

Submission to the Department of Justice on the Regularisation of Undocumented Migrants in Ireland

Family Carers Ireland welcomes the opportunity to submit our views to the Department of Justice on the creation of a scheme to regularise undocumented migrants in Ireland. As a national charity with the dual role of working to improve supports and recognition for family carers who provide regular, unpaid care to a person with a long-term illness, health problem or disability, including problems related to old age, and an approved provider of home care services on behalf of the HSE, our interest in the regularisation scheme is based on the recognition that many undocumented persons provide essential care services¹. It is in the interest of *Family Carers Ireland* therefore, that the regularisation scheme is as broad and inclusive as possible to ensure that as many of the undocumented care workers are facilitated to remain in Ireland and contribute to the caring sector, which is already under incredible pressure to retain and attract Homecare Workers. We congratulate the Department of Justice on its progressive thinking with regard to regularisation, and believe that such a move will bring with it significant economic and social benefits, not only for undocumented people and their families, but for Irish society at large.

Key points relevant to the long-term care sector:

Vital role of undocumented migrants during the COVID pandemic

Over the past 14 months, thousands of undocumented migrants have worked tirelessly to keep the country functioning and safe. These unprecedented times have highlighted their crucial work as carers, supermarket workers, childminders, and delivery drivers bringing food to the safety of people's homes. After decades of taking these jobs for granted, the country has come to realise just how essential these individuals and their contributions are. Undocumented workers do not take jobs from Irish born workers, a myth that has been consistently debunked. The reality is that undocumented migrants fill crucial gaps in the workforce, not competing with other workers but complimenting them and creating greater economic activity—activity and productivity that can help the country emerge from the pandemic-induced downturn.

Closing the 'Care Gap'

Government policy has long supported initiatives to maintain the care of people in their own homes. A trajectory of policies dating as far back as 1968 with the *Care of the Aged Report* have all emphasised the need to care for people at home, with a primary focus on the promotion of dignity and independence, as well as programmes to support family carers including informal networks, basic training and greater availability of respite. More recently, *Future Health (2012)*, *the Seanad Report on the Rights of Older People (2012)* and *Sláintecare (2018)* all recommend fundamental reforms in the delivery of healthcare to bring care closer to home. These longstanding and laudable ambitions, while welcome, are entirely predicated on the availability and willingness of family and friends to take on a caring role, and the availability of paid Homecare Workers willing to commit to a sector characterised by low pay and poor terms and conditions.

With the growing population of people dependent on care services and a shrinking care workforce, there is an ever-widening gap between the need for and the supply of long-term care. Population ageing, an increase in the number of people living with a disability or chronic condition aligned to the raft of policies that rightly prioritise care in the home, will require initiatives and incentives to promote employment within the caring sector. *Family Carers Ireland* believes that supporting the thousands of

¹ A survey undertaken by the MRCI found that 27 per cent of undocumented people work in the care sector providing care within private homes.

undocumented workers likely to be working within the sector, to legitimise their employment status will be an important step towards closing the long-term care gap.

Maintaining quality within the homecare sector while protecting workers from exploitation

The quality of home care is more dependent on the quality of front-line care workers than any other factor. For this reason, *Family Carers Ireland* as an employer of care workers and an advocate acting on behalf of family carers is doubly concerned with quality of employment as fundamental to developing and sustaining quality care systems. *Family Carers Ireland* has worked hard over many years to improve the quality and safe delivery of home care services by establishing and adhering to strict quality standards. These standards not only protect the clients who receive home care, but also protect the Homecare Workers delivering this care.

We believe all care workers should be afforded protection within their workplace even when this is a private home, and be safe and protected from exploitation and abuse, regardless of their migration status. Prohibiting undocumented migrants from working does not reduce the need for them to work in order to provide for themselves or their families, but rather drives undocumented migrants underground and strengthens the hand of exploitative employers. The institution of a regularisation scheme for undocumented workers is timely, given the Department of Health's current programme of work in relation to the establishment of a Statutory Homecare Scheme and accompanying Home Care Standards. A feature of which is likely to be the creation of a national register of homecare workers and the extension of Garda vetting. The regularisation of undocumented care workers will allow them to be added to this register and as such be covered by the protections afforded by the Home Care Standards and Irish labour law, thus enabling them to live safely and securely here in Ireland without the risk of exploitation.

Establishment of a Statutory Homecare Scheme and commensurate need for Homecare Workers

As noted, the Programme for Government commitments to the establishment of a Statutory Homecare Scheme, which will give adults of all ages a right to homecare where they have been assessed as needing it. A pilot of the scheme is already underway, with the full scheme launch expected in 2022. While this is a welcome development, and one which the sector has sought for many years, the delivery of the Statutory Homecare Scheme is dependent on having access to a skilled pool of Homecare Workers available across the country. Even before the Statutory Homecare Scheme is launched, the acute shortage of Homecare Workers is having a detrimental effect on the sector, with Homecare Providers frequently unable to deliver funded Home Care Packages due to a lack of staff. This is not limited to rural communities, but is increasingly experienced in towns and cities, where staff simply aren't available.

This gap between government policy - to reorient the delivery of healthcare away from institutional setting towards care in the home - on one hand, and the reality on the ground, whereby Homecare Workers are not available must be addressed. *Family Carers Ireland* along with other members of the Homecare Coalition, including MRCI are calling for proactive efforts to be made by Government to promote employment and attract workers to the homecare sector. This has included a call for domestic or care work to be include as an eligible category in the issuing of work permits by the Department of Jobs, Enterprise and Innovation, which unfortunately remains unchanged. We consider the regularisation of undocumented workers to offer a similar opportunity for Government to attract more workers into a sector, which is expected to grow exponentially over the coming years. As such, we urge the Department of Justice to embed within the regularisation scheme, practical supports that will enable undocumented workers to legitimise their roles within the care sector including training, information and advocacy.

Practical Considerations for the Regularisation Scheme:

Definition of ‘undocumented’ - Inclusion of reference to ‘family members’

Any definition of ‘undocumented’ used for the purposes of the scheme should include those in the Section 3 process and with deportation orders. It is also critical that the family members of applicants are included in the definition in order to ensure they are eligible to be considered without having to make a separate application and should include children, step-children, spouses, civil partners and suitably qualified de facto partners. There may be instances where certain family members do not meet the definition of being ‘undocumented’ themselves, particularly if a stringent definition of prior residence is introduced. It would be unfairly harsh to grant regularisation to one family member and leave other family members at risk of deportation. *Family Carers Ireland* strongly recommend a shorter residence requirement be included as part of this scheme.

Minimum income or educational requirements

The introduction of a minimum income requirement for undocumented migrants would have a disproportionate impact on applicants and we believe should not be considered given the negative impact that irregularity of residence status has on individuals and their families. *Family Carers Ireland* are also opposed to the introduction of minimum educational qualifications.

Application process

We encourage the Department to facilitate applications to the regularisation scheme through both online and paper-based channels. While this may be administratively burdensome, it is our experience that many people do not have physical access to a computer or the skills required to make an online application.

Promotion of the regularisation scheme

Family Carer Ireland are happy to promote the regularisation scheme through our membership of family carers, our national network of 21 carer support centres and through our social media. We would also welcome the opportunity to assist in the training or practical support needs of undocumented workers who wish to upskill in order to work in the sector, and to provide support to undocumented families where informal care is provided.

Contact Details

Clare Duffy
Policy and Public Affairs Manager
Family Carers Ireland
E: cduffy@familycarers.ie