

# Northern Ireland Affairs Committee

## Oral evidence: [The experience of minority ethnic and migrant people in Northern Ireland](#), HC 159

Wednesday 8 September 2021

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Members present: Simon Hoare (Chair); Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Mr Robert Goodwill; Claire Hanna; Fay Jones; Bob Stewart.

Questions 36 to 44

### Witnesses

II: John Patrick Clayton, Policy Officer, UNISON; Natalie Donnelly, Local Organiser, UNISON; Patrick Yu, Black and Migrant Workers' Group, UNISON.



## Examination of Witnesses

Witnesses: John Patrick Clayton, Natalie Donnelly and Patrick Yu.

Q36 **Chair:** It is my pleasure to welcome John Clayton, Natalie Donnelly and Patrick Yu from UNISON. I am very interested to hear the experience from UNISON. Could you very briefly describe your assessment of the working experience of those ethnic minority and migrant communities living in Northern Ireland today? Are there things that cause you concern? Are there things that please you?

**John Patrick Clayton:** First and foremost, thank you for the invitation to take part in this session today.

**Chair:** You are welcome.

**John Patrick Clayton:** You will have received our written submission, and you will have a sense from that about the workforce we represent within Unison. Just to point out some particular salient facts, we have a membership in Northern Ireland of a little over 45,000 members. We are a UK-wide trade union with over 1.3 million members across the UK. We have several thousand black and migrant worker members, primarily working within health and social care, which is the bulk of our membership in Northern Ireland in any event.

In terms of the particular issues affecting our members in work, we have outlined a number within the submission. The issue of discrimination in the workplace is sadly a live one for our membership. We have outlined that, and Natalie can maybe speak to that in a little more detail in a moment. The concerns that our colleagues in the previous panel outlined about racism and discrimination within the community affect our members in the same way that they affect the wider minority ethnic community in Northern Ireland. They are issues that are raised with us by our members, unfortunately, on a regular basis.

There are particular issues we have outlined in the submission that affect our members within their work. Some of them, to touch on points raised in the earlier session, would fall within the devolved competencies of the Northern Ireland Assembly in terms of policy or legislative responses that could be taken, but are issues that could be dealt with at an employer-to-employee level. Some of them, such as the issues in relation to immigration, would obviously fall within the purview of the UK Government, and so perhaps, during the course of the session, we might be able to tease that out somewhat.

We have highlighted a number of issues in this submission that you are aware of. The particular impacts that our members are experiencing around things like childcare is one diverse issue. There are a lot of issues around immigration, the health surcharge, and the experience that those working in health and social care have. There is a bit of a triple whammy effect of working in the service, paying tax and national insurance, and then having to pay this surcharge as well. There are general issues



## HOUSE OF COMMONS

around precariousness, concerns about the precariousness of both their immigration status and their employment, and issues around work permits in that regard that Natalie might allude to.

Again referring to our colleagues' contributions earlier, there are general concerns around a lack of immigration advice and representation when it is needed. There is a particular issue in Northern Ireland around a lack of legally qualified advisers who can provide particular immigration advice. We are a little concerned that that need might become more acute post-Brexit because we have new immigration statuses as a result of the settlement scheme and so on.

Obviously, over these last 18 months, Covid-19 has been fairly dominant in our members' minds generally. There have been particular impacts on black and minority ethnic workers, and concerns about the impact of the virus on them in particular, because evidence has emerged worldwide that there are particular vulnerabilities for black and minority ethnic people. There are also some concerns around things like sick pay that we have outlined within our submission.

Natalie, would you perhaps like to come in, just in relation to the workforce issues we deal with that would cause us concern? I should say my colleague Natalie is an organiser within UNISON who would work most directly with our minority ethnic membership around employment issues. Natalie, you might like to outline some experience in that.

**Natalie Donnelly:** It is important to point out that, as John Patrick said, our members are working, so it is probably a different group of black and migrant workers than we talked about in the previous panel. A lot of the issues we have highlighted are in-work issues, but the other aspect that completely echoes what has been said before is the issue of immigration and the impact of uncertainty around immigration on our members.

In terms of work-related issues, racist discrimination at work is probably the biggest issue we deal with for our members. I do not know if you want me to expand here or if it will come in questions, but there is a general sense of being treated differently. What constantly comes anecdotally is the fact that people feel they are being put on the worst shifts or being given the most difficult resident or ward. I work mostly with migrant workers in care homes, and that is a very recurring theme for black members in care homes. There is a sense of being treated differently, which also means that people are exposed to more risk in a way because they are on shifts where there might be fewer staff, short staffing issues and so on.

The other side of that is that people feel they are being disciplined disproportionately. There is a sense that every single one of their mistakes is picked up. While local members might be doing the exact same practice but getting away with it, if it is the migrant worker doing it, it gets pulled up. Again, there is a lack of data and monitoring of that, but there certainly seem to be a disproportionate amount of disciplinarys and



## HOUSE OF COMMONS

procedures taken against black and migrant worker members compared to local members.

The other difficulty with that is the difficulty of proving racist discrimination at work because racist discrimination very much manifests itself around patterns. The fact that the migrant worker has made a mistake, and that mistake has been picked up and become a disciplinary, is an issue if local members get away with it, and it is always the migrant workers who get picked up. The problem is that, when you deal with an individual case, there has been a mistake, so it is then very difficult to move away from the merit of the case to look at patterns. That is really missing in being able to prove racist discrimination. We might come back to that in terms of discrimination at work.

In terms of immigration, we mentioned the health surcharge in our submission, and John Patrick talked about it. The health surcharge, in a way, is just one example of the difficulty with the whole system. Thankfully, at the moment, it is not applied to healthcare workers, but we would still want it to be scrapped for everybody. Basically, migrants are paying for healthcare twice by paying their taxes and then being charged for that health surcharge. That is on top of all the money they already have to pay for their immigration, visas, work permits and so on.

They are being charged exorbitant charges for immigration, plus now a health surcharge, even though the migrant population is probably the least likely to be using the health service in the first place. Migrant workers usually come at working age and not at the stage of life when they will need a lot of care. They are not the people using it yet. They are being charged specifically for it on top of their taxes. There is that sense that we are charging a group of people just to get extra money for plugging holes in our own budget, which seems extremely unfair.

Also, in terms of immigration, there is that sense that the charges always go up and you do not know beforehand. There is this whole precariousness that is linked to immigration. You do not know what is going to change during your time here when you arrive. You come on a work visa, but then, two years down the line, there might be a change in the salary threshold that means that your entire status changes, and you might be faced with not being able to stay. That puts a real burden on people. Any of our members who are still on work permits and do not have a British or Irish passport are in a constantly precarious situation, and they are very impacted by any changes in immigration legislation. There is a lack of access to immigration advice, as John Patrick has said, which is really problematic for our members.

There is also a big issue in terms of members on work permits. Recently, there has been a much higher overseas recruitment level in the health service. Members have mostly been coming from India and Africa, and they are all on work permits. The issue with people on work permits is that they are completely tied to their employers, so the potential for



abuse is just enormous because you are tied to your employer legally, but also financially. People come on work permits. The employers have to pay to get somebody over on a work permit, but they then tie the employee to paying that back if they decide to leave before the end of the work permit. That is one of the big issues we face at the moment.

**Q37 Claire Hanna:** Thank you very much, witnesses. Natalie, I just wanted to pick up on that issue of discrimination and harassment at work. You have reported really concerning experiences about being at the bottom of the pile in terms of shifts and experiencing a greater number of disciplinaries. Is that quantifiable? Is that something you have been able to build up an evidence base for in order to raise it with employers? What are the solutions, notwithstanding that John Patrick made the point that your black and minority ethnic members are subject to the same universal discrimination that people of ethnic minorities in Northern Ireland experience? What needs to happen to try to address those situations that you have raised about systemic discrimination by employers?

**John Patrick Clayton:** I could take the last part first, Claire, if you do not mind. Something that I did not mention in my initial answer to the Chair was that there are policy-focused solutions out there, but I suppose, similar to the experience of our colleagues in the last session, one of the issues is getting those solutions mainstreamed into employment relationships, and employer and employee relationships. Obviously, there is a range of anti-discrimination laws. As Natalie has said, the difficulty can be proving discrimination, either direct or indirect, and racism. The thresholds there can be high.

A more preventive approach we would advocate would be based around policies like the Joint Declaration of Protection (for Dignity at Work and Inclusive Working Environment), which is a bit of a mouthful, but basically is a policy that was developed in conjunction between the Equality Commission, the LRA, trade unions via the Irish Congress of Trade Unions, and employer bodies such as the CBI. That policy was revised several years ago, but getting it mainstreamed throughout the broad range of employment in Northern Ireland and across a range of sectors, from our experience, is proving to be a challenge. Probably the single largest employer for which we have had some success in it adopting the policy has been the Education Authority.

We have closer working relationships, recognition and bargaining structures with public sector bodies that we have membership in, such as the Education Authority and the health trusts. We do not have, it would be fair to say, as close a working relationship with those private providers operating in the health service, such as in relation to care homes, so that can pose a bit of a challenge, but there are solutions there. Policies like that can be applied within the workplace to build a more harmonious and inclusive working environment, to have training, and to have more visibility around the issues that minority ethnic workers face so that solutions can be found before problems escalate.



We would welcome from Government, I suppose, in Northern Ireland, and possibly from this Committee in its deliberations, a focus on how approaches like that could be more mainstreamed into the employer-employee relationships and how that could be encouraged by Government. We are always mindful that most of the services our members work in, regardless of whether they are delivered within the public or private sector, are largely publicly funded. There is an opportunity for the commissioning bodies, be they health trusts or whatever, to have an influence on how those employer-employee relationships operate. The more that workers have the opportunity to be members of trade unions, be represented by trade unions, and have us reflect their broader concerns at the employer and wider Government policy level, the better things will become.

Natalie, do you want to come in there just on the availability of data? It would be fair to say from our experience, unfortunately, it largely reflects what members bring to us. There is not a central source of data at this point in time that we are aware of.

**Natalie Donnelly:** The only thing to add is that it would be useful to have ethnic monitoring, and it is just not there. We have the Catholic/Protestant/other split in the monitoring, and that is it. More systematic monitoring would be very useful.

**Claire Hanna:** We will pick that up. Thank you.

Q38 **Mary Kelly Foy:** I have heard there a bit about how ethnic minority and migrant workers have been affected by their employer in terms of discrimination. How have those groups been affected by Covid in terms of their health, susceptibility to the pandemic, self-isolating and those issues?

**Natalie Donnelly:** There was a really big problem at the start of Covid because, anecdotally, we very quickly realised that our black and migrant worker members were affected disproportionately by being off sick, and quite seriously sick.

There were two big issues. One was the disproportionate impact on the BAME population, and some of our trusts took measures, asked for new assessments, and offered people extra PPE, redeployment and so on. The response was not across the board. In some employers, it was dealt with very well, and in others nothing was added.

The second big issue for us was that migrant workers were disproportionately impacted financially as well. A lot of our members worked in care homes, and very often one adult in a couple would be in a hospital while the other would be in a care home, or they would be in different care homes. When one was sick and the other one had to isolate, or if there was a close contact, or anything, they both had to isolate, so they kept being off. During that time, they were only accessing statutory sick pay.



Financially, the first few months were an absolute disaster for migrant worker members, both in terms of risk and sickness, and in terms of the financial impact of the pandemic. Eventually, the Government stepped in, and we had a top-up for statutory sick pay for Covid-related absence, but that was put through the employer. That was still an issue, because it was then up to the employee to request it and push if the employer did not pass it on straight away, so a lot of work was done around that as well. It was not ideal, but that was more the beginning of Covid. It is not so much an issue now.

**John Patrick Clayton:** As Natalie has said, touching on our colleagues' comments earlier, something like the sick pay scheme that was for all care workers did have particular impacts on minority ethnic workers. They perhaps were not factored into the scheme's development, and we have had to make those representations to the Department and the employers for the reasons Natalie has said. Often, for minority ethnic workers, you might have partners or entire families working in a care home. They are very disadvantaged as a result of that.

It would be fair to say that, in our experience, take-up of that sick pay scheme has been patchy. That has been a measure of concern for us throughout the pandemic, not only because there is a financial hardship aspect, but also because the purpose of the sick pay scheme is to try to stop the spread of the infection. It is to make sure that workers self-isolate when they should. We are constantly engaging with employers, the health trusts and the Department to monitor the uptake and try to make sure that employers reclaim the cost of paying that enhanced sick pay and are required to do so.

Q39 **Mary Kelly Foy:** In terms of the people who have had to self-isolate and take time off work, are employers being at all sympathetic and understanding, or are those groups being treated unfairly?

**Natalie Donnelly:** In the first months of Covid, there was a bit of shock from our migrant worker members who were in touch with us. If they had to self-isolate, they were an inconvenience, and understandably, too. There is a big issue with short staffing in the care homes, so it was very difficult for everyone concerned, but they certainly did not have a sense of being supported through that.

**John Patrick Clayton:** Natalie has just pointed out a pretty critical issue across the board, not just in relation to Covid, and it probably speaks to how important migrant and minority ethnic workers are within the context of health and social care in Northern Ireland. We have a serious problem, as I am sure this Committee will be aware, in relation to staff shortages right across the board, across all staffing groups, in terms of our trusts, care homes and areas like home care provision. As a union, we took industrial action close to two years ago around pay parity, but also around the issue of safe staffing. That is an issue that Covid has shone a particular spotlight on.



## HOUSE OF COMMONS

I suppose, for this Committee, looking at the immigration regime, recruitment of workforce from overseas and everything else in relation to Northern Ireland, that is going to become a particular issue in Northern Ireland over the years to come. We are short thousands of staff across the health service, and there is always going to be a need to recruit and retain workers from overseas. That speaks to their wider experience of working in the health service when they are here.

**Mary Kelly Foy:** Of course, that is the same in the rest of the UK, is it not?

Q40 **Chair:** John Patrick, you mentioned staff shortages there, and that is being felt across all constituencies across the UK. As UNISON, do you have any concern about the potential for gangmasters, people trafficking, forced labour, et cetera, which often hits hardest upon migrant or transitory groups and people who are fleeing one circumstance or another? Is that something that you are concerned about, or that we should be concerned about? What is your overview of that as an issue in Northern Ireland?

**John Patrick Clayton:** It is an issue that the Committee should examine. Frankly, Chair, it is probably an issue that I am less concerned about in terms of our own membership, largely because our membership works within regulated areas such as social care.

**Chair:** I was thinking of the union having an interest in people who are not working.

**John Patrick Clayton:** Absolutely. I am not sure whether you will hear evidence from other trade unions or ICTU, but in a more general sense that is a concern across the union movement. There are sectors of the economy where we have concerns in general about precarious work, and they tend to be sectors in which you would find migrant workers employed in greater numbers, perhaps, than other sectors, so there is always the potential for exploitation and abuse. They also tend to be the sectors that are less unionised, and in which there is less access to trade union representation and advocacy on your behalf.

It absolutely is a concern I have about the wider economy. Maybe Natalie can speak to this a little more. It is probably less of a concern for our direct membership. I should say that, as a union, we do provide immigration advice and support. We have opened that up beyond our membership on certain occasions because we have become aware of cases of hardship or concern that affect particular groups of workers, even though they are not UNISON members. We try to offer advice and support where we can. It is a concern, and it would merit further inquiry by the Committee.

**Natalie Donnelly:** I concur on that. It is not so much an issue for our membership. Obviously, it is a concern, but it is a concern that is linked to immigration control. The concern for me in terms of our membership is



## HOUSE OF COMMONS

the potential for exploitation and abuse around people being locked in work permits.

Q41 **Chair:** The Government have announced that those who are working within the health sector are exempt from the immigration health surcharge. Has that been helpful? Are you satisfied with that as a position? Is it enough?

**Natalie Donnelly:** As I mentioned before, I believe it should be scrapped for everybody. It was helpful to have it suspended for health workers, absolutely, but the surcharge is not fair in any shape or form. It is basically just asking migrants to pay for a service for the UK population.

**Chair:** This was your double taxation point.

**Natalie Donnelly:** Yes. It is for a group of people who are not particularly going to use the service in the first place.

Q42 **Stephen Farry:** Good morning to our witnesses. This is just a very brief question that probably neatly follows up. It is about the recognition of qualifications. Can you just relay any particular difficulties that are emerging in that regard? I suppose there is a distinction between what was formerly the European Union \*ECORI\*[11.31.38] system and what happens with people coming to Northern Ireland from other parts of the world without a formal recognition system. How is that currently sitting?

**John Patrick Clayton:** I will pick that up, and Natalie might come in with more specific examples of the work we have tried to do with our own membership. It is a concern, I would suggest. Truthfully, we are probably finding it difficult ourselves to get to the bottom of how much of an impact it is having at the moment on the provision of services. We do have some dialogue with the Department of Health about that. Obviously, as you have mentioned, Stephen, it is linked to the wider point about EU exit.

It is not coming through from our membership at this time in any significant numbers, but it could well be an issue as we go forward. I know some other professional bodies have raised it as a concern with the Department of Health and have asked the Department to examine it, and it was highlighted as a possible impact of an EU exit, but I am afraid I cannot speak to it in any huge detail at this time. The problems have not manifested themselves yet. That is not to say that they will not.

**Natalie Donnelly:** We have come across this issue a lot previously, especially in terms of our European members. It is well known that migrant workers usually work in professions that are nothing to do with their original qualification because there is not an equivalent. We had particular issues in terms of the English level required by the NMC for nurses, so we had members who were not able to practise as nurses because they could not go past that level of English. But that is not really an issue at the moment because people are required to have that exam before they come here.



We come across these issues through our English classes because we had opened them up to refugees and asylum seekers. They are the higher end of English classes for people who need to get 7 or 7.5. I do not know if people are familiar with what that means, but it is a very high level of English and grammar. Typically, we have doctors, mostly from Sudan, who come to our English classes. That is why we have that in the submission.

That issue just seems to be incredible. We have these asylum seeker doctors. We have a big shortage of medical staff in Northern Ireland, and yet nothing has been put in place in Northern Ireland to allow them to practise. The only pathway to practice for doctors is through England or Scotland. In our classes, we have seen maybe 30 or 40 doctors in the last two years who ended up moving to England because we could not organise the clinical pathways in Northern Ireland. This is not UNISON's sector, but, because of our English classes, we have seen these cases. It has just been quite frustrating that it still has not moved, two or three years on.

- Q43 **Chair:** Could we just talk a little bit about what, if any, research, evidence or anecdotes you have with regards to promotion within the Northern Ireland healthcare sector from those working within it from minority ethnic and migrant communities? Are there trends there that compare well or cause anxiety?

**John Patrick Clayton:** That is an issue that we are starting to turn our attention to. We intend, over the next period, to engage directly with all the trusts. Obviously, the six trusts in Northern Ireland—the five trusts and the regional ambulance service trust—are employers and hold equality monitoring data. We intend to move on that issue because, across the UK, UNISON has concern about trends around promotion and so on. It is an area we intend to interrogate the trusts on to try to get the data and compare that over a period. In terms of how we would analyse that data and compare it against other parts of the UK, the challenge may well be that we probably have a smaller proportion of migrant and minority ethnic staff compared to other parts of the UK. It is certainly still large enough that that sort of analysis is required.

It is an issue that has caused us some concern because our colleagues in Britain have raised it as a concern, and so we want to go through a similar process here. More generally, and Natalie touched on this earlier, we are concerned at times about the inability to get really disaggregated equality monitoring data. Natalie referred earlier to the Fair Employment and Treatment Order—FETO—and the obligations it places on employers in terms of religious background.

We do not tend to have something comparable in Northern Ireland in terms of the racial composition of the workforce, and that is something we would like to interrogate further. We can ask the public sector bodies for that data because they have obligations under our section 75 legislation in terms of equality monitoring. That might prove to be more



## HOUSE OF COMMONS

difficult with private sector employers where they do not have comparable obligations. It will be an evolving area of work for us. As the inquiry continues, we can start to feed that information into the Committee, if you would find it helpful, as we start to get it back from the employers.

**Chair:** That would be helpful.

**Natalie Donnelly:** From the example of working with migrant workers, you would often hear stories of people who had been involved in training colleagues, and then colleagues had moved on and they had stayed behind. It is a common experience. We are doing research at the moment.

Q44 **Chair:** Thank you. If there is anything you can feed into us, that would be much appreciated. Were you desperate to tell us anything that we have not asked? This is what I always call the Columbo question.

**John Patrick Clayton:** When we log off the session, we will probably recall it, but no.

**Chair:** I am not quite sure what happened with the technology and your colleague Patrick, but would you give him our apologies that that did not work? I think it was a problem at his end rather than our end, but that is how it goes in these times.

Can I thank you on behalf of the Committee for appearing before us this morning and what you have had to say to us? You have given us a lot of food for thought, which is good. Please feel free to feed anything else back into us during the course of this inquiry. Thank you very much indeed.