

Review of Ireland's Engagement with the Diaspora

Submission to the Department of Foreign Affairs and Trade

Crosscare Migrant Project

April 2014

Introduction

Crosscare Migrant Project, formerly known as *Emigrant Advice*, is the main Irish based NGO working with Irish emigrants before they leave the country and on their return to Ireland. As a project of the Catholic Archdiocese of Dublin we have a history of working with Irish emigrants that dates back to the 1950s.

Along with our direct work with our client group, we provide information through our online factsheets and publications, our specialist monthly newsletters and our social media platforms. We also provide training programmes to statutory and NGO service providers along with working at the policy level to promote solutions to the issues emigrants and returning emigrants experience.

We are funded by the Department of Foreign Affairs and Trade Emigrant Support Programme, the HSE and the Catholic Archdiocese of Dublin for this work.

The focus of our direct information and advocacy work is with those who are marginalised. For **returning emigrants** in terms of access to social protection we help people to access emergency supports, to make applications for social protection and appeals if necessary. Some returning emigrants present to us as homeless. This client group needs particular and intensive support not only in their application for social protection but in gaining access to and negotiating homeless services. Some returning emigrants are coming back with non-EEA family members. This adds an extra layer of complication and difficulty for a planned return. We have expertise in the Irish immigration system that we draw upon to assist with such issues.

For **intending emigrants** we also prioritise those in vulnerable situations who are thinking of leaving, most often to the UK. Our familiarity with social protection, housing and homelessness services is a huge asset in this regard along with our connections with support organisations in countries of destination. We provide pre-departure information on visa options, the accommodation and employment situation and organisations to connect with in the country of destination. We reach most of our intending emigrant clients via our numerous web based publications.

This submission has 3 distinct sections covering different aspects of our area of work and expertise:

- 1) Connecting with the Irish abroad
- 2) Understanding the needs of different emigrant and Diaspora communities overseas
- 3) Returning emigrants

Connecting with the Irish abroad

Voting Rights - Presidential

In September 2013 Crosscare Migrant Project attended as an observer at the Constitutional Convention session on voting rights for emigrants in Presidential elections. There was very strong support for the introduction of voting rights for Irish emigrants abroad in Presidential elections. 78% of the members of the Convention believed that Irish citizens resident outside the State should have the right to vote in Presidential elections.

Voting rights for emigrants at Presidential elections would bring to life the Constitutional reference (Article 2) to the special place of the diaspora. In addition, the development of the office of the President in recent decades has meant that it has grown in importance and meaning for Irish abroad. The office has served as an excellent connector between Ireland and its diaspora and this capacity should be built upon significantly.

Recommendation

- Crosscare Migrant Project believes that it is appropriate and important that the government puts in place all the necessary measures to ensure that the Presidential election in 2018 is an historic one that will allow all Irish emigrants abroad to vote. Within the next 12 months we recommend that the government puts a referendum to the people about voting rights for Irish emigrants abroad in Presidential elections.

Voting Rights - Parliamentary

Presidential elections are only part of the broader issue. In January 2014 the European Commission published a document entitled 'Addressing the consequences of disenfranchisement of Union citizens exercising their right to free movement'. While the communication was only focussed on the 'internal' matters of the EU and the movement of EU citizens within the EU its arguments were stark and have significance for Irish emigrants globally and the debate on voting rights.

The Commission was critical of member states whose national policies disenfranchise citizens who exercise their right to move and reside freely in another EU country. It also drew attention to the fact that the current global trend is to allow non-resident citizens to vote and referred to the fact that with current technological developments people can better stay in touch with home politics and even take part in social and political developments at home. Ireland was identified as one of

only five EU countries where citizens lose their right to vote if they have been residing abroad for a period of time. While reference is made in the Commission Report to the Constitutional Convention and the Presidential vote, the European Commission Representation in Ireland clarified at the Oireachtas Committee on European Affairs on March 11th that they were particularly concerned about national elections. It is at the parliamentary level where the real democratic and electoral issue lies for Irish abroad.

It was clear from the proceedings of the Constitutional Convention that there were some members and presenters who were unhappy with the fact that the remit of the Convention was only focussed on Presidential elections. Crosscare Migrant Project has concerns that the real issue at play will not be grasped and that progress on the Presidential voting rights will be used to put the issue of parliamentary voting rights on the 'long finger'.

Recommendation

- Crosscare Migrant Project recommends that a 12 month Task Force is set up by government before the end of 2014 to develop proposals on voting options for Irish emigrants abroad in parliamentary elections. This would merely be a step towards the global norm and a recognition of how the world has changed in recent decades with the development of technologies that allow greater interconnectedness between people and their home States. The current situation is inconsistent in the context of other countries voting rights and incompatible in the context of the strength of 'home connection' that is associated with being Irish and abroad.

The Irish Emigrant Register

Between April 2008 to April 2013 the CSO has estimated that 187,500 Irish people left the State. Every year since 2009 there has been a rise in the number of Irish people leaving compared to the previous year. 2014 will see the highest number of Irish people emigrate to Canada since the 1800s.

Emigration has been with us for hundreds of years and at least for the foreseeable future it is likely to remain a significant aspect of Irish life. In recent years emigration has been particularly problematic as people have been forced to leave to find employment. One of the key challenges of emigration that has changed little over the centuries is its legacy of disconnection. Emigration creates disconnected lives, families and communities. And yet we are led to believe that as a society and globally we are more interconnected than ever before.

For the emigrant abroad communication options with home have improved dramatically with e-mail, social networking, photo sharing and live video linking via Skype for example, all available at extremely low cost. Yet the internet has not been maximised in terms of its capacity to minimise the damage, loss and disconnection caused by emigration particularly from the point of view of what the State can do. Irish emigrants abroad continue to feel forgotten by the Irish State. In particular those who leave primarily for employment purposes feel failed by the State and once they have left the State it will have little if any interaction with them, unless they return home.

Recommendation

- Crosscare Migrant Project recommends the creation of an e-mail based Emigrant Register managed by the Department of Foreign Affairs and Trade with inputs from the Department of Jobs and Intreo in the Department of Social Protection. The primary purpose of the voluntary register would be to facilitate connection between Irish emigrants abroad and the developing labour market in Ireland. However it could also be used for other purposes such as informing citizens about relevant embassy and consular services available and passport and travel advice issues. In essence it would act as a connecting mechanism between the Irish State and its citizens abroad.

In terms of its labour market function the State could for example contact emigrants directly about job vacancies and emerging skills needs in the Irish labour market. The Department of Social Protection have sent welfare recipients in Ireland notifications of job adverts for countries as far away as Canada. The Irish State should also be notifying Irish emigrants abroad of jobs in Ireland. The Department of Jobs and the Expert Group on Future Skills Needs could also develop regular reports for Irish abroad on current and emerging skills needs. If the State was more connected to all its citizens then our responses to current and future skills needs in the labour market would be swifter.

The register could be a way of getting people home. Availability of jobs was one of the most common factors that would influence the chances of an emigrant returning home, according to the UCC Émigré report. The establishment of the Irish Emigrant Register would be a very clear way of saying that 'we want you back'. More detail on the Irish Emigrant Register proposal can be found at: <http://bit.ly/1nomXr7>.

Understanding the needs of different emigrant and Diaspora communities overseas

Sharing Knowledge – Networking and Communications Function

Crosscare Migrant Project's key target groups are intending Irish emigrants and returning Irish emigrants. For us to be able to deliver the best information and support service possible for intending Irish emigrants we need to be as connected as possible with the reality on the ground in countries of destination. We have limited capacity to keep in touch with a small number of key contacts in the UK, US, Canada and Australia but there is huge scope and need for development in this regard. At the same time for us to ensure that all returning Irish emigrants are aware of and can avail of our service we make efforts to network with relevant organisations abroad –there is more work that should be done in this regard than we have capacity to do.

At a broader level in 2013 there were over 170 organisations globally that received the support of the Emigrant Support Programme of the Department of Foreign Affairs and Trade for their work with Irish emigrants. There are countless other organisations globally that work with Irish emigrants. There is a huge untapped capacity for inter organisational learning and indeed wider societal learning on what our emigrants issues are and how best various organisations can work with emigrants. A practical example of this is the aforementioned need for returning Irish emigrants to be aware of the requirements of the Habitual Residence Condition.

In the past there were a small number of international conferences supported by the Department of Foreign Affairs and Trade to facilitate such learning among organisations. Such events while absolutely vital and much missed in terms of their networking potential had limitations in that they were one off and were not always attended by those who could contribute and benefit from them.

Recommendation

- Crosscare Migrant Project proposes a central point of contact in the Department of Foreign Affairs and Trade whose role it would be to regularly gather learning, current issues and best practice from the frontline of Irish organisations globally that work with Irish people and to disseminate this information back to relevant channels at home and abroad – at regular intervals.

In essence what we are proposing is a more clearly stated and transparent networking and communications function for the Department of Foreign Affairs in order to ensure that

those working with Irish abroad and intending emigrants are up to speed with relevant issues and ways of working.

Crosscare Migrant Project's pre-departure service for intending emigrants could gain significantly from the establishment of such a role in the Department. This role would not be a substitute for inter-organisational networking; it would in fact promote it and further facilitate it via various means. For example the names and details of assigned contact people in the 170+ organisations supported by the Emigrant Support Programme could be published and kept updated on the Department of Foreign Affairs and Trade website.

The Networking and Communications function would ensure a closer, tighter global network of Irish organisations that will better service Irish abroad and intending and returning emigrants.

Returning emigrants

Difficulties in accessing homeless services

Returning emigrants who are homeless can face significant difficulties in accessing temporary emergency accommodation. Initially, there can even be difficulties gaining access to the premises of Local Authority assessment services themselves, with some of our clients reporting that they are informed at the door they will not be eligible for support as they are *'not Habitually Resident'*. This is not a stated criterion for access to temporary emergency accommodation. We are also aware of cases where returning emigrants have been told *'go back to where you came from'*.

Even once access is gained, some returned emigrants are refused access to emergency accommodation on the basis that their last address was not in Ireland or because they have been away from Ireland for too long. In some instances, returning emigrants are even refused access to temporary emergency accommodation despite being on the Local Authority list for social housing and having an officially recognised housing need. In our experience, such refusals are more commonly issued verbally rather than in writing with little or no reasons given to support the decision. Underlying all this is a lack of adequately detailed information on eligibility criteria and assessment processes for access to temporary emergency accommodation.

Over the last twelve months we have noted an increase in the number of returned emigrants presenting to our service as either homeless or at risk of becoming so in the Greater Dublin region. The shortage of affordable private rented accommodation is frequently cited by our clients as the main reason for this, and this issue is exacerbated by the fact that many landlords refuse to accept Rent Supplement. The lack of a fixed address also acts as a barrier to accessing other vital supports such as the Medical Card and in some cases social welfare, increasing the vulnerability of these individuals.

In terms of social housing waiting lists some practice appears to be at variance with the applicable legislation in relation to local connection - Regulation 6 of S.I. No. 84/2011 - Social Housing Assessment Regulations 2011.

Recommendations

- At the most fundamental level all returning Irish emigrants presenting as homeless should have their need for emergency accommodation and housing formally and properly assessed by the Local Authority they present to in compliance with the appropriate legislation
- Lack of a recent fixed Irish address should not automatically preclude returning Irish emigrants from accessing emergency accommodation supports on their return
- Prior periods of residence in Ireland at any time should be recognised in accordance with the current housing legislation
- The unique connection that returning Irish emigrants have to Ireland needs to be recognised and factored into the decision making process of Local Authorities
- Refusals of temporary emergency accommodation and access to the housing list should be issued in writing with detailed reasons given for the decision and references made to the relevant legislation used
- We propose that the Department of Environment, Community and Local Government issue a clear set of criteria regarding access to temporary emergency accommodation including the requirement to issue written explanations for refusal
- We recommend that these guidelines have a specific section dedicated to the right of returning emigrants to access housing and homeless supports, which draws from the guidelines issued by the Department of Social Protection on the determination of Habitual Residence which recognises that returning emigrant can resume their previous residence

Deportees

Crosscare Migrant Project works with deportees following their return to Ireland, many of whom are referred to us by Irish Embassies and Consulates abroad, the Consular Assistance Unit, and the Irish Council for Prisoners Overseas (ICPO).

In our experience, the main issue facing deportees is access to temporary emergency accommodation after their arrival at Dublin Airport. Many deportees cannot provide for their own accommodation as they arrive with little more than the clothes they are wearing. Often they have lived outside of Ireland for many years and family connections may no longer be strong.

Despite this some deportees are often unable to avail of temporary emergency accommodation through the four local housing authorities in Dublin, and they are frequently informed that this is due to the fact they were not resident in the local area immediately prior to becoming homeless. It is accepted by the Department of Social Protection for the purposes of satisfying the Habitual Residence Condition that deportees no longer have a connection with the country that they have been removed from. By definition they cannot return to that country – sometimes indefinitely. It follows that a similar understanding should be in place for access to temporary emergency accommodation for people who are homeless.

Recommendations

- We recommend that homeless deportees be accommodated on arrival by emergency homeless services in Dublin. They should be allowed to remain in this accommodation for a period of time while they place an application for social welfare with the Homeless Person's Unit and have their housing need assessed by the Local Authority.
- In cases when Consular Services are dealing with the deportee in advance of their return, we propose the establishment of a mechanism to allow for this accommodation to be arranged prior to their return.

The Habitual Residence Condition

While there have been improvements in the application of the Habitual Residence Condition (HRC) for returning emigrants in recent years we still come across situations of poor implementation by the Department of Social Protection.

In many cases, returning emigrants are seldom fully aware of the Habitual Residence Condition until their application is refused. This can lead to poor and incomplete applications and non-inclusion of documents that they could provide to demonstrate that they are resuming their previous residence in Ireland. Different interpretations of the HRC by deciding officers are also still a feature of the decision making process.

To compound the matter appeals can take months to be processed by the Social Welfare Appeals Office, which is particularly problematic in instances where a person is also refused the interim payment of Supplementary Welfare Allowance. This situation has left returned emigrants with no income at all and put them at risk of homelessness. Those without family supports are particularly vulnerable as they have no safety nets to call upon while awaiting the outcome of their appeal.

Recommendations

- Statistics on the number of Irish people refused various social welfare payments based on HRC need to be gathered and published on an annual basis
- Statistics on cases of Irish people refused a payment based on the HRC who have appealed to the Social Welfare Appeals Office need to be gathered and published on an annual basis. In particular there needs to be a breakdown of those appeals which are successful and unsuccessful
- Such successful appeals at the Social Welfare Appeals Office need to be examined at a regular basis to see how first instance decision making and practice can be improved by officers dealing with returning Irish emigrants
- The manner of assessment of Habitual Residency must change. The current HRC1 form does not mention the criteria that the Deciding Officer will be examining. For those without a knowledgeable advocate their efforts at filling out the form can be akin to a 'shot in the dark'
- The role played by the Department of Social Protection can often be an adversarial one, where minimal information is provided and commitment to ensuring that the applicant accesses his/her entitlement is too rarely seen. This is an ongoing training and organisational culture issue that needs to be addressed by the Department
- While many of the emigrant support organisations we work with are familiar with the HRC, there is scope in our suggested Networking and Communications role (see *'Sharing Knowledge – Networking and Communications Function'*) to help ensure that those working with Irish abroad and intending emigrants are fully aware of the Habitual Residence Condition

Family Reunification

A common issue for returning Irish emigrants with non-EU family members is the lack of a legal right to bring their family home to Ireland. The Constitution promotes the right to enjoyment of family life but there is no legal right for the non-EU family members of Irish citizens to come and reside here.

While in practice there are administrative procedures that facilitate the granting of residency of non-EU family members of Irish nationals there can be considerable waiting times for such applications to be processed. These administrative procedures are also a barrier to families planning to return as there is no guaranteed right to residency even if the vague criteria are

fulfilled. The decision is ultimately a discretionary one which is often a shock to some returning emigrants who we deal with. It is of course a strangely anomalous situation as many EU citizens exercising free movement and other categories of non-EU migrant actually have a guaranteed right in legislation to family reunification.

Recommendation

- In the interests of rectifying this anomalous situation and supporting emigrants to return home and settle in Ireland we recommend that a legal right for Irish citizens to have their family members live here be enacted
- The creation of a pre-clearance option for non-visa required nationals (eg: people from USA, Canada and Australia) as suggested by INIS Family Reunification Policy Document published earlier this year. This would allow for a more planned and predictable family return

Conclusion

We welcome the Department of Foreign Affairs and Trade's call for submissions on Ireland's engagement with the Diaspora. It is an area of huge importance to the nation. At a time of increased emigration we also believe there is a need for increased funding for organisations to provide additional supports and to advocate on behalf of emigrants. We have outlined a number of necessary projects that would benefit from such funding.

We look forward to a new, invigorated national strategy on engaging with the Diaspora, and hope that it will make a real difference to the lives of emigrants, their family members and the greater community.