

An account of the
Equality Review carried
out by Kerry County
Council in respect of
Traveller-specific
accommodation



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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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Glossary

1998 Act: Housing (Traveller Accommodation) Act 1998

2009 Act: Housing (Miscellaneous Provisions) Act 2009

2011 Assessment Regulations: Social Housing Assessment Regulations 2011 (S.I. No. 84/2011)

2011 Allocation Regulations: Social Housing Allocation Regulations 2011 (S.I. No. 198/2011)

2014 Act: Irish Human Rights and Equality Act 2014

AHB: Approved Housing Body

AO: Administrative Officer

Capital expenditure: Generally relates to the costs of acquiring, upgrading or extending physical assets, such as buildings, equipment or facilities

Current expenditure: Also referred to as 'revenue expenditure'. Generally relates to operational costs, for example it may include operational costs of maintenance, caretaking, social worker provision or provision of emergency accommodation

CBL: Choice Based Lettings

CDP: Community Development Project

CENA: The Traveller-led Voluntary Accommodation Association (TVAA)

CLO: Community Liaison Officer

DCEDIY: Department of Children, Equality, Disability, Integration and Youth

DHPLG: Department of Housing, Planning and Local Government, known as the Department of Housing, Local Government and Heritage (DHLGH) since 30 September 2020

DoJ: Department of Justice, formerly known as the Department of Justice, Equality and Law Reform

DSP: Department of Social Protection, formerly known as the Department of Employment Affairs and Social Protection

ESA: Equal Status Acts 2000 - 2018

HAP: Housing Assistance Payment

HAO: Housing Assessment Officer

HLO: Housing Liaison Officer

HNA: Housing Needs Assessment

HWO: Housing Welfare Officer

LGMA: Local Government Management Agency

LTACC: Local Traveller Accommodation Consultative Committee

NTACC: National Traveller Accommodation Consultative Committee

RAS: Rental Accommodation Scheme

Revenue expenditure: Also referred to as 'current expenditure'. Generally relates to operational costs, for example it may include operational costs of maintenance, caretaking, social worker provision or provision of emergency accommodation

SEO: Senior Executive Officer

SHCIP: Social Housing Capital Investment Programme, sometimes referred to as Social Housing Investment Program (SHIP)

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SICAP: Social Inclusion and Community Activation Programme

TAER: Traveller Accommodation Expert Review, July 2019

TAO: Traveller Accommodation Officer

TAP: Traveller Accommodation Program

TAU: Traveller Accommodation Unit

TIF: Traveller Inter-agency Forum

TIG: Traveller Inter-agency Group

Introduction

Under section 32(1) of the *Irish Human Rights and Equality Commission Act 2014* (the '2014 Act') the Commission may invite a particular undertaking to carry out an equality review.

In June 2019 the Commission invited Kerry County Council (the 'Council') to undertake an equality review in the following terms:

1. That the Council would conduct an audit of the level of equality of opportunity and/or discrimination that exists in relation to members of the Traveller community who wish to avail of Traveller-specific accommodation, having regard to the drawdown by the Council of capital funding provided by the Department of Housing, Planning and Local Government for the provision of Traveller-specific accommodation having regard to the Council's obligations under the ESA; and
2. That the Council would conduct a review of its practices, procedures, and other relevant factors in relation to the drawdown of capital funding and the provision of Traveller-specific accommodation services to Travellers to determine whether those practices, procedures and other relevant factors are conducive to the promotion of equality of opportunity for these service users having regard to the Council's obligations under the ESA.

In conducting any equality review, the Commission requested that the Council would address and report on a number of specific issues. (See [Appendix 1](#))

The Council submitted its initial Equality Review response to the Commission on 02 October 2019. Following consideration of the Council's response, the Commission sought clarifications by letter dated 24 April 2020, which were provided by the Council by letter dated 09 June 2020.

This is the Commission's account of the Council's Equality Review that, pursuant to section 28(2) of the 2014 Act, is being published as part of the Commission's 2020 Annual Report.

It comprises three sections, namely:

1. **Key areas of interest** – which is a synopsis of the Equality Review undertaken, and the information provided, by the Council;
2. **Issues arising** – which comprises the Commission's consideration of the information contained in the Equality Review as undertaken by the Council; and
3. **Recommendations** – proposed recommendations from the Commission to the Council.

Section 1 Key areas of interest

A. Initial and ongoing assessment of Traveller-specific accommodation needs

The Council gives details of a number of sources of information used to inform its adoption of the TAP 2019-2024. It states that there is currently a strong working relationship and partnership between the Council, the Kerry Travellers Health and Community Development Project (KTHCDP) and the LTACC.

The Council states that the LTACC and its operation is well structured, well supported and is operating in a partnership approach. It states that it meets at a minimum quarterly, and as required. According to the review, the membership of the LTACC consists of 5 local authority elected members, 5 members of the KTHCDP, 5 community representatives (Traveller communities in main towns/ individual halting site representatives) and senior staff of the Council including the Director of Service, the Head of Housing and housing staff working specifically with, and on Traveller matters, along with support staff. The Council reports that all advocacy and community representatives have taken up their places on the LTACC.

It is reported that the LTACC is chaired by a representative of the KTHCDP as nominated by the Council (as agreed to at the request of the Council's management).

The agenda is broad-ranging and routinely includes the following items:

- TAP 2019 – 2024;
- Policy updates;
- Traveller Accommodation Capital Programme 2019;
- Halting Sites Sub-Committee Report;
- Traveller homelessness; and
- Any other business.

The review states that the Halting Sites Sub-Committee, a sub-committee of the LTACC was established specifically to work on LTACC agenda items related to halting sites and to provide any feedback as necessary to inform the work of the LTACC. The sub-committee deals with any operational issues arising. In addition, it has a role in raising issues with the LTACC.

It is reported that meetings also take place as required between representatives of the KTHCDP and the Housing Directorate Management (Director of Service and senior staff).

In terms of ongoing accommodation support services for Travellers, the Council states that apart from general housing staff and Housing Management whose duties, responsibilities and day to day work involve working with members of the Traveller community through routine housing service provision, the Council has the following staff working on, and supporting, Traveller accommodation:

- Administrative Officer, Social Support - senior role with responsibility for homelessness, Traveller accommodation and refugee programmes; and
- Traveller Liaison Officer - senior member of staff who is the point of contact/ liaison with the Traveller community.

The review states that both of these officers meet with a representative from the KTHCDP once a fortnight to review Traveller accommodation issues.

According to the review, the Traveller Housing Investigating Officer is one of six housing investigating officers in total, but the Traveller Housing Investigation Officer is exclusively assigned to the assessment of accommodation needs, social housing applications and the making of recommendations on social housing supports for Travellers.

The review states that the Halting Site Caretaker is a full-time position working on the ground on day to day issues arising in halting sites.

Although not a Traveller-specific role, it is noted by the Council that the HAP Placefinder Officer works with the Traveller community and supports individuals in securing private rented accommodation.

In respect of procedures for gathering information to prepare the TAP, the Council states that it prepared a draft TAP, published a notice of the draft TAP and invited observations and submissions. It states that copies of this draft were placed on display for public inspection at local area offices for two months. It is reported that, in all, two valid submissions were received, from the KTHCDP and the Cork Kerry Regional Traveller Accommodation Working Group (CKRTAWG).

The review states that as part of the consultation processes the draft program was discussed at the LTACC. In addition, Housing Management met with representatives of the KTHCDP and the LTACC to review their submission and broad points were raised.

The Council states that it undertook an assessment of the projected accommodation needs of Traveller families arising during the duration of the TAP. It states that it also carried out a Summary Social Housing Assessment in June 2018 in accordance with the 2009 Act. It states that the Summary Social Housing Assessment determined the number of households requiring social housing support in the county and the basis and classification of the need. It reports that the result of this assessment was that, in June 2018, 2,917 households were identified with a social housing need in Kerry. This included 97 Traveller households, which represented 3.3% approximately of the overall demand for social housing.

The Council states that in its experience, Traveller families by and large wish to be accommodated in standard housing and halting sites are a temporary accommodation measure while awaiting standard housing. It reports that only three households approved for social housing had requested Traveller-specific accommodation.¹

¹ In June 2021, after receiving a draft copy of the Commission's account of the Council's Equality Review, the Council has advised the Commission that:

"For the avoidance of doubt, the Council clearly draws on its experience in the context of County Kerry, and this statement relates only to Social Housing Needs in County Kerry. It is not a general sectoral commentary or commentary in respect of Traveller Accommodation generally".

The Council states that there are 24 fully serviced demountable/modular units on halting sites in Kerry. It states that 18 households, accommodated on halting sites, had an open application for standard group housing as of October 2019. It states that some Traveller families are in a position to provide accommodation from their own resources and that there were 57 homes in the county in the private ownership of Travellers (based on 2016 Census). The Council states that it has a number of schemes that facilitate a path to home ownership or enable the adaptation of privately-owned property to better address housing need, for example: Tenant Purchase Scheme; Rebuilding Ireland Home Loans; Reconstruction Loans; First Time Buyer Grants for Travellers; and Housing Adaptation Grants for people with a Disability/Older People.

In terms of projected need, the TAP sets out the basis of calculation as follows:

- The number of Traveller children who will reach the age of 18 during the period 2019-2024 living in social housing or in families qualified for social housing;
- The preliminary results of the KTHCDP Housing Needs Assessment (it is stated that further consultation would take place on this assessment as the results were finalised); and
- The number of social housing applications being made annually.

The Council states that, from the last two TAPs, it could be seen that there was a significant downward trend in the number of Travellers presenting with a housing need. In the period 2009-2013, it reports that 107 Traveller households made an application for housing supports. In the period 2014-2018, only 79 such applications were made. The Council noted that while past activity was not, in itself, an indicator of future demand, it was a factor that needed to be considered in predicting future housing need. However, the Council states that the number of children who would reach the age of 18 during the lifetime of the current TAP suggests that the level of housing need may rise.

According to the Council, the assessment determined that there were 97 housing units required to meet the needs of Traveller households approved for social housing supports. It states that these households, in addition to the estimated emerging need

of 65, brought the total estimated number of Traveller households that required accommodation during the term of the TAP 2019-2024 to 162.

In respect of transient facilities, the Council considers that Travellers who would fall into this category in County Kerry comprised:

- Mobile/Commercial Traders who periodically trade in the county for short periods; and
- Travellers visiting major annual festivals in the county.

The Council states that it has consistently maintained that commercial traders should secure their own accommodation on commercial sites. In relation to the second category, it states that it remained Council policy that responsibility for providing accommodation for all campers and caravan owners including Travellers visiting festivals rested with the festival organisers/promoters. The Council states that it continues to be the case that no significant demand for the provision of transient sites has been established.

The Council reports that there is no Traveller-specific group housing available in Kerry at present, but that the Council was committed to exploring options for the provision of Traveller-specific group housing in 2019. In addition, the Council states that it would explore options for the provision of Traveller-specific accommodation with CENA.²

² In June 2021, the Council has advised that, in partnership with and through the LTACC, it has advanced the planning and implementation plan for a general Capital Programme on Halting Sites. These plans include:

Phase 1 - Extension and full refurbishment of Rathass Halting Site, Tralee (immediately adjacent to Council Headquarters). This development has been discussed extensively at LTACC. The detailed design has been completed and the relevant detailed submission and application made to the Department and formal approval and sanction received on 29th April 2021. This has secured the funding for this development. This project proposal is currently at the public consultation stage of Planning. It is intended that subject to completion of the Planning Process that this development will proceed to tender with the project on site by year end. Work on this project has continued through 2020 and is ongoing despite the Covid 19 period to ensure early delivery of this project. **Phase 2** - The Refurbishment of the St Michael's Halting Site in Killarney. Detailed design and planning have not yet commenced but is scheduled to do so before the end of 2021. This project includes the following potential elements - Group Housing, Refurbished Halting Site elements. This project has been discussed at LTACC and broadly agreed in principle although the final detailed design including additional elements such as hard stands and options on group housing remains to be finalised. **Phase 3** - The potential refurbishment of Evergreen Place Site.

B. Comparison of funding to comparator group

According to the review, in respect of annual capital expenditure for Traveller accommodation from 2015 to 2018, the total sum allocated came to €105,466 and the total sum drawn down was €354,454. This was a considerable overspend, but it is noted that of the funds drawn down for the refurbishment works in Killarney in 2016, €52,769 was recouped under SHIP funding.

According to the review, in 2019, a total of €77,200 had been allocated as of October 2019 for Traveller-specific accommodation and no funds had yet been drawn down at the time of submission of the review.

In respect of current expenditure on Traveller-specific accommodation from 2015 to 2018, the Council reports that the total sum allocated came to €395,841 and that the total sum drawn down came to €397,893. This amounted to a slight overspend.

Table 3 of the Equality Review sets out the annual capital expenditure for general housing from 2015 to 2018. Total expenditure is reported to have come to €67,571,976 and total draw down to €62,442,091. The Council explains that for the Extension/DPG programme, the annual allocation translated to 90% grant recouped and 10% local authority funding. For current expenditure on general housing over this period, it is reported that total expenditure came to €103,447,332 and that the total sum drawn down was €45,758,009. Total local authority funding came to €57,689,323.

The review states that within the Council's programme of provision and supply of standard housing, a significant number of Traveller families are accommodated (this was noted to be the preferred option of the majority). The Council states that this remained the biggest area of provision of Traveller accommodation and the funding streams formed part of the routine Capital Programme and day-to-day Maintenance Programme of the Council. The Council states that the expenditure in these areas was

CENA have been consulted in respect of the potential development of a smaller group housing scheme at this location within the constraints of the footprint of the existing site".

not specifically accounted for separately as Traveller-specific accommodation programmes, but formed a large part of overall expenditure and overall programmes.³

The Council states that, for example, there was an on-going Regeneration Project in Tralee Town that had a significant element of Traveller accommodation involved. It states that the specific costs associated with the Traveller accommodation element of this project were not accounted for separately. However, it states that given the scale of the Traveller related element of the project, a proportionate spend of 25% of the overall project costs on specific Traveller accommodation was reasonable.

The Council states that further, in 2018, a major project to construct specific permanent units on the Dingle Road halting site for a Traveller family with specific needs was completed. It states that this was funded from the General Capital Programme and despite being entirely a Traveller-specific accommodation project the expenditure, which was considerable, was not accounted for separately.

The Council noted that performance data on the NOAC Indicators on housing maintenance expenditure on standard housing shows approximately €490 per unit expenditure for 2018. It states that comparable figures for maintenance spend per halting site unit in 2018 was in the order of €6,000. It states that the nature and extent of the stock clearly had a significant bearing on this simple analysis but that the stock in the existing halting sites was well maintained.

C. Adequacy of funding

In respect of the previous TAP 2014-2018, the Council reports that it achieved 90% of its Accommodation Allocation Targets in that period.

The Council states that the overwhelming majority of Travellers in County Kerry were resident in standard local authority housing, private rented and local authority rented

³ In June 2021, the Council has advised that:

“the commentary on the financial treatment of expenditure and projects does not refer to a local Kerry County Council discretionary approach. The approach reflects the separate national approaches to funding of Traveller accommodation element under different schemes and themes (e.g. Traveller Specific, Regeneration, General Construction, Turnkey or Acquisition) where despite the output being Traveller Accommodation, the expenditure may not be identified separately and therefore potentially understating the quantification of actual expenditure and interventions in this overall area”.

(supported by social housing supports - leasing, RAS, HAP) and privately owned housing.

According to the Council, Traveller households who were living in Kerry and were applicants for social housing, were accommodated:

- On serviced halting sites;
- In private rented accommodation and in receipt of social supports;
- Living with family members;
- Living in caravans; and
- Availing of emergency accommodation.

The Council reports that there were no unauthorised Traveller halting sites or encampments in County Kerry as of October 2019.

It states that there are four operational halting sites in County Kerry:

- St Michaels and Evergreen Place – Killarney; and
- Rathass and Dingle Road – Tralee.

The Council reports that an emerging trend over the past two years in Kerry has been an increase in Traveller homelessness. It states that national trends in this area are well documented. It notes that data published by the Irish Traveller Movement found that Travellers are 11 times more likely to become homeless and 50 times more likely to be discriminated against by landlords than the settled community.

The Council states that the underlying reasons for this increase were complex, but a significant number of persons currently requiring emergency accommodation interventions have additional needs and require on-going support and wrap around services. It states that the current housing market in Kerry is also a significant contributory factor.

The Council states that Travellers who were assessed as homeless or are at risk of becoming homeless could avail of the homeless services provided by the Council's Homeless Information Centre. It states that the Traveller Liaison Officer and the HAP Placefinder Officer also assist Travellers in homeless situations and that they are also supported by the Traveller Housing Investigating Officer. The Council states that where it was deemed that families required homeless emergency accommodation, appropriate family type accommodation would be provided (subject to availability). It states that the primary solution for dealing with homeless persons in emergency accommodation was to transition to private rented accommodation with the support of HAP. While demand in this area had increased significantly, the Council states that it was not considered appropriate to house Traveller families waiting for permanent accommodation on temporary sites.

D. Whether all funding allocated drawn down

The Council reports a significant overspend in annual capital expenditure for Traveller accommodation from 2015 to 2018 (sum allocated €105,466 versus sum drawn down €354,454), as well as a slight overspend in current expenditure on Traveller-specific accommodation during the same period. In 2018, the Council report that an allocation for an extension to halting site bay at Rathass was not drawn down as the family in question was accommodated in Killarney.

E. Any further issues of equality of opportunity

In a letter setting out further points of clarification dated 9 June 2020, the Council identified one particular recurring issue in respect of a lack of equal access to accommodation services for members of the Traveller community as being discriminatory experiences in the private rented market.⁴

⁴ In June 2021, the Council has advised that:

"this issue has repeatedly been articulated within LTACC discussions and by advocacy groups. The commentary is not confined to social housing and has been made broadly within the broader housing context. This is clearly beyond the Council's remit in social housing provision, however it was felt that this view should be articulated back as a reflection on what is a very real national issue, which impacts on members of the community who may not otherwise find themselves in need of social housing supports. As such it is the LTACC position that this national issue and one of national housing policy needs to be articulated at every opportunity notwithstanding that the responsibility for action in this area may rest elsewhere".

Section 2 Issues arising

On the basis of the information provided by the Council, as summarised in Section 1, the Commission has considered the following issues arising:

The Equality Review process

There is no indication of the process pursued by the Council in preparing the Equality Review, in particular there is no mention of any participation by the LTACC or by local Travellers or Traveller organisations which would be expected in such a process.⁵

Assessment of need

The Council identifies that the assessment of need conducted for the TAP 2019-2024 established a need for 97 housing units for Traveller households approved for social housing supports and an estimated emerging need for 65 housing units, a total of 162. The table of planned provision in the TAP only refers to 160 housing units. The TAP identifies the following provision to be made in the period: filling halting site vacancies (15); private rented accommodation with social supports (95); leased accommodation (15); and direct local authority and voluntary housing provision (35).⁶

In June 2021, the Council has advised the Commission of the following outputs for Year 1 of the current TAP:

⁵ In June 2021, the Council has advised that in relation to this paragraph:

“The comment is noted, however, the following comment are made. As the Council understands it, the process is not defined nor prescribed. The context of Local Government is complex with multiple governance structures and in this particular area includes: The Housing Strategic Policy Committee; The Elected Council; The Statutory Audit Committee; The Internal Audit Function; The LTACC; Each has their own role and function and arguably could also be involved. However, such an expansive approach would have been unwieldy and had the potential for not enabling the replies to the request made of the Council within the specific timeframes provided. In reality, and from a practical perspective, statutory reviews form a regular and normal feature of the established governance structures and these reviews a[re] dealt with by the Executive unless otherwise prescribed. The outcomes, reports and recommendations are dealt with and considered by all the appropriate structures following completion of the process. In this case it is the clear intent that that established process would be followed and the LTACC will consider all matters arising. If the Commission is of the view that a formal, prescribed process is necessary, then the Council will adhere to any such approach into the future”.

⁶ In June 2021, the Council has advised that:

“The targets identified were realistic projections at the time of the TAP preparation. Given the challenging nature of the current national housing environment (across all delivery areas and programmes) targets and projected outputs will not always equate to or meet actual need”.

	TAP (5 year programme) 01/07/2019-30/06/2024	Year 1 01/07/2019-30/06/2020 (denotes Target for year)
Filling halting site vacancies	15	3 (3)
Private rented accommodation (HAP)	95	20 (19)
Leased accommodation	15	3 (3)
LA & AHB Allocations	35	14 (7)
Total	160	40 (32)

True and accurate recording of preferences

The Council suggests that it is not deemed appropriate to use temporary sites to accommodate Travellers awaiting permanent housing, but no justification is provided for this conclusion.⁷ The increase in Traveller homelessness makes it all the more important for the Council to establish transparent and robust systems for the collection of true accommodation preferences of members of the Traveller community.

The Council states that in its experience, Traveller families by and large wished to be accommodated in standard housing and halting sites were a temporary accommodation measure while awaiting standard housing. It reports that only three households approved for social housing had requested Traveller-specific accommodation. Alongside this, the Council reports its commitment to exploring options for the provision of Traveller-specific group housing and options for the provision of Traveller-specific accommodation with CENA. It notes that there is no such provision in the county at present. This preference, for group housing, is not

⁷ In June 2021, the Council has advised that it:

“again asserts that temporary sites are not appropriate - these sites are fraught with difficulties and issues have been well articulated. At no point in consideration of the TAP or the ongoing work of the LTACC has the view been articulated that the Council should use or aspire to use temporary sites as a social housing solution. Currently there are 3 Traveller families in emergency accommodation - this is own door accommodation - while longer term solutions are found. It is the Council’s clear contention that this approach at this time is much more sustainable and respectful of the needs of these families rather than attempting to establish temporary halting sites to meet their short-term needs”.

explored in the TAP and the rationale for this commitment to exploring this option is not provided in the Equality Review. It would appear to point to a demand for Traveller-specific accommodation in the form of group housing rather than halting sites. This raises issues as to the manner in which Traveller preferences with regard to type of accommodation are currently established.

Four operational halting sites are referred to in the Equality Review and the Council reports that these are 'maintained to a high condition overall'. At the same time the Council reports that an 'extensive programme of renewal of the existing halting sites' is now envisaged under the TAP. This appears to present somewhat of a contradiction and raises concern as to the current quality of this provision, and whether this is an influencing factor on the accommodation preferences of the Travellers in the county.⁸

The Council did not provide sufficient information in order to be able to determine whether it has a robust system in place to capture and record Traveller accommodation need. There is no reference made to any independent verification or tracking over time of preferences. The Council determined projected need on the basis of the number of Traveller children who would reach the age of 18 during the life time of the current TAP, the preliminary results of the KTHCDP Housing Needs Assessment and the number of social housing applications being made annually. No further detail of this assessment is provided and it is not made clear why this assessment did not further inform the TAP. However, this process is of interest in that it could serve as the basis for independent verification of preferences.⁹

⁸ In June 2021, the Council has advised that:

"In respect of the Halting sites the Council does not accept that there is a contradiction between the current condition of the sites and the plan for a refurbishment. The Halting Sites are of a high standard and are well maintained and managed. However, that does not mean that the Council should not plan for redevelopment, expansion or renewal of such facilities given the changing nature of need and demands since they were originally established or last refurbished (e.g. the Rathass project involves a total refurbishment to accommodate a 50% increase in accommodation units and upgrading to a more modern unit). The Council has extensive plans which are advancing and have advanced since the TAP and the original responses. These plans do not contradict current conditions or commentary on current conditions".

⁹ In June 2021, the Council has advised that:

"in respect of data and information on the Traveller Community, there is recognition locally and indeed it has been discussed repeatedly at LTACC, that there is only a subset of overall housing data available to the Council. This is only available through social housing applications and associated social housing needs assessment. Local Traveller advocacy groups have done some

In addition, the TAER found that recording snap-shot or historical data on existing accommodation did not equate to an accurate record of accommodation preferences. Furthermore, some members of the Traveller community perceive a lack of Traveller-specific accommodation or are exasperated by overcrowding or poor hygiene conditions on halting sites and for this reason, feel they have no choice but to apply for social housing. Accurate collecting and recording of multiple preferences could rule out these potential underlying reasons and give the Council a more robust basis for its record of accommodation preferences. This in turn would create a more solid foundation for future Traveller-specific accommodation policies.

Drawdown of funding and expenditure

Comparing the overall sum allocated to capital expenditure for Traveller-specific accommodation from 2015 to 2018 as against the total sum drawn down for this period, the Council reported a significant overspend. The funds for one project in 2018, an envisaged extension to halting site bay at Rathass, were not drawn down. The Council states that this was because the family in question was accommodated in Killarney, but gave no further details on the reasons for this. There was also a slight overspend for current expenditure on Traveller-specific accommodation for this period.

Comparing total drawn down for capital expenditure for Traveller-specific accommodation for this period as against that for general housing, the ratio is 354,454 : 62,442,091, or 1 : 176. In the absence of figures for the population of members of the Traveller community residing in the Council's functional area as against the general population, no meaningful conclusions can be drawn from this.¹⁰

work around their own audits and data capture in this area but have found no easy resolution of the issue. Indeed, significant issues were encountered by them from a data protection perspective and data sharing or willingness to share by the community. It is accepted that there is potentially a broader need to address this specific area but requires to be addressed beyond the narrow social housing context of Kerry County Council".

¹⁰ In June 2021, the Council has advised that:

"The absence of the fullest data set on [the] population of Traveller[s] has been referred to earlier and the Council agrees that this area warrants further examination. For example, there is an Annual Traveller Count conducted by the Traveller Accommodation Unit within the Department of Housing. Kerry County Council has reviewed the Governance of the Data Sets being used for this return. In addition, we consulted with members of the LTACC, who have confirmed that they do not have comprehensive data either in respect of the Traveller Community who are not Council tenants/ applicants. They have also advised that GDPR would also restrict them from sharing any

The Council reports no delays in the drawdown of funding for Traveller-specific accommodation. The Council notes, however, that a significant number of Traveller families are accommodated as part of the Council's standard housing programme, identified as the largest area of Traveller accommodation provision, thus availing of funding streams that are part of the routine Capital Programme and Maintenance Programme of the Council. It gives the examples of the ongoing regeneration project in Tralee Town and a major project to construct specific permanent units on the Dingle Road halting site for a Traveller family. As such, it may be the case that the needs of many Travellers are met through general housing funds.

The Council reports that it met 90% of its target for the TAP 2014-2018, however, no analysis of or rationale for the shortfall is provided.

Discrimination in the private rented market

The above-mentioned planned provision in respect of the TAP 2019-2024 involves a notable dependence on private rented accommodation. This is of concern given the Council's acknowledgement, in the Equality Review follow-up queries, of discrimination being a recurring experience for Travellers in the private rented market and the apparent lack of any adequate strategy to deal with this. The Council further acknowledges 'huge issues' of availability of such accommodation for long-term rent given the demands of the tourism market.

It is of further concern in this regard that the TAP identifies an expectation that:

information with the Local Authority. On that basis from a governance perspective, the Council is limited in providing information where factual information is known to the Council as follows:

- Detailing information on social housing tenants and social housing applicants where ethnicity has been declared, by them, as being members of the Traveller Community. In the absence of any such self-declaration we do not classify any person as being a Member of the Travelling Community.
- In relation to other information requested, specifically 'estimated' information, the Council under established Governance Policies and Procedures in relation to estimated data, does not provide speculative (estimated) figures as there is no objective on which to do so.

Furthermore, the Annual Traveller Count was discussed in detail at LTACC Meeting, held on 12th December 2019, where it was suggested that the CSO would be the best avenue for the collection of this data and that this was communicated to the Department of Housing at that time".

“newly formed Traveller households will make suitable arrangements for their accommodation pending the provision of accommodation by Kerry County Council through income supports such as the HAP scheme”.¹¹

Homelessness

The Council identifies Traveller homelessness as an emerging trend. No data is provided in relation to Traveller homelessness. No information is provided on attendant issues such as overcrowding in existing accommodation. There is no apparent strategy to understand and respond to the particular experience of homelessness for Travellers as a minority ethnic group, other than a recognition of the high levels of discrimination experienced in the private rented sector, as outlined above.¹² In this regard, the Traveller Liaison Officer or other staff engaging with members of the Traveller

¹¹ In June 2021, the Council has advised that:

“While these areas are detailed under the heading Discrimination the Council does not and cannot accept that this demonstrates or infers discrimination. This statement and commentary reflect what is the National Housing environment and all its complexities. It is well articulated that there are deficiencies and disfunction [sic] in the housing market generally and especially acutely in County Kerry given the competing demands and the lack of private sector development. These are well documented and articulated issues across all stakeholder[s] and the private market is beyond the specific remit of Council social housing policy and function. The submission of responses and the making of commentary by the Council in this area was to set a context to our operating environment and constraints therein for all housing applicants. It does not constitute an acceptance that such difficulties are of our making or that the solution to these issues are totally within our remit”

¹² In June 2021, the Council has advised that:

- “The issue of homelessness within the community has been raised and discussed at LTACC not only in the Kerry context, but generally as a challenge and consideration in the national context. The principal concerns expressed in this area and ones regularly articulated relate to experiences in the private rented market. The data on Traveller homelessness changes on an almost daily basis. It is predicated on self-declaration of ethnicity which is not always forthcoming in such cases. The data is discussed at each LTACC meeting. There is no underlying pattern or trend that warrants any specific commentary other than general commentary that some of the cases arise due to difficulties in the private market. Not all these difficulties are discriminatory practices. The issues are complex and varied and are dealt with on a case by case basis. In the majority of cases they reflect underlying complex, issues common across all homeless categories. A report presented to the LTACC meeting on the 25th March 2021 in respect of Traveller homelessness, detailed the following position;
- 3 Traveller families homeless (3 adults and 11 children). These families are in own door accommodation - not hostels. This represents a 62% decrease since December 2019. Exit strategies from emergency accommodation are in place for 2 of these families.
- 1 Couple - this represents a 75% reduction since December 2019.
- 12 individuals- this represents a 40% reduction since December 2019.

The Council has made significant progress on homelessness generally. The figures for homelessness continue to show a decreasing trend”.

community should be aware of legal routes Travellers may take to complain about such discrimination in order to be able to impart this information to Travellers themselves.¹³

Traveller culture

Limitations in the response of the Council to cultural difference appear to emerge in relation to the provision of transient sites. The Council reports in the Equality Review that there is no demand for the provision of such sites. At the same time it reports that Travellers involved in trading through the county and Travellers involved in festivals in the county would require such accommodation. The Council's position that commercial traders should secure their own accommodation and that festival promoters should make their own provision does not appear to adequately respond to cultural difference in a context where Traveller nomadism has traditionally been rooted in an economy of such trading activities, often of a marginal nature.

The Council should consider a proactive approach in respect of the provision of transient sites. The DHPLG has made clear in Circular 03/2020 that funding is available for transient sites. These could serve for multi-purposes: sites traditionally used at certain times of the year, sites for transient families, and facilities for regular visitors to residents of permanent accommodation. They could also serve as overflow sites when issues of overcrowding, the need for temporary accommodation during refurbishment works arise or homelessness arise.¹⁴

¹³ In June 2021, the Council has advised that it cannot accept the validity of this statement and states that: 'Council staff working as housing practitioners in this area are well informed and perform their duties with diligence and professionalism. In addition to discharging core functions the staff also provide a general advisory role to members of the Traveller Community. This includes advice and guidance in relation to issues around tenancy sustainment and tenancy rights including referrals to the appropriate statutory bodies. In addition, the Council has facilitated the establishment by Threshold of a Tenancy Advisory service in County Kerry and referral to this service is a routine part of the advisory role we fulfil.'

¹⁴ In June 2021, the Council has advised that:

"It is accepted that the issue of transient sites is a difficult and sometimes emotive one. One of the difficulties in this area is that this authority is limited to assessing needs in the context of our social housing obligation and this neither captures [n]or definitely addresses the transient need or need from a nomadic culture or ethnicity. It is suggested that this can only be adequately assessed in the context of a national approach and the ad hoc assessment and potential development at local level would constitute a piecemeal approach. The governance requirements within areas such as public spending codes require that the basis of need and the basis for which a development is pursued would be clearly established and all potential solutions including potential alternative approaches assessed. At this point there is simply no objective data available which would enable the initiation of even such a proposal. The limited data available within the context of the social

Further to the regeneration referred to above, the Mitchel's/Boherbee Regeneration Project includes Traveller and settled residents with a Traveller accommodation element estimated as taking up 25% of overall regeneration costs, including the development of Tralee Community Horse Project, affording access for Travellers to land for grazing and stables for horses. This appears enabling of an important tradition within Traveller culture and identity.

Traveller ethnicity

The Council makes a clear acknowledgement of Traveller ethnicity in the Equality Review and in the TAP. However, there does not appear to be any process for identifying or addressing the practical implications of this cultural difference for the manner in which social housing is provided and managed, nor for the manner in which the significant levels of Traveller homelessness are being addressed.¹⁵

Integrated communities and tenant participation

The TAP states that 'Local Authorities have [a] responsibility to ensure that accommodation is provided for the Traveller community. The Traveller community in turn has responsibilities in relation to the community at large'. However, there is no clarity provided as to the mutual nature of the responsibility of both Travellers and the wider community. No strategy is reported to support and sustain the development of integrated communities in social housing estates made up of Travellers and settled people. The Council does report a commitment to encourage Traveller families to take part in Tenant Participation Programmes and Residents Associations, which is a positive but limited step in this regard, however no detail is provided on this.¹⁶

housing needs assessment does not provide a basis for the development of such a proposal currently. This area clearly remains part of ongoing work of the LTACC and specifically within the context of the TAP. However, the LTACC priority is the current halting site capital programme as set out above which involves refurbishment, expansion and development of group housing in a reconfiguration of the halting site approach to a more blended approach".

¹⁵ In June 2021, the Council has advised that:

"This commentary does not reflect the context in which we operate in this County. It does not acknowledge the role of the LTACC and the ongoing working relationships which provide formal and informal processes and structures to enable identification, articulation and addressing of issues and considerations arising in the area of ethnicity. In respect of homelessness specifically the position has been outlined in detail above and this demonstrates that the approaches and intervention in place are yielding results".

¹⁶ In June 2021, the Council has advised that it:

The Council has established a halting sites sub-committee of the LTACC to deal with operational issues arising and to work on LTACC agenda items in relation to halting sites. This appears to serve as a form of tenant participation in estate management for the residents of the halting sites. However, it is not clear why more formal standard processes of tenant participation have not been introduced on the halting sites, in particular given the concern articulated by the Council for adequate arrangements for the management and maintenance of this Traveller-specific accommodation.¹⁷

LTACC

It is stated above that the LTACC is chaired by the KTHCDP, a Traveller-led organisation, nominated by the Council at the request of Council management. It meets in the offices of the KTHCDP. This appears to be enabling of a strong Traveller engagement in the committee.

The Council seems to have systems in place for ensuring ongoing consultation with Traveller representative bodies. It states that it has a strong working relationship and partnership with the KTHCDP and the LTACC. The latter meets at a minimum quarterly and its agenda always includes TAP issues, a report from the Halting Sites Sub-Committee and Traveller homelessness. On seeking submissions on its draft TAP, it received two 'valid' submissions from the KTHCDP and the CKRTAWG. It is not clear what is meant here by the Council by 'valid' or whether other submissions deemed not to be valid were received.¹⁸

"has tenant/estate management approaches in place in all appropriate estates including those with members of the community. However, the participation of any resident [in] such structures and or committees is dependent on their willingness to come forward - this willingness is limited across all communities".

¹⁷ In June 2021, the Council has advised in this regard that:

"It is not clear the basis for the assumptions in this area. The examples outlined by the Council indicate additional structures in place as a demonstration of specific and measurable interventions to ensure that the halting sites are managed and maintained to a high standard and a process of openness and partnership to working within and through the LTACC to address any issue arising".

¹⁸ In June 2021, the Council has advised that:

"On the specific point on the use of the term 'valid' - a submission was received late and outside the formal deadline for receipt of such submission under the processes in place and was deemed late and therefore invalid. This was discussed at LTACC at the time".

Supports

The Council reports that it has a number of services on offer to members of the Traveller community to ensure their equal access to accommodation services. These include an Administrative Officer, social support, a Traveller Liaison Officer, a Traveller Housing Investigating Officer and a Halting Site Caretaker. The HAP Placefinder Officer further assisted Travellers in securing private rented accommodation.

The Council identifies that one of six housing investigating officers is exclusively assigned to the accommodation needs, social housing applications, and the making of social housing supports for Travellers. The Council further reports that its Scheme of Allocations makes specific provision for considering allocations on the ground of membership of the Traveller community. Such specific allocations are reported as having been made in recently completed general housing schemes.

Public Sector Equality and Human Rights Duty

In the Equality Review, the Council references stated policies and strategies to give effect to its statutory obligations including the Public Sector Equality and Human Rights Duty, and its TAP identifies that it has had regard to Public Sector Equality and Human Rights Duty. However, there is no assessment of equality and human rights issues, as required under the provisions of the duty, and no indication of any process to consider and respond to such an assessment in the preparation of the TAP.¹⁹

¹⁹ In June 2021, the Council has advised that:

“[t]his falls within our overall corporate governance approaches. There is currently an on-going review of this area as it applies to all Council policies, procedures and practices. This work will include retrospective assessment of the TAP from such perspectives and will formalise approaches to be followed in all areas including the TPA going forward”.

Section 3 Recommendations

The Commission recommends that the Council should undertake the following actions to strengthen the level of equality of opportunity and non-discrimination in its systems for the provision of Traveller-specific accommodation services.

1. Address policy and procedure for:
 - tracking and independently verifying the preferences of the Traveller community in relation to type of accommodation and ensuring a respect for Traveller culture and identity in meeting these;
 - tracking the experiences of the Traveller community in seeking to secure accommodation in the private rented sector and addressing the issues identified;
 - identifying and responding to the practical implications of the recognition of Traveller ethnicity, in the provision of standard housing to Travellers, with particular regard to supporting and sustaining integrated diverse communities;
 - identifying and developing culturally specific responses to the needs of Travellers experiencing homelessness;
 - establishing and developing a response to the needs of Travellers who are nomadic within and throughout the county, through the provision of transient halting site bays;
 - establishing appropriate processes for Traveller participation in estate management on Traveller-specific accommodation; and
 - implementing the Public Sector Equality and Human Rights Duty in the next review of the TAP.
2. Establish and implement an ethnicity identifier in data gathering and analysis in relation to the provision of social housing and homelessness services and

include all Traveller-specific accommodation options in housing applications (i.e. allow applicants identify themselves as a member of the Traveller community if they wish and for the sole purpose of identifying accommodation needs and include a list of needs/preferences any or all of which may be ticked, including, but not limited to permanent/transient halting site, group housing, outdoor space for dogs/horses and preference to be accommodated close to family members).

3. Develop a more transparent recording of the methodology of collection and data obtained in the annual count of members of the Traveller community (for example by survey, setting out the steps taken to ensure all members of the Traveller community were reached and including such questions as multiple accommodation preferences and difficulties in accessing such preferences or other accommodation in the past.)
4. Record data on both funds allocated and drawn down for Traveller-specific accommodation and those for general accommodation. This would help to inform the Council to ensure that there is no less favourable treatment of Travellers in the provision of accommodation. Account may be taken of the true preferences of members of the Traveller community whose accommodation needs are met through general housing funds and of the fact that some forms of accommodation are more expensive than others.
5. Adopt a broad equality policy incorporating discrimination on all prohibited grounds and all staff should receive training on this policy.

Appendix 1

In conducting any equality review, the Commission requested that the Council would address and report on the following:

- (a) The practices, procedures and other relevant factors in respect of the provision of accommodation services to members of the Traveller community within the Council's functional area;
- (b) The amount of funds allocated by the Department of Housing, Planning and Local Government that the Council requested to draw down in each of the last four years;
- (c) The amount of funding applied for by the Council to the Department of Housing, Planning and Local Government, but which was not drawn down;
- (d) If the entirety of funding allocation was not drawn down, to provide the reason(s) for this;
- (e) For each of the previous four years, the projects for which the Council applied for funding from the Department of Housing, Planning and Local Government and to confirm which of these received funding. To also confirm which of these projects were completed, and if not completed, to advise of the reason(s) for this;
- (f) To confirm the amount of funding in respect of general or standard housing available to the Council in each of the previous four years, the amount requested to be drawn down and the amount in fact drawn down in each of these years;
- (g) The impact that any failure to draw down allocated funds has on the Council's statutory duty to provide sites for caravans, including sites with limited facilities;
- (h) To confirm the amount of funding in respect of the provision of Traveller specific accommodation already applied for and/or that will be applied for in 2019;

- (i) To specify how the issue of applying for and drawing down funding is to be addressed in the Council's strategy for securing the implementation of its Traveller Accommodation Programme;
- (j) Whether any issues of equality of opportunity or discrimination arise in respect of the above-mentioned practices, procedures and other relevant factors with regard to the provision of accommodation services to members of the Traveller community and the failure to draw down funding for Traveller specific accommodation; that is, are these practices, procedures and other relevant factors conducive to ensuring that service users who are members of the Traveller community can avail of accommodation services on an equal and non-discriminatory basis with service users who are settled persons/not members of the Traveller community; and
- (k) Any recommendations and/or findings arising from the review.



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
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