

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM FHORMHAOIRSIÚ AR AN TSEIRBHÍS PHOIBLÍ AGUS ACHAINÍOCHA

### JOINT COMMITTEE ON PUBLIC SERVICE OVERSIGHT AND PETITIONS

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*Dé Céadaoin, 25 Feabhra 2015*

*Wednesday, 25 February 2015*

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The Joint Committee met at 4 p.m.

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#### MEMBERS PRESENT:

Deputy Richard Boyd Barrett,	Senator Trevor Ó Clochartaigh.
Deputy Noel Harrington,	
Deputy Michael Healy-Rae,	
Deputy Seamus Kirk,	
Deputy Michael P. Kitt,	
Deputy Michelle Mulherin,	
Deputy Aengus Ó Snodaigh,	
Deputy Jack Wall,	

DEPUTY PÁDRAIG MAC LOCHLAINN IN THE CHAIR.

*The joint committee met in private session until 4.23 p.m.*

### **Person or Number?2: Crosscare**

**Chairman:** We are here to deal with the Crosscare report, Person or Number?2, a second examination of issues faced by immigrants in accessing social protection. I remind all of those present, including committee members, that mobile telephones and other devices should be turned off completely or switched to flight or safe mode, because they interfere with the sound system and the meeting is being broadcast live on the Oireachtas service.

I am pleased to welcome Mr. Joe O'Brien, director of the Crosscare migrant programme, who will make a presentation on the report. In the report, a number of NGOs, including Crosscare, examined immigrants' access to social protection services. Their findings are based on a random sample of migrants who have accessed Department services. The invitation to address the committee issued following publication of the report. I thank Mr. O'Brien for forwarding copies of the report for members along with his presentation.

Mr. O'Brien is accompanied today by Ms Fiona Hurley from Nasc, the Irish immigrant support centre, by Ms Yvonne O'Sullivan from FLAC and Ms Jill Farrelly from Dublin city centre citizens information services. I welcome them here and invite Mr. O'Brien to make his opening statement.

**Mr. Joe O'Brien:** I thank the Chairman and committee members for the opportunity to make this presentation. We are all here today to highlight issues relating to the social protection system. We are all involved in services that provide information and advocacy for people engaged with the system and we are here to ask for the committee's help in pushing for changes to the system, changes we feel would have a positive impact for all users of the system. We acknowledge there has been significant pressure on the Department in the past six or seven years and a high volume of applications and decisions has been processed. Nevertheless, the second Person or Number?2 report outlines significant areas for improvement in the system and we make suggestions as to how this can be achieved.

We believe that if individuals are in a position of needing to approach the social protection system and the State for financial assistance, they should always be shown the utmost dignity and respect and great care should be taken in clarifying and swiftly providing for their rights to financial support. As many members are aware from their constituency work, this does not always happen. While the core focus of the report is migrant experiences, ten of the 12 main findings from the core sample are relevant to all users of the system. I urge members to look at the issues in that light.

I wish to provide some context for the report. In 2011, Crosscare, Doras Luimní in Limerick and Nasc in Cork produced a first report and the Minister for Social Protection - then and now - implemented the main recommendation, the establishment of a migrant consultative forum, whereby representatives from migrant focused NGOs met with Department officials to work through various issues arising in our services. The forum has met six times and improvements have been made to operational guidelines and support documents for Department of Social Protection staff. We hope the work of the forum will continue. Last year, as we approached the three-year mark since we took the first case sample, we felt it was necessary and indeed good practice that we revisit the situation on the ground and, therefore, took another case sample,

which forms the core of this report. Also, two new partners joined in the development of this report, FLAC and Dublin city centre citizens information service.

I will now give the committee a flavour of our findings. The findings come from three main sources. First, we have documentary analysis, which may sound a bit dry but provides useful information. Second, we have the 35 case samples and third, the online survey carried out with managers of all the citizens information services nationally. The documentary analysis focused on the annual reports of the social welfare appeals office. There is much information in these reports providing strong indicators as to the quality of decision making in the front line across the Department. First of these is the successful appeals rate. In 2013, an astonishing 55% of appeals were favourable for the applicant. This is a high success rate for people appealing refusal of a payment. An equivalent year in the United Kingdom had a success rate of 38%, which was unusually high there. Questions need to be asked as to why this is the case.

The appeals office report also deals with clarifications sought. The report states that where it appeared to that office that the reason for the adverse decision may not have been fully understood by the appellant, in those circumstances the letter of appeal was referred to the relevant scheme area of the Department, requesting that the decision be clarified for the appellant. This concerns situations where the appeals office decided the decision of the deciding officer was not very clear and bounced the appeal back to the Department. The number of these clarifications has doubled in the three years up to 2013, to approximately 5,000 per year now. This is, at the least, an indicator of questionable practice.

The appeals office report also dealt with supplementary welfare allowance, a key payment for people who are particularly vulnerable. Often, people need this payment to tide them over if they are awaiting processing of a mainstream payment. The appeals office prioritises processing of these payments but, unfortunately, the average time for processing is five months. Considering the importance of this payment, this is not acceptable in the case of people who are at their wits end without any income.

There has been a pattern in the past three reports of the appeals office and clear criticism by the chief appeals officer of the administration of the supplementary welfare allowance scheme, by the community welfare service in particular. The chief appeals officer stated that an estimated 5% to 10% of social welfare appeal files were returned to the Department in 2013, as they lacked some or all of the basic documents which would be required to allow an appeal to proceed. These documents were the application form, the formal decision and the submission of the designated person. Obviously, these are basic documents in terms of assessing an appeal. We suggest a question arises in this regard. If this criticism has arisen three years in a row, what is being done in response to it?

The second of the three main findings relates to the 35 case samples, the core of our report. It is important to be aware of how we chose the 35 case samples. These were not cherry picked and we did not pick the best cases. We selected four of the organisations and selected a particular day last year and recorded the next ten cases that presented to our services where there was any question regarding social protection. Basically, this provided a snapshot of a point in time. We gathered 35 valid cases. While no issue arose with how the Departments dealt with the person in nine of these cases, unfortunately issues arose in the other 26 cases. I will briefly outline the main issues that arose in the sample of 35 cases. In eight cases, officials used inappropriate behaviour or language and two of these cases involved racist comments from officials. Seven cases involved misinformation or omission of key information, while in three crisis cases emergency needs payments were refused. It is important to note that the habitual residence condition

does not have to be satisfied in cases of emergency needs payments. In five cases, interpreters were needed but not provided. Statistics obtained by Crosscare from the Department indicate a low level of usage of interpreters.

In four cases, arrears were not paid or were delayed. In a further four cases, repeat requests were made for documents that had already been submitted. In four other cases, payments were stopped without notice and there were four cases of speculative decisions being made on means. There were three cases of non-response from the Department and two cases of documents or applications being refused. To clarify, this refers to circumstances in which a person has made an application, visits a local office and provides additional documentation. In one case, this additional documentation was refused and in a second case the application form was refused at a local office.

There were two cases involving customer complaint fears. While this number is low relative to the sample, the fear of making a complaint is a particular problem which needs to be addressed. We have raised previously with the Department the problem of people being afraid to complain about the level of service provided to them. The reason is that deciding officers have significant power and the level of trust between the customer and Department is inadequate.

There were also three cases of incorrect refusal of habitual residence status. While there has been some improvement in this area compared to the previous sample, it remains an ongoing issue.

The third main component of the findings of the report relates to an online survey we did with the managers of the 42 citizens information offices nationally. Citizens information services are crucial in dealing with many of the shortfalls in the social protection system. An indicator of this is that in the first six months of last year, the 42 offices nationwide dealt with 25,000 queries from migrants on issues related to social protection. The citizens information service has an important role in the broader area.

We were particularly interested in asking citizens information service managers about reports by clients of racism they had experienced at the hands of departmental officials. While slightly less than half of managers reported having no knowledge of such reports, a small number reported significant numbers of clients experiencing racism at the hands of officials. In combination with the racism findings from the sample of 35 cases, the views of CIS managers confirmed to us that there is an issue with racism, at least with some staff in some offices. It is unacceptable that a public servant would behave in a racist manner.

The difficulty is that having an open and honest conversation about racism can be difficult, which is understandable considering the seriousness of the issue. We urge the Minister to recognise that the issue must be named as a problem and addressed. We have made a number of specific recommendations for addressing it.

To sum up the findings of the report, a combination of an analysis of documents, particularly the appeals office reports, the findings from the 35 case sample and the views of citizens information service managers nationally shows significant administrative and customer service deficits in the Department. On a more positive level, there is an openness to positive change in the Department. Last year, Axiom consultants completed a report for the Department aimed at encouraging the development of a coherent and progressive organisational culture in the Department. In consultation with departmental staff, the Axiom report identified the values of public service, customer focus, professionalism, engaged staff and innovation as being re-

quired. This was approved by the management of the Department.

The Axiom report recommends holding planned and structured conversations at all staff levels about the important core values of the Department. Crosscare would be very supportive of a process of imbuing these values in the Department. We can also think of many policy and procedural changes and improvements that would make the experience of accessing social protection better for people. All of these relate to the culture of doing things in the Department, which is what must ultimately change. We suggest that the recommendations in the report be used as practical measures to facilitate the type of organisational culture envisaged in the Axiom report.

The Crosscare report makes 19 recommendations, which I do not propose to discuss in detail today. Instead I will focus briefly on two recommendations which would impact on everyone who uses the system. We have worked with the Department in recent years to improve guidance and support documents for front-line staff and decision makers. We are close to the point of identifying how things should be done in the areas of administration and customer service. The problem, however, is with implementation. There is not a sufficiently strong function in the Department to ensure that expected and desired standards of administration and customer service are achieved in reality. In other words, there is a gap between what the Department states it will do and what is done on the ground and at the front line. To this end, we have recommended the establishment of a new performance monitoring, evaluation and implementation unit in the Department. We ask the joint committee to urge the Minister to implement this recommendation. The first step in developing such a unit would be to establish a high-level working group consisting of the Ombudsman, the chief appeals officer, a high-level customer services expert from the private sector and other stakeholders.

The other recommendation we propose to highlight is that the Department focus more on changing interaction between officials and service users. We urge the joint committee to press the Minister on this issue, for example, by introducing name badges for all public front-line staff in the Department. This is a simple idea and while we expect it would meet some resistance, we believe it could significantly improve transparency, accountability and, ultimately, customer service and decision making for all users of the Department's services.

Many of the users of the social protection system whom Crosscare sees are experiencing extreme hardship, stress and vulnerability and are, naturally, in financial hardship. They deserve the best possible service from the State. For this reason, we ask the joint committee to take on board our recommendations for change and ask the Tánaiste and Minister for Social Protection to give them serious consideration.

**Senator Trevor Ó Clochartaigh:** I thank the witnesses for coming before the joint committee. Having attended the launch of the Crosscare report, I was taken aback at some of its findings. It was astounding to learn that the level of racism in a Department could be so high. I thank all the relevant organisations for taking part in the research and presenting their findings today. It is important that the committee, in its oversight role, raise this matter in an appropriate manner.

Some people will argue that the types of attitudes the authors have identified in the Department of Social Protection are also displayed to people who are not immigrants. Public representatives frequently receive complaints from across the spectrum of those who engage with the Department that they have not been treated in a positive manner. Is this a specific issue related to immigrants or is it indicative of the attitude taken by front-line departmental staff to anybody

who comes through their door?

The witnesses note that 55%-----

**Chairman:** I suggest we take one question at a time.

**Mr. Joe O'Brien:** Crosscare information and advocacy services deal with all nationalities and it is clear to us that there is a commonality of experience across nationalities. Of the 12 main findings arising from the case sample, ten would have universal application, while the other two relate specifically to racism and interpreter usage. Excluding the latter two recommendations, the others apply across the board.

**Senator Trevor Ó Clochartaigh:** Racism is a serious charge to level against any person working for the State. Is Mr. O'Brien aware of any type of censure being applied in the case of staff who have been found to be racist? Has Crosscare had dealings with the Department on this matter? Is it aware of complaints being followed up in the Department and officials being reprimanded for engaging in racist behaviour?

**Mr. Joe O'Brien:** The difficulty we have is that the Department will argue, understandably, that it cannot progress a complaint unless detail is provided on the complainant's name, PPS number, etc. People are extremely reluctant to provide such information. While it would be provided in an ideal scenario, we do not press people who are not comfortable about making a complaint. The underlying problem is the level of trust in the Department, which needs to be built up.

**Senator Trevor Ó Clochartaigh:** Has Crosscare been informed by the Department of any case where a complaint has been made and the matter addressed by means of a reprimand or other repercussion for the official who has acted in a particular manner? Is Mr. O'Brien aware of any such instances?

**Mr. Joe O'Brien:** In my personal experience, the Crosscare service has not received any such report from the Department on the specific issue of racism. On other cases of related poor performance and behaviour, these would be carried through to an extent. As regards censure, I am not sure of the position but certainly apologies have followed.

**Senator Trevor Ó Clochartaigh:** This leads me to a question on the recommendation regarding the wearing by officials of name badges. I am sure officials of the Department of Social Protection will argue that they must put up with a significant level of abuse from people who come to departmental offices. They will be unwilling to use name badges because it is very easy to find out where someone lives nowadays. People who work in the Department of Social Protection say they put up with a fair amount of abuse as well from people who come in from time to time. They do not want to put out their name badges given how easy it is to find somebody these days. One can Google them to find their home addresses and there might be repercussions for people if they were to wear name badges. Is that one of the reasons name badges are not a popular option?

**Mr. Joe O'Brien:** I suspect that is one of the reasons but there is a more important priority in terms of a public service that serves a very large number of people in the country being open and transparent. We have not infrequent situations where we get letters back from the Department which are either unsigned or illegible in terms of the signatures. There is a case in point in the report. One of the case studies refers to an official who refused to give his name to someone who was looking for it. While I can understand why people would be reluctant to do it, its

potential for changing how things are done from the front-line upwards makes it worth it. It is certainly something we are going to keep pushing. We have deliberately picked it as one of the two matters today as it is a simple idea in some respects. While there might be complications in terms of winning people over, in terms of accountability, transparency and how that would impact on how officials do their business would make it a very worthwhile measure to push.

**Senator Trevor Ó Clochartaigh:** There is a high rate of successful appeals, at 55%. I have had suspicions as have others that there is a general policy within the Department to turn everything down initially which will turn a fair number of people away. Fewer people will come back, which will mean less expense for the Exchequer. Does the 55% success rate in terms of appeals point to incompetence on the part of front-line workers, a misunderstanding between themselves and the people before them or is it, perhaps, that there is an unwritten policy to turn more applications down initially so that fewer people come back?

**Mr. Joe O'Brien:** I do not think it is a policy. There are very varying levels of practice and competence at the front line. A large proportion of cases we see and the cases exemplified in the report relate to the community welfare service. There is a particular issue with that service. We analysed the cases and took them at face value. There is a level of analysis that we would be making leaps if we were to come to some of the assertions the Senator is making. Certainly, there is more than enough evidence to suggest that the practice could be a lot better.

**Ms Yvonne O'Sullivan:** FLAC has worked on the area of social welfare appeals in the last number of years and published a report in 2012 entitled Not Fair Enough. Senator Ó Clochartaigh referred to the view that if a person was initially refused it might save the public purse money. However, people appeal to the Social Welfare Appeals Office where appeals end up in a backlog of cases. The appeals office takes on a huge burden in terms of trying to address the high volume of appeals. Within that, there is a certain poor level of decision making because approximately 21% of all appeals are revised by deciding officers anyway and go back to the Department where they are successful for the applicant. That shows that there is a very poor standard in regard to some of the decision-making in the Department at first instance.

**Senator Trevor Ó Clochartaigh:** Is there a cost dimension to that extra layer of bureaucracy?

**Ms Yvonne O'Sullivan:** Yes. When it is unnecessary, it should never go all the way to the appeals office.

**Ms Jill Farrelly:** I note from a Citizens Information point of view practice within the service. If somebody comes in with a refusal who has additional information, we always submit a review request to the Department first to speed up the process and to see if providing that information again to the deciding officer helps. We have come across situations where it seems that the actual review requests are often sent on to the appeals office by the social welfare officers themselves. We send in a review request and a social welfare appeal to speed things up but the social welfare officers are actually sending them on the appeals office directly without considering them.

**Ms Fiona Hurley:** Regarding the suggestion of refusals as a matter of policy, it points to a deficiency in information taking by front-line officers. We provide a front-line service of free legal clinics on issues of immigration and social welfare. We had approximately 219 interactions last year on social welfare queries. Of the cases we take on and progress, we have a success rate of approximately 80% to 90% and that is because we take the time to tell clients

what they need to bring us and to obtain the relevant information and documents from them. There can be real issues with lack of understanding of what is even being asked for or of strict adherence to lists of required documents with no willingness on the part of the Department to look outside them. It can be very difficult for migrants, particularly where they have fled their countries, to provide the type of evidence people are asking for.

**Deputy Aengus Ó Snodaigh:** To follow on that theme, my other hat is spokesperson on social protection. I am also a member of the committee here and it is something we have been arguing with the Department, the Social Welfare Appeals Office and officials since I have been advocating on social welfare. They need to change the mechanism to include something simple like a telephone call before a decision is made to notify a person that he or she is missing a particular document. That would save the Department time and money and would also save people distress. I presume that for somebody who is a migrant and who might not be literate in the English or Irish languages, it would be doubly stressful than it is for a citizen who can manage and make his or her way around the system. I commend the report for highlighting that issue in particular, even though many of the issues it identifies are commonly experienced by citizens also, particularly those who are semi-literate or illiterate. Even I find it difficult on occasion to navigate between a review and an appeal and I have argued consistently with the Minister and her officials that it needs to be made a great deal clearer to people that when a decision is made, the easiest avenue is a review. It is only easy if one knows what the problem is. I recommend that. I am not asking a question in this regard as it has already been addressed, but the witnesses can discuss it.

I can understand the arguments on both sides regarding ID badges. I dealt with a case of a social welfare inspector who was being followed home by somebody. Gardaí and others were involved and the Department did not stand in quickly enough to provide her with the defence she required. Eventually, she had to move office. There is that fear within the Department. This case involved a very violent criminal. While that concern exists, I support the view that even if it deals simply with a first name, a name tag or a response where someone asks for a name, it is a matter of common courtesy. The offices are not that large and one could ask to speak to “Tom” or “Jack”. It breaks down a barrier which should not be there.

Have the witnesses liaised with Travellers’ rights organisations to see whether the themes that emerged in the report are common in their interactions with the Department of Social Protection? I believe it would be the case.

**Mr. Joe O’Brien:** We have not formally liaised with Traveller organisations but informally I know people working in them and understand the habitual residence condition in particular tends to be a difficulty. With regard to the name badge issue, public servants are required to identify themselves when they interact with the public so the name badge was a way of making sure that happens.

**Chairman:** I cannot imagine an issue with a name badge. However, if there were to be a security issue, would the witness be agreeable to the use of an identifying number so that the person is identifiable in a case where he or she cannot use their name but a unique number would be a means of clear identification?

**Mr. Joe O’Brien:** I could see that facilitating the same principle. It is difficult to imagine but I am not sure if staff would find it easier or more difficult to be identified by a number rather than by name.



**Chairman:** I am trying to anticipate any objection. Is there any objection to that proposal on security grounds? If so, one could put in place an alternative plan which is an identifying number, such as the numbers assigned to members of An Garda Síochána, for example.

**Mr. Joe O'Brien:** I can see a number providing for the function that we think should be there. I am not sure if any of my colleagues would have an alternative view.

**Deputy Aengus Ó Snodaigh:** I apologise that I will be unable to stay for the remainder of the meeting as I must attend a meeting of the Whips. Has the research identified specific offices or officials? My constituency office is in Ballyfermot and I know some of the officials well. They are the best in the world but in the case of certain officials one would pray that some characters would not have to meet them. I am speaking about a fair hearing. If particular offices or officials have been identified with regard to the charge of racism, it would make it a lot easier to have a targeted response to address a problem, if that is the case. However, if this is across the whole range of offices, then the Department has a bigger problem which needs to be dealt with quickly.

**Mr. Joe O'Brien:** There are two aspects, made up of the report and our day-to-day work. The core of the report is a 35,000 person sample and we had to ensure anonymity for those sampled. At a very early stage we filtered out locations and identifying details. The identification of particular offices was not a part of the report. However, in our day-to-day work, I agree that there are particular offices where we believe that these kind of incidents are more likely to happen. To an extent, my colleagues in Crosscare would know of cases with certain individuals where it is more likely for such interactions to happen. However, the difficulty when we attempt to raise it is that, understandably, we are told that the person with the issue needs to make a complaint directly and to provide all details. That is where it tends not to go any further.

**Deputy Aengus Ó Snodaigh:** If an office is identified, I presume that without having to name an official it would be easier for the Department then to provide anti-racism training targeted at an office in a case where an office was the subject of a number of complaints and the complainant did not wish to lose a payment or have it suspended as a reaction. I presume the Department should target anti-racism training at those officials or offices where racism is identified as being a problem. I make that suggestion in an effort to be helpful.

**Mr. Joe O'Brien:** I agree that could be a useful suggestion.

**Deputy Richard Boyd Barrett:** I thank the delegation for the presentation and for highlighting this issue, which is both important and fascinating. My constituency clinic comes across issues of this nature quite regularly. In tackling this issue is the best approach to focus solely on the failure to deal appropriately with migrants rather than across the board? I have no doubt that migrants are confronted with specific problems, although I hope it is in a minority of cases in the overall scheme of things that they experience racism. I can think of many other groups who have also experienced discrimination. I refer to sexism, anti-Traveller attitude, racism, just plain old class prejudice, and even not liking the look of someone. All of these factors are there. I stress that they are a minority but none the less, when they happen, which is reasonably regularly and they come to my attention reasonably regularly, they are very disturbing for the people involved. These attitudes are very unfair and are unacceptable. We must do something about it. I wonder whether tactically, is it not better, without exacerbating the problem, to approach it from the point of view of having a certain standard of courtesy and an appropriate interaction with people? This could include the specific issues that may arise with immigrants and with other named groups and it would be a way of providing training to cover

over all these areas. This would be preferable to singling out immigrants as having a particular problem because there is a slight danger that such an approach could reinforce the difficulties I have outlined.

**Mr. Joe O'Brien:** Deputy Boyd Barrett has described how we want to push this second report. We agree with the Deputy to the extent that it is most likely the exception rather than rule. We are NGOs working with people who have problems with the system and some of us focus on migrants. It is a combination of having an overall approach in terms of customer service and how everyone is dealt with but also to make a couple of targeted efforts.

We have made specific recommendations in regard to migrants and with regard to interpreters in particular because there is a significant issue with regard to the under-use of interpreters. We regularly see people who do not get a fair chance at engaging with the system because they are not provided with an interpreter, which is a requirement. I agree with the overall approach but we still need to name the specific issues faced by migrants. In the wider context we are not saying it happens to everyone or to every migrant or that every officer is like that but when an official of the State throws out racist comments towards someone who is applying for his or her rights, this behaviour needs to be named and it needs to be specifically tackled. The overall approach of improving customer service across the Department is probably the best tactic.

**Deputy Richard Boyd Barrett:** Mr. O'Brien says there is a need to focus on particular aspects but it is a case of how the whole package is presented to front-line workers while citing the possible needs of specific areas and specific groups.

**Mr. Joe O'Brien:** There are 19 recommendations in the report. Some of them relate to the whole of the system while others are migrant-specific issues. It is a combination of both, but with an overall perspective that there are problems across the board with basic administration and basic customer service.

**Deputy Richard Boyd Barrett:** We are more or less in agreement on these matters. Certainly, we are trying to get to the same place.

On the question of name badges for staff, I have enormous sympathy with what Mr. O'Brien is saying. We are constantly having to advocate for people who are in these difficult situations, but I also am conscious of the other side. That is not in any way to excuse racism, sexism or any type of inappropriate behaviour but I am keeping in mind the difficulty this might present for staff. In the case of some of those difficulties, I am not sure whether any code of conduct will deal with them, because they are to do with staff numbers being cut, increasing demands on individual workers and so on. In the area of housing, for example, it is essentially a no-win situation on both sides of the table, with frustrations abounding in general. The person who has the housing need cannot understand why it cannot be met, while the person on the other side is saying, "I have 50 similar cases, all of which are terrible, so what do you expect me to do?". They should not say things like that, but sometimes they do. It is important that we try to get as much buy-in as possible from staff and their union representatives in addressing these issues, rather than having a situation where we go at it in what looks like a heavy-handed, dictatorial way. I am interested in Mr. O'Brien's view on that.

**Mr. Joe O'Brien:** I would be anxious to avoid a perception that it is about making staff wear name badges and then they can be "got". It is not about that; it is about improving the service level. Our argument is that if officials are aware their name is out there, then customer service and the administration of applications will improve. The paradigm is really about providing a

better service rather than making people more identifiable and thereby, perhaps, leaving them feeling more vulnerable. Having said that, public servants should be identifying themselves in any case. The badge proposal is simply a mechanism that would help to ensure this happens consistently and across the board. Consistency of practice is something of an underlying theme. We deal with many good officers and good offices but, equally, there are problematic pockets.

**Deputy Richard Boyd Barrett:** Where staff are dealing with queries by telephone, I do not see a problem with their providing a name to callers. However, I could anticipate problems where officials on the front desk in a housing department or in certain areas of public service are required to have their full name on display. I take all the points Mr. O'Brien has made and agree it is important to humanise the process. I do not know how we might square the circle. It is something that will have to be agreed with staff and their views will have to be taken on board. It might well be the case that they agree to displaying, say, their first name and a number. That would satisfy the humanising point but also ease workers' concerns about a possible backlash.

**Chairman:** Is it fair to say the committee agrees with the principle of an identification badge but that its implementation should allow for flexibility to reflect the concerns we have heard expressed today?

**Deputy Noel Harrington:** Staff should be identified within an office but they need not be identified within a community. If I telephone an office I should be able to identify an official by his or her Christian name. There is no need to give full names such that members of the people could use that information to do a Facebook search, for example, on an official.

**Chairman:** Are we agreed that the best option might be to give a first name and a number?

**Deputy Noel Harrington:** If a person calls asking to speak to George in a particular office, it should be clear to the person answering the telephone to whom the caller is referring without any need for a surname.

**Chairman:** Yes. We are agreed there should be some flexibility in how it is dealt with as long as the principle is observed.

**Deputy Michael P. Kitt:** I welcome the witnesses. Their recommendation for a monitoring unit is very positive. On the question of name badges, I represent a rural constituency and people generally know the staff working in the local social welfare office. A problem I see with this proposal, however, is that it might lead to the closure of smaller social welfare offices and their amalgamation into larger centres. That has implications for staff and their workload and for the public availing of the services.

Have the delegates examined the idea of people being visited by officials in their homes? Some people, including immigrants, have difficulty travelling to meet the social welfare officer. If such persons could be accommodated by way of home visits, there would be an opportunity to build good relations. Have the delegates found this to be an issue for immigrants?

On the issue of interpreters, this is something that would take some organisation in a context where different offices might not have precise data on how many different nationalities will be availing of their services. I have just left a meeting with a delegation from Ukraine. We knew these visitors were coming, so we arranged an interpreter to facilitate the meeting. However, how practical is to say social welfare offices should make better use of interpreters? The first difficulty is knowing which languages are required and recruiting the appropriate interpreters.

**Mr. Joe O'Brien:** To answer the question on interpreters, users of the Department of Social Protection's telephone service can be facilitated, within a relatively short period of time, by the sourcing of an interpreter, or such a facility may be arranged in advance. That is generally how it is done, but it is not used as often as it could be. There are some stand-out languages in terms of what is required. However, this issue is not the cause of the low level of usage. There are other reasons.

In terms of officials visiting people's homes, this does happen already with social welfare inspectors in some instances. Will the Deputy clarify his question in this regard?

**Deputy Michael P. Kitt:** I am asking whether one of the problems people face is in raising issues regarding their social protection entitlements?

**Mr. Joe O'Brien:** I am not sure it emerged in this sample, but our experience is that people certainly have had issues with visits by social welfare inspectors and how they were treated and spoken to in some situations.

**Deputy Michael P. Kitt:** My point is more about the transport issues individuals may have, particularly if we are going to close small offices and oblige people to deal with larger centres. Sometimes the only option will be for inspectors to visit people in their homes.

**Mr. Joe O'Brien:** Sure.

**Deputy Noel Harrington:** I welcome the witnesses and thank them for their presentations. It is dangerous to make assumptions, but I will make one in asking Mr. O'Brien to confirm whether it is mainly at social protection offices in larger urban centres that these incidences are happening.

**Mr. Joe O'Brien:** That is correct for this sample, which was compiled from cases in Dublin, Cork and Limerick.

**Deputy Noel Harrington:** There are different types of social protection offices that operate at the front line, including branch offices, local area offices and Intreo offices. While they operate under the same departmental rules in terms of processing applications it can be argued that they do things differently. In some rural areas, for example, branch offices do things differently to local area offices or Intreo offices. They have different management and reporting structures as well as different methods of supervising front-desk staff. In that context, I assume it is possible to get different standards of customer care.

**Mr. Joe O'Brien:** Yes, that is certainly the case and is probably related to some of the problems in terms of developing a consistency of approach across the Department.

**Deputy Noel Harrington:** As Deputy Boyd Barrett has already said, this probably only happens in a minority of cases. The vast majority of officials with whom I have dealt do their very best in difficult circumstances. That said, I understand the constraints under which Crosscare is operating. If a client says that he or she was treated appallingly or had to deal with a racist, sexist or rude official, it is very hard to move from that situation to building up a profile and determining whether there is a problem in a particular office or type of office or with a particular official without going further with the complaint. I take the point that the witnesses cannot force a client to go to the Garda Síochána or to go further with the Department. If the behaviour in question is racist then it might be a matter for An Garda Síochána to investigate because such behaviour is an offence as far as I am aware.

Difficulties could arise in terms of training or re-training because if a member of the front-line staff is inherently racist then all of the training in the world will not deal with that. At some stage, sanctions are required. Training might address issues like offensiveness, rudeness or sharp practice but not the more serious issues. The officials in questions must be identified but they will not be identified if those in upper management do not realise what is going on. There is an onus on us and on organisations like Crosscare, if we become aware of a particular problem, to report it. Is there a blockage there?

**Mr. Joe O'Brien:** The blockage is what the Deputy has described, namely the client's consent to push the issue further. As I have said a number of times, that is what stops us. I agree with the Deputy that in the case of some officials, no amount of training will change that individual. I would also agree, however, that such individuals are very much the exception.

**Deputy Noel Harrington:** I ask the witnesses to clarify that when they referred to migrants accessing services they were not referring to asylum seekers or refugees but to migrants who were legally entitled to come to this country. They were speaking about people from the European Economic Area who were entitled to access our social protection services.

As I understand it, habitual residence is an issue because it is open to interpretation and is subjective in some senses. While there are guidelines in place for officials, decisions are often based on whether an individual appears to have a connection or appears to qualify, based on the evidence presented. Quite often that evidence is difficult to put together. Is that a big issue in terms of frustration on the part of clients and the Department?

**Mr. Joe O'Brien:** First, I must clarify that for the case sample we decided to deal with any migrant who had a social protection issue but it turned out that of the 35 cases identified, none were asylum seekers. They were generally people who had a right to access our social protection system.

All of us on this side of the room have been dealing with the habitual residence issue and the Deputy obviously has some experience of it too. One could certainly get the impression that the criteria are subjective but that is not the case. There is an element of discretion and it is this discretion which leaves issues somewhat open to personal interpretation.

When we presented the first report to the Department we made particular recommendations on the habitual residence condition. At the time we were pushing for guidelines on the use of discretion. In other jurisdictions guidance has been issued on the use of discretion. There is a particular way of using discretion so that determinations are not simply based on the opinion of an official. There are certain things that must be considered when one uses discretion. This is also the case with regard to the habitual residence condition. There are five factors that must be included in the mix but that has not been done properly. The condition has been in place for over ten years but the guidance on discretion has not been done properly.

The case sample, for what it is worth, would indicate that the application has improved somewhat in recent years. That said, it is a condition that has been around for more than ten years but it is still showing up in the case sample as problematic. Habitual residence is still a problem.

**Deputy Noel Harrington:** I wish to reiterate the point about the name badge. People who go to social protection offices are, by and large, dealt with satisfactorily and have a positive outcome. Others do not have a positive outcome, perhaps because they are not entitled to social

protection. Enormous frustration builds up in social protection offices at times. I am sure that if we interviewed officers from social protection offices they would give us many examples of rudeness, offensiveness and so forth from the other side of the counter. I believe it is appropriate that officers be identifiable, but only within that particular office. I do not believe it is necessary for them to be identifiable externally. I believe that over the telephone, for example, Christian names should suffice. That might be a way of improving the service.

**Mr. Joe O'Brien:** I would agree with the principle that officers are identifiable within the office. It is not possible to prevent them being identified outside of that because obviously a lot of officials will sign their name properly and will be identifiable from a letter and so forth. If a person really had it in for them, they could follow that line. In principle, however, I would agree. What we are looking for is that someone is easily identifiable. Ideally, everyone would identify themselves verbally but it is optimistic to believe that we could get that to happen. A visual identifier of any kind would suffice from our point of view.

**Senator Trevor Ó Clochartaigh:** I wish to return to the issue of interpretation, which is fascinating. Did geography have any bearing on that or was an unwillingness to use interpretation services found across the board? Was that because people were under pressure and felt that it would be too time consuming? Was it because they did not want to have the hassle of having to telephone somebody else? What was the issue there? If we are to bring this to the Minister or the Department for further work, we need to tease out why this was not being done. I ask the witnesses to clarify that for us. What is their understanding of why there was little use of interpretation services?

**Mr. Joe O'Brien:** The report did not dig into that. The 35 cases did not show any particular pattern. There were five cases where interpreters should have been called upon but were not. There was one case where somebody asked for an interpreter but was refused. We had a team meeting in my organisation this morning and someone wrote to request an interpreter but one was not provided.

The FOI figures we got on interpreter usage did not dig down in terms of where they were being used or not being used and perhaps that needs to be explored further. Our own take on it would be that the interpreter service costs money and choices are made in that context. We feel, however, that a lot of people who have the right to access the system are not being given a fair hearing because they need an interpreter in order to access their rights.

**Senator Trevor Ó Clochartaigh:** One final point which comes to the nub of it. Do the witnesses think that there is a culture within the Department and among its front-line staff which means that people who are from an Asian, African or eastern European background, who have a strange accent or a name that is not identifiably Irish, are treated differently?

**Mr. Joe O'Brien:** That is a big question. I would say that there are pockets of that. Indeed, there are more than a few pockets in our experience and in terms of the people that are presenting to us.

**Chairman:** Before we conclude, the committee agrees to correspond with the Department to get its response to the issues raised by the witnesses and to ask it what it is being done to address them. We also reserve the right to take further action when we get that response from the Department.

I thank the witnesses for coming in today, we greatly appreciate this interaction and in going

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through your recommendations and findings. The meeting stands adjourned until Wednesday, 4 March 2015.

The joint committee adjourned at 5.20 p.m. until 4 p.m. on Wednesday, 4 March 2015.