have not yet got one.

Looking further through the report, I do not see the council or the commission's recommendations addressing this Part 8 issue. There is a further complication in Galway but I will discuss the Part 8 issue now. It is a major issue and has held up vital housing for Travellers. Settled people were also affected but I was dealing specifically with Travellers who were lined up for these houses, which were held up as a result of Part 8. In some cases, children with severe disabilities were also involved. It is not humane and it is not fair. It is wrong. Will the commission be making recommendations on this again and, going back to what Dr. McDonagh said, will they be a little more focused on getting action, implementation and change, whether certain people with certain powers want it or not?

I admire the work of FLAC, which is very important, but I fully agree with what Mr. O'Neill said. People should not have to go to the law to get a house from a public authority. It is wrong, immoral and cruel. It is also far too slow. If people with resources are fighting you, they are always at a big advantage. They are also more skilled at it. I know FLAC will do everything it can but at the end of the day, nobody - more importantly, no community because that is what we are talking about here - should have to go again and again to the law to get fundamental rights vindicated.

Going back to the IHREC witnesses, I have no doubt they will have seen the book, *Pluralism and Diversity in Ireland*, by Fr. Mícheál Mac Gréil. The last edition was published in 2011. Fr. Mac Gréil has been tracking this issue for 30 years. It is worth citing the report to show the witnesses from IHREC what it is up against as an equality authority. According to the report, 9% of settled people will accept kinship with a Traveller, 13.8% will accept friendship with a Traveller, 8.3% will accept a Traveller living next door to them, 8% will accept a Traveller as a co-worker, 18% believe that Travellers should not have citizenship and 9% believe they should be deported. This is scary stuff and dealing with that level of prejudice against Travellers must be a major challenge to IHREC.

This chapter of the book, which is sizeable, shows how deep this problem is in our society and the challenge faced by IHREC in vindicating the equal rights of the Traveller community within our society. That is manifest in so many ways every day of the week. I would be interested in hearing the response of the witnesses from IHREC regarding the challenge generally. I applaud what IHREC has done with local authorities and I look forward to getting the final report. I hope it does not pull any punches because there has been a total failure by local authorities to fulfil their statutory obligation, namely, provide housing of its choice to the Traveller community. When I say of its choice, I mean choice by type. We have a major challenge here and I am interested in hearing the response of the witnesses from the IHREC.

Dr. McDonagh hit the nail on the head. We have all the reports we want. The shelves are full of them but we are not actually getting that much change. The only place where Fr. Mac Gréil noted there had been change was in south County Dublin where there was a proactive city manager a number of years ago. During his period of office, there was a measurable improvement in the indices, not only of housing but, funnily enough, of community relationships. This was picked up when Fr. Mac Gréil carried out the surveys.

Ms Sinéad Gibney: The recommendations we put forward at this stage are the final ones of the equality reviews. We have a period for the authorities to consider the recommendations and come back to us with details of what they have done to address or implement some of those recommendations and what they plan to do within a given timeframe. We will then consider any further action we might choose to engage in. The natural follow on is the equality action plans, which are another part of that legislation. In the past, when we engaged with equality reviews and have not seen a terribly positive response to those recommendations, we followed up with an equality action plan whereby we can bind people towards firmer recommendations.

Across the rest of our mandate, as I mentioned in my opening statement, we continue to work on Traveller-related issues such as Traveller discrimination issues, a large part of which involves accommodation. We have a lot of ongoing litigation in this space. We are also engaged on a policy level and continue to use international reporting as a mechanism to keep pressure on the State from international bodies. This particular process is a more persuasive one. We are aware that it is a softer one but it is one tool in our armoury to engage on this issue. Traveller rights are and will remain a priority for this commission. I do not know if Mr. O'Neill wishes to go into more detail about the process.

Mr. Michael O'Neill: An equality review basically involves inviting a local authority to measure or audit itself against its equality obligations. I hear the point the Deputy is making in the context of Part 8. It is something that has been identified within the context of equality reviews but as Mr. McCann already said, that is the law as it stands. What we are really talking about in the context of the equality review is asking local authorities to benchmark themselves against their existing equality obligations and how they might improve the situation in that context. That is just one aspect of how to challenge this issue. It is such a huge issue and challenge that it will take a multilayered approach, including national politicians considering issues relating to amendments of the law in the context of the expert review group, local politicians and also individual officers within local authorities.

In the context of an equality review, many of the recommendations are steps that could be taken today. While they would not necessarily resolve all of the issues, they would improve the situation, certainly with regard to some of the issues with planning, training and ensuring the commitment to draw down certain amounts of money is seen through beyond the other restrictions that exist in the context of Part 8 and beyond.

Deputy Éamon Ó Cuív: Is it part of the law under which IHREC operates for it to make recommendations to government relating to the desirable changes in the law to ensure equality in our society? Presumably, that power is in the Act.

Mr. Michael O'Neill: It is but not within the context of this specific legal function and power, so within this legal power-----

Deputy Éamon Ó Cuív: I am not saying that but IHREC could consider the failure of Part 8 and make a recommendation to the Government within the law on the basis that Part 8 is being used in a discriminatory fashion.

Mr. Michael O'Neill: I will hand over to Ms Gibney.

Ms Sinéad Gibney: We could do such a piece of work in that area so I ask the Deputy to provide us with more detail or contact us if he would like to engage with us on that matter.

Deputy Éamon Ó Cuív: There is a saying in Irish - “tá a fhios ag madraí an bhaile.” The dogs in the street know how Part 8 is being used. I am suggesting publicly in this committee that IHREC investigate immediately whether Part 8 is being used in this way. It is interesting that FLAC mentioned this as well. I suggest that IHREC investigate the incidence of Part 8 refusals by councils of recommendations relating to Traveller accommodation or where the sale of land is taking place to provide that accommodation through voluntary housing associations, which is an equal and new way of stymying implementation. If I am right, and I am 100% confident and I think most members of the committee would accept that I will be proven right, I suggest IHREC make a firm recommendation to the Government that, in the interests of equality and what we said here about what was in that report by Fr. Mícheál Mac Gréil, the law be changed forthwith to deal with the Part 8 issue.

Ms Sinéad Gibney: We will consider it. IHREC has a mandate to protect and promote human rights and equality on the island of Ireland. We work across a significant range of issues. IHREC is governed by me, as chief commissioner, and 14 other commission members, who decide on the strategic priorities of the organisation. We will take the matter under consideration.

Deputy Éamon Ó Cuív: With no disrespect, looking at the evidence of all the different groups in society and other evidence, it appears the group most discriminated against and, therefore, the one that should be at the top of the pile with the most attention given to it is the Travelling community.

Ms Sinéad Lucey: I will pick up on a few comments made by Deputy Ó Cuív. I welcome his input, particularly on Part 8. The expert group on Traveller accommodation has already made recommendations on that particular issue. If those recommendations were implemented, the Part 8 issue would be resolved and it may not be necessary to do further work on the issue.

The other point that was raised was around the role of litigation, where it comes in and whether Travellers should be required to go to a lawyer in order to get access to things as basic as sanitary services or accommodation. While it is true they should not have to do so, Travellers come to us in numbers for these issues. We would emphasise that until the political class takes up the cudgels and finally resolves this issue, individual Travellers should have access to lawyers to take their case to the courts, as in any other system. If there is a systems failure, if legislation is not being implemented and if the Part 8 procedure becomes the victim of discrimination, that can be resolved through the courts. Then again, I do not see why it is inimical to the resolution of the more structural issues to have that balanced with individual Travellers

having access to appropriate and expert legal services. Let them take their issue to the court and have their say there. I do not underestimate the difficulty of doing that for individual Travellers. Individual Travellers come to us and IHREC with issues and if we do not have another solution for them, we should be able to take their cases and that should be resourced.

Deputy Éamon Ó Cuív: I would like to clarify what I said. In no way did I say individual Travellers should not have access to legal services or that I would not help them to access legal services. I am saying they should not have to do so in many cases. I am helping people every day. The hierarchy of procedures, which would normally involve making an application, getting refused, taking a review, appealing, going to the Ombudsman and then going to the courts, is a hell of a hierarchy for anybody to jump. Let us be honest about this. It is much easier for those with many resources to jump that than it is for those with few resources.

I can tell Ms Lucey from dealing with Travellers on the ground, no more than dealing with ordinary people, such as small farmers and many other people I deal with, that they are intimidated by having to go through that process and that a lot of them will baulk at doing it. I am delighted that so many are contacting the legal service but they should not have to do so to secure a basic right. There are many more who are in as bad a situation who, no matter what encouragement they get, find that whole process to be beyond where they can go because they need a solution now and not in three or four years' time, which is what is involved when you start going through all of that process. I guarantee that.

Dr. Rosaleen McDonagh: Can I ask for clarification from Ms Gibney and Deputy Ó Cuív? When they use the word “apartheid”, are they talking about racism or something else that I do not understand? I would prefer if people used the word “racism”. It is what we know as Travellers. I am just wondering if that is what Ms Gibney and Deputy Ó Cuív meant?

Deputy Éamon Ó Cuív: When I talk about apartheid, I am talking about how settled communities separate themselves from Travellers. In other words, and to go back on the figures I gave, settled people do not want Travellers living next door, marrying into their families and so on. That is what apartheid is. It is the settled people who manifest apartheid because they do not want friendships and so on with Travellers. It is a manifestation and outworking of racism because racism leads to that kind of apartheid.

It was the heading of a chapter in Fr. Mícheál Mac Gréil's big book, *Pluralism and Diversity in Ireland*. When we read the results, it is interesting to note that Fr. Mac Gréil's was not far from the truth. He titled the chapter, The Travelling People — Ireland's Apartheid. He meant the shame was on the settled community for the apartheid that it operates in a subtle way against Travellers. Does that explain it?

Dr. Rosaleen McDonagh: I suppose so. Among all State agencies and some legal services, there seems to be a reluctance to name what is happening in the paradigm of racism. For me and the other 41,000 Travellers, racism is endemic, as I said in my introductory remarks. It is no use using other fancy language that dumbs down the reality of our lives or our status.

Deputy Éamon Ó Cuív: I would never do that.

Chairman: Those figures came from the Behaviour & Attitudes survey launched in 2017. I back up everything Deputy Ó Cuív said about Part 8. A lot of work has been done by national Traveller organisations on Part 8 and it is the subject of one of the recommendations in the expert report. Dr. McDonagh mentioned the continuing attitude of NIMBYism towards Travel-

lers.

There is half an hour left and I am anxious to give equal time to the next three speakers. The witnesses can respond after the first two members speak, after which Deputy Stanton will contribute.

Deputy Patrick Costello: Some of the figures quoted by Deputy Ó Cuív are terrifying. This is nothing new. As Dr. McDonagh was talking about the lived experience of the racism, I was particularly struck by the notion that Travellers should be deported, given that they were born here, live here and this is their home. Where the hell are people proposing to deport them to? That is a very disturbing statistic. When that is added to the rest of the systemic problems we are talking about, it is truly disturbing.

One of the matters I want to explore with FLAC in particular is civil legal aid. This is something I have been talking to the Chair of the Joint Committee on Justice about and it is one we need to take up in that committee. Civil legal aid is not fit for purpose. In a recent Supreme Court challenge on the Workplace Relations Commission, the Supreme Court ruled that the Workplace Relations Commission is administering justice in a limited way. It is allowed to do so under Article 37 but it is still administering justice and we need to expect the same standards of it as we would in any other aspect of the administration of justice. These include ability to cross-examine, evidence under oath, transparency and all of these kinds of things. Is there a chance there for some strategic litigation on expanding civil legal aid, particularly given that the courts have been clear that part of the effective administration of justice is a right to access legal aid? If we are saying that the Workplace Relations Commission, WRC, and all of these other quasi-judicial bodies should administer justice to the same quality, is there scope there? Perhaps this falls into what Deputy Ó Cuív said in that it may take three or four years but I would certainly be interested in FLAC's insight into that as a way to develop civil legal aid to help in these sorts of cases as well as in a more general sense.

Ms Sinéad Lucey: As that question is directed towards the Free Legal Advice Centres, FLAC, I will pick up on that point, which is a very interesting one. There has been case law over the years on access to legal aid and whether it is a constitutional right. While the courts have always affirmed that everyone has a right of access to the courts, it has been less consistent around whether that imports a right to legal aid. However, there is a further point here because one is talking about the Zalewski decision and our equality legislation is based on EU law. There is a provision under the Charter of Fundamental Rights of the European Union that would in certain circumstances suggest that where one is seeking to vindicate one's rights under EU law, the State may be under an obligation to provide one with legal aid if there is a phraseology around whether access to justice or something in that regard requires it.

There is a question mark over whether the blanket exclusion of legal aid in claims of discrimination going to the WRC, as this is understood, in particular, in terms of the Zalewski decision, and whether we are in compliance with EU law and whether legal aid has to be available in respect of those claims, at least in terms of somebody being able to apply, whatever the merits decision on that may be. I am uncertain if that answers the Deputy's question.

Deputy Patrick Costello: It is perhaps a very open-ended question. If Ms Lucey says that there is a question mark over it, with the speed in which the courts move, there will be a question mark over it for a few years. As the courts themselves have said, they can only rule on what is put before them.

Ms Sinéad Lucey: I will add one footnote to that. It is very difficult for lawyers, when people come to them with their complaint of discrimination against a local restaurant or pub, to say to them not to worry about their discrimination claim against the pub but let us take this brilliant High Court test case. Perhaps one may come across a client who may wish to blaze a trail but it is unlikely and it is almost a disproportionate response.

One of the things we have suggested in our submission is that there would be more scope for organisations to bring complaints of discrimination so that the burden on the individual in bringing a complaint could be lifted. One could have civil society organisations which would have the skills and expertise or could train up in the area and become skilled in bringing those cases on behalf of whatever constituency they are representing. This is one suggestion that might merit some further consideration to have more impact in order not to put the burden on the poor individuals to probably be legally represented to bring those cases.

Chairman: I thank Ms Lucey. Is the Deputy happy with those replies?

Deputy Patrick Costello: Yes, Chair. I am conscious that there are quite a few members other than me who have not spoken at the meeting, so I will leave it there for the moment and I will follow up with further questions.

Chairman: I thank the Deputy very much. I ask members who have their hands and who have asked questions to take them down, so that I might know if any other members wish to contribute.

I call Senator Pauline O'Reilly, and I will then call Deputy Stanton. I ask the witnesses to respond at the same time to these contributors.

Senator Pauline O'Reilly: I thank the Chair very much and the witnesses for coming in. I have read through some of the reports, in particular in respect of Galway where I am based. There has been a clear failure in Galway, which I have called out over a number of years, to not even have the consultative forum sitting. Sometimes we are over-generous in saying that there is a failure of process. All of the groups said that this is predominantly an issue of racism, pure and simple.

Even if one is to look at something like the social housing list in Galway, of the 588 Traveller families, 250 of those are on the social housing waiting list. I am not going to say that Galway City Council is racist in putting social housing in place. That is a process issue. It is clear, however, that in making those applications, it is local people who are demonstrating a "not in my backyard" approach.

Ms Lucey touched on the gender pay gap legislation, which we recently passed and which now gives specific powers to FLAC. I, as a solicitor, have volunteered for that organisation. It is very difficult for individuals to go through the big rigmarole of having their rights vindicated. That is difficult for all of us but it is particularly difficult for those who are disadvantaged and are experiencing institutional racism and a set-up within local authorities where it is stated that it is not racism but is process where we are waiting for housing. How does one decode that to say which is racism and which is not because it is fundamentally down to the experience of the individual? Do our witnesses believe that there is room for more legislation that would give FLAC and the Irish Human Rights and Equality Commission, IHREC, an ability to take cases on this issue?

From the point of view of housing, we are now expanding the amount of housing that we

can have under Part V so that it will be stepped up to 20%, comprising 10% social housing and 10% affordable or cost-rental housing. A big legacy from this Government is to step up from that. Is there an opportunity there under Part V or under something else where one could have ring-fenced funding around those who are experiencing that level of racism where it is difficult to get the housing over the line. I note the way that the legislation is devised at the moment where it is councillors who adopt these programmes for Traveller accommodation and yet it is also councillors who can object to specific housing plans. Locals can object to other types of housing. I am not saying that everybody is objecting out of hand but we all know and recognise that there is a racism issue there and we have to find structural ways around that.

These are some ideas that I have and I wonder what the thoughts of our witnesses are in order for us to put the structures in place to stop the racism from taking over and preventing the Government from moving forward with this.

Chairman: I call Deputy Stanton. Our witnesses might then answer the Deputy's and Senator O'Reilly's questions or comments together, if that is okay.

Deputy David Stanton: I was involved in driving the recognition of ethnicity five years ago and it is disappointing, as was said earlier, that more has not progressed since then. That was a major step and I remember the night in the Dáil when everybody stood up and applauded. It was seen as a big step forward and we can still build on that. We should all take serious note of what my friend and colleague, Deputy Ó Cuív, said. I have been of the view for some time that we have been skirting around the real issue of prejudice. I want to link that to what Mr. McCann said in his opening statement about councillors voting with impunity against the delivery of components of the programme. The vast majority of councillors from all sides, all parties and none, put themselves forward and want to serve their communities and the vast majority come under terrible pressure from constituents about this issue. That goes back to what Deputy Ó Cuív said earlier and the figures he gave. Has the Irish Human Rights and Equality Commission ever considered interviewing councillors on an anonymous basis? It could sit down with them and ask what is going on, what kind of pressures they are under, what they are experiencing, what is happening and why. We have to get to the nub of this. I am always a bit concerned when we have to go through litigation and the legal process, or even go to An Bord Pleanála, because that is ignoring the elephant in the room that Deputy Ó Cuív so rightly identified. Dr. McDonagh identified that as well. It is good to see her again. This is very basic and it goes very deep. We can move around with all the litigation and the courts at that level and we can get so far but we need to go much deeper. The Irish Human Rights and Equality Commission is probably the best body in the country to research that, to go deep into society and see what is going on.

I note that the departmental guidelines were changed in 2013 and applications on the basis of need were recategorised. Travellers were removed as a basis of need category and households were reassigned under alternative criteria such as homelessness, medical issues, being elderly, overcrowding, etc. Has that had any impact on the provision of housing? I also note an interesting report from the Housing Agency in 2014 on why Travellers leave Traveller-specific accommodation. That makes some very interesting points as well. In the UK there is Traveller-specific accommodation in many of the boroughs and it is well put together and well provided for. Here, even though we have criteria and guidelines for accommodating transient Traveller families, issued by the Department of Housing, Local Government and Heritage, those guidelines do not seem to be followed anywhere. We need to go far deeper into our society and find out what exactly is driving this prejudice that Dr. McDonagh identified so well earlier. I thank

our guests for the work they are doing.

Chairman: I ask Dr. McDonagh and then Ms Gibney to come in in response to Deputy Stanton and Senator Pauline O'Reilly.

Dr. Rosaleen McDonagh: This may be my last opportunity to speak so I want to say that, woman to woman and Traveller to Traveller, I am delighted to see the Chair here. We now realise that the accommodation issue is not about money; it is about racism. If this was happening to the gay community or any other community, it would not be allowed go on so long. As a human rights commissioner I would also bring in the broader issue of racism towards people living in direct provision or people who are homeless. There is a whole systemic underbelly of Irish society that is not part of this new Ireland. We are not only leaving them behind but we are pushing them out further and further to the oceans.

Chairman: I agree 100% with Dr. McDonagh. That was well said.

Ms Sinéad Gibney: I will pick up on a few of the questions and Mr. O'Neill might want to follow with a bit more detail. Senator Pauline O'Reilly is right that it is a balance of process as well as systemic and cultural issues within these institutions. Both those issues must be addressed not just within local authorities but across public sector bodies. As regards changing legislation, if the legislation is not working it should be looked at, reviewed and changed or new legislation should be introduced. However, the focus for us today is on these equality reviews. As Mr. O'Neill outlined, changes can be made within the existing system that will affect people's lives and that is what we would like to see happen from these equality reviews. We should bring it through as far as we can with this particular exercise and build on that, and on all the other fronts we mentioned, in how we engage on this issue. That relates to Deputy Stanton's question as well.

On the matter of interviewing councillors, this process is an ideal opportunity for councillors to engage with us if they wish to, and some of them have done that through social media and responded to some of our outreach on this issue. We are open for business in terms of engaging with people and helping them to understand. Between the recommendations of the expert review group and the local level recommendations we are giving, it has never been easier for leaders within these organisations, both councillors and staff, to effect change. We will be happy to do that. We also engage in broader work on attitudes and racism, which needs to be done. As I mentioned, we ran a campaign this year called Because we're all human. Means we're all equal. We will continue to run that campaign and engage with the general public on racism and attitudes towards race. This is ongoing work that we will continue to do. If the committee has any suggestions I ask it to please get in touch and let us know if there are ways in which it thinks we could be best using our resources.

Mr. Michael O'Neill: I am conscious of time but I will just respond to Senator Pauline O'Reilly's points. The process alone will never solve the problem but what we have seen through our equality reviews is that, while enhancing the process will not necessarily resolve everything, it would improve the situation with regard to a number of issues. I am in no way disregarding the nature of the challenge that Part 8 poses but the other thing we have seen within the equality reviews when going through 31 local authorities nationwide is that even in circumstances where there has been approval for planning there are still barriers beyond that. Therefore, we need a multilayered approach to this. It goes from politicians at a national legislative level down to people on the ground. The other thing that struck us as we were going through the equality reviews is that there were examples of good practice on the ground with

some individual people working within the system but it would appear, because we did not see paperwork to back it up, that that was largely based on the efforts, goodwill and initiatives of those individuals. Part of what an equality review does is encourage that good practice to become embedded within the system. That way, if that individual moves on or a new department is realigned or moved around, that practice is still part of the system and those who engage with the system will have a reasonable expectation and understand what they are entitled to. We do not think equality reviews will solve all the problems because this is such a big challenge but we believe that, within the existing system, the process can improve the situation, at least to some degree.

Chairman: Would Ms Lucey like to come in briefly in response to Senator O'Reilly and Deputy Stanton?

Ms Sinéad Lucey: I welcome the comments of Senator O'Reilly and Deputy Stanton. One of our other experiences is that there is very little consistency and transparency about housing lists and priority from local authority to local authority. As I understand it from working in the area, most of the Dublin local authorities have a numerical system whereby people know where they are on the list, and that they are number 20 or 25, for example. Most of the local authorities outside Dublin do not have a numerical system so people have no idea where they are on the list compared to others. When there is that lack of transparency it is very hard to know whether there is an element of racism seeping into the housing list. Deputy Stanton also picked up on the fact of the deprioritisation, almost, of Travellers in that they lost being a Traveller, in and of itself, as a ground for priority. In a way, that totally neglects the circumstances in which most Travellers will be living when they do apply for housing and the huge disadvantage they face in accessing the private housing market because it is not immune from racism either. Thus Travellers will be at a double disadvantage but get no priority now on the housing list. They are really good points to pick up on.

Senator Pauline O'Reilly raised a point on Part V funding. I am not sure I understand that enough to comment but the State does provide ring-fenced funding for Traveller accommodation and it does not get drawn down so any other ring-fencing would have to get around that same issue. Hopefully the changes around Part V will bring some benefit to Travellers but it is unlikely to confer anything over and above what anybody else gets or to address the systemic issues.

Deputy Denise Mitchell: I will just bang out a couple of questions quickly here. Our guests may bear with me and whichever of them wishes should feel free to answer them. We have had numerous witnesses before us and submissions to us. The first question I ask of all of them is whether they think a national body should be established solely to look after Traveller accommodation. We have also had numerous submissions where people spoke about looking at an ethnic identifier to determine housing needs down the line. I want an opinion on that. Do our guests think that should be in the hands of the local authorities themselves or should it be national? Is it something for which we could be legislating?

Another point, touched on by Ms Gibney, is that while we have been discussing local authorities, the private sector is a big issue. We have seen that Travellers are 22 times more likely to be discriminated against when it comes to the private sector itself. What must we do to address that?

The FLAC members spoke about the numerous mechanisms Travellers face when it comes to evictions from the unofficial sites. Will they elaborate on those other mechanisms, what they

would like to see as a fairer solution and what we must do to address that?

Mr. Christopher McCann: I thank Deputy Mitchell. I am happy to take the question on evictions. In our fuller written submission we outlined the five different legislative mechanisms I was talking about. These are section 19(1)(c) of the Criminal Justice (Public Order) Act 1994, section 10 of the Housing (Miscellaneous Provisions) Act 1992, the Roads Act 1993, the Planning and Development Act 2000 and the Local Government (Sanitary Services) Act 1948. Any of those can be used against a Traveller on the roadside and, as we pointed out, most of them can be used without needing to give any sort of notice or only 24 hours' notice. Consequences then flow from not abiding by whatever order or direction has been given, which can include prosecution or seizure of a caravan and the caravan being impounded. Our recommendations are quite clear. We think section 19(1)(c) of the Criminal Justice (Public Order) Act 1994 is particularly egregious and constitutionally suspect and we have recommended it be repealed. Our recommendation in respect of the remaining legislative mechanisms is that these should not be used in a way that does not give the person against whom they are being invoked the opportunity to receive legal advice and for the operation of the particular direction or order to have been reviewed by an independent tribunal, such as a court.

On the other questions, the Deputy asked how we can address discrimination in the private sector. As she said, Travellers are 22 times more likely to be discriminated against. There is law preventing it. The equal status Act prevents discrimination on the grounds of membership of the Traveller community. I reiterate our recommendation that extending the scheme of civil legal aid to cover quasi-judicial tribunals such as the Workplace Relations Commission would certainly assist a Traveller who has suffered discrimination to access legal representation and advice to challenge that discrimination. Others may wish to come in on the remaining questions.

Chairman: While Mr McCann is speaking, has he got any final comments for the committee? Then we will ask Mr. O'Neill, Ms Gibney and Dr. McDonagh. They have four minutes between all of them, if that is okay. I ask that they make their final comments as well as answering Deputy Mitchell.

Mr. Michael O'Neill: Should I just jump in on the couple of points Deputy Mitchell raised?

Chairman: Yes.

Mr. Michael O'Neill: I thank the Deputy for her questions. In relation to the ethnic identifier, we understand the Minister of State, Deputy Peter Burke, is bringing forward that through the programme board to do with the expert group. To our mind that does not require legislative change but a change to the application forms with all the necessary GDPR protections around it. We would welcome an early resolution of that matter and understand it is moving forward. It should be done while preserving really clearly the very specific reason this information is being collected and preserving the privacy of the individuals beyond that.

On the private sector, as Mr. McCann said, there is the recourse to the WRC and we have taken cases of this nature. The other part that belies is that oftentimes our experience, certainly from the equality reviews, is that individuals from the Traveller community are looking at the private rental sector because they do not have another realistic immediate choice. Thus, even if an individual succeeds in getting a tenancy from the private sector it will not necessarily be culturally appropriate. All the other aspects like the size of the property, the ability to live close to family or the prospect of having some space to maintain other aspects of their cultural heri-

tage simply are not realistic in that context. There is a bigger issue in this context, which comes back to the original point Ms Gibney was making, which is that it is about the true preference. Oftentimes, even where an individual from the Traveller community secures private rented accommodation it is not the real solution to the problem at hand.

Ms Sinéad Gibney: I will jump in quickly to cover one question Deputy Mitchell had and then hand over to Dr. McDonagh. In response to the question on a national authority, to be clear, we have not yet, as a commission, come to a formal position on any such agency. As I mentioned earlier we are a 15-member commission so it may be dealt with at that level, and at that stage we would come out and declare any formal position. It is clear Travellers themselves should be in a leadership position in shaping the policy to deliver the necessary housing. The expert review group, the work being done there and the recommendations are all very strong so we welcome all that. I will leave the last word to Dr. McDonagh.

Dr. Rosaleen McDonagh: Whether it is public or private housing, equality legislation is in place to combat racism. However, Travellers, like the general population, have a right to choose where they want to live but the anecdotal evidence would suggest the linkage between high rates of suicide and those living in private rental accommodation is stark. As I said in my opening remarks, where you have racism you have poverty and a lot of landlords will not only not accept Travellers but also people who need rent allowance so people are caught every which way by the system. Is there anything else Mr. O'Neill or Ms Gibney want to say?

Mr. Michael O'Neill: That is it.

Chairman: I thank our witnesses. I also thank the Irish Human Rights and Equality Commission for its very honest and blunt report and findings. I know on a personal level that some of that was very challenging for the commission. There are many questions I would love to ask today but, unfortunately, I cannot do so.

I know how difficult it is for members of the Traveller community to bring cases relating to equality and human rights. I have attempted to bring three such cases. I brought one of them to court and the judge stated I did not look like a Traveller and, therefore, my human rights and equality rights were not breached and I was not given access to the pub because I just basically was not. I refer to the issue of power. A significant amount of work needs to be done on legal aspects. I tried to bring a case against a local authority. My father was dying of cancer and I sought services in the context of the Traveller sector. It did not work. This discussion brings me back to those parts of my life. It is so difficult for members of the Traveller community to take these cases forward. It is about accommodation. Dr. McDonagh rightly stated it is about water and suitable and appropriate houses and trailers for members of the Traveller community. A significant amount of work needs to be done.

I really hope that, with the publication of No End in Site and the recent work of IHREC, the work that is needed will get under way. If the Government is not going to listen to Travellers, I hope with all my heart it will listen to IHREC, or even the individuals and organisations in Europe that work along with IHREC, and take this matter seriously. Last week, I issued a press statement calling on the Government, those who sit at the Cabinet table, to release a statement in respect of the findings and how the State will address those findings. There has been no response yet to that call but I hope there will be a response.

On behalf of the committee, I thank the representatives of the Irish Human Rights and Equality Commission for coming before us. I also thank the representatives of the Free Legal

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Advice Centres. We need honesty. We need to have more of this type of discussion because Travellers have been failed for many years by the State. I will send on my questions. I again thank our witnesses.

As there is no other business, the meeting stands adjourned until 12.30 p.m. on Thursday, 23 September 2021.

The joint committee adjourned at 2.33 p.m. until 12.30 p.m. on Thursday, 23 September 2021.