



PAVEE POINT
TRAVELLER AND ROMA CENTRE

Submission to Department of Justice and Equality regarding its Statement of Strategy

“Recognizing the important role of civil society at the local, national, regional and international levels.... special emphasis should be given to measures to assist in the strengthening of a pluralistic civil society.....and to the real and effective participation of the people in the decision-making processes.....”

UN Human Rights Council, 23rd Sept. 2013

October 2014

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Executive summary

Pavee Point Traveller and Roma Centre ('Pavee Point') welcomes the opportunity to make this submission to the Department of Justice and Equality ('the Department') as it prepares its forthcoming Statement of Strategy.

Our work involves research, local action, awareness-raising, national resourcing and policy advocacy, and we undertake a community work approach based on the principles of human rights, equality, cultural diversity and inter-culturalism. All our work is undertaken using a community development approach.

Our activities at national level include our role as a specialist support agency funded by the Dept. of Environment under the LCDP. We also resource and coordinate national networks and represent Travellers on national Government-appointed committees including the National Traveller Monitoring Advisory Committee, in the Department of Justice and Equality.

Ultimately, we assert that until Travellers are recognised as a minority ethnic group in Ireland, as recommended (unanimously) by the Joint Oireachtas Committee on Traveller Ethnicity (in April 2014), the situation of Travellers as well as Roma will not be sufficiently progressed.¹ Moreover, we believe that a key priority is also the development of a progressive National Traveller and Roma Integration Strategy with full participation of Traveller and Roma civil society . We also assert that in order to drive policy and implement programmes, a Traveller and Roma agency or unit is needed, which would bring together policy-makers and senior civil servants, on a cross-departmental and inter-agency basis. Such a structure should be implemented by a national steering committee, with would include Traveller and Roma representatives.

Our submission includes specific measures relevant to the key goals of the Department identified in the current Statement of Strategy. It also includes general principles for effective inclusion which we believe should underpin all strategies and actions of the Department and agencies within its remit. These are outlined in greater detail in the full submission.

Specific recommendations under Departmental goals

GOAL: WORK FOR SAFE COMMUNITIES

1. **Pavee Point recommends that anti-racism and human rights training through all levels of An Garda Síochána. Roma visibility in An Garda Síochána should be enhanced through a positive action employment programme.**
2. **Pavee Point has made a number of legislative and policy reform recommendations to the State, including review of the HRC and its impacts on Travellers and Roma. In respect of the practice and working arrangement of the Department, we propose the following:**
 - Where domestic violence is a child protection issue, we recommend a woman-centred approach whereby through protecting the mother you protect the children.

¹ And endorsed by other groups UN CERD

- Collect data on domestic violence, including disaggregated data by gender and ethnicity, while respecting the rights to personal data protection of data subjects and avoiding stigmatisation of the relevant groups.
- The mandatory provision of anti-racism and cultural awareness training for all staff working in these areas, and the resourcing of Traveller and Roma organisations to provide this training.
- Funding for Traveller and Roma organisations to undertake research into the specific needs of Traveller and Roma women on these issues
- Participation of Travellers and Roma in consultative processes and structures developed to address the issues.
- Funding for pilot initiatives to support the employment of Traveller and Roma women in services through positive action measures.

3. We have called for legislative reform and change, including a legislative ban on the purchase of sex. We recommend a series of actions which should be pursued at the practice of service delivery by the Department and the agencies within its remit:

- Ensure all relevant policies and dedicated strategies on sexual violence are equality/Traveller and Roma proofed.
- Collect data on sexual violence, including disaggregated data by gender and ethnicity, while respecting the rights to personal data protection of data subjects and avoiding stigmatisation of the relevant groups.
- Provide adequate resources for Traveller organisations to provide anti-racism and cultural awareness training to mainstream and sexual violence services to inform the development of best practice in working with Traveller and Roma women in relation to sexual violence.
- Provide funding for Traveller organisations to carry out research into the specific needs and experiences of Traveller and Roma women affected by sexual violence and for the development of culturally appropriate and community based initiatives, services and supports.
- Investigate promptly and impartially incidents of sexual violence against Travellers and Roma.
- Provide sufficient funding for the national and local gender-based violence services to ensure those affected by sexual abuse are supported and protected.
- Engage with Traveller and Roma women as well as representative organisations at local and community levels through provision of community supports and funding for Traveller and Roma initiatives.
- Ensure participation and consultation with members of Traveller and Roma communities in the development and implementation of all policy and services within the agency.

4. Pavee Point calls on officials in the Department of Justice to seek to influence the Department of Social Protection in order address issues in the relation to the HRC as they impact on women experiencing violence and Roma and Traveller inclusion. This would include the following measures:

- Traveller and Roma proof all legislation and policy, including the HRC.

- The HRC needs to be reformed and more stringent proofing of the impact of economic and budgetary policies particularly on people in vulnerable situations needs to be put in place, as these restrictions go far beyond the intended purpose of controlling immigration. Resources must be invested and an impact assessment must be conducted on the HRC, in particular in relation to ethnicity and gender.
- Application of the concept of a geographical ‘centre of interest’ to culturally nomadic communities such as the Traveller community is problematic, as it is interpreted from the viewpoint of the static majority population. Guidelines need to be amended to take into account differences in Traveller culture.
- Legislation that has a disproportionately negative impact on Travellers and Roma should be repealed or amended, in particular the Habitual Residence Condition.
- The application of HRC to child benefit needs to be removed. All children living in Ireland should be treated equally and according to the principle of non-discrimination. This is in line with the UN Convention on the Rights of the Child, which Ireland has signed up to.

GOAL: FACILITATE THE PROVISION AND ADMINISTRATION OF JUSTICE

5. Pavee Point is calling on the following recommendations with regard to the administration of justice to be implemented:

- Address the current inadequacies in the criminal law in tackling racist crime, including use of the internet and hate speech;
- Introduce legislation whereby racist motivation is consistently taken into account as an aggravating factor in sentencing practice for criminal offences.
- Ensure An Garda Síochána receive training on how to handle reports of racist crime, including relevant legislation and proper recording;
- Ensure that An Garda Síochána build better relationships with the Traveller and Roma community and carry out awareness-raising with the Traveller community on how to report racist crime;
- Implement the CERD Committee’s General recommendation XXXI on the prevention of racial discrimination in the criminal justice system with a focus on data collection by an independent body for the purposes of identifying trends in racial discrimination.
- Ensure that that the Judicial Studies Institute organise seminars and lectures on Travellers and racial discrimination;
- Establish an independent Judicial Council, which would also ensure training is provided for Judges in cultural competence including anti-racism training provided in partnership with Traveller and Roma organisations.

6. Pavee Point recommends that the Department develops a dedicated strategy for Travellers and Roma in the criminal justice system. It should aim to:

- Address how discrimination can impact Roma and Travellers’ experience of the criminal justice system.
- Identify proactive steps to ensure that Roma and Travellers have equal and culturally appropriate access to education while in prison.

- Set out steps to ensure equitable access to relevant supports for Roma and Travellers on leaving prison
 - Such a strategy should be developed with the participation of Traveller and Roma representative organisations.
- 7. Pavee Point recommends that the Department develops an equality policy for the Irish Prison Service.**
- 8. Ethnic monitoring: Pavee Point welcomes the recent introduction of ethnic monitoring in the Irish Prison Service, and views this as an important initial step. However, successful ethnic monitoring must include the introduction of monitoring in prisons, using the ethnic categories developed by the Central Statistics Office (CSO); analysis and publication of the results on a regular basis; and the addressing of any unjustifiable disproportionate outcomes between Travellers and other prisoners.**
- 9. Provide targeted re-integration support: barriers to reintegration need to be targeted through specific measures, to include:**
- Involvement of Traveller and Roma voluntary organisations and other voluntary organisations, alongside the Probation Service, funded to support Travellers on leaving prison and to work with Traveller communities to address factors such as stigma surrounding drug use and offending behaviour.
 - Targeted support: for those who cannot return to their family, targeted support measures should exist to enable them to access secure accommodation and employment.
 - Raise awareness: Awareness needs to be raised among young people in the Traveller community regarding substance misuse and its consequences.

GOAL: PROMOTE EQUALITY AND INTEGRATION

- 10. Pavee Point recommends that the Minister for Justice and Equality should influence her cabinet colleagues for the re-establishment of an independent advisory body on racism, similar to the National Consultative Committee on Racism and Interculturalism.**
- 11. Pavee Point recommends the introduction of a new National Action Plan against Racism (NAPAR) and the establishment of a national oversight committee with an independent Chairperson and representative of statutory and NGO sectors to implement the National Action Plan against Racism.**
- 12. Pavee Point calls on the Department to develop a progressive National Traveller Roma Integration Strategy, with the full participation of Traveller and Roma representative organisations. The strategy must have clear implementation plans, deliverables, and monitoring processes, and must be accompanied by adequate resources to achieve outcomes.**
- 13. Pavee Point also calls for a coordinated approach in the form of a Traveller and Roma Agency in Ireland, given the range of agencies and structures relevant to Travellers. At a minimum we call for the establishment of a Traveller and Roma Unit, which would be a structure that brings together policy-makers and senior civil servants, on a cross-**

departmental and inter-agency basis. Such a structure should be implemented by a national steering committee, with would include Traveller and Roma representatives.

14. Pavee Point is calling on Minister for Justice and Equality to officially recognise Travellers as a minority ethnic group, which experiences racism and discrimination based on their ethnicity.

GOAL: REPRESENT IRELAND'S INTERESTS IN THE ABOVE SPHERES IN EU AND OTHER INTERNATIONAL ORGANISATIONS

15. Pavee Point calls on the Department to ensure that all strategies are compliant with relevant human rights obligations and standards that Ireland has signed and ratified.
16. We recommend that senior civil servants in the Department should, in collaborating with their colleagues on other Government Departments including Department of Social Protection and Department of Jobs, Enterprise and Innovation strive to use their influence to achieve the following:
 - Develop long-term, sustainable strategies to improve Traveller and Roma training and employment opportunities including social enterprise
 - Develop a Traveller and Roma specific employment strategy.
 - Ensure and support positive action measures to employ Travellers and Roma in public service, mainstream employment and the community sector.
 - Utilise the Youth Guarantee and structural funds for targeted measures for Traveller and Roma inclusion in employment initiatives.

Principles for effective inclusion

Pavee Point holds that any strategy must be underpinned by an inter-cultural approach and by principles of equality, diversity and anti-racism. Strategies and implementation programmes must be inclusive, culturally appropriate, and appropriate to the needs of groups in society, including Travellers and Roma. The principles below are cross-cutting and should be applied to all objectives, actions and initiatives of the Department of Justice and Equality, as well as to the wide range of organisations, agencies and institutions that operate within its remit.

DECISION-MAKING AND OVERSIGHT

17. **Recommendation:** given the extent of disadvantage and marginalisation experienced by Travellers and Roma, it is imperative that structures established for the achievement of goals include the participation of Traveller and Roma representative organisations.

PREPARATORY ACTIONS AND CONSULTATION

18. Pavee Point recommends that Department should identify barriers and group needs: care should be taken to identify barriers that are likely to exist for Travellers (including consideration of different age groups, gender etc.).

CONSULTATION

19. Pavee Point recommends that consultation with Travellers and Roma representative organisations must be included at all levels and stages of consultations undertaken in preparation and delivery of actions identified in the Statement of Strategy.

DATA COLLECTION

20. Pavee Point recommends that the Department puts in place a system for capturing data on the participation of Travellers and Roma (as well as other minority ethnic groups) in all thematic areas, organisations, and actions within its remit through the implementation of an ethnic identifier on a mandatory basis.
21. Pavee Point recommends that disaggregated data be used to monitor, assess and inform measures taken to improve attainment, retention, attendance and transfer of all students in the education system.

RECRUITMENT, MONITORING AND ACCOUNTABILITY

22. As part of any future recruitment process of staff across the Department and its associated agencies, criteria for employment and job descriptions should include provisions for a commitment to anti-racist and equality perspective. Job descriptions of staff should also reflect this perspective in terms of essential skills.
23. The performance management system for the public sector (PMDS) should also include wider criteria in their measurement of performance to include outcomes in terms of progressing equality for Travellers and Roma in Ireland.
24. Given the importance of adopting principles of inter-culturalism and equality, we would urge the Department to target the employment of Travellers and Roma in any future recruitment processes. This would enhance the capacity of the agency and include the expertise of these communities.

POSITIVE ACTION MEASURE

25. Pavee Point recommends that a positive action measure with respect to any future employment opportunities for Travellers and Roma should be a key policy for the Department and actions arising from them.

INNOVATIVE MEASURES AND PROGRAMMES

26. Pavee Point recommends that the Department support innovative approaches, in the achievement of objectives, and work with organisations such as Pavee Point in their development.

CULTURAL IDENTITY

27. Recommendation: the cultural identity of Travellers and Roma is recognised by the Department and reflected across all its strategies and their implementation.

POSITIVE DUTY

- 28. The actions proposed in this submission could – if implemented – demonstrate how the Department is meeting its positive duty, and should be adopted in order to demonstrate this legal obligation.**

TEN COMMON PRINCIPLES ON ROMA INCLUSION

- 29. We recommend that all work with Traveller and Roma communities should be underpinned by the ten common basic principles on Roma inclusion adopted by the European Commission, and underpin the strategic and operational activities of the Department of Justice.**

1. Introduction

1.1. Pavee Point Traveller and Roma Centre

Pavee Point Traveller and Roma Centre ('Pavee Point') welcomes the opportunity to make this submission to the Department of Justice and Equality as it prepares its forthcoming Statement of Strategy.

Pavee Point is a voluntary, or non-governmental, organisation committed to the attainment of human rights for Irish Travellers and Roma. The group is comprised of Travellers and Roma, and members of the majority settled population working together in partnership. The aim of Pavee Point is to contribute to improvement in the quality of life and living circumstances of Irish Travellers and Roma² through working for social justice, solidarity, socio-economic development and human rights.

Our work involves research, local action, awareness-raising, national resourcing and policy advocacy, and we undertake a community work approach based on the principles of human rights, equality, cultural diversity and inter-culturalism. Amongst the activities we undertake are training, technical support, information and communications resources. We work at national, regional and local levels. Amongst our activities at national level include our role as a specialist support agency funded by the Dept. of Environment under the LCDP. We also resource and coordinate a number of national networks including the National Traveller Health Network and the National Drugs Network. We represent Travellers on a number of national government appointed committees including the National Traveller Monitoring Advisory Committee, in the Department of Justice and Equality.

All our work is undertaken using a community development approach. Community development seeks and promotes positive social change in society in favour of those who benefit least from social and economic developments. It seeks to challenge the causes of poverty and disadvantage and to offer new opportunities for those lacking choice, power and resources. It also recognises that the majority of the problems that Travellers experience are as a result of racism and the state's failure to recognise them as a minority ethnic group.

Community development is a developmental activity composed of both task and a process. The task is the achievement of social change and to address the causes and symptoms of poverty with marginalised groups (such as Travellers and Roma) based on principles of equality, human rights and social justice. The process concerns the application of the principles of participation, empowerment and collective decision making in a structured and co-ordinated way. It does this by building groups' capacity to organise and to give

² "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as "Gypsies".

voice to their needs and experiences, to make collective decisions on behalf of their communities and to participate in decision-making structures that affect them.

Community development therefore involves people experiencing disadvantage being the active agents in making changes they identify to be important. Crucially, it is also based on the premise that policies, programmes and services intended to tackle or eliminate poverty are much more likely to be efficient and effective if the people who are part of communities affected by poverty and disadvantage are involved in the design and implementation of solutions.

This submission is made as the Department of Justice and Equality as it prepares its forthcoming Strategy Statement, and outlines our recommendations on the development and implementation of the Statement, taking on board key principles of equality of outcome, social inclusion, cultural identity, partnership, and community development.

We also make recommendations around general themes of good practice, including participation in structures, training and awareness, data collection and monitoring.

The format of the submission is as follows:

- Section 2 provides an outline of the profile and experiences of Travellers and Roma in Ireland focusing on education.
- Section 3 outlines key considerations for the completion of the Strategy Statement, and recommends important actions to underpin its development and implementation.
- Section 4 outlines some cross-cutting themes and values that we believe to be necessary to advance equality for Travellers and Roma in Ireland, and which should underpin the Statement of Strategy.

2. Travellers and Roma in Ireland

2.1. Travellers in Ireland

The number of people enumerated as Irish Travellers in Census 2011 was 29,573, an increase of 32% since census 2006. All counties apart from Limerick and Waterford showed increases in the Traveller population that were larger than the increase in the general population.³ The figure compares with 36,224 population of Travellers enumerated in the Traveller All Ireland Health Study (AITHS).⁴

The areas with the highest population of Travellers is Dublin city and suburbs, followed by Galway, Cork, Tuam, Navan, Limerick, Ennis and Longford, which collectively account for 35% of the total Traveller population.

A summary of the profile of Travellers arising from research and Census 2011 (CSO) of Travellers include:

- A **younger age profile**: the average age of Travellers was 22.4 years compared with 36.1 years for the population as a whole, over half of all Travellers (52.2%) were aged under 20 years (CSO). In 2011, children accounted for 48% of the Traveller population (14,245) – the corresponding figure for the total population was 25%.
- The number of Traveller children increased by 30.3% between 2006 and 2011.
- **Health and life expectancy**: outcomes in terms of health and life expectancy for Travellers is significantly lower than that of the rest of the population. The All Ireland Traveller Health Survey (AITHS, 2010) found that life expectancy at birth for male Travellers is 15.1 years less than the general population. Men in the community continue to have higher rates of mortality for all causes of death. Life expectancy at birth for female Travellers is now 70.1 which is 11.5 years less than women in the general population. Traveller infant mortality is estimated at 14.1 per 1,000 live births (compared with the general population rate of 3.9).
- Suicide rates are nearly 7 times higher in Traveller men compared with the general male population. Suicide accounts for 11% of all Traveller deaths.
- Just under half of all Travellers feel discriminated against. This is experienced in all aspects of life. However, least discrimination is experienced in sport, followed by the health sector. Travellers have a strong sense of community and high levels of community/family support.
- The AITHS findings reported that both Travellers and health service providers interviewed acknowledged that ‘social determinants’ were the main cause of the poor health status of Travellers, this includes accommodation, education,

³ This increase was attributed to a greater disclosure amongst the Traveller population as regards their ethnic status and identity following collaboration between Pavee Point and the CSO in implementation of the ethnic question in Census.

⁴ All Ireland Traveller Health Study Team, School of Public Health, Physiotherapy and Population Science, University College Dublin. (2010) *All Ireland Traveller Health Study : Our Geels*.

employment, poverty, discrimination, lifestyle and access and utilisation of services.

- **Accommodation:** between 2006 and 2011, the percentage of Traveller households residing in caravans or mobile /temporary structures halved from 24.7% to 12.3%. In 2011, 920 households with Travellers resided in such temporary accommodation. A study commissioned by Pavee Point in 2013 noted that Travellers live in smaller and more overcrowded homes than the settled community⁵. The same report shows a fall in allocations by the Department of Environment, Community and Local Government in relation to Traveller-specific accommodation, from €40m in 2008 to €6m in 2012, a reduction of 85%. Moreover, substantial parts of the allocation are unspent (in 2012, 34% of the reduced accommodation budget was unspent).⁶
- **Employment:** unemployment in the Irish Traveller community was 84.3% in 2011, up from 74.9 per cent five years earlier. The Equal at Work initiative in 2003 identified labour market barriers experienced by Travellers as including literacy confidence (more so than literacy problems); educational qualifications – particularly where the Leaving Certificate is an entry level requirement for jobs; ageism – particularly for older workers who have not had the opportunity to complete the Leaving Certificate, prejudice in relation to where people live, and confidence.⁷
- **Education:** Census 2011 reports that Travellers continue to experience educational disadvantage: 69% of Travellers were educated to primary level or lower, and 55% (of Travellers whose education had ceased) had completed their education before the age of 15, compared with 11% for the total population. 21.8% of Travellers (whose education had ceased) were educated to lower second level, compared with 15.2% in 2002. The percentage of Travellers who completed upper secondary education more than doubled from 3.6% to 8.2% over the same period.
- Only 3.1% continued their education past the age of 18, compared with 41.2% for the total population, and only 1% of Travellers progressing to third level education (compared with 31% of the settled population).
- Traveller females stayed longer in school than their male counterparts with 15% ceasing their education at age 17 or over, compared with just 11% of males.
- The percentage of Travellers with no formal education in 2011 was 17.7% compared with 1.4% in the general population.
- Studies undertaken refer to education attainment and negative experiences of Travellers in school: The *Report on the First Phase of the Evaluation of DEIS (2011)* found that the educational attainment of Travellers remains significantly lower than that of their settled peers in both reading and mathematics. The magnitude of the difference between the scores of the two groups is large in every

⁵ Harvey, B. (2013) *Travelling with Austerity*. Dublin: Pavee Point

⁶ Harvey, B. (2013) IBID

⁷ Murphy, P. (2003): *Report on Community Employment Skills and Progression*. Report carried out by Equal at Work on behalf of South Dublin Public Sector Site

case.⁸ The 2012 *State of the Nation's Children* report found that Traveller children, immigrant children and children with a disability are more likely to report being bullied at school.

2.2. Roma in Ireland

The situation of Roma in Ireland is very intricate and complex. There are an estimated 5,000 Roma in Ireland from countries including Romania, Bulgaria, Slovakia, Czech Republic, Hungary and Poland. However, there is very little accurate data available as Roma ethnicity is not collected in immigration, employment, or other Government statistics. Nor is Roma ethnicity included in the 'ethnic and cultural background' question in the Census. In any case, Roma participation in the Census is likely to be problematic given issues of social exclusion, discrimination, experience of Holocaust and lack of trust in authority by many Roma. The lack of trust and isolation amongst Roma is exacerbated by recent events in Dublin and Athlone where children were removed from families by An Garda Síochána (under Section 12 of the Childcare Act) without any sound basis.

Research by the EU Fundamental Rights Agency (FRA) in 2012 found that in 11 EU countries:

- One out of three Roma are unemployed
- About 90% of the Roma live in poverty
- About half of the Roma said that they have experienced discrimination in the past 12 months⁹

Roma have long experienced racism and discrimination in Europe, and it has been estimated that the death toll of Roma in the holocaust ranges from 220,000 – 1,500,000 (it has also been estimated that around 25% of all European Roma were killed in the holocaust), and others endured forced sterilisation. Roma throughout Europe have been subject to violence, incitement to hatred, and segregated education.

The European Roma Rights Centre¹⁰ reports that violence against Roma communities is rising across Europe. The attacks they have documented include police violence, arson attacks, mob violence and anti-Roma demonstrations.

Former Council of Europe Commissioner on Human Rights, Thomas Hammarberg, noted in 2012 that *'in many European countries the Roma population is still denied basic human rights and made victims of flagrant racism. The Roma remain far behind others in society*

⁸ Department of Education (2011) *Report on the First Phase of the Evaluation of DEIS*. Dublin: Department of Education

⁹ European Union Fundamental Rights Agency (2012) *The Situation of Roma in 11 EU Member States – Survey Results at a Glance*. <http://fra.europa.eu/en/publication/2012/situation-roma-11-eu-member-states-survey-results-glance>

¹⁰ The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, it has endeavoured to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services.

in terms of educational attainment, employment, housing and health standards, and they have virtually no political representation.”¹¹

The lack of accurate information on Roma communities makes it difficult to develop effective and appropriate policies and to provide appropriate services. However, it does appear that Ireland has a relatively small Roma population compared to other western European countries, so it should be possible to address the difficulties that they are experiencing.

2.3. Key policy issues

Pavee Point believes that much of the difficulties faced by Travellers and Roma have their basis in racism and discrimination in Ireland, both at an individual and an institutional level. Much of the policy responses and practice has been characterised by a fragmented approach, which has led to state institutions undermining the policies of other state institutions. Examples of some policy issues which impact on Travellers and Roma are outlined below.

HABITUAL RESIDENCE CONDITION

Habitual residence is a condition which applicants must satisfy in order to qualify for certain social welfare assistance payments. Habitual residence essentially means an applicant must be able to prove a close link to Ireland. Five factors are considered to determine habitual residence:

- the length and continuity of residence in the state or in any other particular country;
- the length and purpose of any absence from the state;
- the nature and pattern of the person’s employment;
- the person’s main centre of interest;
- the future intentions of the person concerned as they appear from all the circumstances.

As highlighted earlier, Application of the HRC has placed migrants, Travellers (who move across jurisdictions, generally from the UK to Ireland) and Roma in very vulnerable positions. Many Roma in particular are not meeting HRC. Roma can face difficulties with proving a place of residence in cases where they live with an extended family. Endemic discrimination in education and employment makes it difficult to prove a strong pattern of employment. Low literacy levels and language barriers make it difficult to respond to the Department of Social Protection in a timely manner, and may mean that some applicants do not have all the documentation needed. As a result, many Roma are unable to meet the criteria of the Condition.

Pavee Point have noted that the application of HRC is having a disproportionate and devastating impact on Travellers and Roma in Ireland and raising serious human rights

¹¹ Thomas Hammarberg is a Swedish diplomat who held the post of Council of Europe Commissioner for Human Rights in Strasbourg from 1 April 2006 to 31 March 2012.

concerns. This arises in a number of ways: Travellers who are nomadic may move between the UK and Ireland, and application of the HRC to the Common Travel Area will have a disproportionately negative impact, even though the movement by Travellers' does not reflect an intention to relinquish ties to Ireland. The provisions in the HRC guidelines make no provision for nomadism, make no consideration that Travellers and Roma may not in fact live in permanent housing.

The implementation of this policy has a hugely negative and disproportionate impact on Roma and is a major cause of poverty and acts as a barrier to accessing adequate accommodation, education and healthcare. This is causing huge suffering within the Roma community, and has a particular gendered effect. Women who experience domestic and sexual violence are unable to flee situations of violence without being recognised as habitually resident.

These restrictions place Roma and Travellers in destitution. Our position is that:

- HRC is having disproportionate effect on Travellers and Roma
- The Irish Government has human rights obligations and needs to ensure that all legislation, policy and practice are in line with the Treaties that it has signed up to. It is clear that the impact of HRC is acting as a barrier to the realisation of Travellers' and Roma human rights in Ireland which needs to be addressed.
- The HRC needs to be reformed and more stringent proofing of the impact of economic and budgetary policies particularly on people in vulnerable situations needs to be put in place, as these restrictions go far beyond the intended purpose of controlling immigration.
- Application of the concept of a geographical 'centre of interest' to culturally nomadic communities such as the Traveller community is problematic, as it is interpreted from the viewpoint of the static majority population. Guidelines need to be amended to take into account differences in Traveller culture.
- The application of HRC to child benefit needs to be removed. All children living in Ireland should be treated equally and according to the principle of non-discrimination. This is in line with the UN Convention on the Rights of the Child, which Ireland has signed up to.
- HRC is not always applied in a consistent and timely manner. This is placing people who are already at risk into extremely vulnerable situations.

The restriction on benefits and services for people without what the state deems 'habitual residence' is resulting in families and children unable to access disability benefits, child benefits and supports available to other children and families. Many families living in Ireland experience serious hardship as a result, with consequences such as school non-attendance and effectively being forced into begging. It highlights how one aspect of state policy can undermine and run contrary to other measures.

The Habitual Residence Condition (HRC) is one example of this issue, as it leads to child and family welfare issues for Roma and impacts on children's access to education, health and support provisions which ultimately lead to child welfare concerns.

TRAVELLER ETHNICITY

We believe that unanimous recommendation from *The Joint Oireachtas Committee on Traveller Ethnicity* that the State recognise Traveller ethnicity in April 2014 is an important step. The report outlines three steps on how formal State recognition of Traveller ethnicity could be brought about:

- Step 1: That either the Taoiseach or the Minister for Justice and Equality make a statement to Dáil Éireann confirming that this State recognises the ethnicity of the Travelling community.
- Step 2: That the Government then writes to the relevant international bodies, confirming that this State recognises the ethnicity of the Travelling community.
- Step 3: That the Government build on these initiatives and commence a time-limited dialogue with the Traveller representative groups about the new legislation or amendments to existing legislation now required.

This recognition would entitle Travellers and Roma to their right to a cultural identity. It would mean that Travellers and Roma would automatically be included in all State anti-racism and inter-cultural initiatives, and that discrimination that the communities experience would be recognised as racism. It would also ensure that Travellers would be afforded protection under the EU Race Directive. Recognition of the minority ethnic status of Travellers would open a new dialogue as to how the State interacts with Travellers into the future.

Pavee Point has called on the Minister to immediately act on this report recommending the recognition of Traveller Ethnicity and to accept this cross party recommendation.

IRELAND'S NATIONAL TRAVELLER ROMA INTEGRATION STRATEGY

Ireland's *National Traveller Roma Integration Strategy* was submitted in 2012 (on foot of a requirement for all EU Member states to submit a strategy).¹² We believe that the plan provided a good opportunity to ensure a coordinated and consistent approach, to address policy gaps in relation to issues such as training, employment, and health, and to review existing strategies in relation to Travellers. It also afforded an opportunity to introduce and develop policies for the inclusion of the Roma community in Ireland.

However, Traveller and Roma representatives had no involvement in the development of the strategy; no funding has been associated with any of the actions; and no targets and monitoring provisions have been specified as part of the policy framework of the plan. As a result, the strategy has been ineffective. The European Commission has conducted three assessments across all member states: all exposed serious gaps in Ireland's strategy, and in the assessment of June 2013, Ireland received a poor score of four out of 22 criteria for assessment established by the Commission.

We welcome the opportunity to make this submission to the Department of Justice and Equality as it prepares its forthcoming Statement of Strategy. We consider that the

¹² The EU Framework for National Roma Integration Strategies, established in 2011, called on member states to develop National Roma Inclusion Strategies.

proposals made in this submission have the potential to address many of the issues which have adversely affected Travellers and Roma in Ireland for many years. We urge the Department to implement the recommendations that follow in the next sections. They include specific recommendations under key thematic areas of the Department as well as key principles which should underpin all aspects of the work of the Department.

3. The Statement of Strategy (2015-2017)

3.1. Introduction

This submission is a response to the call for submissions issued by the Department of Justice and Equality ('the Department'), as it prepares its forthcoming Statement of Strategy (2015-2017). We urge that the proposals and recommendations identified are incorporated into the Statement of Strategy in order to ensure address the inequality, racism and discrimination experienced by Travellers and Roma in Ireland. In this section, we outline our recommendations under the relevant goals identified by the Department, in its current statement of strategy. These goals are:

- Maintain a secure Ireland
- Work for safe communities
- Facilitate the provision and administration of justice
- Promote equality and integration
- Represent Ireland's interests in the above spheres in EU and other international organisations
- Contribute to economic recovery.

In this section, we recommend a range of measures for key action areas.

3.2. Goal: Work for safe communities

Child Protection and Welfare Service and Alternative Care

An Garda Síochána have statutory responsibilities for the safety and welfare of children (in addition to Túsla). Child protection is a very important provision in Ireland, and we endorse child protection measures as priority. We observe that there is a high rate of children from the Traveller community in care in Ireland, compared with the rest of the population. This is in common with the experience of Roma communities throughout Europe. A recent report by the ERRC shows a disproportionate number of Roma children are represented in state care in European countries.¹³ This over-representation concerns us as it could imply that child welfare issues experienced by Traveller and Roma children are responded to inappropriately as child protection issues, and could reflect wider discriminatory and racist attitudes.

Ireland has ratified the UN Convention on the Rights of the Child (CRC). This obliges that State to recognise "the right of every child to a standard of living adequate for the child's

¹³ European Roma Rights Centre, "Romani Children in Institutional Care"
<http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>

physical, mental, spiritual, moral and social development”.¹⁴ This includes the right to the highest attainable standard of physical and mental health. Article 3 has particular relevance for child protection and includes the following provision:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.³³

Moreover, The Council of Europe Commissioner for Human Rights (2012) refers to obligations under EU law:

“In accordance with the case law of the Strasbourg Court, member states should ensure that no child is placed in institutional care solely on grounds relating to the poor housing conditions or financial situation of his or her family. Placement of a child in an institution should remain the exception and should have as the primary objective the best interests of the child.”

However, it is our contention that policy provisions in Ireland and poor practice has led Ireland neglecting its obligations. Recent applications of child protection provisions under Section 12 of the Childcare Act (including actions by An Garda Síochána removing Roma children from their families in Athlone and Dublin) reflect this concern and position.

- 1. Pavee Point recommends that anti-racism and human rights training through all levels of An Garda Síochána. Roma visibility in An Garda Síochána through a positive action employment programme.**

Domestic, sexual and gender-based violence

Pavee Point has developed a dedicated Violence Against Women (VAW) programme since 1998. We have expertise in working in the areas of domestic, sexual and gender-based violence. We recognise that the intersection of discrimination based on ethnicity and gender can place minority ethnic women at further risk of gender based violence, and sexual violence.

Domestic violence

There are several reasons why access to services and supports for women experiencing domestic violence can be undermined. These include limited access to money, transport and in some cases, phones. The HRC undermines access to support to social welfare provisions, and therefore can be a major barrier for women trying to flee violence in the home. There is a lack of trust and reluctance to seek support from the authorities (e.g., Gardaí, health and other services). Language barriers can also negatively impact on access to services, as can fears of stigmatisation and being ostracised. Travellers and Roma also

¹⁴ United Nations. Convention on the Rights of the Child, Article 27(1) <http://www2.ohchr.org/english/law/pdf/crc.pdf>

fear that disclosing and seeking support from social workers and service providers will result in their children being taken into care. The National Crime Council Report in 2005 identified that disproportionate numbers of Traveller children were being taken into care.¹⁵ Similarly, assimilation policies throughout Europe resulted in Roma children being removed from their families and today Roma children in Eastern Europe are also over represented in state care, poverty and discrimination being the underlying causes.¹⁶

For these reasons, Traveller and Roma women tend not to disclose or access gender-based violence services and protections. Travellers tend to access refuges only, and do not disclose violence to other services.

Moreover, lack of research and data disaggregated by ethnicity and gender-often means services are currently working in vacuum (data is further discussed in section 4.6).

1. Pavee Point has made a number of legislative and policy reform recommendations to the State, including review of the HRC and its impacts on Travellers and Roma. In respect of the practice and working arrangement of the Department, we propose the following:

- Where domestic violence is a child protection issue, we recommend a woman-centred approach whereby through protecting the mother you protect the children (as opposed to removing children which in effect punishes the victim of domestic violence). This is endorsed by Women's Aid and other domestic violence specialists.
- Collect data on domestic violence, including disaggregated data by gender and ethnicity, while respecting the rights to personal data protection of data subjects and avoiding stigmatisation of the relevant groups.
- The mandatory provision of anti-racism and cultural awareness training for all staff working in these areas, and the resourcing of Traveller and Roma organisations to provide this training.
- Funding for Traveller and Roma organisations to undertake research into the specific needs of Traveller and Roma women on these issues
- Participation of Travellers and Roma in consultative processes and structures developed to address the issues.
- Funding for pilot initiatives to support the employment of Traveller and Roma women in services through positive action measures.

Sexual violence

There is very little data on the experiences of Travellers and Roma in regard to sexual violence. However, poverty, isolation and disadvantage experienced by Travellers and

¹⁵ Watson, D. & Parsons, S., (2005) Domestic Abuse of Women and Men in Ireland: report of the National Study of Domestic Abuse, National Crime Council, available at: http://www.esri.ie/pdf/BKMNEXT056_Domestic%20Abuse.pdf p160

¹⁶ Pavee Point (2012) Roma Communities in Ireland and Child Protection Considerations. available at <http://paveepoint.ie/sitenua/wp-content/uploads/2010/10/Roma-Communities-in-Ireland-and-Child-Protection-Considerations1.pdf>

Roma places women and young people at risk of rape, sexual assault and harassment, trafficking and other forms of sexual exploitation.

At the same time, the racism and discrimination towards Travellers and Roma can also lead to generalisations and sensationalist reporting in the media, and Travellers and Roma being portrayed as perpetrators rather than victims. For example, in several European countries, including France, Italy and Finland, trafficking has been used to explain Roma migration while ignoring factors and drivers such as poverty, discrimination and marginalisation.

A report conducted by the European Roma Rights Centre (ERRC) and People in Need (PiN) details a significant overrepresentation of Roma communities in trafficked persons, and a high correlation between trafficking of Roma women and children and sexual exploitation.¹⁷ Sexual exploitation is one of the most common forms of trafficking of Roma, alongside with forced labour. The research covering Romania, Slovakia, Bulgaria, Hungary and Czech Republic illuminates that 68% of Roma trafficked had been trafficked to another EU country, and 20% were minors at the time they were trafficked.

In Ireland, the risk factors for women and children from the Traveller and Roma communities are exacerbated by the following:

- The Habitual Residence Condition (HRC)
- Inadequate policy response from the State (for example, as illustrated by the limitations of the National Traveller Roma Integration Strategy, discussed earlier)
- Limited compliance with human rights standards that Ireland has signed up to

2. We have called for legislative reform and change, including a legislative ban on the purchase of sex. We recommend a series of actions which should be pursued at the practice of service delivery by the Department and the agencies within its remit:

- Ensure all relevant policies and dedicated strategies on sexual violence are equality/Traveller and Roma proofed.
- Collect data on sexual violence, including disaggregated data by gender and ethnicity, while respecting the rights to personal data protection of data subjects and avoiding stigmatisation of the relevant groups.
- Provide adequate resources for Traveller organisations to provide anti-racism and cultural awareness training to mainstream and sexual violence services to inform the development of best practice in working with Traveller and Roma women in relation to sexual violence.
- Provide funding for Traveller organisations to carry out research into the specific needs and experiences of Traveller and Roma women affected by sexual violence and for the development of culturally appropriate and community based initiatives, services and supports.

¹⁷ ERRC and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, Budapest: ERRC, 2011.

- Investigate promptly and impartially incidents of sexual violence against Travellers and Roma.
- Provide sufficient funding for the national and local gender-based violence services to ensure those affected by sexual abuse are supported and protected.
- Engage with Traveller and Roma women as well as representative organisations at local and community levels through provision of community supports and funding for Traveller and Roma initiatives. This supports building trust with community members to access information on sensitive issues, such as prostitution, and allows for the provision of information on available services and supports.
- Ensure participation and consultation with members of Traveller and Roma communities in the development and implementation of all policy and services within the agency.

Habitual Residence Condition (HRC)

There is no safety net for people waiting on a decision with regard to the HRC. Although an urgent needs payment may be issued, this is a discretionary payment. It is considered as an unsustainable solution for people waiting significant periods of time for decisions in relation to their applications.

The Irish Government has human rights obligations and needs to ensure that all legislation, policy and practice are in line with the Treaties that it has signed up to. It is clear that the impact of HRC is acting as a barrier to the realisation of Travellers' and Roma human rights in Ireland which needs to be addressed.

The ECRI has recommended for the Irish authorities to review the impact of the HRC, but this has still not taken place. Concerns have also been raised by the Special Rapporteur on extreme poverty and human rights. She states that,

*This requirement can pose a significant threat to the access to essential services and thus enjoyment of human rights by members of vulnerable groups, particularly people experiencing homelessness, Travellers, asylum-seekers, migrant workers and returning Irish migrants. The Special Rapporteur encourages the Government to review the impact of the condition as a matter of priority.*¹⁸

3. Pavee Point calls on officials in the Department of Justice to seek to influence the Department of Social Protection in order address issues in the relation to the HRC as they impact on women experiencing violence and Roma and Traveller inclusion. This would include the following measures:

- Traveller and Roma proof all legislation and policy, including the HRC.
- The HRC needs to be reformed and more stringent proofing of the impact of economic and budgetary policies particularly on people in vulnerable situations needs to be put in place, as these restrictions go far beyond the intended purpose of

¹⁸Carmona, Magdalena Sepúlveda, *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, 2012.

controlling immigration. Resources must be invested and an impact assessment must be conducted on the HRC, in particular in relation to ethnicity and gender.

- Application of the concept of a geographical ‘centre of interest’ to culturally nomadic communities such as the Traveller community is problematic, as it is interpreted from the viewpoint of the static majority population. Guidelines need to be amended to take into account differences in Traveller culture.
- Legislation that has a disproportionately negative impact on Travellers and Roma should be repealed or amended, in particular the Habitual Residence Condition.
- The application of HRC to child benefit needs to be removed. All children living in Ireland should be treated equally and according to the principle of non-discrimination. This is in line with the UN Convention on the Rights of the Child, which Ireland has signed up to.

3.3. Goal: Facilitate the provision and administration of justice

Administration of justice

Travellers do not receive equal treatment in the criminal justice system: they often receive disproportionately severe sentences in comparison to the majority population, perhaps exacerbated by negative and sensationalist media coverage of such cases.¹⁹

Data gathered as part of the All Ireland Traveller Health Study confirmed that Travellers are over-represented in prison compared to the non-Traveller population.²⁰ Travellers comprised 4.6% of the prison population whilst equating to only 0.9% of the Irish population. The study found that the risk of a Traveller man being imprisoned was at least five times that of a non-Traveller man, and the risk for a Traveller woman was 18 times that of a non-Traveller woman. These findings reflect those of other studies, including research undertaken by the Irish Penal Reform Trust, and Kennedy et al’s study of mental illness among prisoners in Ireland found that Travellers were over-represented both among sentenced and remand prisoners, accounting for 5.4% of their entire sample (2005).

Unlike Travellers, members of the majority community who commit crimes against Travellers have been seen to receive more lenient treatment; again perhaps linked to the associated media commentary.

Moreover, recently a number of comments have been made in relation to Travellers and Roma by Judges. In Athlone District Court in September 2012 where a Traveller was on trial, Mr. Justice Seamus Hughes is reported as stating: “I suspect he comes from a certain ethnic background that would give him even more form given the type of behaviour in which some of them engage. ...As I’ve described it before, they are like Neanderthal men living in the long grass, abiding by the laws of the jungle.”

¹⁹ Pavee Point (2011) ‘The United Nations International Convention on the Elimination of All Forms of Racial Discrimination – Shadow Report- A Response to Ireland’s Third and Fourth Report on the International Convention on the Elimination of All Forms of Racial Discrimination’ Dublin: Pavee Point

²⁰ Kelleher et al (2010) *Our Geels All Ireland Traveller Health Study*. University College Dublin, Department of Health and Children.

In March 2013 Judge Patrick McCartan is reported as saying “I assume from his appearance that he's from the Roma community who came here to do what all of them tend to do, to use the streets to beg.” Judges have not been held to account for such language and this raises questions about the impartiality of the judiciary.

4. Pavee Point is calling on the following recommendations to be implemented:

- Address the current inadequacies in the criminal law in tackling racist crime, including use of the internet and hate speech;
- Introduce legislation whereby racist motivation is consistently taken into account as an aggravating factor in sentencing practice for criminal offences.
- Ensure An Garda Síochána receive training on how to handle reports of racist crime, including relevant legislation and proper recording;
- Ensure that An Garda Síochána build better relationships with the Traveller and Roma community and carry out awareness-raising with the Traveller community on how to report racist crime;
- Implement the CERD Committee’s General recommendation XXXI on the prevention of racial discrimination in the criminal justice system with a focus on data collection by an independent body for the purposes of identifying trends in racial discrimination.
- Ensure that the Judicial Studies Institute organise seminars and lectures on Travellers and racial discrimination;
- Establish an independent Judicial Council, which would also ensure training is provided for Judges in cultural competence including anti-racism training provided in partnership with Traveller and Roma organisations.

Prison and Travellers

Organisations, such as the the Irish Penal Reform Trust (IPRT) and the St. Stephen’s Green Trust, have become increasingly aware that Travellers are overrepresented in the Irish prison system, and that very little has been documented about their experiences. Evidence that has emerged from the UK gives cause for concern, such as reports by the Irish Chaplaincy in Britain, the Scotland Equality and Human Rights Commission, and the (then) Commission for Racial Equality, which have revealed a wide range of issues that disproportionately affect Travellers in prison. These include discrimination from other prisoners and prison staff and systematic discrimination, low literacy, mental health problems in prison (exacerbated by 23-hour lock-up/protection), illicit drug use, and lack of staff awareness of Traveller culture, to include recognition of importance of contact with family, leading to isolation, self-harm and even suicide.²¹

In 2011, the UN Committee Against Torture’s Concluding Observations to Ireland suggested that such issues were not unique to the UK context. It expressed concern ‘at reports of allegations by prisoners from the Traveller community in Cork prison that they

21 Costello, L (2014) ‘ Travellers in the Irish Prison System: a qualitative study’ Dublin: Irish Penal Reform Trust

are consistently subjected to acts of intimidation by other prisoners’ and recommended that the State address ‘the issue of intimidation of the Traveller community and investigat[e] all allegations of such intimidation.’²² There is a dearth of information on the experiences of Roma in the criminal justice system which needs to be addressed.

Pavee Point urges the Department to adopt the following recommendations with respect to Travellers in the criminal justice system, which echo the IPRT recommendations:

5. Pavee Point recommends that the Department develops a dedicated strategy for Travellers and Roma in the criminal justice system. It should aim to:

- Address how discrimination can impact Roma and Travellers’ experience of the criminal justice system, be it through disproportionate arrest and conviction rates, or unfair treatment within the prison system.
- Identify proactive steps to ensure that Roma and Travellers have equal and culturally appropriate access to education while in prison, including literacy education.
- Set out steps to ensure equitable access to relevant supports for Roma and Travellers on leaving prison, including support in accessing employment and accommodation, as well as rehabilitation and other therapies, and in returning to their community.
- Such a strategy should be developed with the participation of Traveller and Roma representative organisations.

6. Pavee Point recommends that the Department develops an equality policy for the Irish Prison Service. In the UK, the Equality Act 2010 placed a legal obligation on the National Offender Management Service (NOMS) to address discrimination against prisoners and to advance equality of opportunity among them. In Ireland, similar provision is expected to be introduced, with provisions of the Irish Human Rights and Equality Commission Bill. In order to meet this requirement, the Irish prison service should develop an equality policy for all minority groups in prison, including Travellers. This should set out how the Irish Prison Service (IPS) ensures that all prisoners receive equal treatment and enjoy equal rights. It should identify barriers to rights for particular groups of prisoners, and how the IPS addresses those barriers. Regarding Travellers, it should address the following issues:

- Discrimination from prison officers
- Discrimination from other prisoners
- Literacy problems and how they can prevent Travellers from accessing information
- Inclusion of Travellers and avoiding segregation
- Physical safety of Travellers in prison

²² United Nations (2005) Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials. Office of the United Nations High Commissioner for Human Rights, New York.

- Access to appropriate mental health supports.

7. Ethnic monitoring: Pavee Point welcomes the recent introduction of ethnic monitoring in the Irish Prison Service, and views this as an important initial step. However, successful ethnic monitoring must involve:

- introducing ethnic monitoring in prisons, using the ethnic categories developed by the Central Statistics Office (CSO) to enable comparative data and taking a proactive approach with Travellers;
- analysing and publishing the results on a regular basis; and
- addressing any unjustifiable disproportionate outcomes between Travellers and other prisoners.

8. Provide targeted re-integration support: Barriers to reintegration need to be targeted through specific measures, to include:

- Involvement of Traveller and Roma voluntary organisations and other voluntary organisations, alongside the Probation Service, funded to support Travellers on leaving prison and to work with Traveller communities to address factors such as stigma surrounding drug use and offending behaviour.
- Targeted support: For those who cannot return to their family, targeted support measures should exist to enable them to access secure accommodation and employment.
- Raise awareness: Awareness needs to be raised among young people in the Traveller community regarding substance misuse and its consequences.

3.4. Goal: Promote equality and integration

Travellers and Roma experience racism at both individual and institutional levels. Examples include being subjected to racism when accessing goods and services, racist abuse on streets, and being told to ‘go home’ when trying to access a support service. A high profile example occurred in Donegal earlier this year where a house allocated to a Traveller family was burnt in an arson attack in order to prevent the family from moving in. This followed anti-Traveller statements made by local councillors in the area. In June 2013, Roma families in Tallaght experienced a number of attacks on their houses, including windows being broken and threats being made. In the past year alone, numerous anti-Roma and Traveller statements have been made by judges and politicians. There has been no accountability for these actions.

Racism and Xenophobia

The National Consultative Committee on Racism and Interculturalism (NCCRI) was closed down in December 2008. A number of initiatives undertaken by the NCCRI were key to tackling and challenging racism. The NCCRI took a very pro-active approach in working with Travellers, Roma and other minority ethnic groups. It was intended that its functions would be transferred to the Office for the Promotion of Migrant Integration. This has not happened and has had the effect of excluding Travellers from the remit of anti-racism and

intercultural initiatives, as this office does not include Travellers in its remit. The particular experience of Roma is not adequately addressed by the Traveller Policy Division or the Office for Integration.

- 9. Pavee Point recommends that the Minister for Justice and Equality should influence her cabinet colleagues for the re-establishment of an independent advisory body on racism, similar to the National Consultative Committee on Racism and Interculturalism.**

National Action Plan Against Racism (NAPAR)

The National Action Plan Against Racism (2005-2008) has not been renewed. Despite this the National Action Plan was referenced as part of Ireland's commitment to human rights as a member of the Human Rights Council in 2012.²³

The failure to renew the National Action Plan has been noted as a concern by the European Commission Against Racism and Intolerance (ECRI) in its 2013 report on Ireland. In 2011, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) noted the importance of the State giving effect to the Durban Declaration and Programme of Action through the National Action Plan and Ireland will be required to include specific information on this in its next periodic report.

- 10. Pavee Point recommends the introduction of a new National Action Plan against Racism (NAPAR) and the establishment of a national oversight committee with an independent Chairperson and representative of statutory and NGO sectors to implement the National Action Plan against Racism.**

National Traveller Roma Integration Strategy

Ireland has developed a National Traveller Roma Integration Strategy on foot of the EU Framework for National Roma Integration Strategies up to 2020. The EU Framework sets out a structure to address the exclusion of Roma in areas of education, health, accommodation and employment.

Currently, the Irish Strategy contains no goals, timeframes, funding or monitoring mechanisms for Roma and Traveller inclusion. It fails to ensure the participation and consultation of members of Traveller and Roma communities and organisations in the development of the Strategy; address the inclusion of Roma in particular; and address anti-Traveller and Roma racism.

The European Commission has confirmed the inadequacy of Ireland's NTRIS.²⁴ With the release of the Commission's assessment of Ireland's NTRIS, the assessment highlights that currently the Strategy will make little difference to the lives of Travellers and Roma. As out of 22 criteria that are used to assess strategies, Ireland is deemed to have met only four.

²³ Letter dated 13 April 2012 from the Permanent Representative of Ireland to the United Nations addressed to the President of the General Assembly.

²⁴ European Commission, *The European Union and Roma- Country Factsheet: Ireland*, Brussels: European Commission, June 2013.

There is an urgent need to change this situation in order for the Government to meet its obligations in this regard. The European Council has adopted a Recommendation on effective Roma integration measures in the Member States, which is the first EU legal instrument to hold Member States to account for Traveller and Roma inclusion.

- 11. Pavee Point calls on the Department to develop a progressive National Traveller Roma Integration Strategy, with the full participation of Traveller and Roma representative organisations. The strategy must have clear implementation plans, deliverables, and monitoring processes, and must be accompanied by adequate resources to achieve outcomes.**

- 12. Pavee Point also calls for a coordinated approach in the form of a Traveller and Roma Agency in Ireland, given the range of agencies and structures relevant to Travellers. At a minimum we call for the establishment of a Traveller and Roma Unit, which would be a structure that brings together policy-makers and senior civil servants, on a cross-departmental and inter-agency basis. Such a structure should be implemented by a national steering committee, with would include Traveller and Roma representatives.**

Recognition of Traveller ethnicity

Despite the recommendations of several UN treaty monitoring bodies (CERD; Children; Human Rights Committee), the European institutions (ECRI, FCPNM; Council of Europe), and equality and human rights bodies within Ireland, the Government continues to refuse to acknowledge Traveller ethnicity. Various other countries have made recommendations for recognition during the UPR process in 2011. All national Traveller organisations in Ireland call on the government to recognise Travellers as a minority ethnic group, and this has been recommended (unanimously) by the Joint Oireachtas Committee on Traveller Ethnicity (in April 2014). We maintain that until this recognition takes place, the situation of Travellers as well as Roma will not be sufficiently progressed.²⁵

The lack of recognition of Travellers as a minority ethnic group has been accompanied by a denial of the racism that Travellers experience. Racism is at the heart of the exclusion facing Travellers, to say otherwise is to deny the lived experiences of Travellers and only serves to further marginalise Travellers. As a result of this situation, Travellers are not automatically included in initiatives to address racism. Recognition of Traveller ethnicity is of great symbolic and practical importance for Traveller inclusion in Ireland.

- 13. Pavee Point is calling on Minister for Justice and Equality to officially recognise Travellers as a minority ethnic group, which experiences racism and discrimination based on their ethnicity.**

²⁵ And endorsed by other groups UN CERD

3.5. Goal: Represent Ireland's interests in the above spheres in EU and other international organisations

International Human Rights Obligations

Human rights standards, which Ireland has signed and ratified, must be ensured through their inclusion in all relevant strategies. These include the International Covenant on Civil and Political Rights;²⁶ the UN Convention on the Rights of the Child;²⁷ the UN Convention on Economic, Social and Cultural Rights (1966);^{28,29} the UN Convention on the Elimination of All Forms of Discrimination against Women (1981);³⁰ and the UN Convention on the Elimination of all Forms of Racial Discrimination (1969).³¹ These instruments make specific provisions in relation to the inclusion of marginalised and vulnerable people in socio-economic, political and civic life.

14. Pavee Point calls on the Department to ensure that all strategies are compliant with relevant human rights obligations and standards that Ireland has signed and ratified.

3.6. Goal: Contribute to economic recovery

The Government's report to the United Nations International Convention on the Elimination of All Forms of Racial Discrimination, stated that a number of significant public sector led initiatives have been undertaken in relation to employment opportunities for Travellers. The civil service Traveller internship programme 2006-2007 exemplifies this. The placement of Traveller interns in posts in 12 different Government departments was very successful; despite this the programme was subsequently cut.

However, even the completion of the programmes, employment rates among Roma and Travellers are high due to widespread racism and discrimination. This contributes to low levels of training, formal educational credentials and employment opportunities. According to the Census 2011, 84.3% of Travellers were unemployed. Remarkably this was not a dramatic increase from the 2006 Census, which found that 74.9% of Travellers were unemployed. Due to lack of access to work, many Roma and Travellers live below national poverty lines and some live in extreme poverty.

²⁶ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html> [accessed 8 May 2014]

²⁷ See Article 24, 28 and 29 in UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 29 March 2014].

²⁸ See Articles 13 and 14, UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html> [accessed 29 March 2014].

²⁹ See Article 24, 28 and 29 in UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 29 March 2014].

³⁰ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.html> [accessed 29 March 2014].

³¹ United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, Treaty Series, vol. 660, p. 195, available at: <http://www.refworld.org/docid/3ae6b3940.html> [accessed 29 March 2014].

Despite these figures, there has been no specific Traveller and Roma employment strategy developed, nor any clear strategy to ensure Roma and Traveller participation in vocational training or mainstream training programmes. Roma and Travellers will continue to be further distanced from employment opportunities without dedicated and targeted initiatives, opportunities and supports to improve their employment prospects.

15. We recommend that senior civil servants in the Department should, in collaborating with their colleagues on other Government Departments including Department of Social Protection and Department of Jobs, Enterprise and Innovation strive to use their influence to achieve the following:

- Develop long-term, sustainable strategies to improve Traveller and Roma training and employment opportunities including social enterprise
- Develop a Traveller and Roma specific employment strategy.
- Ensure and support positive action measures on the part of employers to employ Travellers and Roma in public service, mainstream employment and the community sector.
- Utilise the Youth Guarantee and structural funds for targeted measures for Traveller and Roma inclusion in employment initiatives.

4. Principles for effective inclusion

4.1. Introduction and context

Pavee Point holds to the principle that in order to achieve equality for Travellers and Roma, attention must be paid to the structural issues that impact on them, including discrimination and racism. This means that policy and practice must be underpinned by an inter-cultural approach and by principles of equality, diversity and anti-racism.

Delivering services based on equality does not mean treating people the same, but designing and implementing programmes that are inclusive, culturally appropriate, and appropriate to the needs of groups in society, including Travellers and Roma, and lead to better outcomes for disadvantaged groups, including Travellers and Roma. Fundamentally we believe that Travellers and Roma should be afforded rights to their cultural identity, without experiencing marginalisation and discrimination in the process.

We believe that Travellers and Roma should therefore be considered as important stakeholders in the development of all strategies, as well as their implementation.

Adopting this approach is critical now, in light of devastating and disproportionate impact on Travellers of funding cuts.³² These are summarised in the tables below:³³

Programmes for Travellers	Loss of funding (2008-2012)
Interagency activities	-100%
Traveller education	-86.6%
Traveller accommodation	-85%
Equality	-76.3%
National Traveller Organisation	-63.3%
FAS Special Initiative for Travellers	-50%
National Traveller Partnership -	32.1%
Traveller SPY youth projects -	29.8%
Health	-5.4%

The figures should be compared to the overall reduction in government current spending of -4.3% over 2008-2013.

Ultimately, as outlined in section 2.3, we feel that until Travellers are recognised as a minority ethnic group in Ireland, as recommended (unanimously) by the Joint Oireachtas

³² Harvey, B (2013): *Travelling with austerity: Impacts of Cuts on Travellers, Traveller Projects and Services*. Dublin: Pavee Point

³³ Note: the report highlights that some state agencies did not even spend all their allocation, so the loss of resources is even worse than that highlighted in the figures.

Committee on Traveller Ethnicity (in April 2014), the situation of Travellers as well as Roma will not be sufficiently progressed.³⁴

In this section, we outline key recommendations which cross-cut all activities and processes involved in the Department. We believe in adopting these, the plans will be enhanced, and outcomes for Travellers and Roma (as well as other groups) will be maximised. These principles include:

- Decision-making and oversight
- Preparatory actions
- Consultation
- Equality/Social impact assessment
- Data collection
- HR and capacity building measures

4.2. Decision-making and oversight

Given the extent of disadvantage and marginalisation experienced by Travellers and Roma, and in the absence of ethnic identifiers and comprehensive sources of data, it is imperative that all structures established by the Department for implementation of the Statement of Strategy include the participation of Traveller and Roma representative organisations.

4.3. Preparatory actions and consultation

Identifying barriers and group needs: care should be taken to identify barriers that are likely to exist for Travellers (including consideration of different age groups, gender etc.). It is important that the needs of key marginalised and minority ethnic groups, such as Travellers and Roma are undertaken, as a ‘one size fits all’ approach will not be sufficient.

4.4. Consultation

We believe that a ‘one size fits all’ approach will not be sufficient to account for the diversity of situation, experience and identity of Travellers and Roma in Ireland. As outlined in section 3, consultation with Travellers and Roma must take account of this diversity, and must be included at all levels and stages of the consultation process.

4.5. Equality/Social impact assessment

We would strongly recommend that mandatory equality proofing of all strategies, policies and action plans takes place. This would establish the potential impact (positive and negative) of strategies and policies on Travellers and Roma with regard to achieving equality of outcome. This would involve implementing equality/social impact assessments

³⁴ And endorsed by other groups UN CERD

on programmes and policies. It must also involve a programme of monitoring changes arising from equality/social impact assessment.

All proofing measures should be overseen by a steering or working group comprised of stakeholders, including Traveller organisation representatives and staff of the Department (including senior management), and it should be resourced by staff members.

4.6. Data collection

Data collection is essential for the effective monitoring of access to and outcomes from services. We would urge the Department to put in place a system for capturing data on the participation of Travellers and Roma (as well as other minority ethnic groups) in all thematic areas and actions within its remit.³⁵ Without disaggregated data, it will not be clear how Travellers or Roma are progressing with regard to the work and objectives of the Department. If an ethnic identifier was introduced, it would enable the monitoring and assessment of the effectiveness of initiatives directed at Travellers and Roma.

This would include mandatory implementation of an ethnic identifier across all areas. This would support the plan to identify needs, combat racism and discrimination, promote equality, monitor progress of programmes and policies and provide a basis for evidence-based policy-making.

Pavee Point has long called for the recognition of Travellers as an ethnic group and for the implementation of an ethnic identifier to provide better services to minority groups. Pavee Point calls for an ethnic identification and ethnic equality monitoring process which will facilitate the collection of data disaggregated on basis of ethnicity (inclusive of Travellers) within a human rights framework. This requires:

- A universal question for all service users
- Based on principle of voluntary self-identification of ethnic status
- Data collected is aggregated and anonymised
- Data is only used for the purpose for which it was collected
- It is available in a timely manner
- It is analysed in consultation with the organisations representing minority ethnic groups

Any system should include the voice of minority ethnic groups, and Pavee Point has supported the design and implementation of ethnic identifiers in Ireland (for example, with the central statistics office as part of national Census and with HSE services).

³⁵ The Council of Europe Convention 108 specifies certain conditions for the processing of personal data and in order for the collection of ethnic data to be legitimate and lawful, these requirements must be fulfilled.

4.7. HR and capacity building measures

TRAINING

Underlying the above measures identified is the need for all Departmental staff and (as well as staff of all agencies and organisations within its remit) to be fully aware of the context in which Travellers and Roma live in Ireland. Anti-racism and cultural awareness training should be provided and participation should be mandatory, and repeated at regular intervals for all staff. Such training should include provisions on the experience, situation and identity of Travellers and Roma in Ireland, as well as the policy dimension and how these affect Travellers and Roma. Pavee Point has extensive expertise in the design and delivery of training in these areas.

RECRUITMENT AND MONITORING

As part of any future recruitment process of staff in the Department as a whole (as well as agencies and implementation bodies within the Department's remit), criteria for employment and job descriptions should include provisions for a commitment to anti-racist and equality perspective. Job descriptions of staff should also reflect this perspective in terms of essential skills.

The performance management system for the public sector (PMDS) should also include wider criteria in their measurement of performance to include outcomes in terms of progressing equality for Travellers and Roma in Ireland.

Given the importance of adopting principles of inter-culturalism and equality, we would urge the Department (and its agencies) to target the employment of Travellers and Roma in any future recruitment processes. This would enhance the capacity of the Department and its agencies and include the expertise of these communities.

POSITIVE ACTION PROGRAMME

We would also recommend that a positive action measure with respect to any future employment opportunities for Travellers and Roma should be a key policy for the Department and actions arising from its work. As outlined in section 2.1, Travellers and Roma are the most marginalised groups from the labour market, with barriers experienced including:

- Literacy confidence (to a greater extent than literacy problems).
- Educational qualifications – particularly where the Leaving Certificate is an entry level requirement for jobs.
- Ageism – particularly for those older workers who have not had the opportunity to complete the Leaving Certificate.
- Prejudice and racism
- Confidence

As part of this, Recognition of Prior Learning (RPL) needs strengthening, and that any unnecessary barriers or entry requirements for employment are removed, as there is a risk that such provisions may lead to undermined access to employment for Travellers.

There are examples of good practice in positive action for Travellers recruitment in Ireland within the public sector.³⁶ Drawing on these, and other good practice positive action measures documented by the HSE's Traveller Health Unit (Eastern Region),³⁷ we recommend a programme for positive action for key positions in the Department and its agencies where recruitment is planned. A working group, comprising senior management, and Traveller and Roma representation would be convened to oversee the process. The following actions should come within its remit:

- Examination of roles and programmes to prioritise positive action measures
- Design of programme and planning (including needs analysis)
- Clear objective for outcomes (across different grades and positions)
- Recruitment processes
- Support in the workplace (and engagement with training providers)
- Progression opportunities (within the organisation)
- Monitoring and evaluation of programme

A staff member should be tasked with the role of coordinating the process and should report to the working group.

INNOVATIVE MEASURES

Traveller and Roma representative organisations have the potential to contribute to development of good practice and effective services in Ireland, through exploratory research, piloting and development of initiatives. We would recommend that the Department support innovative approaches, and work with organisations such as Pavee Point in their development. These could include targeted measures and programmes delivered in cooperation with Traveller organisations around enterprise and entrepreneurship (as outlined in section **Error! Reference source not found.**), or other joint initiatives and programmes.

CULTURAL IDENTITY

Ultimately we believe that Travellers and Roma communities have a right to a cultural identity, and that this should be recognised and reflected in the Department's Strategies and implementation measures.

³⁶ For example, the civil service internship programme for Travellers, South Dublin County Council and others.

³⁷ For a model and examples of positive action measures within the HSE and the public sector as a whole, see TSA Consultancy (2007): *Toolkit and Guidelines for the Employment of Travellers in the Health Service Executive*. Dublin: HSE, Traveller Health Unit Eastern Region

4.8. Ten common principles on Roma inclusion

We recommend that all work with Traveller and Roma communities should be underpinned by the ten common basic principles on Roma inclusion adopted by the European Commission, and underpin the strategic and operational activities of the Department of Justice.³⁸ These provide for the following:

- **Constructive, pragmatic and non-discriminatory policies:** Such policies are relevant and appropriate to the situation on the ground. This means that the development, implementation and evaluation of policies and services should not be based on preconceptions.
- **Explicit but not exclusive targeting** refers to the incorporation of Roma and Traveller focused interventions in broader policy initiatives. As a result, Travellers and Roma should be recognised as one of the vulnerable and marginalised groups in Irish society, and explicitly included in the integration strategy.
- **Aiming for the mainstream:** despite policies and initiatives being designed to promote inclusion, the long-term impact can result in strengthening segregation. Policies deemed as ‘neutral’ can lead to indirect discrimination of Travellers and Roma when they impose additional barriers for Travellers and Roma because of their situation. The ultimate aim of policies should be the inclusion of Travellers and Roma in mainstream society.
- **Awareness of gender dimension** emphasises the need to recognise the socio-economically and politically disadvantaged position of Traveller and Roma women in comparison to Traveller/Roma men and non-Roma women. Traveller and Roma women have a crucial role in the promotion of their own inclusion and tackling issues related to multiple discrimination based on their gender and ethnicity.
- **Transfer of evidence-based policies** emphasises the importance of collecting socio-economic data to feed into the development, implementation and monitoring of Roma and Traveller inclusion policies.
- **Use of European Union instruments:** there are a number of European Union instruments for Member States to use in ensuring Traveller and Roma inclusion. These consist of legal, financial and coordination instruments, including the Racial Equality Directive, Framework Decision on Racism and Xenophobia, European Social Fund, and European Regional Development Fund.
- **Involvement of civil society:** Traveller and Roma inclusion policies need to be developed, implemented and evaluated in close cooperation with civil society, including researchers, NGO sector, and social and community partners. This enables the dissemination of knowledge and expertise, and allows for the generation of public debate and accountability in policy process.

³⁸ Council of Europe, The 10 Common Basic Principles on Roma Inclusion
http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011_10_Common_Basic_Principles_Roma_Inclusion.pdf

- **Active participation of Roma:** Roma and Traveller participation at all stages of policy development, implementation, and evaluation is required in order to enhance the quality and effectiveness of policies.

4.9. Positive duty

The legislation for the establishment of the Irish Human Rights and Equality Commission (IRHEC) introduces a new positive duty obliging public bodies to have regard, in the performance of their functions, of the need to eliminate discrimination and promote equality of opportunity and treatment. The new Commission will be explicitly empowered to further support public bodies in meeting their obligations under this positive duty, such as advising on the development by public bodies of performance measures, operational standards and preventative strategies.

The actions proposed in this submission could – if implemented – demonstrate how local government is meeting its positive duty, and should be adopted in order to demonstrate this legal obligation.