

PERSON OR NUMBER? 2

**A second
examination of
issues faced by
immigrants in
accessing social
protection**





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ACKNOWLEDGEMENTS

Crosscare, Doras Luimní, Dublin City Centre Citizens Information Service (DCCCIS), FLAC and Nasc would like to thank the people who agreed to share details about very difficult periods in their lives for the case sample in Person or Number? 2 Thanks are also due to the Development Managers of the Citizens Information Services across the country who participated in the online survey.

We would also like to thank Joe O'Brien (Crosscare) for leading this report along with Fiona Hurley (Nasc), Leonie Kerins (Doras Luimní), Yvonne O'Sullivan (FLAC), Noel Neenan (Crosscare) and Jill Farrelly (DCCCIS) for the considerable contributions they made in the process. Significant work was also carried out by other supporting staff in the aforementioned organisations.

We would also like to acknowledge the inputs of ENAR (European Network Against Racism) Ireland, the Citizens Information Board for the statistics provided and all the organisations and individuals that participated in the roundtable on social protection issues for migrants held in January 2014.

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Designed and printed by: Thinkk Creative Ph:061-204001

ISBN: 978-1-906485-18-4

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FOREWORD

Social Protection provides the safety net which prevents people from falling into destitution. Complaints about the Department represent the largest single body of complaints to my office. That in itself is not surprising given the high level of transactions between the Department and members of the public. The proportion of complaints is in fact a fair reflection of the number of contacts between the Department and members of our communities. In general, my Office enjoys good co-operation and the majority of complaints are readily resolved. Often, we find no fault in the decisions of the Department, but when we do, these are almost always promptly reversed. The existence of the Social Welfare Appeals Office ensures that many cases are dealt with appropriately without the need to engage with my office.

That said, the Department faces major challenges in addressing the needs of individuals who are less articulate, or have particular problems with communication, as is often the case with migrants. Communication issues are a common theme of complaints to my Office and the stories in this report powerfully illustrate the necessity to ensure that people engaging with public services are enabled to interact effectively so that they can understand their entitlements and responsibilities and effectively access the services or benefits to which they may be entitled.

The Department's engagement with the Migrant Consultative Forum shows a positive commitment and there is no doubt that significant progress has been made. The report underlines the need for sustained effort to ensure that this progress is sustained and built upon.

The work of NGOs in supporting and advocating on behalf of migrants has played a very significant part in keeping a focus on the systemic issues while assisting individuals who are often poorly placed to seek their own rights. This report is a further contribution to public service improvement and I commend it to readers for its powerful illustration of the difficulties faced by individuals. I'm sure that it will add to the momentum for change.

Finally, I would like to urge all of those engaged in supporting migrants in accessing public services to assist them in complaining to my Office when other channels have not proved effective. As well as looking at individual complaints we are also able to identify systemic causes and seek change to address them. The report highlights the need for continued vigilance in ensuring that standards of customer care, first instance decision making and respect for diversity are consistently delivered. It will be of assistance to all in keeping a necessary focus on these issues now and in the future.

Peter Tyndall
Ombudsman

1. INTRODUCTION

In 2011 Crosscare, Doras Luimní and Nasc came together to produce the '*Person or Number?*' report. The report was described as follows: *Person or Number?* had its genesis in the shared experiences of Non-Governmental Organisations (NGOs) in assisting migrants to access their rights to social protection. As worrying evidence mounted as to how migrants were treated, three agencies, Crosscare, Doras Luimní and Nasc, came together with other national and regional NGOs, to compile a snapshot of the barriers facing migrants trying to access social protection.

Person or Number? had a total of 34 recommendations in the areas of information provision, decision making, racism, Emergency Needs Payments and other areas. The main recommendation of the report, which was launched by the Minister for Social Protection (subsequently Tanaiste) Joan Burton, was the setting up of a Migrant Consultative Forum (MCF). The MCF consists of officials from the Department of Social Protection and representatives of NGOs that work with migrants. The MCF had its first formal meeting in October 2012 under the following terms of reference:

Objective

The purpose of the Social Protection Migrant Consultative Forum is to provide a forum within which migrant stakeholders can work together to resolve issues of mutual concern and to ensure high standards of service to migrants across the social protection system.

Terms of Reference

Members of the consultative forum will:

- Review the report *Person or Number?* and examine its recommendations.
- Having regard to Government policy in relation to the provisions of social welfare schemes, the State's commitments under domestic and international human rights law as well as under EU law, the economic circumstances that pertain and the Department of Social Protection's remit, identify the recommendations which are feasible and appropriate to implement within existing resources.
- Monitor the implementation of the identified recommendations.
- Examine and seek to resolve other relevant operational and service-delivery issues as they arise in relation to migrants.

Since then, the Migrant Consultative Forum has met six times and significant work has been done in relation to improvements in training and guidance, documents on information provision, decision making and customer service and the redesign of forms.

When making the recommendations in *Person or Number?* we always felt that there were some issues that could be addressed swiftly and others that would need longer term engagement. This was much of the reasoning behind the recommendation for the MCF itself. While not all the recommendations of *Person or Number?* have been acted on, the MCF has been a productive force for positive change in the social protection system. The commitment of the Departmental representatives to the forum has been notable. There were fears that the MCF might be discontinued by the Department, however we felt that the good work of the MCF needs not only to continue for the foreseeable future but that its intensity needs to increase.

As we approached the three year mark since the first case sample was taken we felt it was necessary and indeed good practice that we revisit the situation on the ground and explore the possibility of taking another random case sample from frontline services. How this was undertaken is outlined in the Methodology section. Two additional partners have joined Crosscare, Doras Luimní and Nasc (the Irish Immigrant Support Centre) since the first *Person or Number?* report: the Free Legal Advice Centres (FLAC) and the Dublin City Centre Citizens Information Service (the busiest CIS in the country).

Report structure

After the Introduction there is a short mention of the headline findings followed by a short methodology section. The full findings section opens with a sub-section on documentary analysis. This is followed by the core of the report which is the findings sub-section on the '35 case sample'. The third and final findings subsection is based on the Online Survey of Development Managers of Citizens Information Services. Before the conclusion of the report, there is a short recommendations section.

2. HEADLINE FINDINGS

- 1 The quality of much first instance decision making on applications for payments is not up to standard. There is a high level of incorrect refusals made by Deciding Officers and Designated Persons on applications for payments.
- 2 Basic administrative procedures, tasks and duties are not always being carried out by Deciding Officers and Designated Persons, leading to incorrect refusals of payments.
- 3 There are some serious customer service issues in the Department of Social Protection. Rudeness, inappropriate behaviour, inappropriate language and racism are identified in *Person or Number? 2*.
- 4 The Community Welfare Service in particular has been found to have some poor service levels.
- 5 Interpreters are not always being provided to people when there is a clear need.
- 6 Misinformation and omission of key pieces of information by officials in their dealings with members of the public continues to be an issue.

3. METHODOLOGY

Consultation Phase

A roundtable meeting for Non-Governmental Organisations (NGOs) across Ireland was held in January 2014 by the authors of the *Person or Number?* report to facilitate an open discussion on the issues that migrants brought to their services in relation to accessing social protection. A total of 18 organisations attended the meeting and there was a wide geographical representation. The main purpose of this meeting was to get a sense from frontline organisations of the nature and volume of issues that were presenting to their services across the country. It was very clear from the meeting that considerable issues remained across the country in terms of migrants' attempts to access social protection. Some of the issues raised had also been raised in the *Person or Number?* report three years previously and other new issues were also raised. It was decided, following this meeting, that another more formal examination of the issues on the ground was required.

Case Sample examination

It was decided to gather and analyse a sample of cases in the same way as was done for the 2011 report *Person or Number?* There were less resources and time available for *Person or Number? 2* so it was necessary to have a smaller sample. The same random sampling method is used as in the first *Person or Number?* report with a view to providing an unbiased sample from the NGOs involved. A date was chosen in March 2014 and the NGOs involved recorded the next ten presenting cases to their service where the migrant had a difficulty of some kind in accessing social protection. The four participating organisations in the case sample were: Crosscare Information and Advocacy Services (Dublin), Dublin City Centre Citizens Information Service, Nasc – The Irish Immigrant Support Centre (Cork) and Doras Luimní (Limerick). A total of 35 valid cases were recorded within the assigned deadline. The cases were written up in some detail and then forwarded to Crosscare Migrant Project for analysis. Some follow up questions of clarification were put to the NGOs to explain aspects of some of the case studies. Every identifiable issue was recorded and grouped into issues with similar characteristics. Based on their capacity to highlight key issues a selected number of case studies were chosen for publication. In these case studies the name and nationality of the clients was changed to ensure confidentiality and in some cases specific identifying detail from the initial case study was omitted for the same purpose.

Online Survey of Development Managers of the Citizens Information Services

A summary of the methodology of the online survey is outlined in the Findings section of this report where the results of the survey are detailed.



Documentary Analysis

An analysis of some key documents was conducted including:

- Social Welfare Appeals Office Annual Report 2013
- Review of the Habitual Residence Condition in Appeal Submissions – Decisions Advisory Office
- Report of the Working Group on Emergency Needs Payments (ENP), Urgent Needs Payments (UNP) and other Supplement Guidelines. Department of Social Protection. April 2012.
- UK Courts Service reports

Due to the high degree of relevance of the Social Welfare Appeals Office Annual Report 2013 there is a dedicated written analysis of it and related findings from Freedom of Information requests in the following subsection. Other above mentioned reports are referred to where relevant in other parts of *Person or Number? 2*.

Efforts were made throughout 2014 to obtain a copy of the report initiated by Axiom Consulting on customer service related issues in the Department of Social Protection in 2013. Requests were refused a number of times under FOI legislation (including a request in September 2014) on the basis that the report was not completed. Copies of the correspondence between Axiom Consulting and the Department of Social Protection were also refused. This *Person or Number? 2* report would have benefitted significantly from the inclusion of an analysis of the Axiom report. As part of the Axiom report workshops were held in October 2013 with key stakeholders of the Department of Social Protection and the participants were asked to consider the following:

- How we do our work,
- Whether our policies and communications are accessible and understandable,
- What we are really good at doing,
- What we are not so good at doing,
- Any changes in how we do things that you have noticed over the past two years,
- How our department's culture might be different to that of other organisations that you know of, and
- What changes to the departments' culture or how we do things that you would recommend.



4. FINDINGS

4.1 DOCUMENTARY ANALYSIS

Social Welfare Appeals Office reports

The Social Welfare Appeals Office (SWAO) Annual Report provides a useful insight into how first instance decision makers are dealing with the applications they receive. Its statistical breakdown, in particular, is useful for the purposes of *Person or Number? 2*.

The Social Welfare Appeals Office Annual Report 2013 shows that the rate of successful appeals in 2013 has gone up and remains high with 55% of appeals being favourable for the applicant. While the UK system is not identical a reasonable comparison can be made between the Social Welfare Appeals Office in Ireland and the Social Security and Child Support (SSCS) section of Her Majesty's Courts and Tribunal's Service (HMCTS) in the UK. The table below points to a significant disparity in the rates of decisions overturned in Ireland compared to the UK.

Table 1. Social welfare appeals success rates in the UK and Ireland

HMCTS in the UK	Year 2010/11	Year 2011/12	Year 2012/13
% of decisions in favour	35%	35%	38%
SWAO in Ireland	2011	2012	2013
% of decisions in favour	42.2%	50.4%	55%

Sourced from Annual Reports of the Social Welfare Appeals Office and Ministry of Justice, UK (2013) Tribunal Statistics Quarterly tables April – June 2013.

Assuming that Appeals Officers/Tribunal members are in a better position to make correct decisions on payments than the first instance decision maker, it is worth further exploration to ascertain to what degree the quality of first instance decision making plays in such a high rate of successful appeals. This should be done at an internal level by the Department of Social Protection.

Leaving the UK comparison aside, in the Irish context it would be interesting to compare the knowledge and experience level of Appeals Officers with the first instance Deciding Officers and Designated Persons. This could form the basis of a separate internal Departmental study in itself. A useful, albeit not conclusive, indicator of knowledge and experience is the staff grade of these two different groups. The SWAO Annual Report 2013 indicates that all Appeal Officers are above the HEO Grade (Higher Executive Officer). Following a request under the Freedom of Information Acts 1997-2003 it was revealed that more than half of Deciding Officers were in the Clerical Officer Grade (entry grade) – indicating a minimum of at least three grades between Appeals Officers and over half of Deciding Officers. See Table 2 for more detail.

In the five years from 2009 to 2013 the number of Clerical Officers assigned the role of Deciding Officer increased 18% to 2,216. In the same period the number of Deciding Officers in the Temporary Clerical Officer grade (which is at the entry level of the civil service) increased six fold.



Table 2. Numbers of Deciding Officers by Grade in the Department of Social Protection

Grade	2009	2010	2011	2012	2013
Assistant Secretary	0	1	1	1	2
Principal Officer	9	7	12	13	17
Assistant Principal	64	67	70	74	73
Administrative Officer	1	2	2	2	3
Higher Executive Officer	282	308	350	371	373
Executive Officer	595	679	722	755	768
Staff Officer	527	579	610	612	617
Clerical Officer	1876	2076	2175	2201	2216
Temporary Clerical Officer	39	81	114	115	231
Totals	3393	3800	4056	4144	4300

Sourced under a Freedom of Information request to the Department of Social Protection

While a Clerical Officer grade in itself is not an indicator of competence of a Deciding Officer it is questionable whether the general level of experience and knowledge associated with the Clerical Officer grade is sufficient to generate adequately accurate decisions on complex schemes and qualification criteria.

Clarifications

Another area of note from recent SWAO reports relate to the issue of 'clarifications'. 'Clarifications' are described in the 2013 Annual Report as situations 'where it appeared to us 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 of Social Protection requesting that the decision be clarified for the appellant'. Clearly there are two parties involved if it appears that an applicant has misunderstood the refusal reason given by the Department of Social Protection but it is incumbent on the Department of Social Protection to make its decisions intelligible to its customers. The fact that the number of clarifications has almost doubled in three years is concerning.

Table 3. Clarifications sent back to the Department of Social Protection

Year	Clarifications sent back to Department	Total Appeals Registered
2013	4,910	32,777
2012	3,401	35,484
2011	3,894	31,241
2010	2,585	32,432
2009	2,657	25,963

Sourced from Social Welfare Appeals Office annual reports

Revised Decisions

In the context of the SWAO report Revised Decisions relate to appeal applications which have been finalised before going to an Appeals Officer because the first instance Deciding Officer has revised their initial decision on the application. This can be as a result of new information coming to light or an application may be improved or clarified following the intervention of a third party. While there may have been no fault on the part of the Deciding Officer at the initial stage in these cases this particular category of Revised Decisions should come under more rigorous quality control scrutiny since, in some cases, the initial decision making process is deficient.

Revised Decisions are also carried out at local office level without any intervention from the SWAO when new information comes to light or when an advocate intervenes. However a Freedom of Information request has revealed that the Department of Social Protection do not count these Revised Decisions nor do they count the outcomes of such Revised Decisions. All Revised Decisions and their outcomes should be counted and fed into a monitoring process.

Table 4. Revised Decisions that the SWAO is aware of

Year	Number of Appeals finalised due to initial Deciding Officer revising their decision	% of Appeals received by the SWAO
2013	8,062	21
2012	7,307	22.4
2011	6,035	17.7
2010	7,282	25.9
2009	4,873	27.4

Sourced from Social Welfare Appeals Office annual reports

Supplementary Welfare Allowance (SWA)

The Supplementary Welfare Allowance scheme is seen as a safety net payment and is often granted to applicants who are waiting for a mainstream Jobseeker's or Disability payment to be processed. It plays a crucial role in protecting the most vulnerable. With this in mind the Social Welfare Appeals Office gives priority to such appeals.

Table 5. Appeals processing times for Supplementary Welfare Allowance.

Year	SWAO (weeks)	Dept. of Social Protection (wks)	Appellant (weeks)	Total
2013	9.5	11	0.2	20.7 weeks
2012	10.4	7.3	0.3	18 weeks

Sourced from Social Welfare Appeals Office annual reports

An appeal for SWA still takes an average of five months to process. Considering the designated function of the scheme, the length of processing time is unacceptable. This is a failing of both the first instance decision maker and the Appeals Office as they share the delay in processing the appeal for what is very often an urgent need for the applicant. While there was an improvement of one week in the SWAO processing time for SWA in 2013 the processing time of the Department of Social Protection (in this case the Community Welfare Service - CWS) actually deteriorated by almost 4 weeks.

Prior to late 2011 the HSE administered the Supplementary Welfare Allowance scheme via Community Welfare Social Protection and is known as the Community Welfare Service. Officers who were largely based in local health centres. In 2011 this service became part of the Department of Social Protection and is known as the Community Welfare Service.



The Chief Appeals Officer has highlighted shortcomings of the Community Welfare Service of the Department of Social Protection in her last three annual reports. The following excerpt is from the 2011 report in relation to the integration of the Community Welfare Service into the Department of Social Protection:

Another aspect of the integration relates to the quality of appeals submitted for decision. As part of the transfer, a lot of emphasis was placed on the requirement

- *for formal written decisions,*
- *to include all relevant evidence and documentation, and*
- *to adequately address the appeal contentions.*

I have no doubt that further work will be needed in this regard in the next year.

From the 2012 Annual Report she writes the following:

SWA Integration

This is another topic that remained live in 2012. Timely receipt of submissions from the Department became a very big concern during 2012. Delays in receiving files from the Department are all the more difficult if the file relates to the Supplementary Welfare Allowance (SWA) scheme as, because of the nature of such payments, these cases are prioritised in the Appeals Office. The difficulties encountered in 2012 in relation to SWA submissions seemed to relate to the question of responsibility for preparing the files for submission. I am happy to say that these difficulties have now largely been ironed out and that these files are, in the main, being submitted in a timely manner.

Another aspect of the integration relates to a range of administrative shortcomings in the processing of SWA cases prior to their submission to the Appeals Office. Among the issues are:

- Failure in some cases to address the appeal contentions, as required by the legislation.
- Decisions which did not appear to have been based on any proper investigation or assessment of the available evidence.
- Decisions not properly explained to the appellant.

The Chief Appeals Officer decided again in the 2013 Annual Report to highlight the low quality of submissions her office is receiving from officers of the Community Welfare Service. She states that:

'...an estimated 5-10% of SWA files were returned to the Department in 2013 as they lacked some or all of the basic documents which would be allowed to require an appeal to proceed. These documents are:

- The application form
- The formal decision
- The submission of the designated person'

Based on the total number of SWA Appeals in 2013 this would equate to up to 480 people whose applications were delayed by failure of the Community Welfare Service to complete basic administrative tasks. To conclude this sub-section, there are clear indications that the general standard of decision making at first instance on scheme applications needs to improve. It is questionable that some decisions are taken by staff who are not adequately qualified or trained to do so. Administration of the SWA scheme in particular needs improvement along with its lengthy processing times at first instance and appeal stage.

4.2 THE '35 CASE SAMPLE'

A total of 71 problematic issues were identifiable in the 35 case studies analysed (2 issues per case on average). This was a higher rate of issues per case compared to *Person or Number?* where 80 issues were identifiable from 54 cases (1.4 issues per case on average). However, there were also some improvements. In the first *Person or Number?* report 4 of 54 (7.4%) cases sampled showed no obvious barrier to the person accessing their social protection rights. In *Person or Number? 2* the rate has improved significantly in that 9 of 35 cases (25%) sampled showed no obvious barrier. It can be surmised that in the more recent sample there are more people having no issue with the Department of Social Protection but of those that are, their issues are greater in number. However, there is a marked deterioration in customer services related issues from the sample for *Person or Number?* which was collected in early 2011.

A notable finding from the overall number of issues is that 60% of the issues identified related to the Community Welfare Service (CWS) of the Department of Social Protection. This is a disproportionately high rate and it tallies with the concerns raised by the Chief Appeals Officer in recent years in relation to the CWS, as detailed in the previous sub-section.

The sample consisted of 20 EEA nationals and 15 non-EEA nationals. Seven women and one man were the sole or main carers of their children. There were 17 males and 18 females in the sample.

The following sections are the main themes that were drawn out from an analysis of the '35 case sample'. Twelve case studies are detailed. The case studies do not always refer directly to the thematic section they are located in. Most case studies highlight multiple thematic issues. The names used in the following case studies are not the real names of the people involved.

1. Inappropriate Behaviour and/or Language

The following is a commitment from the Department of Social Protection Customer Action Plan 2013-2015 under a sub-heading of Service Standards and Performance Indicators:

Deliver quality services with courtesy, sensitivity and the minimum delay, fostering a climate of mutual respect between provider and customer. Give contact names in all communications to ensure ease of ongoing transactions. The Department will: Treat all customers with courtesy and respect...

Eight cases were identified where an official used inappropriate behaviour and/or language. This was up notably from the 2011 *Person or Number?* report where there were 3 of 54 in the category of 'Inappropriate, aggressive and racist language'. In *Person or Number? 2* there were 8 of 35 cases in the category of 'Inappropriate behaviour and/or language'. This was sometimes quite personalised not just towards the client, but the official also on some occasions personalised their role in terms of them as individuals being the providers (or not) of the payment, rather than them as a representative of the State. Some people in the research sample felt threatened and abused in response to some of the behaviour and language of officials. While none of the people in the case sample were asked specifically about racism, in at least two cases the people reported racist comments from officials. These were situations when officials made disparaging remarks about the nature of people of a particular nationality.

The following are some relevant excerpts from six of the case studies published in this report.

"... he laughed when I requested an increase in payment for my son". Daniele (Case Study I).

The officer said they should "go back to home to ****or wherever". Brigit (Case Study A).

She was told by the officer that "there is no place where you will get money and even if you apply you will not receive payment". Asha reported that she felt that the officer was 'sneering' at her. Asha (Case Study F).

The officer reiterated some facts in relation to qualification for the scheme several times while shouting "Do you understand?" while at the same time not giving an opportunity to answer. The interaction finished with the officer returning a form to Lesley in what she described as 'in a disrespectful manner'. Lesley (Case Study J).

The officer stated that: "You and your wife are not entitled to anything. Too many people from **** are coming here to take benefits for free." He says that when he protested this and the way he was being spoken to, the staff threatened to call the Gardai unless he left. Josef (Case Study K).

Cal also stated that he was questioned about his entry into the country and the legality of his entry into the country in an aggressive manner. Cal (Case Study B).

CASE STUDY A - BRIGIT

Brigit, an EEA national arrived in Ireland in April 2009. She joined her daughter and grandchildren. Brigit soon found a job as a cleaner. She worked from May 2009 until November 2012 when she became ill. Brigit applied for Illness Benefit in November 2012. While waiting for Illness benefit to be processed, Brigit approached her local Community Welfare Service.

Brigit's English is limited and she was accompanied by her friend who speaks English, to assist her in applying for Basic Supplementary Welfare Allowance (SWA). Brigit reported that the CWO was quite unfriendly and did not speak much. He took the form and the documents in support of the claim for Basic SWA. Brigit's friend tried to explain the reason why Brigit was seeking assistance.



In December 2012, Brigit received a refusal from Illness Benefit Section based on her PRSI record. She was missing a few PRSI contributions and had to wait a few weeks to reapply. Her GP did not recommend her to go back to work and Brigit continued sending her medical certificates.

She went back to her local CWO just after the Illness Benefit refusal in the middle of December 2012 to find out about her claim for Basic SWA. Brigit's granddaughter accompanied her this time. Her granddaughter is in her early 20s and speaks fluent English. They met the same CWO. According to Brigit, the Officer was 'rude and quite disrespectful'. Speaking to her granddaughter, the Officer referred to Brigit's previous visit with her friend as similar to a visit from two criminals from a popular TV show. He stated that they really should not be asking for money and should "go back to home to **** or wherever". The CWO led Brigit and her granddaughter to believe that Brigit was not entitled to the money.

In January 2013, when the claim was still not processed, Brigit went to his clinic again. The CWO asked for the same documents, for the second time. Brigit produced these documents as requested as well as Irish bank account and information regarding her rent.

In February, the claim was still not processed. Brigit enquired again, and again she received a note requesting the same documents (for the third time). She forwarded the documents once again. In March 2013, her re-application for Illness Benefit was processed and Brigit received her payment backdated to 1 January 2013. However, she was still due her basic SWA from November 2012 to December 2012.

In May 2013, the NGO involved wrote to the CWS Officer requesting the processing of the claim and the payment of the arrears. In July, the client found out that her claim was closed. She never received her outstanding 5 week payment. After this the NGO again sent a letter on Brigit's behalf requesting that the claim be reopened. In October 2013 Brigit decided to lodge an appeal and at the time this case study was collected she was preparing for an oral appeal hearing.

Other cases of poor customer service

While inappropriate language and behaviour constitute poor customer service in themselves, there were eight other examples of poor customer service:

There was a case not detailed in the case studies where the officer talking to the representative of the NGO claimed to be too busy to respond to their letters and that the NGO didn't know how busy they were.

The following is from the case of Daniele (Case Study I): "*...he was very inattentive and did not want to listen to me. He stood up a few times and left the room*".

In the Case Study of Brigit she stated that the CWO was quite unfriendly and did not speak much. On another occasion in relation to the same officer according to Brigit, the officer was 'rude and quite disrespectful'.

Other instances related to a person not having their call returned, a person holding the line for 30 minutes and the rather serious issue of an officer and a manager in a local office refusing to give their names - see the Case Study of Lesley (Case Study J).



2. Misinformation and Omitting Information

The following is a commitment from the Department of Social Protection Customer Action Plan 2013-2015 under the sub-heading of Service Standards and Performance Indicators:

Take a proactive approach in providing information that is clear, timely and accurate, is available at all points of contact, and meets the requirements of people with specific needs...The Department will: Ensure that all information provided to customers by staff of the Department is comprehensive and accurate...

The 2011 *Person or Number?* report outlined six cases of misinformation. In the smaller case sample for this study there were seven cases where incorrect information was provided or crucial information was not provided. One person was misinformed that they would not be entitled to an increase in payment for a qualified adult. Another person was advised that after they got part-time employment they could still keep their Jobseeker's Allowance payment. But it was not explained that the Department of Social Protection would still have to be notified and a reduced payment would ensue. An overpayment resulted. Another case related to a client being repeatedly misinformed about the requirements for a PPS number.

Omission of information on how to prove 'Genuinely Seeking Work':

A particular issue that arose related as much to omission of key information as the provision of misinformation. There were two instances in this regard relating to the documentary evidence required for jobseekers to prove they were genuinely seeking work. Applicants were not told of the documentary requirements to prove 'genuinely seeking work' nor was this information elicited prior to a decision being made on an application. The application form in question simply states 'Please attach any documentary evidence'. In addition the actual legal requirements for 'Persons regarded as genuinely seeking employment' as laid out in section 16 of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. 142 of 2007) appear not to have been adhered to in these two applications. Further issues of crucial information omitted related to the failure of officials to refer people to the option of the Community Welfare Service and applying for SWA if they have a need. There were two cases where this happened with women applying for Jobseeker's Allowance. The crucial functions of the SWA scheme are described in the next section.

CASE STUDY B - CAL

Cal, a non-EEA national, moved to Ireland with his wife in early 2014 to look for work. On applying for PPS numbers they were informed by the local office that two forms of identification (ID) would be required. His wife only had her passport as a form of ID. The couple went to an NGO for help. The NGO contacted the manager of the office who confirmed that only one form of ID was required.

The couple reapplied for PPS numbers and Cal was asked to produce a GNIB card and immigration stamp on his passport. Again this was contrary to Departmental policy on application requirements for PPS numbers. Cal also stated that he was questioned about his entry into the country, and the legality of his entry into the country, in an aggressive manner. He was given a letter outlining the requirements which included a second form of ID, despite the fact that he had already produced his passport.

The assisting NGO again contacted the manager to complain about the questioning of Cal and the requirement for a second form of ID. Again the manager confirmed that a second form of ID was not needed and stated that any pro-forma letters requiring additional ID had been removed from usage in the office.

However Cal then received a call from the local office telling him to go to the local Garda station with his passport to get it stamped and to then come into the office to apply for his PPS Number. The NGO relayed this message to the local office manager again. The manager said that this was a mistake and asked the NGO to give Cal his direct number. Cal got his PPS number the following week.



3. Emergency Needs Payments (ENPs) refused in crisis

The Community Welfare Service (CWS) of the Department of Social Protection was transferred from the Health Services Executive (HSE) in 2011. The CWS continues to operate the Supplementary Welfare Allowance (SWA) schemes. In the 2012 Department of Social Protection document 'Report of the Working Group on ENP, UNP and other Supplement Guidelines' SWA is described as:

The State's income maintenance contingency plan. If another social insurance or social assistance schemes does not meet a customer's needs, SWA will.

Emergency Needs Payments (ENPs) which are under the SWA scheme are very often the 'last line of defence' in terms of social protection for people in extreme poverty and situations of vulnerability or destitution. In the aforementioned Departmental report ENPs are described as follows:

An ENP is a single payment to meet a need that could not reasonably have been foreseen by the customer or, if it could have been foreseen, the customer's means are not sufficient to meet the need... The term "single payment" is sometimes interpreted as being once-off and not to be repeated. However, this interpretation is not correct. An ENP is a single payment in so far as it is not a weekly payment. One may be made for the same need on more than one occasion if it is considered necessary for the customer's wellbeing.

In terms of the fundamentals of the guidelines for ENPs it also stated in relation to the question of 'need':

Need is seen in terms of social inclusion, as defined earlier, and the responses to need should not be based on the bare minimum necessary for survival but on what is considered normal or usual.

There were three cases in the sample where it was apparent that an ENP could have been made to ease a crisis situation but the officers in question decided against taking such action. The cases of Teresa (Case Study H) and Molly (Case Study C) are outlined in this report and the other case related to a destitute and extremely vulnerable EEA national. The aforementioned excerpts and points from the Departmental Working Group report are not always reflected in decision making on ENPs and this was the situation for some of the cases in the sample. It should also be noted that the tone of the Guidelines made available for officials in January 2013 is markedly different from the Departmental Working Group report with the following sentence from the front page of SWA Circular 1/2013 emboldened with two words underlined:

Officers are reminded that the principal consideration in making a single payment to address a particular need is that the need to be met must be exceptional and unforeseen.

The guidelines provided to officers do not temper the issue of 'foreseeability' as is done in the Working Group Report nor do they make it clear that an ENP is not a 'once only' payment. In fact the Circular could be interpreted as encouraging a narrower usage of ENPs than is actually described in the Working Group Report and more importantly than is provided for in Sections 201 and 202 of the Social Welfare Consolidation Act 2005. It is startling to note that the expenditure on ENPs under the category of applicant with 'Insufficient Means' dropped by more than 25% when comparing 2012 to 2013 after Circular 1/2013.



CASE STUDY C - MOLLY

Molly initially came to Ireland as an asylum seeker. After a number of years waiting for her application to be processed she developed a relationship with an EU national and they got married. The relationship has not been going well and, while still married, Molly's husband has not supported her for over two years. She struggled in this period with mental health difficulties. She was also homeless for a period during this time. Molly engaged with health services who were concerned for her welfare. In co-operation with health services an NGO assisted Molly to make applications for Basic SWA and Rent Allowance this year. She was referred to a different CWS for an ENP but this was refused on the basis that 'it could not be considered as her claim for SWA and Rent Supplement had only been submitted two days ago'. At the time of writing Molly was on the verge of homelessness again.



4. Use of Interpreters

In the Department of Social Protection's Customer Action Plan 2013-2015 it has committed to ensuring:

the rights to equal treatment established by equality legislation, and accommodate diversity, so as to contribute to equality for the groups covered by the equality legislation ... Identify and work to eliminate barriers to access to services for people experiencing poverty and social exclusion, and for those facing geographic barriers to services.

Under this particular commitment it states that:

The Department will...Provide interpretation and translation services to meet customer needs.

There were at least five cases in the sample where it was clear that applicants had inadequate English language skills to fully understand the application procedures they were involved in. In none of these cases was a person offered an interpreter and in one case a person requested an interpreter and was refused. This issue merits a separate study in its own right as it is a serious and significant issue if people are not being facilitated to engage with the social protection system in a fair way. If applicants have inadequate English language skills it can lead to very unbalanced interactions with misunderstandings on both sides. Case Study E of Marcus is one example of a person who needed an interpreter but was never offered this service.

Crosscare's Information and Advocacy Services service used interpreters 1,128 times for 504 distinct individuals in the year to the end of June 2014. Information obtained under the Freedom of Information Acts shows that in 2013 only 492 people were provided with an interpreter in their interactions with the Department of Social Protection. This was a year that saw €1.4 million people in receipt of a social welfare payment. This is also in the context of the 2012 CSO report 'Profile 6 Migration and Diversity – A Profile of Diversity in Ireland' concluding that 43,229 non-Irish nationals could either not speak English well or not speak English at all.

Table 6. Interpreter usage in the Department of Social Protection

Year	In person interpreter interactions	Telephone interpreter interactions	Annual totals
2014 to July	137	163	300 to July
2013	288	204	492
2012	354	232	586
2011	273	136	409

Sourced under a Freedom of Information request to the Department of Social Protection

The average usage of interpreters per year in Department of Social Protection was 496 times over the three years from 2011 to 2013, either via the telephone or in person. This equates to just under 10 times per week, or two per day across the whole national network of 125 regional and branch offices. These low figures warrant further examination and research.



CASE STUDY D - MIZA

Miza is a non-EEA national, forty years of age and living and working in Ireland since 2010. She was initially here on student status and now as the spouse of an EU citizen. Miza works in a hotel as a cleaner and has only left Ireland briefly in the last 4 years to visit family. Her teenage daughter came to live with her last year after Miza's marriage.

Miza has worked for several contract cleaning companies since 2010, working in hotels. She has found this work increasingly difficult, citing issues such as the physical demands of such work, and a recent change to management at one hotel where she feels that she is being unfairly treated for having spoken out on health and safety issues, and a subsequent reduction in hours. It is for this reason that she sought assistance from the Department of Social Protection. She is currently being given two days work per week, and she sought assistance on the basis that her hours of work had been reduced.

Miza states that she feels nervous about attending her local social welfare office. She attended on one occasion to obtain the application forms for Jobseekers Benefit / Allowance. She stated that she could not understand what the member of staff was saying when she was spoken to, and she did not like the treatment she received, and only went in 'because I had to'. She has returned to the local social welfare office more recently having suffered an accident at work. She has complained further regarding the treatment that she received, stating that she could not understand the English being spoken at the office, and that she felt she was treated 'like an animal' when seeking information regarding her claim for Injury Benefit. Overall, she has conveyed a sense of confusion and stress in relation to her interactions with the local social welfare office and she is fearful of elaborating on her issues further in case she is identified.

The statistics and the cases in this report point to a potential systemic issue where interpreters are not always being called upon when necessary. The recently revised HRC1 form does now ask people if they require an interpreter and this is a welcome development. However there needs to be mandatory training conducted with all staff to ensure that all people who need an interpreter are provided with an interpreter.



5. Arrears not paid or delayed

Online Departmental Guidance indicates that 'An arrears payment can normally be expected within 3 weeks of the date of the decision of a Deciding Officer or Designated Person on entitlement'. In general, successful applications for payments should be paid (with arrears) to applicants from the day of application. With long processing times for initial applications and often even longer processing times for appeals applications people in need wait very long periods of time without a payment. It is unacceptable that there are unreasonable delays in the granting of arrears in cases where decisions have been made to people in such difficult circumstances.

There were four cases in the sample where people had been granted a payment (sometimes on appeal) but had not been paid the full amount owed by the State or they were still waiting a considerable period of time for any arrears to be paid. See the cases of Brigit (Case Study A) and Marcus (Case Study E) for examples. This is money owed by the State to its citizens (often in great financial need) that is not being paid in a reasonable time frame. A Freedom of Information request on the number and size of arrears lump sums paid to people by the Department of Social Protection was submitted as part of this report; however, we were informed that this information is not held by the Department of Social Protection.

Delays in payments or successful appeals of SWA are particularly problematic in the context of the role played by this scheme. An examination of the processing times of appeals is given in the documentary analysis section of the report.

CASE STUDY E - MARCUS

Marcus is a non-EEA national who, along with his wife, has residency in Ireland based on being a family member of a recognised refugee. Marcus had first contacted the assisting NGO in late 2011 as his social welfare payments had been stopped. The NGO assisted Marcus with an appeal which was successful in August 2013, after an oral hearing. During the interim period they had no income and were reliant on their son and St. Vincent de Paul for assistance.

In September 2013, the assisting NGO contacted the local office as Marcus had not been advised when arrears would be paid. Marcus received a payment of arrears in November 2013. Even though his rent allowance application was submitted in March 2012 the arrears were only paid from May 2013.

The NGO contacted the local office by e-mail in December 2013 to query why full arrears had not been paid. No response was received. In February 2014 another e-mail was sent to the manager of the office who referred it to the CWS. Again no response was received.

In March 2014 the issue was raised in person with the office manager. Confirmation was received in late March 2014 that arrears would be paid to March 2012. This was explained via interpreter to Marcus at the NGOs offices in March 2014.

Marcus does not have good English language skills and has never been offered an interpreter at the local office and was unaware that this service existed. He and his son have both expressed their fear that the local officers are looking for an excuse to cut their payments again.

It was difficult to find the aforementioned '3 week normal expectation' guidance on arrears payments on the Department's website. This needs to be strengthened from a 'normal expectation' to a clear policy and such information needs to be raised with all Deciding Officers and Designated Persons and made much more accessible on the Department's website.



6. Repeat requests for documents already submitted

There were four instances where documentation that had already been submitted was requested again by the official. Three of these cases involved the Community Welfare Service. See the cases of Daniele (Case Study I), Brigit (Case Study A), Asha (Case Study F) and Teresa (Case Study H).

Not only do these unnecessary requests show up significant inefficiencies but they are hugely stressful for people in an already difficult situation.

CASE STUDY F - ASHA

Asha arrived in Ireland from an EEA country in April 2008 to look for work. She worked in Ireland as a cleaner from May 2008 until June 2013 on a full-time basis before her health dramatically deteriorated and she could no longer work. Her doctor (GP) recommended that Asha not return to work.

Asha applied for Illness Benefit in July 2013. Her payment was awarded very soon after. She presented weekly certificates to the Local SWO until November 2013. In November 2013 she received a letter from Illness Benefit Section stating that she could now submit monthly certificates. Asha continued to bring in monthly certificates to her Local SWO as advised by Illness Benefit Section. She was receiving Illness Benefit regularly until January 2014.

In January 2014 the client received a letter from Illness Benefit Section requesting her November and December 2013 certificates. She was confused as she had previously submitted medical certificates for November and December 2013. Asha went back to her GP and requested copies of the certificates, which she brought to her Local SWO the same day. In January 2014 her Illness Benefit was stopped without any notification. Asha continued to provide medical certificates for January, February and March 2014 and was very distressed as to why she was not paid.

Asha had no money and when she tried to call Illness Benefit Section, the officer, 'did not make much effort to help me but told me that someone would call me back'. She never received a call back. She also went to her local SWO to enquire if there was any other payment she could get. She was told by the officer that 'there is no place where you will get money and even if you apply you will not receive payment'. Asha reported that she felt that the Officer was '*sneering*' at her.

Asha tried to call the Illness Benefit Section for the second time and was holding the line for more than 30 minutes. No one answered the call and her credit expired. She was not aware of the Basic SWA payment as no one in her Local SWO informed her. Asha became extremely depressed but she continued to submit medical certificates. She had no savings left. In March 2014 she received a letter from Illness benefit Section regarding an alleged overpayment of over €1000 and that the Section is now looking to recover this money. Asha was very confused and she was still ill. Asha felt she was treated very unfairly and that she was discriminated against. Following the intervention of an NGO which contacted the Illness Benefit Section Asha's payment was restored and the overpayment cancelled.



7. Payments stopped without notice

The following is an excerpt from the Department of Social Protection Guidelines on Decision Making and Natural Justice:

Suspension of Payment

The legislation provides for suspension of payment in cases where there is reason to believe that the person concerned does not fulfil the conditions for the benefit or assistance in payment, or that the rate in payment is incorrect. Suspension should not be imposed unless there is a reasonable belief that the basic conditions are not being fulfilled. As in the case of a decision to disallow, disqualify or reduce payment, the claimant must be informed before payment is suspended and be given an opportunity to state his or her case.

The practice of stopping payments without giving the person adequate notice and an opportunity to contest the grounds for stopping a payment can be damaging. There were four cases in the sample where people had their payments cut without any notice. This practice causes chaos in the lives of vulnerable people and leads them to the edge of homelessness. The cases of Asha (Case Study F) and Grace (Case Study G) show some examples of how this practice can cause particular problems when it is a rent supplement payment that is stopped.

If an official believes that he/she has information that indicates that a person may no longer be entitled to a payment then the person needs to be contacted for further information and their perspective, as per above guidelines.

CASE STUDY G - GRACE

Grace is an EEA national who has lived in Ireland for the last 13 years. During this time she has largely been in employment but also spent time studying for a BA.

In October 2013, she applied for Rent Supplement for the first time. While her son still lived with her, they had managed to pay the rent between the two of them. However, when he moved out she could not cover the rent costs and applied for Rent Supplement.

The payment was approved in November 2013 by the local Rents Unit of the Department of Social Protection. Subsequently, in late December her payment was stopped without notice. She spent two days trying to contact the office to find out why, without success. However she persisted and finally by email, Grace was told that there was doubt over her living at her address. She spent a lot of money on calls and found the experience of dealing with the Rents Unit very stressful. Her payment was reinstated at the end of December.

Grace finished a CE scheme in early January 2014 and successfully applied for Jobseeker's Allowance.

She then received a letter in February 2014 from the Rents Unit. It incorrectly stated that Grace was working and requested that she send in payslips and a letter from her employer. It also stated that her payment would be suspended if she did not send this information within fourteen days.

She emailed the Rents Unit to state that she was not working. After emailing to and fro for a number of days, she was told to contact Revenue to sort this problem out. She did this, and was told by the person in Revenue that there was no open employment on her record. The revenue officer even offered to call the Rents Unit to confirm this, but she couldn't get through. She emailed what she had been told by Revenue to the Rents Unit and did not get a response. She made a formal complaint with the assistance of an NGO.



8. Speculative decisions on means

The Department of Social Protection guidelines on Decision Making and Natural Justice provide guidance on the use of various types of evidence: direct evidence, indirect or circumstantial evidence and hearsay.

It states specifically that:

Care should be exercised when considering applications that speculation is not entered into.

There were four cases in the sample where decisions were made on the basis that the officer felt there had been a failure on the part of the applicant to provide full information on their means. There was little evidence in any of these cases to support the officers views other than the fact that the applicant had managed to survive without a formal income for a period of time. Little weight appeared to be given to support that had been provided by extended family or charities which can be difficult if not impossible to document. There were two such cases in addition to those of Teresa (Case Study H) and Marcus (Case Study E).

Guidelines on the use of circumstantial and indirect evidence have been improved but clearly implementation issues remain.

CASE STUDY H - TERESA

Teresa, a non-EEA national, came to Ireland to study in 2009. She and an EU national developed a relationship and in 2011 and 2013 she had children with her partner. As a parent of Irish children she was granted full residency status in 2013.

Unfortunately Teresa's relationship with her partner broke down and she made an application for assistance to the Department of Social Protection as the father of the children no longer provided financial support. She was a lone parent and applied for One Parent Family Payment and Supplementary Welfare Allowance. A month after the application the Community Welfare Service (CWS) requested more information from Teresa which she provided. The following month Supplementary Welfare Allowance (SWA) was refused on a number of grounds including failure to satisfy the Habitual Residence Condition and means. CWS also justified the decision on the premise that Teresa had not applied for Child Benefit even though 3 months previously she had done just that. On presenting to an NGO further supporting evidence was gathered. An appeal for SWA was submitted along with a request to review. These additional supporting documents were also submitted to the Social Welfare Inspector of the One Parent Family Payment section in support of that application which had not been decided yet.

Also at this time Teresa was accumulating rent arrears. She and her sister had been renting but when her sister lost her job the situation became urgent. Teresa went to the CWS to apply for an interim Emergency Needs Payment (ENP) to cover the rent. Teresa was referred to another CWS as she was told that her local CWS did not deal with ENPs. Teresa presented to the other CWS and was asked for a large amount of wide ranging documentation, some of which she had already submitted. This was very distressing for Teresa who with two young children was on the edge of homelessness and had already put significant work into submitting a large amount of documentation to the Department of Social Protection. Nevertheless with the assistance of the NGO, Teresa submitted all the requested documentation the following day. A HRC1 form was completed even though it is not a requirement for an ENP. However additional information was again requested by this CWS. This information was not on the generic checklist she was provided with the previous day. Teresa asked for the name of the HEO (Higher Executive Officer) in the CWS so that she could address the additional information to him/her. This was refused despite asking twice. All information requested was presented to the CWS in support of the ENP application. The application was refused and a review request was made.



9. Non-response

There were three cases in the sample where the Department of Social Protection did not respond to crucial correspondence about a person's payment. Two of these situations involve the cases of Grace (Case Study G) and Marcus (Case Study E).

CASE STUDY I - DANIELE

Daniele is an EEA national. She arrived in Ireland in November 2006 looking for work. She found a full-time job and continuously worked in Ireland on a full-time basis until April 2013. Daniele's son joined her in Ireland in 2012. He finished his secondary education in their country of origin and came to Ireland to study at University.

In April 2013, Daniele's hours were reduced and she approached her local Community Welfare Service to apply for Basic SWA as she was struggling to pay her bills. She had never applied for social welfare before. Daniele was working 4 hours a day and so was not entitled to claim Jobseeker's Benefit.

Her first interaction with Community Welfare Service was quite positive as the Officer was very helpful. She was entitled to and granted a small rate of Basic SWA. She could not claim an increase for her son as in April 2013 he was not studying full-time in Ireland. Nor could she apply for Family Income Supplement (FIS) for to the same reason.

In December 2013 she applied for FIS as her son had become a full-time student. While waiting for Family Income Supplement to be processed she approached her Local Community Welfare Service again to apply for an increase in her Basic SWA for her son. This time she was met by a different officer whom she said *'made me feel very unwelcome. He was very inattentive and did not want to listen to me. He stood up a few times and left the room and he laughed when I requested an increase in payment for my son'*.

Daniele had been collecting her Basic SWA weekly in her local post office. However, after her second visit to the CWS, the officer told her to come to his clinic every week and collect the cheque. After almost a month she is yet to receive an increase for her son. Daniele provided the officer with the necessary documents: her son's birth certificate, letter from college, letter from landlord, bank statements for her son. After 3 weeks the officer gave Daniele a list of further documents to provide in order for her to receive the increase for her son. The list included some documents which she had already provided: birth certificate and passport for her son, letter from college, bank statements. The list also included new documents such as: rent lease with her son's name added, rent book with her son's name added, proof of ownership from the landlord and bills in her son's name – all for an increase in her Basic SWA payment, not for Rent Supplement which she is not on. Daniele feels she has been treated very unfairly and disrespectfully by the CWO.



10. Documents or applications refused

There were two situations where an official refused to accept documentation related to an application for payment. One case was of a person who had been refused Jobseeker's Allowance. She knew from the reasons supplied in the letter that she had the information to disprove the reasoning, so she went to the local office with the information and requested a review of the decision. The officer refused to take the documentation from her.

The other case was of a situation where a CWS service refused to take an application from someone for SWA who had recently been refused for Jobseeker's Allowance. At the time of writing, a review was ongoing for the Jobseeker's Allowance.

CASE STUDY J - LESLEY

Lesley went to her local social welfare office with a question of clarification on qualifying criteria for a payment that she was receiving. She approached an officer she had repeated and positive dealings with but immediately after posing her question the officer started shouting at Lesley. The officer reiterated some facts in relation to qualification for the scheme several times while shouting 'Do you understand?' while at the same time not giving an opportunity to answer. The interaction finished with the officer returning a form to Lesley in what she described as 'in a disrespectful manner'. Lesley was very upset by this interaction and went to a local NGO for assistance and clarification.

Lesley was accompanied by a person from the NGO back to the local office to request an explanation for the behaviour of the official. The official refused to accept that she behaved in an inappropriate manner and said she was speaking loudly so that she could be heard over the glass kiosk. The official's manager was now standing beside her and initially neither would give their names, nor would they give the surname of whom a complaint should be addressed to.

A complaint was submitted and a reply was received. Lesley has returned several times since and has been treated well.



11. Customer Complaint Fear

The following is a commitment from the Department of Social Protection Customer Action Plan 2013-2015 under a sub-heading of Service Standards and Performance Indicators:

Maintain a well-publicised, accessible, transparent and simple-to-use system of dealing with complaints about the quality of service provided.

The Department will:

- *Ensure that all complaints are treated promptly, fairly and impartially.*
- *Ensure that customers are aware of how to make complaints under the Department's complaints procedures.*
- *Provide an opportunity for customers to make a comment or complaints at all points of service delivery.*
- *Promote the availability of the comments and complaints system through the website: <http://www.welfare.ie/en/Pages/Comments-or-Complaints.aspx> and through our network of local offices...*

Out of the sample there were two people who expressed fear about complaining regarding poor treatment to the Department of Social Protection. Marcus (Case Study E) was one case and another was of a man who stated that:

...the attitude of the person I deal with there is very bad and they are rude and argumentative, even when I am just looking for simple information'.

This man said that he wanted to avoid confrontation fearing that it would make his situation worse and so was reluctant to complain.

CASE STUDY K - JOSEF

Josef had come to Ireland from the EEA with his wife and children to look for work in 2012. They had some difficulty finding work and in 2013 they applied for social welfare payments. These were refused based on failure to satisfy the Habitual Residence Condition. Josef continued to look for work and eventually got part-time employment. This changed Josef's situation considerably as he would now be classified as an 'EEA worker' and would be eligible for SWA and Child Benefit. The Child Benefit section were informed of the change in circumstances and granted the Child Benefit payment. However the Community Welfare Service refused to recognise that Josef was an 'EEA worker' on the basis that his part-time wage was not sufficient to support his family. This is not a criterion to qualify for SWA as an EEA worker where it is also not necessary to satisfy the HRC. With the assistance of an NGO a review request has been submitted.

During his interactions with his local social welfare office, after he got part-time work, Josef reported that when he told an official where he was from the official sighed and raised his hand to his brow. The official stated that: "You and your wife are not entitled to anything. Too many people from **** are coming here to take benefits for free." He says that when he protested this and the way he was being spoken to, the staff threatened to call the Gardai unless he left.



12. Incorrect refusal on Habitual Residence Condition (HRC)

The Habitual Residence Condition (HRC) is a test to ascertain if an applicant for certain types of means tested social welfare payment has an adequately strong connection with Ireland. When the HRC is assessed five factors of the applicant's situation should be examined, for example employment history, residency history, centre of interest and future intentions. There are a variety of exemptions from the HRC and guidance on how to implement the HRC has improved considerably in the ten years since its introduction in 2004. The Habitual Residence Condition is unlike most other qualifying criteria in that its core component - level of connection to Ireland or 'centre of interest' is less amenable to accurate and objective measurement than other qualifying criteria such as income, age, family status or illness.

Misapplication of the Habitual Residence Condition continues to be a problem. Two of the three cases identified under this heading involved non-application of the HRC exemption for EEA workers – Josef and Victor. The other involved a referencing of the five factors with clearly no consideration of the particular circumstances of the applicant in relation to the five factors.

CASE STUDY L - VICTOR

Victor (EEA national) has lived with his father in Ireland since 2007 and both have been employed for most of their time here. However during short periods of unemployment Victor was refused social welfare payments on at least four occasions between 2008 and 2012. On none of these occasions was his EEA worker status recognised and on three occasions no referral was made to the possibility of making an application for SWA.

On three of these occasions between 2010 and 2012 he was refused Jobseeker's Allowance based on failure to satisfy the HRC, despite having a 3-5 years residency history in Ireland along with an established work record and family connections in Ireland.

Victor stated that he does not understand how he could be considered to be habitually resident somewhere other than Ireland. He stated that 'Ireland is my home now'.

13. Other Issues

Other issues that appeared in the sample, to a lesser extent, included:

- Lack of understanding of immigration status. See the case of Cal (Case Study B). It is also clear from the internal Decisions Advisory Office (DAO) document on the HRC that there is still some confusion among DOs and DPs around the issue of right to reside;
- Miscalculation of payments;
- HRC1 form not provided.



4.3 THE ONLINE SURVEY OF DEVELOPMENT MANAGERS OF CITIZENS INFORMATION SERVICES

The issue of racism appeared in a small number of cases in the 2011 *Person or Number?* report. It was felt due to the seriousness of this issue and the fear and reluctance people feel in reporting racism that it was important to examine it specifically as part of *Person or Number? 2*. The methodology chosen and resources available to gather the '35 Case Sample' did not allow for specific questions on experiences of racism or any other problematic issue, therefore another methodology was chosen to examine racism.

There are 42 Citizens Information Services across Ireland in 268 locations. The Citizens Information Board is a statutory body which supports the network of Citizens Information Services nationally. Citizens Information Centres are specifically mentioned in Habitual Residence Condition Forms (HRC1) as a place for applicants to go to for help with completing the form; the majority of people asked to complete HRC1 forms are immigrants.

Data provided by the Citizens Information Board shows that the total number of callers dealt with by CIS's during the first half of 2014 was 309,717. One-fifth of those (where country of origin was recorded) were from outside Ireland. During the first half of 2014, social welfare matters accounted for 41% of queries from the migrant population. This equates to at least 25,000 queries that CIS's nationally dealt with in the first six months of 2014 that were from migrants with social protection issues.

The 42 Citizens Information Services are each managed by Development Managers. Each of these 42 Development Managers were asked to participate in a brief anonymous three question online survey as part of this report. Thirty-seven of 42 Development Managers participated in the survey. The participants were asked three questions.

The first question related to the frequency with which their service dealt with migrant clients. The following table summarises the answers to the first question.

Table 7: Answers to the question: In your opinion, on average how often do migrants with social protection issues present to the Citizens Information Service in your area:

Answer Options	Response Percent	Response Count
More than 5 times a day	18.9%	7
1-5 times a day	40.5%	15
2-4 times per week	29.7%	11
About once per week	8.1%	3
2-3 times per month	2.7%	1
About once per month or less	0.0%	0
Other (please specify)		0
	answered question	37
	skipped question	0



The second question was 'What are the two most common issues that migrant clients present with which relate to the Department of Social Protection?' A breakdown of the answers is given in the following table:

Table 8: Most common migrant social protection issues for CISs nationally

Most common issues of migrant clients of Citizens Information Services related to DSP	No. of Development Managers who mentioned this issue
Habitual Residence Condition	19
Rent Supplement	11
Jobseeker Payments	10
Family Income Supplement	3
One Parent Family Payment	2
Payment delays (including one related to delays with the Social Welfare Appeals Office)	2
Supplementary Welfare Allowance	1
Disability Allowance	1
Carers Allowance	1
Filling out forms	1
'Not being allowed to make applications for payments'.	1
'Language Barrier - it would appear migrant are not always given the time by DSP staff to explain the rules of schemes'	1
Means testing	1
EEA migrant worker status	1
Change of addresses Reckonable residence	1
'Eligibility for benefits based on combining their social insurance from abroad with Irish social insurance'	1



The third question asked was 'In the last 12 months approximately how many clients have mentioned experiencing racism in their interaction with an official from the Department of Social Protection?' Thirty-one of the 37 participating Development Managers answered this question.

Table 9: Responses of Development Managers when questioned on the number of customer reports of racism from official of Department of Social Protection

Answer given	No. of Development Managers
'20-25'	1
'Approximately 5'	1
'5'	1
'4-5'	1
'1-2'	1
'Very little'	1
'Not many clients say out straight that they have experienced racism but in many times our staff would sense an undercurrent of racism when we would be dealing with the Department on their behalf. This would have been noticed more than 20 times in the year if not more. It is worse when dealing with the Local Authorities'.	1
'We regularly meet clients, both Irish and people from other countries, who mention that they have been treated in a discourteous and rude manner by representatives of DSP'.	1
'None have mentioned racism but all nationalities including Irish frequently mention that DSP staff are rude'.	1
'I do not know as we do not record this information on our data collection system, but information officers are recounting these negative experiences. One EU national who works as a volunteer information officer, tells me this is very common. We recorded a social policy on this last week'.	1
'No one has reported any specific issue. DSP can be perceived as rude and rushed with very little time for the nuances that can present' .	1
'We have not kept records of this however; there have been many instances of rudeness. Last week a **** client complained that an official had shouted at him and said ' Why don't you go to **** to get your rights?' The client had said 'I do understand I have rights here' and he is entitled to SWA under EU treaty rights He was very upset and is considering leaving Ireland'.	1
'On occasion we do get comments from migrant clients who feel that they were not treated fairly by social protection staff. When we explain the rules applicable to their claim it gives them a better understanding of the social welfare system in Ireland'.	1
'I don't know' or 'we don't record'	3
'To my knowledge no clients have made such report' or similar answer	15
	31 – total who answered



Some of the comments in the above table point to a level of racism and they also support the findings from the '35 case sample' in relation to inappropriate behaviour/language and customer service. Most significant though are the answers at the top of the table that put a specific figure on the number of incidents to the question, 'In the last 12 months approximately how many clients have mentioned experiencing racism in their interaction with an official from the Department of Social Protection?'

To summarise the answer to this question: **in the 12 months leading up to this survey the participants collectively estimated that up to 42 clients reported having experienced racism in an interaction with an official from the Department of Social Protection.** The methodology employed does not allow us to discern the offices where racism was reported but clearly there are at least four CIS service areas (the first four answers in the table) where there are serious problems of racism from Department of Social Protection staff.

Racism is a deplorable phenomenon experienced by many migrants and people of migrant background in Ireland. The fact that this report indicates that a considerable number of people are experiencing racism directly from State officials is deeply problematic and unacceptable. It is the finding from this report that warrants the swiftest and most meaningful and effective response from the Department of Social Protection.

5. RECOMMENDATIONS

The Department of Social Protection is committed to providing a professional, efficient and courteous service to all customers, providing and delivering the highest quality of service in accordance with the guiding principles of Quality Customer Service which have been adopted across the public service and endorsed by Government – from the Department of Social Protection Customer Charter and Action Plan 2013-2015.

Person or Number? 2 shows clearly that the Department of Social Protection is not reaching its own standards consistently in a number of areas. The following are recommendations on how to improve the service issues raised in this report.

1. Establishment of Performance Monitoring, Evaluation and Implementation Unit

This report has highlighted a number of administrative practices in the Department of Social Protection that are well below the expected standard:

- 1.1 Misinformation and omission of information
- 1.2 Arrears not paid or delayed
- 1.3 Repeat requests for documents already submitted
- 1.4 Payments stopped without notice
- 1.5 Speculative decisions on means
- 1.6 Non-responses
- 1.7 Documents or applications refused

In addition the number of clarifications being sought by the Social Welfare Appeals Office from local office officials has doubled in three years, indicating poor communication of decisions to applicants by local office officials. The Department of Social Protection does not count or monitor revised decisions made at local offices. Decisions revised after the intervention of the Social Welfare Appeals Office are not analysed adequately to inform better practice. The Community Welfare Service has been repeatedly identified as failing on a number of occasions to carry out basic administrative functions correctly despite the relatively high staff grade (Higher Executive Officer) of the Designated Persons involved.

These issues are at variance with the Department of Social Protection's own standards and guidelines. Some were also identified in the 2011 *Person or Number?* report. There is a clear implementation problem. It is recommended that the Department of Social Protection sets up a high level Performance Monitoring, Evaluation and Implementation Unit to upscale the level of monitoring and evaluation it does of administrative practice and decisions made of applications nationally. This unit would also drive, and not just advise, on better decision making and practice at the frontline. The unit should report to the Oireachtas on an annual basis via the Committee on Public Service Oversight and Petitions.

2. Migrant Consultative Forum to meet more regularly and with more organisations

The Migrant Consultative Forum needs to meet at least three times a year to deal with the issues raised in this report and other emerging issues. The NGO participation in the forum needs to be expanded with suggested involvement of local Citizen Information Services.



3. Compulsory Training

Outcomes from enhanced direct consultation with migrant service users and outcomes from the proposed Performance Monitoring, Evaluation and Implementation Unit (from enhanced monitoring and evaluation) need to feed into compulsory training for staff. Optional training is not adequately comprehensive and has not proven to be effective in preventing the problems outlined in this report.

4. Supports for Local office management

Managers of local offices have a particularly key role to play in improving customer service, administrative practice and decision making performance. They are a key bridge between the theory and the practice and they need to not only be evaluated in this context but more importantly supported adequately to deliver the type of service that is committed to in the Customer Action Plan.

5. Accountability from the frontline up – introduction of name badges

A simple practical measure that would improve transparency, accountability and thus frontline performance would be the introduction of mandatory name badges for frontline staff. Use of name badges is a globally accepted way of improving customer relations.

6. Tackling Racism

The racism findings are the most serious in this report. Minimising and downplaying the seriousness of the issue will not solve the problem. The issue needs to be talked about and named, recognised for what it is and directly addressed. The following are proposals on how to eliminate racism from the social protection system:

6.1 People of migrant background who are customers of the Department of Social Protection should be explicitly asked through a comprehensive independent survey if they have experienced racism from staff of the Department of Social Protection. This was a recommendation from the initial *Person or Number?* that was not implemented.

6.2 The development of a strong internal Departmental plan to deal directly with racism – be it between employees, between service users or between employees and service users. Such a plan would need to be evaluated for its impact.

6.3 All public offices of the Department of Social Protection should be designated as Racism Free Zones. This would be a displayed pledge from the staff and management in local offices to not tolerate racism from anyone working in or visiting the office. It involves the displaying of clearly identifiable posters with accessible complaints mechanisms.

6.4 Mandatory anti-racism training is needed for all staff. Optional training is not acceptable as those more understanding of diversity issues are often those who will self-select for optional training.

6.5 Specific mention of working respectfully with an ethnically diverse population must be stated in the Customer Charter and Customer Action Plan. This was also a recommendation from the initial *Person or Number?* report that was not implemented by the Department of Social Protection.

6.6 Citizens Information Services nationally should ensure that they have a clear mechanism for recording reports of racism, including details of the government agency involved, if relevant. Migrants with social welfare queries make up a large percentage of CIS customers nationally.



7. Customer views and complaints to be proactively sought

The Department of Social Protection needs to proactively and regularly seek out the views of its migrant service users in order to improve its service. Passive and inadequately marketed complaints mechanisms are not eliciting the problems at the front line for service users.

7.1 In addition to the aforementioned racism survey with migrants more detailed large scale annual anonymous surveys should be conducted of all service users. Having such surveys at least partially web based can make such surveys very low cost. However people need to be asked directly for their views, in different languages.

7.2 At local and public office level more could be done to make complaints procedures more inviting, accessible and transparent in all offices.

8. Community Welfare Service

The Community Welfare Service has been part of the Department of Social Protection for over 3 years. A disproportionate amount of the issues raised in this report stem from the CWS. The CWS does not operate under the same set of Decision Making and Natural Justice Guidelines as the Deciding Officers of other schemes, nor, according to the Chief Appeals Officer is the Supplementary Welfare Allowance scheme of the CWS under the operational responsibility of the Decisions Advisory Office – the key office in terms of the improvement and monitoring of decisions. Particular attention needs to be paid to the CWS in the context of the recommendations in this report and the CWS needs to be held to the same Departmental standards as other sections of the Department.

9. Administration of Emergency Needs Payments to reflect flexibility of legislation

The current guidance for officials of the CWS on Emergency Needs Payments does not reflect the full purpose of the payment nor the flexibility envisaged and allowed for by legislation. This is having negative consequences for people in very vulnerable situations and revision of the guidance is recommended to bring it in line with the Working Group Report on ENPs and the relevant legislation.

10. Better use of Interpreters

Any person who is not fully capable of understanding their interactions with the Department of Social Protection without the assistance of an interpreter should be provided with an interpreter by the Department.

10.1 Guidance and training for frontline officials needs to be drawn up to assist in deciding whether or not an interpreter should be engaged to help deal with an applicant's case.

10.2 An applicant should be provided with an interpreter on request.

10.3 Monitoring of the implementation of the guidelines is also required.

11. Guidance and monitoring needed on arrears payments

Strict guidelines on the prompt payment of arrears to applicants need to be developed and implemented.

Delays of such payments cause unnecessary hardship and are deeply unfair. Monitoring of the implementation of the guidelines is also required.



6. CONCLUSION

The commitment to change from the Minister for Social Protection and the officials that represent the Department at the Migrant Consultative Forum must be acknowledged. As mentioned the work of the Migrant Consultative Forum has already improved aspects of how the Department engages with its migrant customers. However much still needs to be done and the work of the Migrant Consultative Forum needs to be continued and indeed scaled up in light of the findings of this report.

The experience of many immigrants in attempting to access their social protection rights is often one of frustration and, in some cases, humiliation. *Person or Number? 2* has outlined a number of reasons why this is the case. The combined impact of all the issues outlined in this report is that immigrants are being blocked or thwarted from accessing their social protection rights by the very government department that is entrusted and mandated with providing for these rights.

This is a wholly unacceptable situation that needs to be tackled with commitment from the highest level in the Department of Social Protection. Performance needs to be monitored and evaluated more comprehensively and rigorously. Current policy in relation to administrative practice, decision making and customer service is not being implemented comprehensively – this will require a dedicated and persistent responsibility being assigned at a high level within the Department of Social Protection, over a period of time. Racism must be tackled directly. One must ask the question: how many ‘isolated incidents’ must there be before the issue is tackled at an organisational and not just individual level. Customer feedback needs to be proactively pursued on a large scale and regular basis. Accountability must start at the frontline and work its way all the way up the chain. Training and supports need to be put in place if this is to happen.



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9. LIST OF ABBREVIATIONS

CIB – Citizens Information Board
CIS – Citizens Information Service
CWO – Community Welfare Officer
CWS – Community Welfare Service
CSO – Central Statistics Office
DSP – Department of Social Protection
DO – Deciding Officer
DP – Designated Person
EEA – European Economic Area
ENP – Emergency Needs Payments
ESRI – Economic and Social Research Institute
FOI – Freedom of Information
HMCTS – Her Majesty’s Courts and Tribunals Service
HRC – Habitual Residence Condition
MCF – Migrant Consultative Forum
NGO – Non-Governmental Organisation
SI – Statutory Instrument
SWA – Supplementary Welfare Allowance
SWAO – Social Welfare Appeals Office
UNP – Urgent Needs Payment



cross  **care** **social care agency**
catholic archdiocese of dublin

innovation and action for social justice

 **Doras**
Luimní
Promoting and protecting human rights

Dublin City Centre 
Citizens Information Service

 **flac**
promoting access to justice


nasc
The Irish Immigrant Support Centre





