



# IRISH TRAVELLER MOVEMENT



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## **PRESS RELEASE    PRESS RELEASE**

### **Settlement Reached in Case of Married 17 year old Traveller Couple Refused Local Authority Accommodation**

#### **Irish Traveller Movement Law Centre Calls for Immediate Change to Local Authority Policy**

(19<sup>th</sup> January 2012) Today the Irish Traveller Movement Independent Law Centre, welcomed the settlement reached in a case, prior to hearing before the Equality Tribunal, which will ensure a young married Traveller couple (aged 17 years at date of application) will be put on the housing list in their local authority with immediate effect and their application back-dated to the date of their original application.

The Irish Traveller Movement Independent Law Centre represented the couple in their challenge to the decision of the local authority who refused to allow them onto a housing list as they were less than 18 years of age. The challenge taken on indirect discrimination on the Traveller community ground - under the Equal Status Acts 2000-2008 ("the Act"), contended that the Local Authority policy to exclude under 18 year olds disproportionately impacted members of the Traveller community who are statistically more likely to marry while under the age of 18 years.

The Traveller couple had married in Northern Ireland in December 2010 both aged 17 years and had their first child in November 2011. They resided in the Republic of Ireland with their baby on an official Local Authority halting site next to their extended family in extremely overcrowded conditions and then, due to necessity, moved into a house with a relative in similar conditions requiring the couple to sleep in separate quarters and mother and baby sharing with female relatives. In obvious need of accommodation the couple applied for inclusion on the housing list but were refused by the local authority on the basis that one of the criteria for entry is that the applicants attain the age of 18 years.

When refused, the couple approached the Irish Traveller Movement Independent Law Centre for assistance (May 2011).

According to Siobhan Cumiskey, Managing Solicitor of the Irish Traveller Movement Independent Law Centre : *“This policy was put in place as a result of an internal circular issued by the Department of the Environment last year (2011) indicating that applicants must be over 18 years of age. The circular (attached-see page 9) acted outside the powers of the Housing Acts 1966-2009 as no such age restriction exists in the legislation. We welcome the outcome of this case and call on the Department of the Environment to take immediate steps to eradicate the practice of excluding under 18 year olds from the housing list when they have demonstrated a housing need. We have encountered many young Travellers and their infants in dire living situations as a result of this policy, across many Local Authority areas. This case demonstrates the need for law and policy makers to take cognisance of the culture of Travellers and other ethnic minorities during the drafting process.”*

The case was due for hearing on January 16<sup>th</sup> 2012, but settled prior to that.

**ENDS**

### **Background Notes**

#### Equal Status Act 2000-2008 - Traveller Community Ground

s.2.1“Traveller community” means the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a

*shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.*

### Indirect Discrimination

s.3.1.c:

*“where an apparently neutral provision puts a person referred to in any paragraph of section 3(2) at a particular disadvantage compared with other persons, unless the provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”*

### Neutral Provision

The neutral provision at issue is the policy of the Council not to accommodate persons under 18 years of age.

### Particular Disadvantage

The relevant comparator is stated in s.3.2(i) as follows: “that one is a member of the Traveller community and the other is not (the “Traveller community ground”)”. The Traveller community are statistically more likely to be married while under the age of 18 years than a person who is not a Traveller and they are therefore put at a particular disadvantage by virtue of this policy.

According to the Central Statistics Office Census 2006, 7.97% of Travellers aged 16 and 17 years were married as against 0.35% of the general population (see special tabulation of the Census 2006 attached). As Travellers comprise 0.54% of the population, according to the Census 2006 (see number of Travellers and total for figure for population of state attached), the effect of taking away the number of Travellers from the general population to get the figure for the non-Traveller community would be minimal. A Traveller is therefore approximately 22 times more likely to be married while under the age of 18 than a non-Traveller.

### Objectively Justified by a Legitimate Aim

The policy cannot be objectively justified by a legitimate aim. According to section 2(1)(a) of the Age of Majority Act 1985: “Where a person has not attained the age of twenty-one years prior to the commencement of this Act, he shall, subject to section 4, attain full age

– (a) on such commencement if he has attained the age of eighteen years or is or has been married, or (b) after such commencement when he attains the age of eighteen years or, in case he marries before attaining that age, upon his marriage.”

The Complainants reached majority in December 2010 upon their marriage and, as a consequence of this, had full capacity from that date to enter into a contract with the Respondent and have same enforced against them. This is therefore not a legitimate aim and cannot be objectively justified.

The second possible aim to be advanced by the Respondent is the issue of cost-saving by ruling out certain categories of people according to age<sup>1</sup>. According to the ECJ, a party cannot “justify discrimination solely because avoidance of such discrimination would involve increased costs” (*Kutz-Bauer v Freie und Hansestadt Hamburg Case C-187/00 [2003] ECR I-2741*).

#### Marriage under the age of 18 years

The legal age for marriage in Ireland is 18 years. A person under the age of 18 may marry in Ireland if they obtain a Court Exemption Order under section 31 of the Family Law Act 1995. The legal age for marriage in Northern Ireland is 16 years.

**For further information or comment please contact Jacinta Brack, Public Relations Co-ordinator (01) 679 6577 / 087 27 44 791 [publicrelationsitm@gmail.com](mailto:publicrelationsitm@gmail.com) or Siobhan Cummiskey, Managing Solicitor 087 9758144 [itmlawcentre@gmail.com](mailto:itmlawcentre@gmail.com)**

The Irish Traveller Movement (ITM) established in 1990, is a national network of over 80 organisations and individuals working within the Traveller community throughout Ireland. In a partnership of Travellers and settled people the Irish Traveller Movement are committed to seeking full equality for Travellers in Irish society.

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<sup>1</sup> This complaint is not taken on the age ground due to the limitations on such a complaint under s.3.3 of the Equal Status Act 2000-2008

The Irish Traveller Movement Independent Law Centre was established in June 2009. Siobhan Cummiskey is the managing solicitor of the Law Centre. The ITM Law Centre provides a specialist legal service to Travellers in Ireland and is the only one of its kind in the country. The Law Centre pursues strategic cases in line with the core issues of the Irish Traveller Movement namely, (Accommodation, Equality and Human Rights, Education, Access to Services and Ethnicity) and is open to the referral of cases of this nature.