

Traveller Accommodation: Access to Justice, Human Rights and Equality

Opening Statement of Sinéad Lucey (FLAC Managing Solicitor) to the Joint Committee on Key Issues affecting the Traveller Community

21 March 2024

Introduction

FLAC (Free Legal Advice Centres) is grateful for this opportunity to appear before the Joint Committee on Key Issues affecting the Traveller Community. Our evidence, and our written submission (which has been circulated to members of the Joint Committee), focuses on access to justice, human rights and equality for Travellers in the context of housing and Traveller accommodation.

Since 2017, FLAC has provided targeted and specialised legal services for members of the Traveller community. In early 2020, FLAC (in cooperation with a Steering Group made up of representatives from each of the national Traveller organisations) established a dedicated a Traveller Legal Service (“the TLS”), supported by The Community Foundation.

In each year since 2017, access to accommodation has emerged as the single most prevalent issue amongst people seeking legal assistance from FLAC’s targeted legal services for Travellers. During its first two full calendar years in operation, the TLS dealt with over 100 housing queries.

FLAC frequently represents Traveller families in cases concerning access to social housing, Traveller-specific accommodation and emergency accommodation - as well as cases concerning the adequacy of each of those forms of accommodation and cases where Travellers living on the roadside are subject to eviction proceedings.

A Rights-Based Approach to Traveller Accommodation

FLAC believes that rights-based reform of housing and homelessness law is needed to address the current housing and homelessness crisis which disproportionately impacts Travellers. Beyond the introduction of a constitutional right to adequate housing (which FLAC supports), legislative reform is required to ensure that housing rights are comprehensive, clear and enforceable.

When we last appeared before the Joint Committee in 2021, FLAC proposed a number of reforms to housing and equality law which we view as being necessary to vindicate and give

effect to the accommodation rights of Travellers. We were pleased to see several of those recommendations reflected in the Committee's final report.

However, it is disappointing that there has been no meaningful legal changes in the areas of Traveller accommodation or equality law during the intervening period. This is despite the introduction of the *Housing For All* plan, the establishment of the Housing Commission, a Government commitment to a referendum on housing, the initiation of a comprehensive review of the equality legislation, and the development of a landmark Planning and Development Bill. Similarly, a trend that runs through FLAC's current submission to the Joint Committee is the failure to implement the recommendations of the *Traveller Accommodation Expert Review* (which was published five years ago) where those recommendations would require legislative reform.

As a result, our current recommendations to the Joint Committee focus on steps which we believe should be taken to expedite law reform in the areas of Traveller accommodation and equality law.

Housing & Traveller Accommodation Legislation

We believe that the Joint Committee should engage with the Programme Board overseeing the implementation of the *Traveller Accommodation Expert Review* and the Department of Housing in relation to:

- ▶ reforms to the planning process for Traveller Accommodation, including the creation of a bespoke process for the planning approval of such developments which permanently excludes them from the Part 8 process,
- ▶ reviewing and amending eviction legislation in light of the *McDonagh* decision to ensure that, other than in the most exceptional of circumstances, a family home can never be interfered with in the absence of a merits-based determination involving a proportionality assessment by a Court accompanied with a requirement to offer alternative appropriate accommodation to homeless families, and
- ▶ the introduction of enforceable minimum standards for all forms for Traveller accommodation.

The Joint Committee should also seek to ensure that 'local connection' tests are not applied by local authorities in considering requests for emergency accommodation and urge the Minister for Housing to issue guidance on the proper exercise of discretion in applying such tests in the social housing context.

Similarly, guidance should be issued to local authorities and An Garda Síochána on the statutory vetting process of applicants for social housing. Ideally, the Housing Acts should be amended to clarify the exact nature of the information which may be exchanged between local authorities and An Garda Síochána and the impact of previous convictions on present housing applications or allocations.

Equality Legislation

There are major weaknesses in Ireland's equality legislation which limit its effectiveness in tackling discrimination and inequality in the context of social housing and Traveller accommodation. This includes the fact that the prohibition of discrimination does not clearly apply to the general functions of local authorities and An Garda Síochána, and the absence of an effective remedy for racial profiling and for discrimination that has a legislative basis (for example, the disproportionate impact of Criminal Trespass legislation on Travellers).

The Joint Committee should engage with the Department of Children, Equality, Disability, Integration and Youth to ensure that those issues are dealt with in the context of the current Review of the Equality Acts. That Department should also clarify the present status of the review and be asked to provide a specific timeline for its completion.

Access to Justice & Legal Aid

Measures to promote access to justice are vital to ensure that housing and equality rights are effective and enforceable in practice.

The establishment of the Legal Aid Board's *Minceir Traveller Legal Support Service* was a positive step towards achieving access to justice for Travellers. However, that service employs only one full-time solicitor. Unfortunately, this is no way near the level of resources necessary to tackle the huge amount of unmet legal need amongst the Traveller Community. This should be a matter of concern for the Joint Committee and we believe that it should engage with the Legal Aid Board about the resourcing of its Traveller service.

Conclusion

My colleague, Christopher Bowes (FLAC's Legal Officer) and I are happy to address any questions which members of the Committee may have.

Thank you for your attention.

ENDS.