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**Review of the Operation of the Housing  
(Traveller Accommodation) Act 1998.**

**Report by the  
National Traveller Accommodation  
Consultative Committee  
to the  
Minister for Housing and Urban Renewal**

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## **Report by the National Traveller Accommodation Consultative Committee to the Minister for Housing and Urban Renewal**

**June 2004**



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An Coiste Comhairleach  
Náisiúnta  
um Chóiríocht don Lucht Siúil

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# 1. Introduction

## 1.1 Introduction

1.1.1 The First Progress Report of the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community (published in December, 2000) recommended, *inter alia*, that the operation of the Housing (Traveller Accommodation) Act 1998 should be reviewed in 2002, i.e. two years into the delivery of the Traveller accommodation programmes.

1.1.2 The Minister for Housing and Urban Renewal, in addressing the first meeting of the reconstituted National Traveller Accommodation Consultative Committee (NTACC) in May 2003, requested the Committee to consider and make recommendations to him in relation to the review of the operation of the Act.

## 1.2 Terms of Reference

1.2.1 The terms of reference given to the Committee in considering the review of the Act were to consider:

- (a) progress made in providing accommodation under the five-year programmes;
- (b) the operation and membership of the Local Traveller Accommodation Consultative Committees;
- (c) the operation of the provisions of the Act relating to unauthorised encampments;
- (d) the effectiveness of the public consultation mechanisms relating to the preparation and review of the five-year programmes put in place under the Act;
- (e) the operation of the loan and grants scheme for the purchase of caravans, and
- (f) relevant planning legislation.

### **1.3 Review Method**

- 1.3.1 At the second meeting of the NTACC, on 28th May 2003, the Committee decided to establish a subcommittee to carry out the task of considering the operation of the Act and to report back to the NTACC on its conclusions. Please see Appendix 1 for a list of subcommittee members.
- 1.3.2 The subcommittee decided at its first meeting to invite each local Traveller Accommodation Consultative Committee (LTACC) to make submissions to it on the review. In addition, it asked each of the three national Traveller support organisations to invite the organisations themselves and their member organisations to make submissions to the subcommittee.
- 1.3.3 Submissions were received from twelve LTACCs. Other organisations, including two local Traveller support groups, also made submissions to the subcommittee. A joint submission was received from the three national Traveller organisations.
- 1.3.4 Oral presentations were also made to the subcommittee by persons involved in matters the subject of the review.
- 1.3.5 A list of the LTACCs and Traveller support organisations which made written submissions to the subcommittee, along with the names of persons who made oral presentations to the subcommittee, are set out in the Appendix 2 to this report.
- 1.3.6 While the operation of Part IIA of the Criminal Justice (Public Order) Act 1994 as inserted by the Housing (Miscellaneous Provisions) Act 2002 is not part of the terms of reference of the subcommittee, it was agreed by the National Committee that the Traveller bodies' nominees on the subcommittee would furnish a copy of their report to it on the effect of its operation on the accommodation of Traveller families concerned.

### **1.4 Caravan Loan and Grants Scheme**

- 1.4.1 The subcommittee considered this element of the review. Having considered the timescale involved in the review of the operation of the



1998 Act, and the desirability of having accurate up to date figures on the operation of the caravan loan and grants scheme, the subcommittee recommends that the operation of this scheme be the subject of a separate review.

## **1.5 Acknowledgements**

1.5.1 The subcommittee was greatly facilitated in its work by the administrative support and secretarial assistance provided by the Department of the Environment, Heritage and Local Government.

## **1.6 Adoption of Report by the NTACC**

1.6.1 The full Committee, having considered this report at its meeting of 16 June 2004, agreed to adopt this report of the subcommittee, subject to minor changes incorporated in the text, as its report to the Minister on the review of the operation of the 1998 Act.

## 2 *Number of Traveller Families and Accommodation Needs*

### 2.1 Introduction

- 2.1.1 This Chapter provides details of
- o the number of Traveller families in the State,
  - o the growth in that number from 1995 to 2003, and
  - o three assessments of Traveller accommodation needs carried out in 1995, 1999 and 2002.

### 2.2 Data Sources

- 2.2.1 Details relating to the number of families are taken from the Annual Count of Traveller families undertaken by local authorities in November of each year.
- 2.2.2 The National Census carried out by the Central Statistics Office also gather statistics on the Traveller population and, for the first time, included a question on membership of the Traveller community in the 2002 Census. The subcommittee decided to base its examination of the number of Traveller families on the Annual Count figures so as to allow a comparison of figures over the period since the 1995 Task Force report.
- 2.2.3 The subcommittee recognises that it is desirable that the relationship between the figures produced by both the Census and the Annual Count be clarified to avoid any confusion arising. This is not a matter for the current review.

### 2.3 Count of Traveller Families

- 2.3.1 In November each year local authorities (County and City Councils) undertake an Annual Count of Traveller families in their administrative area on the last Friday of the month. The count provides a snapshot of the accommodation position of Traveller families at that particular time.
- 2.3.2 Summary details of the result of this Count are published in the Department's Annual Bulletin of Housing Statistics in the following year. The full set of figures available from the count is provided to the

National Traveller Accommodation Consultative Committee, and various interested bodies including Traveller support groups.

- 2.3.3 Generally, these figures have been taken as reflecting a reasonably accurate count of the number of Traveller families in the State.

## 2.4 Format of Count

- 2.4.1 When gathering information for the Count local authorities are in a position to provide accurate information on the number of Traveller families occupying accommodation provided by or with the assistance of the local authorities. They are also in a position to provide figures on the number of families on unauthorised sites.

- 2.4.2 Some Traveller families provide their own accommodation without recourse to a local authority. There may also be families sharing such accommodation. Other families avail of private rented accommodation; again this may be without any recourse to local authorities. In these cases local authorities obviously do not have records relating to such families and consequently can provide only an estimate of the number of families in these accommodation categories.

## 2.5 Total Number of Traveller Families

- 2.5.1 The subcommittee believes, however, that even though the figures quoted in some of the categories are estimates, it is useful to highlight the overall number of families included in the 2003 Count, including those figures based on estimates.

- 2.5.2 The 2003 Annual Count shows that there is an estimated total of 6,799 Traveller families in the State. Local authority figures show that 5,740 of these are accommodated by or with the assistance of local authorities or on unauthorised sites. A further 1,059 are -

- o in private rented accommodation,
- o in accommodation purchased by the Travellers themselves, or
- o sharing accommodation.

An analysis of the accommodation position of the overall number of Traveller families is given in Chapter 3.

## 2.6 Changes to Annual Count

- 2.6.1 To establish trends in the growth in the number of Traveller families it is essential that the figures used each year are consistent, and that the figures quoted should be accurate.
- 2.6.2 However, when comparing the Count figures for various years, the subcommittee recognised that direct comparisons between years are not always possible as the Count format has been revised a number of times since 1995 in order to gather more information and to refine definitions.
- 2.6.3 In examining the Annual Count figures the subcommittee therefore noted that
- o the Annual Count is a measure of the accommodation position of Travellers at a particular time each year. It is not a measure of the activity in relation to the provision of accommodation throughout the year (construction, refurbishment, allocations made, offers refused and units vacated etc),
  - o from 1997 figures on -
    - o accommodation provided by Travellers with their own resources,
    - o families accommodated by voluntary bodies, and
    - o private houses purchased with the assistance of local authorities,
  - o began to be collected separately through the Count,
  - o from 1999 to 2001 a separate category for families sharing accommodation was included. However, this was a single figure and did not differentiate between those sharing standard accommodation, those sharing group housing, etc,
  - o since 2002 the "sharing" details have been further refined to show families sharing all categories of accommodation,
  - o estimated figures for families in private rented accommodation began to be collected in 1999,
  - o a number of units of Traveller specific accommodation are "lost" through refurbishments each year (e.g. for instance where 10 halting site bays have been replaced by 8 group houses), and

- o the category of "Traveller Trader" was removed from the Count form in 2002, due to the absence of an agreed definition of what constituted a "trader". From an examination of the figures it appears that families in this category have since been included either under the category of families who have provided their own accommodation or are on unauthorised sites.

## 2.7 Figures used to Assess Trends

2.7.1 In assessing the trends in the growth in the number of Traveller families the subcommittee have excluded estimated figures and, as far as possible, the number of families sharing accommodation. While this means that the total number of Traveller families will be understated, the trends should become identifiable.

2.7.2 The figures used, in assessing the trends in the growth in the number of Traveller families, therefore correspond to those generally published in the Quarterly Bulletin of Housing Statistics and the National Committee's annual report. The subcommittee believes that to analyse trends the figures for the three years 1995, 2000 and 2003 are directly comparable. The categories used are those used in Counts for the three years in question. These include families -

- o in standard local authority accommodation (including Voluntary Housing),
- o on halting sites,
- o in private houses assisted by local authorities (i.e. families who have received assistance from local authorities through the tenant purchase or shared ownership schemes or the new house and/or Traveller grant), and
- o on unauthorised sites.

2.7.3 The figures for families included in halting sites have generally included families in all types of halting sites including permanent, temporary and transient halting site bays as well as families sharing bays. While this convention is followed for the purpose of this current examination of trends the subcommittee considers that this issue should be examined for future Counts.

## 2.8 Definition of a Family

2.8.1 A final issue to be taken into account when assessing trends is the definition of a family. Prior to 2002 there had been no definition in the Count form of what constituted a family. Starting with the 2002 Count, families are defined as follows:

*"A family is taken to mean parent(s) and/or children and relatives normally resident with them. Where persons are resident with the family on a temporary basis, pending the setting up of their own household, they should be counted as a separate family."*

Defining families in this way means that a family, for the purpose of the Count, could be composed of just one person.

## 2.9 Growth in Number of Traveller Families 1995–2003

2.9.1 The number of Traveller families has increased by 1,561 in the period 1995 to 2003. Table 2.1 beneath sets out details of the number of families as shown by the Count in each of the years 1995, 1999 and 2003.

**Table 2.1 Number of families 1995–2003**

	1995	1999	2003
Number of families	4,179	4,790	5,740
Increase		611	950
% increase		14.62%	19.83%

2.9.2 In the four-year period 1996 to 1999 the number of families increased by 611 families – up 14.62 %. In the four-year period 2000 to 2003 the increase was 950 families – up 19.83%<sup>1</sup>.

2.9.3 In 1995 the Task Force, in estimating the growth in the potential need for Traveller accommodation, projected that the number of families

<sup>1</sup> The subcommittee considers that the possible effect of the definition of family in accounting for the latter increase should not be discounted.

would increase at the rate of 4% per annum. This would have given a figure of 4,888 families in 1999 and 5,719 families in 2003. Both of these figures are close to the actual figure as shown in Table 2.1 above.

## **2.10 Assessments of Need**

2.10.1 The assessments examined are the assessment carried out -

- o for the 1995 Task Force report,
- o by local authorities in preparing their five-year Traveller accommodation programmes in 2000, and,
- o by local authorities as part of the statutory triennial assessment of housing needs generally, carried out in of March 2002.

2.10.2 All three assessments contained estimates of -

- o the accommodation need existing at the time each assessment was undertaken (the current need), and
- o forward projections of additional need arising over different periods for each assessment (the projected need)<sup>2</sup>.

2.10.3 Each assessment estimated a figure for overall need for each period (the gross need), which was the total of the current need and the projected need.

## **2.11 Overview of Assessments**

2.11.1 Table 2.2 beneath sets out the need identified for additional permanent accommodation in the three assessments. The assessments give details of the number of units required in total and, subject to the proviso in relation to the 2002 assessment, include all types of permanent accommodation provided for Travellers including standard local authority accommodation and Traveller specific accommodation.

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<sup>2</sup> The projected need carried out in the statutory assessment in March 2002 related to the expected growth in the need for halting site bays only. It did not project the need for other types of accommodation. It covered only the period from March 2002 to the end of the five-year programmes in December 2004.

**Table 2.2: Assessments of need: permanent units 1995, 1999 and 2002**

	<b>1995</b>	<b>1999</b>	<b>2002</b>
Current Need	1,450	2,101	2,082
Projected Need	650	1,684	485
Gross Need	2,100	3,785	2,567

## **2.12 Current Need**

2.12.1 As can be seen (Table 2.2 above) the current need increased between 1995 and 2000 by 650 as against an increase in the number of families of 611.

2.12.2 In the period 1999 to the March 2002 assessment of need there was very little change in the figure for "current need" (2,082 units in March 2002 compared to 2,101 in 2000).

## **2.13 Projected Needs**

2.13.1 In 1995 the "projected" need accounted for 30% of the gross need estimated by the Task Force. By 1999 the projected need accounted for 44.5% of gross need.

2.13.2 The Task Force projected need based on a 4% growth in the number of Traveller families. In preparing their programmes in 2000 local authorities used a number of different mechanisms for estimating projected need including some who used the 4% figure.



## **2.14 Recommendations**

- 2.14.1 While recognising the improvements to the format of the Annual Count that have taken place the subcommittee considers that the data collected could be improved further. It recognises that there are a number of issues in relation to the collection of figures on the Traveller population which affect both the Annual Count and the Census of Population figures.
- 2.14.2 It is recommended that the Annual Count be reviewed with a view to determining a final format for the Count which would allow comparison of figures with the figures currently available. The subcommittee recognises that this review will not be completed in time for the 2004 Annual Count but considers it should be in place for 2005.

## 3. Provision of Accommodation 1996–2003

### 3.1 Introduction

3.1.1 This Chapter examines -

- o the accommodation position of Traveller families in November 2003,
- o the changes in that accommodation position since 1995,
- o construction activity in relation to Traveller specific accommodation before and after the adoption of the programmes, and
- o capital expenditure on Traveller specific accommodation.

### 3.2 Accommodation Position of Families – November 2003

3.2.1 The accommodation details shown are taken from the Annual Count of 29 November 2003 and contain details of all the families included in that Count including the estimated figures. (See Chapter 2.)

3.2.2 Table 3.1 below sets out the overall position in relation to the total number of families as shown by that Count.

**Table 3.1 Number of Traveller families – November 2003**

	Number of families in:	2003	% of families
(a)	Standard Houses (including voluntary housing)	2,680	39.42%
(b)	Unauthorized Sites	788	11.59%
(c)	Permanent Halting Site Bays	726	10.68%
(d)	Group Housing	545	8.01%
(e)	Own Resources	443	6.51%
(f)	Basic Service Bays /Transient Halting Site Bays <sup>3</sup>	397	5.84%
(g)	Private Houses assisted by LAs	329	4.84%
(h)	Sharing Housing (categories a, d, e, g, i)	323	4.75%
(i)	Private rented accommodation	293	4.31%
(j)	Sharing Permanent Halting Site Bays	169	2.49%
(k)	Sharing Basic Service Bays/Transient Halting Site Bays	106	1.56%
	<b>Total</b>	<b>6,799</b>	<b>100.00%</b>

<sup>3</sup> Basic Service Bays include temporary and emergency halting site bays.

- 3.2.3 The Count shows that in November 2003, there were a total of 6,799 Traveller families in the State (including the estimated figures). The most common accommodation type, at 39.42% of all Traveller families, was tenancies in standard local authority accommodation (including that provided by voluntary bodies), followed by 10.68% on permanent halting bays, and 8.01% in group housing.
- 3.2.4 There were 788 families, or 11.59% of the overall total number of families on unauthorised sites.
- 3.2.5 Families in private rented accommodation accounted for 4.31% of the overall Traveller population. The Annual Count did not seek information on whether families in private rented accommodation received assistance through the form of rental assistance. However, the subcommittee understands that enquiries made subsequently by the Department of the Environment, Heritage and Local Government showed that in a significant number of cases Traveller families in private rented accommodation are in receipt of such assistance. This indicates that such families are likely to seek permanent accommodation from local authorities.
- 3.2.6 Families who provided accommodation from their own resources accounted for 6.51% of all Traveller families while families in private houses assisted by local authorities accounted for 4.84% of all families.

### **3.3 Families Accommodated by or with the Assistance of Local Authorities**

- 3.3.1 Table 3.2 below shows that a total of 4,280 families, or 62.95% of the total number of families (6,799), are accommodated as tenants in accommodation provided by local authorities (including voluntary housing).
- 3.3.2 Of the number (4,280) accommodated by or with the assistance of local authorities, 62.61% are in standard local authority accommodation and 29.69% are accommodated in permanent Traveller specific accommodation.
- 3.3.3 Private houses assisted by local authorities account for 7.7% of the accommodation of such families. Those accommodated with the

assistance of local authorities include families who have purchased accommodation through the shared ownership or tenant purchase schemes or with the assistance of the Traveller house purchase grant.

**Table 3.2: Families accommodated by or with the assistance of local authorities**

	<b>2003</b>	<b>% of Total</b>
Standard Houses (including voluntary housing)	2,680	62.66
Permanent Halting Site Bays	726	16.96
Group Housing	545	12.73
Private Houses assisted by LAs	329	7.69
<b>Total</b>	<b>4,280</b>	<b>100.00</b>

### **3.4 Families who have Provided their own Accommodation**

3.4.1 As indicated earlier, local authorities estimate that 443 families (or 6.51% of the overall number of Traveller families) have provided accommodation from their own resources.

3.4.2 Generally, the subcommittee understands that these families have provided housing accommodation. Possible reasons why halting site accommodation has not featured in this category are explored in Chapter 6 which deals, *inter alia*, with planning issues arising in relation to providing halting sites.

### **3.5 Families Sharing Permanent Accommodation**

3.5.1 Families sharing permanent accommodation accounted for 7.24% of all families. Those sharing housing (323 families) accounted for 4.75% of all families, while those sharing permanent halting site bays (169) accounted for 2.49%. Shared housing accommodation included -

- 141 in standard local authority lettings;
- 47 in group houses;
- 22 in private houses assisted by local authorities;
- 35 in own resources accommodation;
- 2 in private rented, and
- 1 in voluntary housing.

3.5.2 In examining these figures the subcommittee is aware that the definition of a family used in the Annual Count form (see Chapter 2) means that some of these families might consist of a single person.

### 3.6 Families in Basic Service Bays

3.6.1 A total of 503 families in accommodation are accommodated temporarily on basic service bays or on transient site bays. In total these account for 7.4% of all families. As can be seen from Table 3.3 beneath, these are either on basic service bays -

- o pending the provision of permanent accommodation, or
- o during construction of permanent accommodation, or
- o sharing such bays, or
- o on other basic service bays<sup>4</sup>, or
- o on transient sites.

3.6.2 Basic service bays provided for use pending permanent accommodation would be in use for a longer period than basic service bays provided for use during construction which would be in use only while construction was underway. While transient site bays are a separate category of accommodation the details are included here for completeness.

3.6.3 The subcommittee is aware that some basic service bays which are designed to be temporary have been in existence for considerable periods of time and some are in poor states of repair.

**Table 3.3 Number of families in Basic Service Bays**

	2003	% of Total Number of Families
Basic Service bays - pending permanent accommodation	281	4.13%
Basic Service bays - during construction periods	29	0.43%
Other Basic Service Bays <sup>5</sup>	42	0.62%
Sharing Basic Service Bays	106	1.56%
Transient Site Bays	45	0.66%
<b>Total</b>	<b>503</b>	<b>7.4%</b>

<sup>4</sup> Includes temporary and emergency bays.

<sup>5</sup> Includes temporary and emergency bays.

### **3.7 Families on Unauthorised Sites**

- 3.7.1 The 788 families on unauthorised sites accounted for 11.59% of all families. Generally families on unauthorised sites have not been regarded as being homeless.
- 3.7.2 Of these families, 408 were on the roadside. The remainder, 380 families, were in private gardens or other sites.
- 3.7.3 In total 251 (31.8%) of these families had access to some basic services. Of the families on the roadside, only 85 had access to basic services while of those in private gardens or on other sites, 166 had access to basic services.
- 3.7.4 Of the families on unauthorised sites at the time of the Count, 240 had not applied for accommodation from the local authority in whose area they were then living. The Count form did not request information on whether or not these families had applied to another local authority for accommodation.

### **3.8 Changes to Traveller Accommodation Position 1996–2003**

- 3.8.1 This examination of changes in the accommodation position of Travellers is based on excluding those sharing in all but halting site bays and including all halting site types (permanent, basic service bays, etc), as has been the convention. (See Chapter 2.)
- 3.8.2 For the purpose of this comparison it is also assumed that there were no families in private accommodation assisted by local authorities in 1996. The subcommittee accepts that there were likely to be families in such accommodation at that time but the figures were not collected in the Annual Count.
- 3.8.3 Table 3.4 under shows that there has been a continuous net increase in the number of Traveller families accommodated by local authorities in all accommodation categories throughout the period.

**Table 3.4: Families in local authority or local authority assisted accommodation**

	<b>1995</b>	<b>1999</b>	<b>2003</b>
Standard (including voluntary housing)	1,703	1,999	2,680
Group Housing	301	356	545
Halting Sites	1,063	1,100	1,398
Private Houses assisted by LAs	N\A	128	329
<b>Total</b>	<b>3,067</b>	<b>3,583</b>	<b>4,952</b>

3.8.4 Overall the percentage increase in families accommodated in the different types of accommodation between 1996 and 2003 amounts to a 59.99% increase. This included a 53% increase for standard housing; 81% increase in group housing, and 31% increase in halting sites.

3.8.5 Table 3.5 under summarises the position in relation to the increases in each category between the four-year periods 1996 to 1999 and 2000 to 2003.

**Table 3.5: Local authority provided accommodation 1996–2003**

	<b>1996–1999</b>	<b>2000–2003</b>
Standard (including voluntary housing)	296	681
Group Housing	55	189
Halting sites	37	298
Private Houses assisted by LAs	128	201
<b>Total</b>	<b>516</b>	<b>1,369</b>

3.8.6 Between 1996 and 1999 local authorities accommodated a total of 516 additional families. In the first four years of the five-year programmes 1,369 additional families have been accommodated.

3.8.7 Standard local authority accommodation accounted for just over 46% of the additional accommodation provided between 2000 and 2003, while such accommodation accounted for 57% of the increase between 1996 and 1999.

3.8.8 Group housing accounted for 10.66% of the additional accommodation provided between 1996 and 1999 and 14.27% between 2000 and 2003.

3.8.9 Halting site accommodation accounted for 7.17% of additional accommodation provided between 1996 and 1999 and 27.51% between 2000 and 2003.

3.8.10 Additional families in private houses assisted by local authorities accounted for 24.8% of additional families accommodated between 1996 and 1999 and 16.84% between 2000 and 2003<sup>6</sup>.

### 3.9 Traveller Specific Accommodation

3.9.1 As indicated earlier direct comparisons between the numbers of additional families in accommodation as shown by the Annual Count in any year and the Traveller specific accommodation construction activity undertaken by local authorities during that year are not always possible<sup>7</sup>. However the subcommittee examined the construction activity in the periods in question. The figures are based on the records of the Department of the Environment, Heritage and Local Government.

3.9.2 Overall activity in relation to Traveller specific accommodation is shown in Table 3.6 under. This shows that the overall number of new units provided almost doubled during the first four years of the five-year programmes when compared to that provided between 1996 and 1999.

**Table 3.6: New Traveller specific accommodation 1996–2003**

	<b>1996–1999</b>	<b>2000–2003</b>
Permanent Halting site bays	137	90
Group Housing	87	229
Basic Service bays	26	106
Transient Site bays	2	32
<b>Total</b>	<b>252</b>	<b>457</b>

### 3.10 Permanent Traveller Specific Accommodation 1996–2003

3.10.1 Table 3.7 shows that in the period 1996 to 1999 a total of 224 new units of permanent Traveller specific accommodation were

<sup>6</sup> See Section 3.8.2.

<sup>7</sup> See Chapter 2, Section 2.6.3.



constructed, while in the period 2000 to 2003 a total of 319 units of such accommodation were constructed – a 42% increase.

**Table 3.7: New permanent Traveller specific construction  
1996–2003**

	<b>1996–1999</b>	<b>2000–2003</b>
Permanent Halting site bays	137	90
Group Housing	87	229
<b>Total</b>	<b>224</b>	<b>319</b>

3.10.2 The ratio of permanent halting sites to group houses has altered significantly. Between 1996 and 1999 halting site bay provision accounted for 61% of the overall figure for new permanent Traveller specific accommodation. Between 2000 and 2003 halting site bays provided accounted for just 28% of the total.

3.10.3 New permanent Traveller specific accommodation as a percentage of all additional accommodation provided amounted to 43.41% between 1996 and 1999 and 24.09% in the following four years.

### **3.11 Refurbished Traveller Specific Accommodation**

3.11.1 The refurbishment of Traveller specific accommodation has been a significant feature of local authority construction activity. The level of refurbishment works can vary considerably from simple repairs to the provision of extensions to the complete knocking of existing accommodation and the rebuilding of new accommodation – “knock and rebuild”.

3.11.2 Refurbishments can affect the overall accommodation position of Travellers in two ways. Obviously, refurbishments lead to an improved standard of accommodation. They may also lead, in the case of “knock and rebuild” especially, to a reduction in the number of units in a scheme. While aware of a number of examples where this has taken place the Department does not have comprehensive figures on the position nationally.

3.11.3 A total of 246 units of permanent Traveller specific accommodation were refurbished between 1996 and 1999, while 236 units were refurbished between 2000 and 2003.

3.11.4 Table 3.8 below shows that the ratio of refurbished units to new units is quite high. The ratio is however reducing as set out in Table 3.9.

**Table 3.8: Refurbished Traveller specific accommodation  
1996–2003**

	<b>1996–1999</b>	<b>2000–2003</b>
Permanent Halting site bays	172	132
Group Housing	74	104
<b>Total</b>	<b>246</b>	<b>236</b>

3.11.5 The subcommittee acknowledges that for the foreseeable future refurbishment works will continue to be required until all stock is brought up to modern standards. It is expected that the level of such refurbishments will continue to decline.

**Table 3.9: New and refurbished Traveller specific  
accommodation 1996–2003**

	<b>1996–1999</b>	<b>2000–2003</b>
New Units	252 (42.21%)	457 (58.37%)
Refurbished Units	345 (57.79%)	326 (41.63%)
<b>Total</b>	<b>597 (100%)</b>	<b>783 (100%)</b>

3.11.6 Between 1996 and 1999 refurbishments accounted for nearly 58% of activity while this had reduced to just under than 42% between 2000 and 2003. (See Table 3.9 above.)

## 4. Traveller Accommodation Programmes

### 4.1 Introduction

4.1.1 This chapter examines the procedures set out in the legislation for the preparation, review, and amendment by local authorities of their Traveller accommodation programmes.

### 4.2 Preparation of Accommodation Programmes

4.2.1 The 1998 Act sets out in detail the required contents of each local authority's Traveller accommodation programme. Under Section 7 of the Act, a relevant housing authority is required to adopt an accommodation programme for its functional area, within a time limit set by the Minister. The programme must specify details of the accommodation needs of Travellers as assessed by the housing authority, and the provision of accommodation required to address those needs.

4.2.2 A relevant housing authority may adopt a joint programme, together with one or more other relevant housing authorities. The adoption, amendment to, or replacement of, an accommodation programme by a relevant housing authority is a reserved function to the members of the authority.

4.2.3 Before preparing a draft of an accommodation programme, a relevant housing authority is obliged, under section 8 of the Act, to give notice in writing of its intention to do so. The written notice must issue to six categories of body, such as the local consultative committee, adjoining housing authorities, relevant health board(s), appropriate local community bodies, and other organisations, such as voluntary bodies providing accommodation, shelter, etc within its functional area.

4.2.4 Each relevant housing authority, in accordance with section 9 of the Act, must *inter alia*: publish a newspaper notice regarding its proposed accommodation programme; make the draft programme available for inspection, and take into consideration any written submissions received within a two-month period allowed for making submissions. It must also send copies of the draft accommodation programme to bodies notified under section 8 of the Act, referred to above.

- 4.2.5 After the two-month public consultation period, the Manager of each relevant housing authority must prepare a report on the written submissions received. This report must contain, in accordance with section 11 of the Act, *inter alia*, a summary of the submissions, and the housing authority's responses to them. The report must also indicate whether the authority intends: to proceed with the draft accommodation programme; to proceed with the draft varied or modified as indicated in the report; or not to proceed with the draft programme.
- 4.2.6 Section 10 of the Act deals with the preparation of accommodation programmes, in accordance with the directions of the Minister. The programmes must include, *inter alia*, the result of the assessment of Traveller accommodation needs; statements of policy concerning the meeting of these needs; and strategies to secure the implementation of the programmes.
- 4.2.7 The programmes must also include implementation measures for the provision of accommodation required to meet the range of identified accommodation needs, including the provision of transient sites.
- 4.2.8 In accordance with section 12 of the Act, the manager must submit for adoption, to the relevant housing authority, a draft accommodation programme, together with his/her report on the submissions, within a time frame set down by the Act and specified in a direction by the Minister.
- 4.2.9 A copy of the draft programmes must also be provided to the groups mentioned in Point 4.2.3 above. Sections 13 and 14 of the Act deal with the adoption of accommodation programmes. Once adopted, copies of the programme must, under the provisions of section 15, be made available to certain listed elected officials and bodies and to the public for inspection or purchase.
- 4.2.10 Section 18 of the Act permits, *inter alia*, the Minister to require two or more relevant housing authorities jointly to prepare and adopt an accommodation programme. The Minister may also, after consultation with a relevant housing authority, require that authority to amend its programme.

### **4.3 Review and Amendment of Programmes**

4.3.1 Section 17 of the Act deals with the review, amendment, and replacement of accommodation programmes. Each relevant housing authority is obliged to review its accommodation programme at least once in each three-year period, or at such time as directed by the Minister. An authority may also carry out a review at any time during the life of the programme in question. An authority may amend or replace its accommodation programme at any time, including after a review.

4.3.2 If a relevant housing authority proposes to amend or replace its accommodation programme, it must comply with the same requirements as for the initial adoption of the programme. This includes the obligation, under section 9, to publish a public notice of its intention to amend or replace its programme. The other requirements, referred to at Points 4.2.2 to 4.2.10 above, must then also be complied with.

### **4.4 Public Consultation and Preparation and Review of the Five-Year Programmes**

4.4.1 The subcommittee considered views submitted in writing, or raised during discussions at meetings. In written submissions received from Local Traveller Accommodation Consultative Committees, the general view of the elected members and of the officials was that the consultation process worked well. Traveller representatives on the Committees, however, tended to be less enthusiastic regarding the operation of the consultative process.

### **4.5 Travellers' and Traveller Organisations' Contributions to Programmes**

4.5.1 A number of Traveller organisations in their submissions said that their contributions to their local authorities' accommodation programmes were not reflected in the final programmes, as adopted. It was claimed, for example, that the provision of transient sites and facilities for reasonable Traveller economic activity were not included in a number of the programmes.

4.5.2 It was also claimed that programmes were either rushed or written without direct Traveller involvement, leading to many Traveller recommendations not being included in the final reports. Traveller representatives on the subcommittee felt that proper consultation at all stages of the accommodation process – from preparation to sign-off – was vital.

#### **4.6 Review, Amendment and Replacement of Accommodation Programmes**

4.6.1 It was felt by Traveller support group representatives that, in some situations, Traveller organisations were effectively excluded from the review process, due to short notice, and lack of information concerning the review. It was also suggested that the reviews carried out by certain authorities lacked transparency, when, for example, they amalgamated the figures for housing provided under the programme, without differentiating between group housing and standard local authority housing.

4.6.2 Although the majority of local authorities did carry out mid-term reviews of their programmes, not all did so. Because local authorities did not adopt a standardised approach to the review process, it was felt that evaluation of the review process itself could prove difficult. It was also felt that more detailed and more transparent reviews should be carried out in future.

4.6.3 The view was expressed that some local authorities carried out rather superficial public consultation processes. It was also noted that section 17 of the Act permitted an authority to review a programme internally, without the need for public consultation. There was concern that, should an authority decide not to amend or replace its programme, there would be no obligation for it to engage in wider consultation. This lack of public consultation was mentioned in some submissions as being a weakness in the procedures.

4.6.4 It was also suggested that parties who had contributed to the preparation of an original Traveller accommodation programme, and the LTACC, would welcome the opportunity to take part in its review. Concern was also expressed that authorities might spend too much

time reviewing rather than implementing programmes, if the public had to be consulted.

- 4.6.5 During the discussions on the programmes the list of organisations, which are entitled to be consulted under section 8 of the Act, was considered. This section set out the organisations which must receive written notice when an authority intends to prepare, amend or replace a programme. The Traveller representatives on the subcommittee expressed concern that section 8 (f) does not explicitly include Traveller organisations as one of the bodies which must be notified of an authority's intention to prepare a draft programme, or a draft of an amendment to, or a replacement of, the accommodation programme.

## 4.7 Programme Targets

- 4.7.1 Criticisms included the comment that Traveller accommodation programmes were often aspirational documents, strong on intentions but weak on specifics. It was also suggested that there was considerable variation in quality from programme to programme. In some of the submissions received the absence of an accommodation delivery time frame was considered a weakness. Because programmes often lacked specific target dates by which measurable accommodation should be provided, it was considered that evaluation of the effectiveness of programmes, in mid-term, could prove difficult.
- 4.7.2 It was pointed out that the new Social and Affordable Housing Action Plans 2004–2008 required local authorities to set annual targets for the number of units to be provided for social housing generally, including Traveller accommodation. It was agreed by the subcommittee that in preparing their next Traveller accommodation programmes, local authorities should include annual targets in respect of the numbers of units to be provided.
- 4.7.3 The subcommittee considers that by including targets in both the Social Housing Action Plans and the Traveller accommodation programmes, and having progress in the provision of Traveller accommodation as one of the items through which local authorities performance will be measured, monitored and reported on, a comprehensive mechanism for measuring progress would be in place. The role of the National

Committee in monitoring progress towards these targets is discussed in Chapter 7.

## **4.8 Public Consultation**

4.8.1 The issue of consultation in relation to the preparation, review and amendment of programmes was considered by the subcommittee. The issue of consultation in relation to individual projects is discussed in Chapter 5.

4.8.2 As mentioned above (Point 4.2.4), section 9 of the Act obliges each relevant housing authority to publish a newspaper notice stating that it intends to adopt, amend or replace an accommodation programme. In this regard, there was concern that Travellers with literacy difficulties might therefore be excluded from the consultation process. It was suggested that radio advertisements should also be used as part of the public consultation process, to make the information more widely available.

4.8.3 It was also suggested that local authorities should increase their efforts to engage Travellers and Traveller organisations in the consultative process by visiting Travellers at their homes, sites (official and unofficial), training centres etc.

## **4.9 Consultation Model**

4.9.1 The subcommittee considered that a consultation process works effectively when all parties to the process meet on an equal footing. It was suggested by the Traveller support groups that it would be necessary, in certain cases, to provide appropriate resources for Travellers and Traveller representatives so that they could adequately review and debate accommodation programmes.

4.9.2 The subcommittee agreed that the consultation mechanisms encompassed by the provisions of the Act, are useful in their own right but that there is scope for improvement. It was agreed that improving existing consultation procedures would be effective in the short term in ensuring the accommodation needs of Travellers could be met. It was agreed that the development of a model which would clearly



define consultation and contain guidelines on its implementation should be examined by the NTACC. This could then be piloted in two local authority areas before distribution to all local authorities.

#### **4.10 Duration of Programmes**

4.10.1 The current programmes run for five years, from 1 January 2000 to 31 December 2004. Traveller support group representatives on the subcommittee said that programmes of such length tended to lose focus, and that the bulk of the work was done only in the last two years. For this reason it was suggested by the Traveller support groups that three-year programmes would be more productive. The Department's representative suggested that, for the next programme, four-year programmes would be most appropriate. This would mean that the next programme would expire at the same time as the Social and Affordable Housing Action Plans 2004–2008.

4.10.2 This Action Plan system has been introduced to comply with the Government's revised approval system for capital spending, to allow for a more structured and planned approach to public capital investment by introducing rolling five-year multi-annual envelopes for all investment areas. This provides a greater degree of certainty in relation to funding, and facilitates the application of funding across different schemes as well as allowing a mechanism for carrying-over some unspent capital funding into a following year.

#### **4.11 Recommendations**

4.11.1 It is recommended that

- o Local authorities when conducting reviews of their programmes should be required, as a minimum, to involve in a meaningful way both their LTACCs, and all those parties who had contributed to the preparation of their original Traveller accommodation programmes.
- o The next accommodation programmes cover the four-year period 2005 to 2008, to be co-terminus with the Social Housing Action Plans.

- o Local authorities be required to notify Traveller support groups in their area of their intention to prepare, amend or replace programmes.
- o The NTACC should start work on developing a model of consultation which would include an agreed definition of the consultation and guidelines for its implementation. This model should then be piloted in two local authorities before distribution to all local authorities.
- o Local authorities be required, in their Traveller accommodation programmes, to set realistic and achievable annual targets for the number of units of accommodation to be provided for Travellers in each year of the programmes.

## 5 *Barriers to Implementation of Accommodation Programmes*

### 5.1 Introduction

- 5.1.1 Progress in the provision of accommodation under the Traveller accommodation programmes has varied as between local authorities. A number of local authorities have succeeded in making progress in providing accommodation. The varied levels of progress in providing accommodation under the programmes are reflected in the comments by the LTACCs and Traveller support groups which made submissions to the subcommittee.
- 5.1.2 The circular letter which issued to LTACCs and Traveller support groups invited comments, *inter alia*, on what were perceived by the committees and groups as being barriers to the implementation of the programmes, and suggestions for changes which they considered may be of assistance in overcoming these barriers.
- 5.1.3 While a number of submissions identified such barriers and suggested possible changes to address them, other submissions had no suggestions for change to address the barriers that were identified. There were also submissions which did not identify barriers but which made suggestions for changing existing procedures in relation to implementation of the programmes.
- 5.1.4 A number of substantive issues were identified in two or more submissions, which were seen as impeding the lack of progress in implementation of the accommodation programmes. These relate to difficulties in sourcing affordable land for Traveller specific accommodation, the weaknesses in driving the implementation of the programmes, difficulties arising due to delays in the consultation process and what was seen as the absence of an absolute requirement in the Act on local authorities to implement the programmes.
- 5.1.5 In addition, the issue of the inter-relationship of Planning law with the 1998 Act was identified as being a significant potential barrier to implementation of programmes; this issue is dealt with separately in Chapter 6.

## 5.2 Land

- 5.2.1 The subcommittee considered the position in relation to difficulties surrounding the acquisition of suitable affordable land for Traveller-specific accommodation and recognised that this represents a significant impediment to implementing accommodation programmes in some local authority areas.
- 5.2.2 Among the issues seen as contributing to the difficulty in acquiring land is the scarcity of development land, either green field or brown field sites, in some of the larger urban areas. Associated with land scarcity in these areas is the corresponding high cost of acquiring such land as is available.
- 5.2.3 The subcommittee notes, however, that the issue of land *per se* has not historically been as significant an impediment to progress in providing accommodation for Travellers as it now is. It realises that land as an issue is a more recent phenomenon and has arisen in the context of pressure on development land generally. The view was expressed to the subcommittee that, in addition to the cost of the land itself, in many cases the extension of services to land acquired for Traveller accommodation also adds significantly to overall land costs.
- 5.2.4 One submission suggested recourse to the compulsory purchase procedure as a solution to the problems associated with land acquisition for Traveller-specific projects. The subcommittee agrees that the compulsory purchase procedure should be used where the local authority consider this is the best option available depending on particular circumstances in each case.
- 5.2.5 However, it recognises that this can be a slow process which may, conceivably, end with the compulsory purchase order not being confirmed as happened in the case of land proposed for acquisition for a proposed halting site in the Fingal County Council programme.
- 5.2.6 The subcommittee is also aware that a compulsory purchase order, which is confirmed, may eventually be the subject of a court challenge. The subcommittee also recognises that generally land acquired compulsorily is paid for at the market price.

- 5.2.7 A suggestion was made in one submission that where land acquisition is delayed or held up for whatever reason, the Manager of the local authority should use special powers to ensure that the process is completed. It does not appear that the powers available to the Manager under the Local Government Acts to provide accommodation in emergency situations would extend to transactions involving the negotiated purchase of land. Neither would it appear possible to introduce such powers for Managers which would be immune from successful court challenges.
- 5.2.8 However, the subcommittee acknowledges that significant progress has been made by a number of local authorities in providing Traveller-specific accommodation by negotiating the purchase of land.
- 5.2.9 One submission made a connection between what it saw as a negative public perception of Travellers and the difficulty in acquiring land for Traveller accommodation. It recommended that the relevant LTACC should implement a positive public awareness programme to counteract this negative perception. While this is a matter for the local authority in question in conjunction with its LTACC, the subcommittee sees merit in this approach.
- 5.2.10 The subcommittee notes that under the provisions of Part V of the Planning and Development Act 2000, under which a specified percentage of land zoned solely for residential use or for a mixture of residential and other uses may be made available for housing, it would be open to local authorities to reserve a portion of such land to be used for the provision of Traveller specific accommodation.

### **5.3 Improving the Rate of Accommodation Provision**

- 5.3.1 The subcommittee agreed that the implementation of local authority five-year Traveller accommodation programmes should be driven forward as speedily as possible within the resources available. The subcommittee noted the increased allocation for Traveller specific accommodation for 2004 of €40 million – an increase of 33% on the 2003 allocation.

5.3.2 It was also agreed that the current mechanism of having local authorities prepare and implement Traveller accommodation programmes should continue, subject to any recommendations in relation to improvements to the system contained in this report.

5.3.3 There was some disagreement as to whether the existing arrangements could deliver the improved provision considered necessary without a change in the mechanisms to ensure the implementation of programmes. Traveller support groups suggested that there was a need for a Traveller accommodation agency. However it was suggested by the Departmental representative that the new central High Level Group, set up under the aegis of the Cabinet Committee on Social Inclusion, would serve to give any necessary renewed focus on the addressing barriers to the implementation of programmes.

#### **5.4 Traveller Accommodation Agency**

5.4.1 The joint submission from the three national Traveller organisations proposed the setting up of an agency to drive the provision of accommodation. The proposal envisages that the agency would -

- o be dedicated to the implementation of Traveller accommodation programmes,
- o establish a national programme for the provision of Traveller specific accommodation, based on programmes submitted by local authorities,
- o have powers to address situations where there is a failure by local authorities to meet set standards, and
- o be a statutory body with powers, supported by the Courts, to give directions to local authorities in relation to adoption and implementation of accommodation programmes.

5.4.2 In addition such an agency would -

- o monitor and review local authority development plans to ensure that they made adequate zoning provision for Traveller specific accommodation,

- o audit the performance of local authorities in implementing their programmes,
- o provide advice and guidance to local authorities and, where these are not followed, give binding directions,
- o address, in co-operation with local authorities, the issue of large-scale illegal encampments,
- o have a role in developing, with local authorities, initiatives relating to management and maintenance of Traveller specific accommodation, and
- o monitor the costs of implementing Traveller accommodation programmes.

5.4.3 It is envisaged by the proponents of the proposal that an agency dedicated to the provision of Traveller accommodation, and Traveller specific accommodation in particular would, by having powers to direct local authorities to take particular actions decided by such an agency, be in a position to exercise a central driving function in relation to the provision of accommodation.

## 5.5 Issues Raised in Relation to the Agency

5.5.1 The point was made by other members of the subcommittee that such an agency would not be in a position to -

- o deal with core problems which have caused blockages to implementation referred to elsewhere in this chapter, including land acquisition difficulties and objections from local communities,
- o prevent Court challenges to Traveller specific accommodation projects,
- o deal with the refusal of families to accept accommodation provided for them, which they had previously indicated they would accept,
- o expedite the current procedures where individual Traveller families, for whom accommodation is intended, are involved in detailed consultation which in some cases is a very long and protracted procedure. Such an agency could have no role in relation to this level of consultation and even if it did it was pointed out that there is no reason to believe that it would

succeed in getting through this process any quicker or with more success than local authorities who have many years of experience and local knowledge in dealing with Traveller families' accommodation needs.

5.5.2 It was also pointed out that such an agency would:

- o in effect, have joint powers with local authorities to deal with unauthorised temporary encampments which would constitute an overlap of functions between such an agency and local authorities and the Gardaí who already have differing functions in this area,
- o have functions in relation to management and maintenance of Traveller specific accommodation currently the role of local authorities,
- o have functions in relation to monitoring the cost of implementing programmes which is already part of the role of the Department of the Environment, Heritage and Local Government in administering the Traveller accommodation capital programme.

5.5.3 As such it was suggested that putting in place another agency such as that proposed would not constitute good administrative practice and would be unlikely to deal with the issues more efficiently or effectively but would in fact tie up the resources of existing statutory agencies as well as of the agency itself.

5.5.4 Reservations were expressed about giving such an agency quasi-judicial functions in dealing with objections to such schemes as well as being, in effect, an appeals mechanism for individual Travellers who have a grievance with local authorities. It was argued that such objectors were still be likely to have recourse to court action as they are generally prepared to go through the full judicial procedure in pursuing their objections.

## 5.6 High Level Group

5.6.1 The Department representative on the subcommittee outlined the role and composition of the High Level Group recently established by



Government to give central thrust to the implementation of policy in relation to Traveller issues. This group operates under the aegis of, and reports to, the Cabinet Committee on Social Inclusion which is chaired by the Taoiseach.

- 5.6.2 Representation on the Group is at senior official level from the relevant agencies involved in policy formulation and delivery of services to Travellers. Agencies include Government Departments, local authorities and health boards. Representatives of other service providing statutory agencies are also involved. The Department of Justice, Equality and Law Reform chair the Group.
- 5.6.3 The remit of the group is, *inter alia*, to ensure that the relevant statutory agencies involved in the provision of the full range of services to Travellers, focus on the immediate and practical delivery of such services, including accommodation.
- 5.6.4 In addition to ensuring a cohesive and proactive approach to Traveller issues, the Group also provides a forum for senior policy makers and senior officials of service-providing to identify and address barriers to service delivery in a more integrated manner. The subcommittee accepts that the High Level Group, by identifying and addressing administrative or other impediments to a co-ordinated approach to the delivery of services, including accommodation, both at central level and on the ground at local level, could contribute to improving the delivery of such services.
- 5.6.5 Acknowledging the short-term nature of the Group, the Department official indicated that in addition to the role in improving service delivery generally it was the Department's view that the Group has a role to play in improving the rate of accommodation provision for Travellers specifically. It will by examining, within its terms of reference, the barriers to the provision of accommodation directly with senior officials in the local authority service, assist in ensuring that the existing arrangements expedite the delivery of accommodation provision.

## 5.7 Issues Raised in Relation to the Group

- 5.7.1 While the establishment of the Group was generally welcomed some reservations were raised about its role and its possible effectiveness.

Traveller support group representatives indicated that, in their view, the Group, with its wider remit than accommodation and without statutory powers to direct local authorities to undertake particular actions, would not be successful in expediting the provision of accommodation.

5.7.2 It was pointed out that the Group, without statutory existence, could be disbanded at any time. Traveller support groups' representatives expressed serious reservations about the possible effectiveness of a Group which did not contain any representatives of Traveller support groups.

5.7.3 Traveller support group representatives also expressed concern about what they considered to be a lack of detail about how the Group would operate, how it might ensure that changes are implemented and what the Traveller representatives perceived as a conflict of interest between the local authority Managers' role on a group examining barriers to the provision of accommodation and their role as the providers of such accommodation.

## **5.8 Consensus Not Reached**

5.8.1 The subcommittee considered at length the proposals outlined to it in relation to the establishment of an agency as the way forward to ensure implementation of the accommodation programmes and the arguments put forward in favour of and against such proposals. Similarly, the subcommittee carefully considered the arguments in relation to how effective the contribution of the High Level Group could be in relation to improving the delivery of services, including accommodation, to Travellers.

5.8.2 However, after much deliberation, it was clear that it was not possible for the subcommittee to reach a consensus on these issues and the subcommittee reports accordingly to the National Committee.

## **5.9 Statutory Requirement to Implement Programmes**

5.9.1 Submissions from Traveller organisations identified as an impediment to progress in providing accommodation under the programmes, what

they saw, as the lack of an absolute requirement in section 16 of the 1998 Act on local authorities to implement their programmes. The submissions argue that section 16 introduces a subjective element in relation to implementation of the programmes. The submissions point out that it could be argued by a housing authority that, although they have failed to deliver any of the proposals in their accommodation programmes, they have satisfied the requirements of the Act because they have done all that was "reasonable".

- 5.9.2 Subsection (1) of section 16 of the Act requires a relevant local authority in securing implementation of its accommodation programme to "take any reasonable steps as are necessary for the purpose of such implementation".
- 5.9.3 Subsection (2) contains a similar provision in the case of a town council in respect of the implementation of an accommodation programme adopted by the relevant county council insofar as it relates to the functional area of the town council. However, in that subsection the wording used is slightly different from that used in subsection (1) – it provides that the town council "shall take such steps as are necessary" to implement the programme within its functional area.
- 5.9.4 It is not clear why different wording is used in the two subsections in that section of the Act. The use of the word "reasonable" in subsection (1) would not seem to be of any material significance. Its use in this context may simply be intended to recognise that there will, in some cases, be limits to what can be done in implementing individual aspects of a programme, and that the requirement on the local authority is restricted to acting within reason. In the absence of a definition of the word "reasonable" in the Act, the objective test would be whether a reasonable person would consider steps taken in any particular case to be reasonable and necessary.
- 5.9.5 For example, if a compulsory purchase order is not confirmed in the case of a proposed site for Traveller specific accommodation, it is not possible to proceed with that proposal. Likewise, there may be instances where cost factors will dictate that a project is not viable, having regard to the availability of funds generally at the time.

5.9.6 At worst, the use of the word “reasonable” in subsection (1) of section 16 seems superfluous given that any actions taken under any Act of the Oireachtas in its implementation have to be, by definition, both reasonable and within the law. In relation to its usage in this instance, it could be construed as requiring the necessary steps to be taken subject to unavoidable constraints which were unforeseen at the time of the adoption of the programmes.

## **5.10 Consultation Process on Individual Projects**

5.10.1 The subcommittee considered the issue of consultation in relation to Traveller-specific accommodation. There was agreement that effective consultation had a significant role to play in ensuring the successful provision of accommodation for Travellers. It was also agreed that problems could arise where consultation was lacking or non-existent.

5.10.2 There was also general consensus among members of the subcommittee that ineffective consultation was a significant factor contributing to delaying progress in implementing individual proposals for halting sites and Traveller group housing schemes. This applies both to consultations with prospective Traveller tenants, and to consultations with local residents.

5.10.3 The perception among members of the subcommittee was that the consultation process between local authorities and individual Traveller families in relation to their accommodation requirements are in many cases protracted, leading to significant delays in the eventual provision of accommodation. This view is reflected in submissions received. It was suggested in submissions that in some cases families move on before the consultation process is finalised.

5.10.4 In other cases, families change their minds about their choice of accommodation type and the consultation process re-opens. This was summed up by one submission, which indicated that it can be difficult to know when the consultation process is complete.

5.10.5 The view of one LTACC was that a reasonable time limit should be agreed in advance for the consultation process, and that this should include agreement on the cut-off point for the consultations. There

was support for this among some members of the subcommittee where it was suggested that a general limit of say three months should be put in place for the consultation process.

**5.10.6** In dealing with the accommodation requirements of Traveller families during the consultation process, it is important that the parties concerned adopt a realistic approach. In the case of the Traveller families, it is essential that they are decisive and consistent in relation to their requirements, while at the same time being realistic as to what can be delivered by local authorities in terms of site location and specification of the proposed accommodation. Local authorities should approach the process with an open and constructive attitude and have regard as far as possible to the needs of individual families.

**5.10.7** Those involved in the consultation process from the local authority side should, some members of the Committee believed, include technical staff involved in the design and construction of Traveller specific accommodation. In this context, the Guidelines on the various types of Traveller-specific accommodation, which have been issued by the Department of the Environment, Heritage and Local Government, will be of assistance to local authorities in relation to the process of consultation with Traveller families.

**5.10.8** Local authorities should also seek to expedite consultation with local residents at pre-planning stage to ensure that any objections are identified prior to the planning process and are taken into account at that stage. Consultation with local residents at an early stage will help minimise the risk of court challenges by local residents to proposals by local authorities for Traveller specific accommodation projects.

## **5.11 Other Issues**

**5.11.1** A number of other proposals were made in submissions to help expedite accommodation provision. A suggestion was put forward that Traveller families should be encouraged to avail of the various options open to them to assist them in becoming home owners such as the special housing grant for Travellers, the shared ownership scheme and the local authority tenant purchase scheme.

- 5.11.2 The subcommittee supports this suggestion and recommends that local authorities promote this approach among Traveller families within their functional areas. The subcommittee believes that this could make an important contribution to addressing the permanent housing needs of Travellers. However, the subcommittee recognises that Traveller-specific accommodation is still likely to be required as well as standard housing.
- 5.11.3 The subcommittee also supports the suggestion that where integrated housing schemes with mixed tenures are brought forward by local authorities the provision of new halting sites or group housing should be included as an element, where appropriate.
- 5.11.4 In this context, the subcommittee notes that there are a number of Traveller-specific projects in the pipeline on foot of emerging agreements under Part V of the Planning and Development Act 2000, under which it is envisaged that group housing will be provided by the developers on a turnkey basis under the agreement.
- 5.11.5 The prioritisation of Traveller accommodation within local authorities as suggested in a submission would be a significant contribution toward achieving progress in the implementation of accommodation programmes.
- 5.11.6 Local elected members have an important role to play in this process by supporting in a constructive way the various processes which have to be gone through from preparation and adoption of the programmes through to the Part 8 procedure.

## **5.12 Recommendations**

- 5.12.1 The subcommittee acknowledges that local authorities have the final say in deciding on the details of Traveller-specific accommodation having regard to the guidelines on such accommodation issued by the Department of the Environment, Heritage and Local Government.
- 5.12.2 It has agreed that effective consultation between the local authority and the prospective tenants plays a large part in the success of Traveller-specific accommodation schemes. In this regard it is recommended that local authorities adopt mechanisms for ensuring

the effectiveness of such consultation. The LTACC should be consulted for its advice in relation to determining the appropriate mechanism to be adopted.

This mechanism should, *inter alia*, -

- outline a timescale within which such consultation will be completed,
- provide for specific objectives for each stage of the consultation (e.g. agreeing on type Halting Site or Group Housing),
- provide for the "signing off" of each stage, and
- set out the steps by which the local authority will make a final decision on the accommodation to be provided.

# 6 *Planning Issues and the Provision of Traveller Accommodation*

## 6.1 Introduction

- 6.1.1 The 1995 Task Force report made a number of recommendations concerning the effect of planning issues on the provision of Traveller accommodation. The Task Force recommended that the provision of Traveller accommodation be included by planning authorities as a specific objective in Development Plans.
- 6.1.2 Legislative provision to give effect to this was made initially in the 1998 Act (sections 26 and 27) and subsequently in sections 10(2) (a) and 10(2) (i) of the Planning and Development Act 2000.
- 6.1.3 Recommendations by the Task Force to allow the provision of Traveller accommodation in all land zones were not accepted.

## 6.2 Current Situation

- 6.2.1 In order for a local authority to successfully provide Traveller specific accommodation any proposed development must -
- o be consistent with the provisions of the local authority development plan, and
  - o be the subject of the appropriate consultation procedures for a local authority own development as set out in Part 8 of the Planning and Development Regulations 2001.
- 6.2.2 In this context a number of issues have been raised including -
- o the effective co-ordination of planning legislating and housing legislation relating to the provision of Traveller specific accommodation,
  - o the effectiveness of the public consultation mechanisms for local authorities own developments in dealing with the provision of Traveller specific accommodation, including transient sites,
  - o the current planning requirements in relation to private development of halting sites,
  - o interaction of the manager's emergency powers and other provisions including planning.



## 6.3 Planning Legislation

6.3.1 The Planning and Development Act 2000 impacts on the provision of Traveller-specific accommodation in two main ways. Section 10(2) (i) of that Act provides that a development plan shall include objectives for:

“...the provision of accommodation for Travellers, and the use of particular areas for that purpose.”

The Act does not define what constitutes a particular area.

6.3.2 Section 94(1) of that Act provides that each planning authority shall include in any development plan -

“...a strategy for the housing of the existing and future population of the area in the manner set out in the strategy.”

6.3.3 While there is no specific mention made in the 2000 Act relating housing strategies to Traveller accommodation programmes, section 94(4) (a) (i) states that -

“...a housing strategy shall include an estimate of the amount of housing for persons referred to in section 9(2) of the Housing Act 1988 required in the area of the development plan...”

That Section of the 1988 Act extends to Travellers and Traveller-specific accommodation.

6.3.4 Guidelines on preparing Housing Strategies (entitled “Part V of the Planning and Development Act 2000. Housing Supply Guidelines for Planning Authorities”, Page 8) state that: -

“housing needs assessments should be based, inter alia, on housing needs identified in the Traveller accommodation programme adopted by the authority or applicable to the authority’s area under the Housing (Traveller Accommodation) Act 1998”.

6.3.5 Section 95(1) of the 2000 Act provides that: -

“... a planning authority shall ensure that sufficient and suitable land is zoned for residential use...”.

6.3.6 No definitions are provided in the 2000 Act of what constitutes material contravention. The Courts have held that it is only the Courts which can determine what does or does not constitute a material contravention of the Development Plan.

6.3.7 Having examined the legislative provisions the subcommittee considers that, in terms of legislation, the Traveller accommodation programmes are directly linked to the Development Plans. The legislation clearly places the onus on planning authorities to ensure that adequate provision is made in their Development Plans to enable Traveller accommodation programmes to be implemented.

6.3.8 Notwithstanding the fact that while under section 178 of the Planning and Development Act 2000 a local authority is precluded from carrying out a development which “contravenes materially the development plan”, the other sections of the Act seeks to ensure that adequate provision is made by the planning authorities in their development plans to allow for the provision of accommodation for Travellers.

#### **6.4 Court Challenges Relating to Development Plans**

6.4.1 The point has been made that proposals, by a local authority, for Traveller-specific accommodation have been successfully challenged in relation to non-compliance with provisions of the Development Plan.

6.4.2 Various court rulings have shown that a proposal which materially contravenes the Development Plan can be successfully challenged in the courts. In the case of *Keogh V Galway City Council* in 1996 the subcommittee understands that the Judge indicated that if the Council did not indicate all the areas where they intended to provide halting sites in their development plan then placing a halting site in a location not indicated in the Development Plan constituted a material contravention of the Development Plan. Similarly, in the case of *Wicklow Heritage Trust V Wicklow County Council* the subcommittee

understands the judge ruled that it was necessary for a local authority to include all its objectives in its plans.

- 6.4.3 The subcommittee considers that local authority own developments, including Traveller specific accommodation projects, are required to comply with the zoning requirements of the relevant Development Plan. Local authorities, being aware of this, should ensure that the Traveller accommodation programmes and the Development Plans are compatible.
- 6.4.4 Reference was made in the submissions to Fingal County Council being successfully challenged on the basis of a material contravention of their Development Plan (Byrne V Fingal County Council). In that case, when using his emergency powers in relation to the provision of a Traveller accommodation scheme, the Manager did not comply with a requirement in that County's Development Plan that local communities be consulted in relation to all Traveller accommodation projects. The Court held that this constituted a material contravention of the Fingal Development Plan.
- 6.4.5 While this has been referred to in submissions as indicating a requirement that legislative change is required the alternative view has been put forward that this indicates that the local authority should ensure that any Development Plan requirements in relation to consultation about specific schemes are carefully considered and complied with and that real and meaningful consultation should take place.

## 6.5 Consultation under the 1998 Act

- 6.5.1 The point has been made that failure to comply with the consultation procedures under the Housing (Traveller Accommodation) Act 1998 can result in the development of a halting site being restrained. For example, under section 21, a local authority is required to appoint a committee to be known as the local Traveller accommodation consultative committee. Under section 21 (3) a local consultative committee may, *inter alia*, advise in relation to the preparation and implementation of any accommodation programme for the functional area of the local authority.

6.5.2 While the subcommittee is not aware of any challenges specifically relating to the operation of the local Traveller accommodation consultative committees, Louth County Council were successfully challenged in relation to consultation requirements contained in their Traveller accommodation programme.

6.5.3 However, in that case, Louth County Council was, it appears, successfully challenged because it did not comply with its own "self-imposed" (Courts words) consultation obligations as set out in the Traveller accommodation programme. (Jeffers V Louth County Council). The Court highlighted the fact that the level of consultation proposed was not statutorily imposed and that the requirement arose from the provisions in the local authority's own Traveller accommodation programme.

## **6.6 Summary of Co-ordination of Planning and Housing Legislation**

6.6.1 These cases indicate that there are instances where the provision of Traveller-specific accommodation which is accepted as part of the local authority five-year programme, can be precluded from going ahead because of provisions in the Development Plan or non compliance with the Plan. Material contraventions are decided by the Courts and have included cases where the proposed development has been in material contravention of the zoning of an area and where consultation provisions in the Development Plan have not been met.

6.6.2 The subcommittee believes that while issues arise in relation to the co-ordination between local Development Plans and the Traveller accommodation programmes, these arise as a result of failure on the part of the local authority to follow correct procedures under the code rather than as a result of conflict between the legislative bases of the different elements.

## **6.7 Planning Permission Procedure in General**

6.7.1 Concern has been expressed that under the provisions of the planning legislation as it currently stands there is no guidance given in Development Plans in relation to the private development of Traveller-

specific accommodation, including group houses, permanent and temporary halting sites, and transient halting sites.

- 6.7.2 It has been mentioned that, on occasion, Travellers seek to develop halting sites privately. While the same procedures which govern applications for planning permission generally apply to such applications the subcommittee notes that there is generally no guidance in Development Plans in relation to the planning authorities' approach and policy in relation to such developments. Such guidance would assist developers proposing to develop such sites in preparing planning applications.
- 6.7.3 The subcommittee was informed that the Department proposes to issue Draft Guidelines on Development Plans which would address the issue of the inclusion of Traveller accommodation objectives in Development Plans and which would make clearer the planning authorities policy in relation to the development of halting sites by private developers, as well as the local authorities' own development of halting sites each year.
- 6.7.4 There is no express requirement on An Bord Pleanála or a planning authority to take into account the provisions of a Traveller accommodation programme in determining an application for planning permission.
- 6.7.5 In addition to policy statements in the development plan the subcommittee considers that it would be helpful if local authority planning staff were in a position to engage in pre-planning application discussions with private developers of halting sites as happens in relation to other developments.
- 6.7.6 Concern has been expressed that the lead time involved in processing an application for planning permission by a private developer for Traveller-specific accommodation is too long, particularly as objectors can appeal to An Bord Pleanála.

## **6.8 Transient Halting Sites**

- 6.8.1 A transient halting site is a site used by Travellers other than as their normal place of residence. Guidelines issued by the Department

envisage that these sites may range from their having basic accommodation services to sites containing permanent structures providing access to washing and cleaning facilities.

6.8.2 However such sites would be used only occasionally during each year. Reservations have been expressed in relation to the effectiveness of the present planning procedures for regulating the provision of transient halting sites. Transient sites may be used as halting sites only for a number of weeks or months each year, and at other times the lands revert to their normal use.

6.8.3 It is contended that the lead-time involved in the determination of an application for planning permission is far too long in this context. The issue arises as to whether the system (Part 8, or planning system generally) allows permissions to be granted in these instances. Even though there is no requirement on An Bord Pleanála or a planning authority to take into account the delays in providing halting sites, there is a provision (Planning and Development Act 2000, Section 34 (4) (n)) which allows the grant of permission for a limited period each year.

6.8.4 In the case of a local authority own development of a transient halting site, nothing in the public consultation procedures prevents an authority from providing a transient halting site used for a short period each year.

## 6.9 Other Issues Raised

6.9.1 Consideration was given by the subcommittee to the suggestions made in some of the submissions received that Traveller accommodation programmes should specify clearly the precise sites on which Traveller specific accommodation would be provided during the course of the programme. The view put forward was that by completing the public consultation process at the start of the programme the possibility of objection to each specific scheme would be removed.

6.9.2 To implement this proposal it is likely that all local authorities would need to -

- o identify all specific needs arising during the course of the programme,
- o identify all specific locations for schemes,
- o specify the scheme to be adopted (type, number of units etc),
- o ensure the authority owned or had an option to buy that site,
- o complete consultations with all prospective tenants for all sites prior to the adoption of the programmes, and
- o complete consultation with local residents.

6.9.3 It was considered by the subcommittee that this complex process is unlikely to materialise. The view was put forward that a more realistic position would be that the local authorities should ensure that there was sufficient land or areas zoned for the provision of Traveller- specific accommodation which would provided the required flexibility in the implementation of the Traveller accommodation programmes.

## 6.10 Recommendations

6.10.1 It is recommended that

- o The use of land as a transient halting site for a specified number of weeks per year should be prescribed as exempted development under Section 4 of the Planning and Development Act 2000, subject to satisfactory local arrangements.
- o The Guidelines to be issued by the Department of the Environment, Heritage and Local Government should provide that Development Plans should clearly state the local authority policy on the development of halting sites, including the development of private halting sites.
- o Planning authorities should ensure that their zoning objectives are co-ordinated with Traveller accommodation programme in respect of their area, and should be flexible enough to allow for the development of private halting sites where this does not directly contradict other zoning objectives.
- o There should be a greater linkage between the provisions of Part V of the Planning and Development Act 2000 (social and affordable housing), and the Traveller accommodation

programmes. For example, a local authority should have some estimate as to the number of social and affordable units which it expects to secure, including Traveller-specific accommodation. It should then be possible to indicate how many units are to be made available for Traveller accommodation requirements.



# 7 *Operation of the National Traveller Accommodation Consultative Committee*

## **7.1 Introduction**

7.1.1 The subcommittee considered views submitted in writing, or raised during discussions at meetings. The intention was to examine ways in which the operation of the Committee could be improved and strengthened.

## **7.2 Establishment and Terms of Reference of the Committee**

7.2.1 The National Traveller Accommodation Consultative Committee (NTACC) was established on a statutory basis in April 1999, under sections 19 and 20 of the Housing (Traveller Accommodation) Act 1998. The Second NTACC was appointed on 10 March 2003, and has a three-year term of office.

7.2.2 The terms of reference of the Committee are to advise the Minister in relation to:

- (a) any general matter concerning accommodation for Travellers;
- (b) any matter referred to it by the Minister;
- (c) the most appropriate measures for improving, at local level, consultation with, and participation of, Travellers in the provision and management of accommodation, and
- (d) general matters concerning the preparation, adequacy, implementation co-ordination of Traveller accommodation programmes.

7.2.3 The Committee has twelve members, who are appointed by the Minister for the Environment, Heritage, and Local Government, following the receipt of nominations from specified bodies. It includes local authority members and officials, representatives of Traveller organisations, and officials from Government Departments.

## **7.3 Work of the Committee**

7.3.1 The First NTACC (1999–2002) made a number of practical contributions to matters affecting Traveller accommodation. For example, it recommended to the Minister draft guidelines on both transient sites and group housing, which were issued to all local authorities. The

Committee also commissioned a study on the operation of the local Traveller Accommodation Consultative Committees (LTACCs). This study resulted in guidelines being issued by the Department, to assist local authorities in the operation of the local committees.

- 7.3.2 The second NTACC held its first meeting in May 2003, and since then it has considered a number of topics, including vacant Traveller accommodation and transient sites. A report on the provision of such sites for Travellers, in the Greater Dublin Area, was forwarded to the Minister for Housing and Urban Renewal in September 2003.

## 7.4 National Forum

- 7.4.1 The subcommittee consider that the NTACC provides a mechanism on a statutory basis which facilitates – at national level – consultation on the Traveller accommodation programmes. The opportunity for Government Departmental officials, local authority members and officials, Traveller representatives, and other experts in Traveller issues to discuss and advise the Minister on matters regarding Traveller accommodation, is considered significant.

- 7.4.2 In addition to providing a useful structure for consultation and debate on Traveller accommodation and related issues, the subcommittee considered that the NTACC has produced valuable guidelines concerning, *inter alia*, the construction of Traveller-specific accommodation.

- 7.4.3 It was suggested that the remit of the NTACC should be expanded to include greater contact with LTACCs. If the National Committee were to receive the Annual Reports that it is recommended that the LTACCs produce (see Point 8.13.2 (b) below), it would be in the position to advise the Minister on the effectiveness of the consultation process on a national basis. Also, by causing local issues to be brought to attention at a national level, the NTACC would raise its profile countrywide.

## 7.5 Powers of the NTACC

- 7.5.1 Concerns were expressed by the Traveller representatives regarding the perceived inability of the NTACC to influence the implementation

of the Traveller accommodation programmes. For this reason the Traveller organisations favoured the establishment of a National Traveller Accommodation Agency (sections 5.4 and 5.5, pages 28–30). In the absence of an Agency, the Traveller representatives called for an expansion of the terms of reference of the NTACC. These new terms, it was suggested, would give the National Committee powers to implement Traveller accommodation programmes, to set standards at a national level, and to address situations where there is a perceived failure to meet these standards.

- 7.5.2 It was pointed out by the Department representative that the additional powers as suggested by the Traveller support groups were some of the powers that had been suggested for the Traveller accommodation agency by the Traveller representatives. As agreement had not been recorded on this aspect it was suggested that, a discussion of such powers, or a sub-set of them, for the NTACC was unlikely to yield agreement.
- 7.5.3 In the event of the national agency suggested by the Traveller support groups not being established, these groups considered that in the context of progress on the implementation of the programmes, the powers of the NTACC should be expanded.
- 7.5.4 It was pointed out that the NTACC, in developing guidelines for Traveller specific accommodation, drawing attention to where LTACCs' operations could be improved, and reviewing programmes with a view to ensuring that future programmes would be much improved, had a role to play in ensuring the provision of accommodation for Travellers.
- 7.5.5 It was suggested that while the NTACC had, *inter alia*, to some extent up to now addressed issues of standards etc., it should consider what further practical steps it could take to assist in improving the rate of accommodation provision. It was suggested that the NTACC could also play a role in examining the costs associated with Traveller specific accommodation, examine and suggest how the incidences of number of vacant bays and group houses (other than casual vacancies) could be reduced, and could also identify practical approaches to the provision of transient halting sites.

## 7.6 Recommendations

7.6.1 It is recommended that the NTACC:

- o Examine and evaluate the reports' of the LTACCs' on an annual basis and report their findings to the Minister.
- o Prepare, for submission to the Minister, an annual report on the implementation of the programmes, having particular regard to the progress towards the annual targets set in the programmes.
- o Examine the issues arising around the provision of transient sites with a view to advising on how the lack of such provision can be addressed.
- o Examine the issues arising in relation to vacant units, other than casual vacancies, on both halting sites and in group houses, with a view to advising on how the level of such vacancies can be reduced.

7.6.2 It is recommended that:

- o In the event of the national agency, suggested by the Traveller support groups, not being established, and in the context of the level of progress being made in the implementation of programmes, an expansion of the role of the NTACC in relation to improving the rate of accommodation provision be examined.

# 8 Operation of Local Traveller Accommodation Consultative Committees

## 8.1 Introduction

8.1.1 The Local Traveller Accommodation Consultative Committees (LTACCs) were established under sections 21 and 22 of the Housing (Traveller Accommodation) Act 1998. The local authorities appoint these local committees, to advise on the provision and management of accommodation for Travellers.

8.1.2 The terms of reference of the LTACCs are, *inter alia*, to advise the appointing local authority in relation to:

- (a) the provision and management of accommodation for Travellers;
- (b) the preparation and implementation of any accommodation programme for the functional area of the appointing local authority, and
- (c) the management of accommodation for Travellers.

8.1.3 The LTACCs also provide a forum for liaison between Travellers and members/officials of the appointing local authority. In addition, LTACCs may, when requested to do so by a local authority other than the appointing authority concerned, advise that local authority where the functional area of that local authority adjoins the functional area of the appointing authority. In the case of a Committee appointed by a County Council, the Committee may advise a relevant town council or borough council within the functional area of the County Council.

8.1.4 The 1998 Act enshrines in law the principles of consultation with, and participation of, Travellers at national and local level. Consultation plays a central role in the preparation and implementation of the local accommodation programmes. The establishment of the local Traveller accommodation consultative committees provide a forum for discussion, consultation and Traveller participation.

## 8.2 Membership of LTACCs

8.2.1 Section 22 of the 1998 Act provides that each appointing authority appoints the chairperson of its LTACC. The membership of the LTACC comprises:

- (a) members of the appointing authority concerned;
- (b) officials of the appointing authority concerned;
- (c) representatives of local Travellers and Traveller bodies, and
- (d) one member from each relevant housing authority (if any) within the administrative county council, where an LTACC is appointed by the council of that county.

8.2.2 The number of members of an LTACC who are members or officials of a local authority may not exceed one half of the membership of the LTACC; and the number of members who are representatives of local Travellers or Traveller bodies may not be less than one quarter of the membership of the committee.

### 8.3 Report on the Operation of LTACCs

8.3.1 In order to assess the effectiveness of the local Committees in relation to the preparation of the Traveller accommodation programmes, the first LTACC commissioned a study in 2000 on the operation of the local committees during the programmes preparation phase. The main findings of the study were:

- (a) all those involved considered the Committees to be beneficial,
- (b) Traveller representatives were less satisfied with their operation than were local authority members or officials,
- (c) not all Committees were equally involved in the preparation of the five-year Traveller accommodation programmes, and
- (d) improvement in the basic operating procedures could enhance the effectiveness of the committees.

8.3.2 The report highlighted various aspects of the operation of the Committees with which a significant proportion of the members were dissatisfied. The research results formed the basis for 'Guidelines for the Operation of Local Traveller Accommodation Consultative Committees', prepared with the advice of the National Committee, which issued to local authorities in April 2001. Authorities were requested to recommend that the local Committees adopt the code of practice set out in the Guidelines.

## **8.4 Views Considered by the Subcommittee**

8.4.1 The subcommittee considered views submitted in writing, or raised during discussions at meetings. Despite some reservations regarding the operation of LTACCs, there have been no calls for these Committees to be abolished. In some instances there have been suggestions that a greater role be given to the LTACCs. It was argued, however, that the operation of the LTACCs needed to be improved before they were given an increased role.

## **8.5 Impact of the 2001 Guidelines**

8.5.1 The view was expressed that the 2001 Guidelines, while addressing issues raised at the time, have had little practical impact on the operation of a number of LTACCs. In certain cases, Travellers continue to feel that their opinions are not seriously considered. Other points of concern are dealt with below.

## **8.6 Regular Attendance Required at LTACC Meetings**

8.6.1 In addition to their central role of giving advise on the provision and management of accommodation for Travellers, LTACCs are also intended to provide a forum for liaison between Travellers and members/officials of an appointing authority. Concerns were expressed, however, that both public representatives and Travellers frequently failed to attend Committee meetings. In such cases, not only was the work of the Committees potentially delayed, but also effective consultation was restricted.

## **8.7 Involvement of Local Authorities in the Selection of Traveller Representatives**

8.7.1 Section 22(1) (c) of the 1998 Act states that membership of the LTACCs shall comprise, *inter alia*, "representatives of local Travellers and Traveller bodies". Concern was expressed, however, about the processes adopted in certain cases in relation to the selection of Travellers to serve on the Committees. While some authorities played no part in the selection of Traveller representatives, in other cases it was felt that the authorities concerned effectively chose the Traveller

representatives. It was noted that in certain cases local authorities experienced difficulties in getting any Travellers to serve on LTACCs.

8.7.2 It was accepted that appointing authorities have a role to play in encouraging and supporting Travellers in their nomination of candidates for appointment to LTACCs. National and local Traveller organisations could also be of assistance in this regard. It was also accepted that local authorities had to play some role in the Traveller selection process, as it was their responsibility under the 1998 Act to make appointments to the LTACCs.

8.7.3 There is also the consideration that a decision might have to be made if more Travellers were nominated than there were places available. However, while it may be necessary for local authorities to encourage local Travellers to make themselves available for appointment, it was felt that the authorities should operate an inclusive and transparent appointment process.

8.7.4 It was suggested that Traveller representatives could benefit from training in how to represent an entire group, and not just a particular family circle, as tended to be the position in some cases. It was also suggested that Traveller representatives should, in all cases, be paid expenses for their attendance at meetings.

## **8.8 Profile of LTACCs**

8.8.1 LTACCs, as statutory committees, were in many cases seen to have a low profile. This situation could be partly resolved, it was suggested, if the Committees were obliged to present Annual Reports to their appointing authorities.

8.8.2 Certain LTACC members feel that they are operating in a vacuum, with their views not being acted on. For this reason it was suggested that the Annual Reports be forwarded to the NTACC. The National Committee could then take these Reports into account when advising the Minister, in accordance with its remit.

8.8.3 The perceived low profile of the LTACCs could also be raised, it was suggested, by each formally reporting biannually to its respective



appointing authority's Manager, and the Manager formally meeting with the Committee during the year.

## **8.9 LTACCs and their Appointing Authorities**

8.9.1 Notwithstanding the requirement set out in section 31 of the 1998 Act, as amended by section 244 of the Local Government Act 2001, that each local authority's Annual Report shall record, *inter alia*, "particulars of the activities of the local consultative committee and the steps taken to secure the implementation of an accommodation programme", the subcommittee was informed that very few local authorities' Annual Reports referred to the activities of their LTACCs. It was suggested that local authorities should be reminded of this legal obligation.

## **8.10 LTACCs - Meetings and Consultations**

8.10.1 It was pointed out to the subcommittee that many LTACCs did not meet regularly, as envisaged in the Guidelines issued by the Department in 2001. The absence of regular meetings was seen to impede the intended consultation process, and it was suggested that LTACCs should meet a certain minimum number of times per annum. Various suggestions were considered by the subcommittee, concerning the number of meetings that should be held by the LTACCs each year. The suggestions ranged from four to eight meetings per annum.

## **8.11 Local Authority Officials as Members of LTACCs**

8.11.1 Reservations were expressed about the grade level of local authority officials who were appointed to the LTACCs. In order to raise the profile of the local Committees, and to increase their status within the Councils, it was suggested that the relevant Director of Services should be one of the members of the LTACC.

## **8.12 Chairpersons of LTACCs**

8.12.1 It was argued that the Chairpersonship of LTACCs was a position of crucial importance, and that consequently all members of the Committees needed to have confidence in the impartiality of the Chairpersons. Such confidence was reportedly lacking in certain

Committees, especially where Committee members felt that adequate support was not subsequently given to decisions that had previously been made at LTACC meetings. The local authority under section 22(1) of the 1998 Act, appoints chairpersons, and most chairpersons of LTACCs are, it is understood, elected members of the appointing authority.

- 8.12.2 There was support for the suggestion that Chairpersons should be independent of any of the three sectors represented on the LTACCs (elected members, officials, Travellers). Some members of the subcommittee suggested, however, that elected members of the Councils brought valuable experience to LTACC discussions, and could assist in practical decision-making by LTACCs. Other members of the subcommittee supported a rotating chairpersonship, as this would guarantee Traveller occupancy of this position on a regular basis. It was agreed that the position of Chairperson should be reviewed by the LTACC at the end of two years of its period of office.

### 8.13 Recommendations

- 8.13.1 It is recommended that the 2001 Guidelines be reissued to local authorities, along with a covering letter, drawing attention to the following:
- o All members of an LTACC should strive to attend all Committee meetings and, if unable to do so on a regular basis, should step down from the Committee.
  - o It was accepted that appointing authorities have a role to play in encouraging and supporting Travellers in the nomination of candidates for appointment to LTACCs. Under the 1998 Act, Traveller representation on LTACCs must comprise representatives of both Traveller bodies and local Travellers. The practicalities of a nomination process will depend on local circumstances, but in all cases the process should be inclusive and transparent.
  - o In areas where Traveller support groups already exist, it is a matter for such groups to select their own nominees for appointment to LTACCs.

- o In functional areas where no Traveller support groups operate, the national Traveller organisations may be of assistance to the local authorities in the nomination process. It is recommended that the national Traveller bodies adopt a policy line in relation to such situations.
- o In areas where local Traveller support groups do exist, it is recommended that the local authorities avail of the contacts which such groups have with Traveller families, in relation to the selection of local Traveller representatives.
- o LTACCs meet at least at least four times per annum, and more frequently if considered necessary.

8.13.2 In addition, it is recommended that:

- o LTACCs should present Annual Reports to their appointing authorities, giving a summary of activities for the period in question.
- o Copies of the Annual Reports, referred to at (1) above, should also be furnished to the NTACC.
- o The appropriate Director of Services should report in person to each meeting of the LTACC.
- o Each LTACC should formally report biannually to its appointing authority's Manager, and the Manager should formally meet during the year with the LTACC.
- o The Department should again bring to the attention of local authorities the requirement, laid down in section 244 of the Local Government Act 2001, that their annual reports detail the activities of their LTACCs.
- o The position of Chairperson should be reviewed at the end of the second year of appointment. As the role of Chairperson is crucial to the success of an LTACC, local authorities should consider which option of Chairperson selection best suits their particular situation.

# 9 *Unauthorised Encampments*

## 9.1 Introduction

9.1.1 The Housing Acts contain a number of provisions in relation to dealing with unauthorised encampments. These provisions are examined in this Section of the Report.

## 9.2 Background

9.2.1 Provision is made in section 10 of the Housing (Miscellaneous Provisions) Act 1992, as amended by section 32 of the Housing (Traveller Accommodation) Act 1998 and section 21 of the Housing (Miscellaneous Provisions) Act 2002, to enable local authorities to deal with unauthorised temporary encampments in certain circumstances.

9.2.2 Under section 10, as amended, a local authority has powers to remove an unauthorised Traveller encampment located within five miles of an approved halting site, provided alternative accommodation is available on any approved site to which the unauthorised encampment can be moved.

9.2.3 Notice may be served to remove an unauthorised temporary dwelling to any serviced site provided by any housing authority, or voluntary housing body with the assistance of a housing authority, within a five-mile distance where the dwelling could, in the opinion of the housing authority, be appropriately accommodated.

9.2.4 The site to which the temporary dwelling may be removed may be in the functional area of the housing authority concerned or, with the agreement of another authority, in the area of that authority or, with the agreement of a voluntary housing body, a site provided by such body.

9.2.5 A further provision in section 10 gives a local authority general power to serve notice to remove an unauthorised encampment to any serviced site, but without the requirement that it be within five-mile distance, where the encampment is unfit for human habitation, or is likely to interfere with public or private amenities, or constitutes a health hazard.

- 9.2.6 Where an encampment is located within one mile of existing approved Traveller accommodation, it may be removed to a location which is not less than one mile from such approved Traveller accommodation whether or not alternative accommodation is available.
- 9.2.7 To act under this provision, the housing authority must be of the opinion that the temporary dwelling, by reason of being one of a number of such dwellings or otherwise -
- o is causing a nuisance or obstruction to the occupants of the approved Traveller accommodation or of dwellings within a one mile radius of the Traveller accommodation, or
  - o creates a risk to the quality of utility or other services or obstructs or interferes with the use of facilities or amenities associated with the approved Traveller accommodation or dwellings within a one mile radius of the accommodation.
- 9.2.8 There are other powers available to local authorities under other codes to deal with problems arising from unauthorised temporary dwellings, e.g. under the Planning Acts in relation to unauthorised developments; under the Roads Acts in relation to safety aspects, and under the Local Government (Sanitary Services) Act 1948 in relation to prohibition of temporary dwellings in certain areas.

### 9.3 Views Considered by the Subcommittee

- 9.3.1 The Department's representative made the point that these provisions were considered to be an effective way of dealing with unauthorised encampments. Part of the reasoning for their introduction in the first place was to protect approved Traveller accommodation.
- 9.3.2 It was also considered that the availability of such powers gave assurances to the settled community about the management of the approved accommodation, which would assist in the consultation process in relation to additional accommodation projects. It was considered that these provisions continued to be required.
- 9.3.3 The Traveller support groups contended that these provisions are objectionable in that they allow a local authority to interfere with the

fundamental rights of Travellers (including the right to a home and bodily integrity) without any requirement for a court order and that in most circumstances the necessity for Travellers to reside in an unauthorised site is a direct result of the lack of accommodation provision by local authorities.

- 9.3.4 The groups suggest that the 24-hour notice provision is too short, that there should be an internal appeal procedure in relation to the terms of a notice, with an automatic right to appeal to the District Court for the respondent.
- 9.3.5 The possible tension between a local authority's powers to evict, and its obligation to provide accommodation for families was discussed. The subcommittee agreed that there were apparent advantages in separating the powers within each authority whereby those tasked with providing accommodation would not be involved in serving and enforcing notices in relation to unauthorized encampments.
- 9.3.6 It was pointed out that this separation of functions would simply be an administrative one, and that the local authority was responsible in both areas. It was agreed that, in any event, it would be necessary to have close contact between any enforcement function and the housing function in relation to possible alternative accommodation due to the need to ensure that families which were on local authority accommodation waiting lists continued to stay on such lists until accommodated.
- 9.3.7 The support groups saw a difference between Travellers who are moved on from unauthorized sites using section 10, and tenants in standard housing evicted from such housing. Evictions from standard houses are usually carried out due to anti-social behaviour etc, whereas, the support groups contend, Travellers are evicted by virtue of the fact that they have no where else to go.
- 9.3.8 It was accepted by the subcommittee that some of the families which had been served with section 10 notices by local authorities are due to be accommodated by these same authorities under their local authority Traveller accommodation programmes, and that in some cases the provision which did not require an offer of alternative

accommodation was used. The Traveller support groups contend that this is now putting extra pressures on local authorities as families are doubling up or sharing permanent accommodation with relatives who are usually also tenants of local authorities.

- 9.3.9 The support groups contend the provisions are in breach of the provisions of Article 6.1 of the European Convention on Human Rights which states as follows:

“ In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...”.

It was pointed out that the subcommittee was not in a position to monitor compliance with Conventions such as this.

## 9.4 Discretionary Use of Powers

- 9.4.1 The subcommittee agreed that the legislation provided that the use of these powers was generally discretionary. It was also agreed that, as the issue of unauthorised encampments was complex, including where it related to families on waiting lists and to the protection of approved Traveller accommodation, it was desirable that these powers should continue to be discretionary.
- 9.4.2 The Traveller support groups made the point that there should be guidelines issued nationally which would remind local authorities that the use of these powers was discretionary and that there were other circumstances to be taken into account in dealing with unauthorised encampments under these provisions. These issues included the availability or otherwise of Transient site accommodation, the presence of families on unauthorised sites, on waiting lists etc.
- 9.4.3 It was agreed generally that these powers should continue to be discretionary; that the use of the powers depended on the particular circumstances and on the exercise of commonsense, and that any guidance which sought to be prescriptive could interfere with that discretion.

- 9.4.4 While concern was expressed about the cost to local authorities of defending legal challenges to section 10 notices, it was pointed out that the local authorities must take all factors into account, including legal advice, when deciding on whether or not to issue section 10 notices. It was also pointed out that neither the Department nor the NTACC could issue advice or guidelines which would interfere with the advice that local authorities might receive from their legal advisers.
- 9.4.5 Notwithstanding the above considerations, it was agreed that the NTACC should consider the question of issuing some guidelines in relation to the use of these powers, and in doing so note the potential legal costs involved in using them. These guidelines would cover the element of discretion, issues around families on waiting lists and the absence of emergency sites and/or transient sites.

## 9.5 Recommendations

- 9.5.1 It is recommended that
- o The NTACC should examine the issue of developing guidelines around the use of section 10 notices. In doing so, it should note the potential legal costs involved for all parties in relation to the use of these powers, include mention of the discretionary nature of the powers, and cover issues around families on waiting lists, the absence of emergency sites and/or transient sites and the need to exhaust all other possible options prior to the issue of such notices.



# 10 *Impact on Traveller Accommodation of Public Order Legislation*

## 10.1 Introduction

10.1.1 Although not directly related to the provision of accommodation for Travellers the subcommittee considered the effects of the public order legislation on the provision of such accommodation.

## 10.2 Public Order Legislation

10.2.1 The Criminal Justice (Public Order) Act 1994, which was amended in April 2002, provided new powers for the Gardaí to deal with the entry to and occupation of public or private land without the consent of the owner. The Housing (Miscellaneous Provisions) Act 2002 amended the 1994 Act by inserting a new Part in that Act. The provision does not apply to public roads.

10.2.2 The amendment to the 1994 Act prohibits any person without the consent of the owner of land from entering or occupying the land or bringing any object onto such land where such entry or occupation or bringing onto such object is likely to -

- o substantially damage the land, or
- o prejudicially affect any amenity in respect of the land, or
- o prevent anyone entitled to use the land or any amenity associated with it from making reasonable use of the land or the amenity, or
- o otherwise render the land or amenity or the lawful use of the land, or amenity unsanitary or unsafe, or
- o substantially interfere with the land, amenity or the lawful use of the land or amenity.

10.2.3 There is also provision in the new Part that where a Garda has reason to believe that a person is committing or has committed an offence under the Part, he or she -

- o may demand of the person his or her name and address;
- o may direct the person to leave the land and to remove from the land any object which is owned or under the control of the person;
- o must inform the person of the nature of the offence the person is suspected of having been involved in, and the statutory

consequences of failing to comply with the demand or direction.

10.2.4 Provision is also made for a Garda to arrest without warrant a person -

- o who fails or refuses to give his or her name and address to the Garda when demanded, or
- o who gives a false or misleading name or address, or
- o who fails to comply with a direction of the Garda, or
- o whom the Garda finds committing an offence of entering land without the consent of the owner.

10.2.5 The penalties for a person found guilty on summary conviction of an offence under the Act as amended are a fine of up to €3,000 or a term of imprisonment of up to one month or both fine and imprisonment.

10.2.6 In the event of the owner of a temporary dwelling or other object not removing it from the land at the request of a Garda, the Garda may remove or cause to be removed the dwelling or object from the land in question and arrange for its storage. An object removed by a Garda under this provision will be returned to the person claiming it on his or her making a declaration in writing that he or she is the owner of the object or is authorised by the owner to claim it or is otherwise entitled to claim it for a reason specified by the person. At the discretion of the Garda Commissioner, the person claiming possession of the object may be required to pay the amount of any expenditure reasonably incurred in removing and storing the object.

10.2.7 The Commissioner may sell or dispose of, or cause to be sold or disposed of, an object removed and stored under the Act if it is not claimed and removed within one month of the date on which a notice was served on the owner. The net proceeds of the sale, after deducting the expenditure incurred in the removal, storage and sale may be returned to the owner.

### 10.3 Enforcement of Legislation

10.3.1 The Minister for Justice, Equality and Law Reform is the Minister responsible for the Criminal Justice (Public Order) Act 1994. Enforcement of the Act is a matter for the Gardaí.

### 10.4 Use of the Legislation

10.4.1 It is understood by the subcommittee that in answering a Parliamentary Question in October 2003 the Minister for Justice, Equality and Law Reform indicated that up to then the provision had been used on a total of 88 occasions. In submissions made by the Irish Traveller Movement (ITM), it is stated that, based on its monitoring of the use of the Criminal Justice (Public Order) Act 1994 as amended, the Act has been used in a number of local authority areas.

10.4.2 The submission indicates that in the case of one county council area, the Act has been used on approximately 40 occasions. It is stated that in the case of four of the families concerned, their caravans were confiscated. It is indicated that the housing authority later accommodated two of these families. The submission indicates that in the case of another county council area, a large Traveller family has been moved on several occasions. In that case, it is indicated that the family is from the area of the local authority concerned and are on the local authority housing list. It is also stated that the family has had to move in and out of the county due to the use of the legislation in their case.

10.4.3 In the case of one city council area, the ITM indicates that there have been 138 incidents where Traveller families have been removed from public places since the enactment of the amendment to the 1994 Act but that not all of these were effected under that Act. It indicates that, as far as is known, the Gardaí enforced 36 of the removals from public lands.

10.4.4 The ITM in its submission indicates that in the case of a number of local authority areas, the legislation has not been used. The subcommittee understands that some local authorities have decided not to request its use in view of the authorities' duty to provide accommodation for the

families. In the case of other authorities, the ITM states that local authorities have assured families that they would not request enforcement of the 1994 Act by the Gardaí.

## **10.5 Effect of Enforcement of Legislation on the Provision of Traveller Accommodation**

- 10.5.1 In submissions made by the ITM it is stated that, based on its monitoring of the use of the Criminal Justice (Public Order) Act 1994, as amended, the Act has been used to move Traveller families who are on the local authority housing list to be accommodated under the authority's Traveller accommodation programme in the case of three local authority areas in relation to which figures on the incidence of its use are provided.
- 10.5.2 The ITM's submissions suggest that, with families being, in effect, forced to leave a local authority area due to the use of the 1994 Act against them, they lose priority on that local authority's housing list or may completely lose communication with the local authority and could be removed from the waiting list.
- 10.5.3 Another effect of the use of the legislation, which the ITM cites, is the difficulty it creates for local authorities in carrying out periodic reliable assessments of need, including the need for transient sites, for the purpose of preparing or amending an accommodation programme.
- 10.5.4 In its submission the ITM point to the fact that the use of the 1994 Act to move Traveller families from public lands has the affect of rendering such families homeless where the caravan being moved is the only home of the family involved. It is pointed out that such families have to be accommodated as homeless persons by the local authority in any event.
- 10.5.5 The subcommittee considered the points made by the ITM in its submissions. While noting the varying incidences of usage cited in the submissions in relation to the authorities where figures on usage were cited, it was encouraged by the feedback that some housing authorities did not envisage the Act being used to move families who were on their housing lists.

- 10.5.6 A suggestion was made that local authorities should not request the Gardaí to use their powers under the 1994 Act to remove families who are on local authority lands and are awaiting accommodation from the local authority. Where there are exceptional circumstances, and a family has to be moved it should, as far as practicable, be done under the powers available to the authority under the Housing Acts. There was general support for this in the subcommittee.
- 10.5.7 The subcommittee considered the points made in the submissions in relation to the possible negative effects in relation to the priority of families on a local authority's waiting list where the legislation is used to move them. In particular, it was concerned at the suggestion that a family may be removed from the list because of the use of the legislation.
- 10.5.8 The subcommittee understands the natural fears of Traveller families in this situation. There was general agreement in the subcommittee that use of the legislation should not be a ground for a family losing its position on the housing list or being removed from it. Likewise, absence from the local authority area in which a family is on the list resulting from the use of the legislation should not affect the family's position on the list unless another authority houses them.
- 10.5.9 The point was made that a local authority should ensure that it does not lose communication with a family who moves out of its functional area due to being moved under the 1994 Act unless the family indicates that it no longer requires accommodation within the area.

## 10.6 Possible Actions

- 10.6.1 The ITM in its submission proposed that the legislation be suspended pending the provision of accommodation for all families on unauthorised sites and sufficient transient accommodation is provided. Alternatively, they suggest that the legislation should be amended to include a presumption of consent to occupy public land.
- 10.6.2 They also suggest that the legislation be referred to the Human Rights Commission to seek their opinion as to how it could be reviewed.

10.6.3 It was pointed out that under the terms of reference for the review of the operation of the 1998 Act the effect of the legislation on the provision of accommodation could be considered. The Department's representative stated that, in line with this, it was in order for the subcommittee to consider the issues raised as set out above in relation to accommodation and to make recommendations in relation to these areas. However it was not an option to seek the amendment or the repeal of the legislation as that was a matter for the Department of Justice, Equality and Law Reform. It was pointed out that in reply to a Parliamentary Question recently that the Minister of State at that Department with responsibility for this area had indicated that there were no plans to review the legislation at this stage.

10.6.4 In addition the Department's nominee on the subcommittee indicated that the Department is aware that the provision is currently subject to a constitutional challenge in the High Court. In all the circumstances, it was considered that the recommendations referring to the Human Rights Commission could not be agreed.

## 10.7 Recommendations

10.7.1 It is recommended that local authorities be advised that -

- o They should, as far as practicable, not request the Gardaí to use their powers under the 1994 Act to remove families who are on local authority lands and are awaiting accommodation from the local authority. Where there are exceptional circumstances, and a family has to be moved, it should be done under the powers available to the authority under the Housing Acts.
- o Use of the Public Order legislation is not a ground for and should not result in a family losing its position on the housing list or being removed from it.
- o Absence from the local authority area in which a family is on the list resulting from the use of the legislation should not affect the family's position on the list unless another authority accommodates them.

- o While there is an onus on families affected by this legislation to maintain contact with the local authority, each local authority should ensure, as far as practicable, that it does not lose communication with a family on its accommodation list who move out of its functional area due to being moved under the 1994 Act unless the family indicates that it no longer requires accommodation within the area.

# Appendix 1

## Membership of the Subcommittee of the National Traveller Accommodation Consultative Committee

Mr Chris Flood (Chairperson)

Cllr Thomas Cunningham

Mr Joe Harrington

Ms Maria Joyce

Mr Brendan Kenny

Ms Ellen Mongan

Mr Séamus O'Connor

Ms Gráinne O'Toole

Mr Seán Moran deputised for Mr Kenny. Following Ms O'Toole's resignation from the NTACC, her vacancy on the subcommittee was filled initially by Mr David Joyce, and subsequently by either Ms Claire Davey or Ms Caroline Talbot.



## Appendix 2

### Written Submissions Received, and Persons Consulted

#### Part (A). Written submissions were received from:

Cork County Council (West) Local Traveller Accommodation Consultative Committee (LTACC)  
Department of the Environment, Heritage and Local Government  
Donegal County Council LTACC  
Dublin City Council  
Dublin City Council (DCC) Representatives on DCC LTACC, *and* Ballyfermot Travellers Action Project (separate submission from Traveller representatives on the DCC LTACC)  
Ennis Community Development Project  
Galway County Council LTACC  
Irish Traveller Movement  
Irish Traveller Movement/Pavee Point/ National Traveller Women's Forum (joint submission)  
Kildare County Council LTACC *and* Kildare Traveller Network (Traveller Representative on Kildare LTACC)  
Kilkenny County Council LTACC  
Limerick County Council LTACC  
Longford County Council LTACC  
Louth County Council LTACC  
North Tipperary County Council LTACC  
Offaly County Council LTACC *and* Tullamore Traveller Movement (Members of the Offaly LTACC)  
Tallaght Travellers Community Development Project and Clondalkin Travellers Development Group  
Wicklow County Council LTACC

#### Part (B). The following persons were consulted on planning issues:

Ms Oonagh Buckley, Planning Section, Department of the Environment, Heritage and Local Government  
Mr David Joyce, Irish Traveller Movement  
Mr John Laffan, Spatial Policy Section, Department of the Environment, Heritage and Local Government