

## Chapter 4

### Cardiff



Cardiff, a port city with a long history of migration, is one of the oldest, most ethnically diverse communities in the UK. In the period from the early 1800s to the Second World War, alone, people from more than 50 countries came to Cardiff to work in jobs linked to international trade (Cardiff Council, 2020: 9). Cardiff now has the highest number of non-UK born residents in Wales, accounting for around 13% of the local population (Krausova & Vargas-Silva, 2014; Statistics Wales, 2021). Over 100 languages are spoken. One in 5 residents is from a Black, Asian or Minority Ethnic background, as is 1 in 3 children of primary school age (Cardiff Council, 2020).

#### 4.1 Lack of Data on City's Precarious Migrants

Cardiff is one of four designated asylum dispersal areas in Wales and, as of December 2021, there were 1351 asylum seekers living in Cardiff in receipt of Home Office subsistence support (Home Office, 2022a, b). It continues to be the home for some of those whose applications have been refused. The lack of data on the number or characteristics of these and other precarious migrants in the city is no surprise. Nor, however, does Cardiff Council itself have accessible data on the status of those who are receiving its services, for instance on 'looked-after' children in the care system. From our interviews we know that precarious migrants in Cardiff represent a wide range of demographics, including those with a regular status (from resettled refugees, dispersed asylum seekers, unaccompanied asylum-seeking children and those on spousal visas, to irregular migrants and others). Nationalities similarly are varied including Sudanese, Ethiopians, Afghans, Iranians, Iraqis, Egyptians, Algerians, Zimbabweans, Congolese, Syrians, Chinese and Vietnamese. There are various ages and durations of residence in the UK, from a single day to decades; as well as diversity by gender and marital status—interviewees stressing

that single men in particular seek help later and that women suffer from distinct vulnerabilities.

In relation to refused asylum seekers, NGOs providing services can give some indication of scale. It was estimated in 2018 that there were 7350 asylum seekers in Wales seeking advice or aid from the voluntary sector, of whom 5300 were destitute. NGO accommodation providers reported that in some cases it could take considerably longer than a year for their situation to be resolved and thus destitution addressed (Petch & Stirling, 2020: 8ff). Petch and Stirling reported, from a study on refused asylum seekers in Wales:

The desperation of people whose asylum claims had been refused was pervasive and unsettling... The pain and hopelessness of not being able to make plans including plans to see loved ones outside of the UK, of not being able to contribute, of being futureless was palpable. A few people... talked openly of the effect of destitution on mental health. (2020: 33)

## 4.2 Council Duties and Powers Limited by National Laws

Cardiff Council is a ‘unitary authority’, meaning a single authority exercising all local government functions in its area. Elections for the council take place every 5 years. The Labour Party has been in control since 2012. The administration of the council comprises seven Directorates, of which four are particularly relevant to migrants with precarious status: Children’s Services; Adults, Housing and Communities; People and Communities (which includes the Cohesion and Community Engagement team which facilitated this research); and Education and Lifelong Learning.<sup>1</sup> In 2018 the Council employed 13,263 people, including school employees (equating to a full time equivalent of 11,159).<sup>2</sup> It is the largest employer in Wales.<sup>3</sup>

The Council’s approach towards precarious migrants is shaped but not determined by its responsibilities under UK and Welsh law. Under the Well-being of Future Generations (Wales) Act 2015, local authorities are expected to provide leadership for their communities in several service areas, including education (providing schools, transport to school and opportunities for adult learning), housing (finding accommodation for people in need and maintaining social housing), and social services (protecting children, older people, people with disabilities and vulnerable groups) (Welsh Local Government Association, 2022). While they have

<sup>1</sup>Cardiff Council provides a management chart as of January 2022: <https://foi.cardiff.gov.uk/ENG/FOI/FOI17265/FOI17265%20Response%20-%20Attachment%201.pdf>

<sup>2</sup>Cardiff Council Workforce Strategy 2018–2021 (2018). <https://cardiff.moderngov.co.uk/documents/s22772/Cabinet%205%20July%202018%20Workforce%20Strategy%20App%201.pdf> Accessed 6 March 2023.

<sup>3</sup>See [https://www.jobscardiffcouncil.co.uk/internal/why-work-for-us/?lang=en\\_GB](https://www.jobscardiffcouncil.co.uk/internal/why-work-for-us/?lang=en_GB)

statutory responsibilities in relation to public health, local authorities do not deliver healthcare services.

Immigration and welfare benefits are, as we saw in Chap. 3, non-devolved areas of policy and legislation. Nevertheless, the Social Services and Well-being (Wales) Act 2014 replaced some relevant areas of UK welfare legislation, including the key provision of the Children Act 1989 requiring local authorities to safeguard children ‘in need’. Social services policy is devolved so that, while restrictions to services may originate from UK legislation, some entitlements may be established in Welsh legislation (Price, 2016: 4). Local authorities such as Cardiff Council have different duties towards migrants in different situations, such as single adults, children and trafficked individuals. For adults, the Council must provide preventative services, promote the development of NGO services and provide individuals with information regarding the care and support available for them. The Council has a safeguarding obligation and must protect people from harm, including those who are ineligible in other respects for care and support. The 2014 Act puts a duty on local authorities to investigate where it appears that an adult who needs care and support is at risk of abuse or neglect.

Adult migrants can be assessed for care and support in the same way as any other adult but the 2014 Act (s46), reflecting UK immigration legislation, sets out grounds on which they should be excluded from services. Crucially, people subject to immigration control can only receive support if their need for care and support is *independent* of the impact on their health and well-being of being destitute (s35). Thus, the Act (s19) outlines three steps in the assessment: establish whether the person has a need for care and support; assess whether this need arises due to the physical effects (or anticipated effects) of destitution; and, finally, determine if those needs are eligible under The Care and Support (Eligibility) (Wales) Regulations 2015. Some adults whose immigration status has the restriction ‘No resource to public funds’ (NRPF—see Chap. 3) may thus be ineligible for local authority support if they are in breach of immigration laws, or are asylum seekers or been granted refugee status by another country.<sup>4</sup> Council staff should nevertheless undertake a ‘human rights assessment’ to determine if the provision of services is necessary to prevent a breach of the individual’s rights under the European Convention on Human Rights (ECHR). Significantly, local authorities can use their discretion to provide care and support regardless of the outcome of that assessment (Price & Spencer, 2015: 15). The Act (s34) sets out the types of support local authorities can provide. For those who are excluded, NGOs may be able to step in. There are several NGOs in Cardiff that provide accommodation and support to those migrants who are ineligible for the Council’s support.

Specific provisions apply for migrant children and their families, as well for unaccompanied or separated children. Since support under the 2014 Act is not considered a ‘public fund’ under the NRPF rule, children ‘in need’ are eligible for support. Cardiff has a duty to meet children’s needs and the Act (s34) sets out the

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<sup>4</sup>Under Schedule 3 Nationality, Immigration and Asylum Act 2002 (NIAA).

various ways it can do so. Local authorities in fact have wide and flexible powers that enable them to respond to children's particular needs and circumstances, if not necessarily the resources to do so (Welsh Government, 2021: 10). For children taken into the care of a local authority they must provide a reasonable standard of health and development, and promote educational achievement, as an integral part of their duty to safeguard and promote the child's well-being.<sup>5</sup> There are also provisions for young people when they leave the care system. However, once they turn 18 they are, under UK legislation, typically excluded from those services (Schedule 3 NIAA 2002) unless provision is necessary to prevent a breach of their ECHR rights (Price, 2016: 6).

### 4.3 A City of Sanctuary Committed to Inclusion

Cardiff Council has a commitment to reduce inequality and to strengthen inclusion in the city. In 2020, it published a four-year Equality and Inclusion Strategy in which asylum seekers, refugees, EU nationals and other migrants are identified as priority groups in several action areas. The aim is to ensure that Cardiff is fair, inclusive and safe for everyone, and to address disadvantages by embedding those objectives across the council's statutory and non-statutory services. The first objective of the strategy refers, significantly, to enabling 'all of Cardiff's residents to realise their potential and live safely' (Cardiff Council, 2020: 15). To address issues facing ethnic minorities in particular, the Council convened a Race Equality Taskforce (July 2020–March 2022) to identify opportunities for the Council and other organisations in the city to improve outcomes across employment, education, civic participation, health and criminal justice. Those of its recommendations that are adopted will be incorporated into the Council's corporate plan and the delivery plans of each of its Directorates.<sup>6</sup>

Cardiff was one of the founding cities of the UK Inclusive Cities programme, committed to working with local partners to achieve a step-change in their approach to supporting and welcoming newcomers in their city. Its action plan includes supporting access to legal advice for those with the complex immigration issues which can contribute to, or cause, destitution (Cardiff Council, 2020: 43). Access to legal advice also emerged, as we shall see, as a key issue in our research findings. Cardiff was officially recognized as a City of Sanctuary in 2014, the seventh UK city to receive that award, having demonstrated that "it was a city that recognises the importance of sanctuary and welcomes all who needed it".<sup>7</sup> Cardiff's first 'School of

<sup>5</sup>Care Planning Placement and Case Review (Wales) Regulations 2015.

<sup>6</sup>Cardiff Council (2022). Report of the Cardiff Race Equality Taskforce. <https://www.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Equality-diversity-and-cohesion/race-equality-taskforce/Documents/CRET%20Report%202022%20English.pdf>

<sup>7</sup>Cardiff City of Sanctuary website: <https://cardiff.cityofsanctuary.org>

Sanctuary’ achieved that status in 2018 for its good practice in fostering a culture of welcome and inclusion.

## **4.4 Tax Funded Healthcare Largely Limited to Residents with Legal Status**

We saw that the legal and institutional framework for the delivery of healthcare differs in the three countries. While in Germany and Austria the health system is financed by insurance, the UK National Health Service (NHS) is funded by taxation and is free at the point of use to those who are ‘ordinarily resident’ with a regular legal status in the UK. With some important exceptions explained below, that excludes most of those with a precarious status from its services. Healthcare is provided by the NHS through local health boards, with primary care provision by General Practitioners (GPs) funded by the NHS. The NHS in Wales is part of the UK-wide organisation but has a level of autonomy in determining its own structure, policies and expenditure. Access to NHS services is also not considered a ‘public fund’ for immigration purposes. As such, charging for NHS services is a matter for devolved legislation.<sup>8</sup> NHS Wales is composed of three NHS Trusts and, within them, seven local health boards, including the Cardiff and Vale University Health Board, which work together to assess health needs and administer, deliver and monitor healthcare services.<sup>9</sup>

The General Practitioner (GP) is the main gateway to NHS services throughout the UK. GPs are required to register individuals in their area unless, for instance, they are working at full capacity and have closed their patient list. They must justify their reason for refusing a patient in writing. The Equality Act 2010 makes it unlawful for GPs to refuse to register individuals because of characteristics such as race, religion, ethnic or national origin. To register, patients complete a form which includes their home address.<sup>10</sup> Despite this, proof of address is not in fact required for GP registration.

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<sup>8</sup>Department of Health & Social Care (2022). Guidance on implementing the overseas visitor charging regulations. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1090896/overseas-NHS-visitors-charging-regulations-guidance-July-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1090896/overseas-NHS-visitors-charging-regulations-guidance-July-2022.pdf) Para 23.

<sup>9</sup>The three NHS Wales Trusts are: The Welsh Ambulance Services NHS Trust (which manages the NHS111 telephone advice line and ambulance service), the Velindre NHS Trust (which provides cancer and blood services), and Public Health Wales (which has a large remit for public health provision, planning and communication). Other more specialised NHS Wales institutions exist, such as Digital Health and Care Wales.

<sup>10</sup>The GMS1 form and practitioner guidance are available online: <https://www.gov.uk/government/publications/gms1>

#### **4.4.1 Local Responsibility for Public Health Embraces Precarious Migrants**

Public health, in contrast, is a devolved responsibility of the Welsh Government. It set out a cross-institution public health roadmap in its *Nation of Sanctuary Refugee and Asylum Seeker Plan* (2019) which covers actions for “people seeking sanctuary” and those with NRPF. The actions involve local authorities working with local health boards, Public Health Wales, the UK Government, the Welsh Refugee Coalition, and other partners, to assess needs; to “maintain free healthcare [our emphasis] for refugees and asylum seekers, including those who have No Recourse to Public Funds”; share good practice; support migrant children’s physical and mental health; provide mental health support, and support inclusion in sports. In addition, in 2018 the Welsh Government released *Policy Implementation Guidance on Health and Wellbeing Provision for Refugees and Asylum Seekers*—a substantial resource for practitioners on legislation, governance, healthcare needs, good practice, and risk management. It also covers refused asylum seekers.

Cardiff Council, while not the provider of healthcare services, must assess and protect public health in its area. It is required, by the Social Services and Well-being (Wales) Act 2014, to conduct, with the Cardiff & Vale Integrated Health and Social Care Partnership, an assessment of the needs for care in the area and the extent to which these needs are unmet. In the assessment published in April 2022, its recommendations refer, significantly, not only to asylum seekers and refugees but also to ‘undocumented’ migrants. The recommendations include training and ongoing support for professionals working with undocumented migrants to improve the quality of services delivered; improved data collection; co-location of health services most relevant to those who are vulnerable, including destitute asylum seekers; and models of primary care that could overcome known barriers for this group of people. Some of the concerns identified in our research had thus already been identified in this formal needs-assessment. They are expected to be addressed by the local health board with collaboration from Cardiff Council and NGO representatives.<sup>11</sup> Cardiff Council has additional responsibilities under public health legislation, particularly related to cases of infectious diseases.<sup>12</sup>

#### **4.4.2 Charges Prevent Access to Healthcare**

Under 1989 NHS regulations, patients who are overseas visitors (that is, not ‘ordinarily resident’ with regular legal status) may be charged for NHS services. There

<sup>11</sup> Cardiff & Vale Regional Partnership Board (2022). Cardiff and the Vale of Glamorgan Population Needs Assessment 2022. <https://cvihsc.co.uk/about/what-we-do/population-needs-assessment/>

<sup>12</sup> Welsh Government (2010). Health Protection Legislation (Wales) Guidance. <https://gov.wales/health-protection-legislation-2010-guidance>

are exceptions where free service is permitted.<sup>13</sup> Under these regulations, the local health board has the responsibility of determining whether a patient is an overseas visitor. Welsh legislation on NHS charging has also established exceptions in which overseas visitors should be provided free primary care.<sup>14</sup> These exceptions include emergency treatment and ‘immediately necessary’ treatment. The Welsh Government advises that ‘immediately necessary’ treatment should be understood as:

essential treatment which cannot be reasonably delayed until the patient returns to their home country...to include treatment that is required as a result of a pre-existing condition that has become exacerbated during the period of the overseas visitor’s stay in this country. (paras. 15, 19)<sup>15</sup>

If the treatment is not immediately necessary, the GP decides whether to accept the person as a private, paying, patient; or as an NHS patient, in which case the treatment is free of charge (para 23). Additionally, as in the UK generally, free treatment is provided for some diseases of public health importance (e.g., Tuberculosis and COVID-19), treatment in sexually transmitted disease clinics, treatment under the Mental Health Act 1983 and family planning. Treatment in Accident and Emergency (‘A&E’) departments is also free, but only while in the department. Follow-up care is chargeable.<sup>16</sup> In response to the NHS’s amended charging regulations for overseas visitors in the UK, the Academy of Medical Royal Colleges in March 2019 highlighted the adverse health impacts of these policies. These regulations, which diverge from global commitments to universal health coverage, were considered to have led to the marginalisation and exclusion of migrants from necessary health services, escalating risks like delayed diagnoses and adverse health outcomes, and to contradict the principles of the NHS constitution and international human rights law (Orcutt et al., 2019).

In secondary healthcare (largely administered in a hospital), those who are not ordinarily resident are typically charged for services. Exceptions again exist for communicable or sexually transmitted diseases, treatment in Accident and Emergency departments, and for victims of trafficking or domestic violence. While, as we saw, treatment that is not ‘immediately necessary’ is chargeable in secondary healthcare, it cannot be denied for lack of funds. The 2009 guidance on

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<sup>13</sup>National Health Service (Charges to Overseas Visitors) Regulations 1989. <https://www.legislation.gov.uk/uksi/1989/306/made>

<sup>14</sup>NHS Wales provides a summary of the relevant Welsh legislation related to NHS charging of overseas visitors: <https://nwssp.nhs.wales/a-wp/governance-e-manual/putting-the-citizen-first/over-seas-visitors-and-the-nhs/>

<sup>15</sup>Welsh Government (2021). Overseas Visitors’ Eligibility to Receive Free Primary Care. <https://gov.wales/overseas-visitors-eligibility-receive-free-primary-care-whc021026>

<sup>16</sup>Welsh Government (2021). Overseas Visitors’ Eligibility to Receive Free Primary Care. <https://gov.wales/overseas-visitors-eligibility-receive-free-primary-care-whc021026>

Implementing the Overseas Visitors Hospital Charging Regulations states that while NHS Trusts:<sup>17</sup>

have a duty to recover charges, . . . they should not go beyond what is reasonable in pursuing them. Trusts have the option to write off debts where it proves impossible to recover them or where it would be futile to begin to pursue them, for instance when the person is known to be without any funds. (p. 9)

While asylum seekers are exempt from NHS charges across the UK, refused asylum seekers have also been exempt in Wales since 2009.<sup>18</sup> Additionally, in Wales, if any migrant receiving free treatment loses their legal status, or it is later determined that they were an irregular migrant when they received the treatment, they cannot be charged for past treatments if they have lived in the UK for more than 12 months. However, subsequent treatments are chargeable.<sup>19</sup> Likewise, EU citizens without settled or pre-settled status can be charged, although reciprocal national agreements exist for certain cases.<sup>20</sup> Those who are unable to pay for NHS dental or eye treatments or for travel to any NHS treatment can apply for some or all of the costs. However, there is variable awareness of this entitlement among refugees and asylum seekers (Khanom et al., 2019: 8). It is likely that this is also the case for those with precarious status.

The fear of being charged for services thus dissuades access, especially as migrants with precarious status are likely to lack the financial capacity to pay upfront costs. In addition, future immigration applications can be refused if the applicant has unpaid bills for NHS treatment.<sup>21</sup> Under the UK Immigration Act 2014 and consequent Immigration (Health Charge) Order 2015, a significant health surcharge applies to applications for leave to remain or entry into the UK.<sup>22</sup> Asylum seekers and their dependents are exempt as are some victims of trafficking and domestic violence. However, the surcharge directly affects those with a temporary status who need to secure continuity of residence. An individual seeking to extend his or her

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<sup>17</sup>Welsh Government (2009). Implementing the Overseas Visitors Hospital Charging Regulations. <https://www.gov.wales/sites/default/files/publications/2019-05/implementing-the-overseas-visitors-hospital-charging-regulations.pdf>

<sup>18</sup>The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2009. <https://www.legislation.gov.uk/wsi/2009/1512/made>

<sup>19</sup>Implementing the Overseas Visitors Hospital Charging Regulations: Guidance for NHS Trust Hospital in Wales. <https://gov.wales/sites/default/files/publications/2019-05/implementing-the-overseas-visitors-hospital-charging-regulations.pdf>. Page 26, section 6.22.

<sup>20</sup>EU citizens without pre-settled or settled status can, in some cases, access NHS care in the UK through reciprocal agreements, such as can be evidenced through a S1 form (if they are insured in an EU country), an S2 form (authorisation for planned health treatment), or a European Health Insurance Card (EHIC).

<sup>21</sup>Home Office (2022). Suitability: debt to the NHS caseworker guidance. <https://www.gov.uk/government/publications/suitability-debt-to-the-nhs-caseworker-guidance>

<sup>22</sup>Under the UK Immigration Act 2014 and consequent Immigration (Health Charge) Order 2015.



leave to remain for an additional 30 months, for instance, must pay a surcharge of £1560 in addition to other immigration fees.<sup>23</sup>

### ***4.4.3 Specialist Health Centre Provides Some Key Services***

Significantly for our study, migrants with precarious status in Cardiff can access public health screenings and short-term health support through the Cardiff and Vale Health Inclusion Service (CAVHIS). This service provides health assessments for asylum seekers in initial accommodation before they are dispersed within Wales and who can then integrate into the regular NHS. In September 2021, CAVHIS' services were extended to other individuals with limited access to the NHS, such as irregular migrants. Nurses discuss the health history of the patient and offer missing immunisations and tests for infectious diseases. They signpost patients to other services and orient them towards registering with a GP.

There is some concern that, at CAVHIS, highly vulnerable migrants seek help alongside individuals who have been 'delisted' by GPs for assault; and that it effectively introduces a "dual healthcare system" that runs parallel to primary care provided by GPs. The latter concern is an interesting mirror of concerns in Sweden on its parallel healthcare system before access was extended to the regular healthcare system through legislation in 2013 (Ministry of Social Affairs, 2011). However, CAVHIS conducts outreach work to sensitise regular healthcare professionals to precarious migrants and encourages patient registrations, minimising the need for a dual system.

### **Services for Women**

Women with precarious status face distinct vulnerabilities including domestic violence, Female Genital Mutilation (FGM), trafficking, social stigmatisation and 'honour-based' violence. However, their precarious status can lead them to avoid approaching any public services. Our study learnt, for instance, of a woman who went to hospital in Cardiff during labour with preeclampsia, having not sought antenatal care for fear that she might be removed from the UK. The delay contributed to the death of the child. The mother was later charged for the costs of her care but secured financial assistance from a faith community.

The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 provides a legal framework for the protection of vulnerable women and there is cross-sectoral awareness of female genital mutilation (FGM). The All-Wales Clinical Pathway for FGM standardises safeguarding and reporting procedures for

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<sup>23</sup>The UK Government provides a health surcharge calculator: <https://www.immigration-health-surcharge.service.gov.uk/checker/type>

victims and those at risk. Healthcare, social care, and education workers have a duty to report being informed of FGM or observing evidence of it on a child.<sup>24</sup> CAVHIS employs a midwife specialized in FGM and provides 1-h appointments, much longer than those typical in the NHS. These are available to precarious migrants who are pregnant, irrespective of FGM status.

Having no childcare arrangement can, as for other women, complicate attending appointments, although emergency childcare is sometimes obtained from religious communities or other residents in shared accommodation. CAVHIS can refer women in the early stages of pregnancy to the Council's Children's Services which will establish contact with a family that can look after the child while the mother is in labour. Trust has to be established to assuage a mother's fear that she will be permanently separated from her child.

The study found a general lack of awareness of precarious migrants in the NHS and that this leads to misinterpretation by staff of their behaviour. Women who struggle to attend appointments, for instance, can be seen as disengaged. Knowledge of the health needs of female migrants is gained on-the-job rather than through training. A few highly engaged NHS workers sometimes personally transport migrants to appointments or pay taxi fares. They may refer pregnant women to NGOs that will provide support and 'hide' them from the Council and Home Office until they are 34 weeks pregnant at which point they cannot be made to leave the UK. Specialised NHS staff, including at CAVHIS, personally foster relationships with NGOs that can provide support, such as the Cwch Baby Bank (which provides essentials for babies to destitute mothers), the Birth Partner Project (which provides doulas<sup>25</sup> as a birth partner), and Bawso (which provides support for victims of domestic abuse and FGM).

#### ***4.4.4 Further Barriers to Accessing Healthcare***

Beyond the restrictions on access written into the law, and fear of charges for services, migrants with a precarious status in Cardiff face a series of other barriers to accessing care: in relation to communication, inter-organisational links, and to data collection and sharing: GP practices, for instance, as we saw, sometimes require proof of address to register new patients. If unable or unwilling to provide an address (for fear of detection), non-registration means very limited access to NHS services. CAVHIS partly mitigates this by providing inclusive treatment.

Although the Well-being (Wales) Act 2014 places requirements on public bodies to ensure that services are accessible, some are not provided due to migrants' limited ability to communicate in English. NHS Wales has worked to increase accessibility

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<sup>24</sup>Serious Crime Act (2015). <https://www.legislation.gov.uk/ukpga/2015/9/contents/enacted>

<sup>25</sup>A doula is a non-medical, professional who is trained to provide support during labour.

to migrants, and this is monitored by the Welsh Government.<sup>26</sup> In particular, guidance stipulates the use of accredited interpreters (Welsh Government, 2018: 32ff). Nevertheless, NHS staff sometimes rely on family members for interpretation, and this can lead to patients or their interpreter withholding information, for instance if women are embarrassed to share symptoms through their husband or children. There is also some concern about the quality and safety of accredited interpretation services. Professional interpreters are typically male although “female interpreters are available and the client’s wishes over the gender of the interpreter should be respected” (Welsh Government, 2018: 33). The use of male interpreters can be problematic for gender-sensitive questions (including related to domestic violence). An NHS interviewee also indicated that traffickers had previously registered as official interpreters and, because of this, they kept patients’ names from interpreters. There was concern that interpreters do not always strictly interpret and sometimes share their opinions with the patient in the migrant’s language. These communication barriers call into question the quality of informed consent provided by patients. NHS workers, we were told, can lack the time and cultural awareness to ensure that information is sufficiently understood.

#### ***4.4.5 Inter-agency Cooperation Crucial But Data Sharing a Challenge***

The Welsh Government has emphasised the need for joint working on health and highlighted regional partnerships and frameworks that link local authorities with other partners (Welsh Government, 2018: 17). Cardiff Council interviewees stressed the importance of joined-up services and notably perceived few barriers in linking their services with the NHS. Housing Options Services, for example, prioritises discharged NHS patients with precarious accommodation situations. Yet both NHS and Council interviewees noted limited migrant-specific expertise and capacity in their institutions. Staff expertise is generally transferred laterally between colleagues rather than through training modules.

NGOs provide basic health related services as well as facilitating access to NHS care, seen by NHS interviewees as the “nuts and bolts” necessary for including precarious migrants. The British Red Cross works, for instance, alongside CAVHIS for ‘social prescribing’<sup>27</sup> and signposting to NHS services. Another NGO, Displaced People in Action (DPIA), is launching training sessions for asylum seekers that include how to access GPs and pharmacy services. NGOs provide access to mobile

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<sup>26</sup> Auditor General for Wales (2018). Speak my language: Overcoming language and communication barriers in public services. <https://www.audit.wales/publication/speak-my-language-overcoming-language-and-communication-barriers-public-services>

<sup>27</sup> Social prescribing is the practice of referring patients to non-medical, community-based activities or support. See Drinkwater et al. (2019).

phones to help migrants to make appointments, and they help migrants understand their interactions with the NHS. While frameworks and formal partnerships exist, in practice NHS relationships with NGOs often form organically. For example, workers at the Street Life Project have referred pregnant sex workers to CAVHIS staff; and CAVHIS staff have coordinated with OASIS to enable food parcels to be delivered. These relationships depend on staff initiatives, capacity, local knowledge, and networking. Some NHS staff feel obliged to remain reachable during their time-off, as their expertise is not shared across their institution. Likewise, since no centralised NHS resources on migrants with precarious status exist for local NGOs, NHS staff spend time redirecting NGO inquiries to colleagues in other parts of the health service.

The collection and sharing of health data has gained increased attention since COVID-19 and the ensuing emphasis on evidenced-based practices that rely on population-level public health data, including on specific groups such as precarious migrants.<sup>28</sup> The Council, health board and GPs are among the signatories of the Wales Accord on the Sharing of Personal Information, which provides a framework for data sharing. Welsh Government guidance notes the need for centralised datasets to account for migrant mobility and it tasks local health boards with agreeing on dataset standards that include countries of origin and transit, languages spoken, initial assessment date, medical diagnoses, NGO referrals, and FGM (Welsh Government, 2018: 17ff). It recommends that local authorities share data on service delivery and uptake (Welsh Government, 2018: 28). Various standardised coding schemes are used to record health data. Welsh Government guidance has stipulated that local health boards should ensure the use by medical staff of ‘refugee’ and ‘asylum seeker’ codes but there is no advice on more specific codes relevant to migrants with precarious status (Welsh Government, 2018: 17ff). Code lists are voluminous and can be obscure, and local codes can be created.<sup>29</sup> The codes are not systematically used by clinicians who can be unaware of codes related to migrants; while some worry that asking about legal status will rupture the clinician-patient relationship or fall outside a ‘need to know’ basis. Migrants may withhold information on legal status due to concerns about charging, confidentiality, data sharing with the Home Office, or that care will be declined. Lack of health data on such migrants consequently limits public health oversight; yet cases may in practice be too few to remain unidentifiable in such reporting.

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<sup>28</sup>For health data within the context of NHS England, see Data saves lives: reshaping health and social care with data. <https://www.gov.uk/government/publications/data-saves-lives-reshaping-health-and-social-care-with-data/data-saves-lives-reshaping-health-and-social-care-with-data>

<sup>29</sup>NHS Wales is transitioning to a new code system. Welsh Government (2015). Introduction of SNOMED CT as an Information Standard in NHS Wales. Welsh Health Circular (2015) 053. <https://gov.wales/introduction-snomed-ct-nhs-information-standard-whc201553>

## 4.5 Accommodation Severely Limited by Law, Availability, and Lack of Trust

The Welsh Refugee Council estimates that hundreds of refused asylum seekers become destitute each year and at risk of homelessness. This is especially the case for single adults as asylum seeker families continue to receive support. The Destitution Clinic (an NGO) identified at least 69 refused asylum seekers who were homeless or with no fixed abode between 24 September 2018 and 8 April 2019 (Petch & Stirling, 2020). The Council Homeless Service confirmed similar numbers during the COVID-19 pandemic, noting that it had housed 72 migrants with NRPF. Notably they provided, at the same time, access to legal advice on immigration status—a problem solving approach linked to provision of accommodation that is also in place in other European cities such as Utrecht and Ghent. By providing legal advice, the Homeless Service informed the study that it had managed to address the cause of their precarious status in 75% of cases.

Street homelessness is a political priority for the Welsh government.<sup>30</sup> Yet our local authority and NGO interviewees working in housing or housing-related services reported a lack of accommodation in Cardiff generally, illustrating the impact of structural factors constraining municipal practices. This, coupled with a lack of information from the Home Office on people who are due to be evicted from asylum related accommodation, and on the numbers of people with NRPF or Appeal Rights Exhausted, makes it difficult for the Council Homeless Service to assess the magnitude of the issue and to plan appropriate provision. Cardiff Council interviewees also identified a lack of trust on the part of precarious migrants, and sometimes of NGOs, towards the Housing Department, leading to a reluctance to seek help from housing services. Council interviewees noted that collaboration with external organisations, such as the Welsh Refugee Council or the Salvation Army, is key to overcoming the reluctance of migrants to approach the local authority.

The Welsh Government's ability to accommodate migrants with NRPF is restricted by UK immigration rules (Petch & Stirling, 2020: 13). Its *Nation of Sanctuary Plan* (2019) nevertheless includes actions to accommodate people seeking sanctuary, such as working with landlords to raise awareness of who is eligible for accommodation. The local authority views statutory requirements as its “minimum level” of service provision and aims to provide services humanely, although bound by the law. For instance, migrants with precarious status are not eligible to receive council housing via the Housing (Wales) Act 2014 which addresses homelessness. However, they are eligible for housing provided by housing associations or the private sector. Significantly, unlike in England, Wales does not require landlords

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<sup>30</sup>Welsh Government (2021). Ending homelessness in Wales: A high level action plan – 2021–2026. <https://gov.wales/ending-homelessness-high-level-action-plan-2021-2026.html>

to verify the immigration status of prospective tenants.<sup>31</sup> When the Council is unable to provide accommodation, it refers migrants to NGOs which may be able to assist.

Under the Social Services and Well-being (Wales) Act 2014 (s21), Cardiff council also has, as we saw, a particular duty to safeguard children ‘in need’. This means provision of basic accommodation, with their parents, and a small subsistence allowance. Safeguarding is a priority and children under 18 who are in need are referred to Children’s Services where social workers conduct a “wellbeing” assessment.<sup>32</sup> More broadly, practice guidance indicates that all children should be regarded as “children first and migrant second”, albeit constrained by immigration rules.<sup>33</sup> There is a lack of data on the number of children (under 18 years) with a precarious status, making it harder for the Council to address their needs. This is due to a lack of information shared by the Home Office, to parents being hesitant to approach children’s services out of fear that their children might be taken away, and the fact that social workers have not been trained to record information consistently.

Refused asylum seekers, if destitute, are eligible for assistance from the Welsh Government’s Discretionary Assistance Fund (Petch & Stirling, 2020: 68). However, the Council also has a statutory duty (s60 Housing (Wales) Act 2014) to provide information and advice to homeless people, including those who are ineligible for housing assistance (Petch & Stirling, 2020: 63). Welsh Government guidance clarifies that local authorities also have a statutory obligation (Social Service and Wellbeing Act 2014) to support young care leavers and vulnerable adults in need (Petch & Stirling, 2020: 26). Even in this context, it is challenging to find emergency accommodation. It requires liaison with the housing service, notwithstanding that children’s services and adult services come under the same directorate as homelessness; and is complicated by delays in Home Office processing of cases.

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<sup>31</sup> The UK Government’s Right to Rent policy (Immigration Act 2014) has been found to be incompatible with human rights and in breach of the Equality Act 2010. The judgment prevents the UK Government from rolling out the controversial policy in Scotland and Wales. *See* Equality and Human Rights Commission (2019). Right to Rent policy in Scotland and Wales successfully challenged. <https://www.equalityhumanrights.com/en/our-work/news/right-rent-policy-scotland-and-wales-successfully-challenged>

<sup>32</sup> Children with precarious migration status also receive support to register their asylum claim, if any (including coordinating with UK Visas and Immigration), support in obtaining legal advice, as well as a pathway planning for their education.

<sup>33</sup> All Wales Child Protection Procedures Review Group (2011). Safeguarding and Promoting the Welfare of Unaccompanied Asylum Seeking Children and Young People: All Wales Practice Guidelines. <https://www.cardiffandvalleysb.co.uk/wp-content/uploads/Safeguarding-and-Promoting-the-Welfare-of-Unaccompanied-Asylum-Seeking-Children-and-Young-People-All-Wales-Practice-Guidance.pdf>

### ***4.5.1 Vital Role of NGOs in Providing Shelter***

In Cardiff there are several NGOs that provide accommodation to migrants with a precarious status. The Destitution Clinic is run in partnership with the British Red Cross, the Welsh Refugee Council, Home4U (an NGO accommodating single male refused asylum seekers in shared housing) and ShareDYDD (a hosting scheme accommodating precarious migrants). Oasis provides drop-in and advice provision while the Huggard Centre, with funding from the Council, provides temporary emergency accommodation. Although precarious migrants are not typically eligible for local authority funded emergency accommodation even if managed by NGOs, they may be given an emergency bed space while their rights are established. Additionally, Bawso, an NGO providing support to Black, Asian, and Minority Ethnic (BAME) communities and individuals in Wales affected by abuse, violence and exploitation, provides emergency accommodation. Several faith groups such as the Trinity Centre further provide emergency accommodation or practical support. Cardiff Council may also exceptionally provide funding to emergency shelters or hotels when precarious migrants are particularly vulnerable (e.g., while recovering from surgery).

### ***4.5.2 Welsh Government Homeless Plan ‘Regardless of Migration Status’***

Prior to the COVID-19 pandemic, in 2019, the Welsh Government established an independent Homelessness Action Group to find solutions to homelessness in Wales (Fitzpatrick et al., 2021). It published three reports<sup>34</sup> with recommendations to apply to all people who are, or at risk of becoming, homeless, “regardless of their migration status, as far as this is possible in current UK law.”<sup>35</sup> The pandemic introduced various changes to homelessness policy. The Welsh government said in March 2020 that everyone who was homeless needed to be accommodated, including migrants with NRPF: a ‘no-one left out’ approach (Fitzpatrick et al., 2021).<sup>36</sup> This was

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<sup>34</sup>The October 2019 report recommended winter actions and long-term solutions to prevent rough sleeping. The March 2020 report detailed the framework of policies, approaches and plans needed to end homelessness in Wales. The July 2020 report provided details on scaling-up rapid rehousing approaches and joined-up partnerships and considered the impact of the COVID-19 pandemic and the responses of the Welsh Government. Homelessness Action Group (2020 July). <https://gov.wales/sites/default/files/publications/2020-11/homelessness-action-group-report-july-2020.pdf>

<sup>35</sup>Homelessness Action Group (2020 March). The framework of policies, approaches and plans needed to end homelessness in Wales. [https://gov.wales/sites/default/files/publications/2020-03/homelessness-action-group-report-march-2020\\_0.pdf](https://gov.wales/sites/default/files/publications/2020-03/homelessness-action-group-report-march-2020_0.pdf). p. 45.

<sup>36</sup>See Guidance on self-isolating and Guidance for LAs on continuing to support homeless people during the COVID-19 pandemic: [https://gov.wales/sites/default/files/publications/2020-04/guidance-for-local-authorities-in-supporting-people-sleeping-rough-covid-19\\_0.pdf](https://gov.wales/sites/default/files/publications/2020-04/guidance-for-local-authorities-in-supporting-people-sleeping-rough-covid-19_0.pdf)

accompanied by a six-month moratorium on evictions, later extended to March 2021 (Fitzpatrick et al., 2021). Funding was allocated by the Welsh Government to local authorities to secure adequate accommodation to all homeless individuals: a £10 million funding package for emergency accommodation<sup>37</sup> followed by a second package providing £10 million in May 2020 to support longer-term housing solutions. Local authorities were asked to set out how they would ensure the long-term resettlement of every person currently residing in temporary accommodation. The funding was increased to £50 million in July 2020 (Fitzpatrick et al., 2021). In 2022, a £60 million fund was announced: it will be made available to local authorities to increase accommodation capacity across Wales.<sup>38</sup>

At the onset of the pandemic, the Welsh Government also put in place further emergency measures so that local authorities could provide accommodation to people who were rough sleeping or living in inadequate temporary accommodation, including precarious migrants. It invested over £195 million in housing support and homelessness services and launched a Private Rented Sector Leasing Scheme which invites property owners to lease their properties to local authorities. Recognizing the benefits of the ‘no-one left out’ approach, the Welsh Government later conducted a consultation to help shape its post pandemic policies and proposed changes to homelessness provision that would retain its approach to rough sleeping in Wales.<sup>39</sup> Within Cardiff Council, departments worked with its Cohesion Team to investigate long term accommodation solutions. There is concern that, as the Welsh Government must comply with UK legislation, there could be a policy “U-turn” so that many precarious migrants would again become homeless, wiping out the benefits of the more inclusive approach. Cardiff Council says of its ground-breaking work on homelessness during the pandemic:

Our collective action to protect rough sleepers and those at imminent risk of homelessness during this time has been nothing short of life changing for so many of those who have been supported. We are clear that there can be no going back and the ‘everybody in’ programme of housing assistance must point the way to ending homelessness for good in Cardiff. (Lewis et al., 2021: 24)

NGO and local authority interviewees (C3, C6, C12) proposed the establishment of a system that is more individualised, with a joined-up support service offered to all migrants regardless of status, rather than focusing only on alleviating the symptoms of destitution. There was a need for a cross-disciplinary approach, particularly involving healthcare, because precarious migrants often have trauma that need to be addressed.

<sup>37</sup> Welsh Government (2020). Written Statement: COVID-19 Response – Homelessness and Rough Sleepers. <https://gov.wales/written-statement-covid-19-response-homelessness-and-rough-sleepers>

<sup>38</sup> See <https://www.gov.wales/post-pandemic-interim-homelessness-measures-html>

<sup>39</sup> Welsh Government (2022). Consultation: Post pandemic interim homelessness measures. <https://gov.wales/post-pandemic-interim-homelessness-measures-html>



## 4.6 Access to School Education for All

As education is a devolved matter, the Welsh Government is responsible for education policy and oversight of services. It works closely with the nation's 22 local authorities (Evans, 2022), such as Cardiff Council, which are responsible for education provision. Education in Cardiff is the responsibility of the council's Education Department which set out its plan in 2016: *Cardiff 2020: A renewed vision for education and learning in Cardiff*.<sup>40</sup> It refers to the importance of equality of opportunity and to championing the success and life chances of all children by narrowing the gap in education outcomes; but it makes no specific reference to children with a migrant background. With the support of the Council, however, the City of Sanctuary movement initiated a School of Sanctuary programme designed to provide a welcoming and caring environment for those people from abroad in need of help. Several schools in Cardiff have already achieved School of Sanctuary status (C2).<sup>41</sup>

Compulsory education begins for children after their fifth birthday in the UK: for children of primary school age (between 5 and 11) and of secondary school age (between 12 and 16). Local authorities have a legal duty under the 2014 Act to provide suitable education to all children of compulsory school age in their area, regardless of immigration status. Education services are not classified as 'public funds' and thus NRPF policy also does not apply (Trevena & Maclachlan, 2016). While schools need a child's name and date of birth, they do not need to know the child's immigration status.

### 4.6.1 Steps Taken to Meet Migrants' Special Needs

In 2014, the Welsh Government published *Qualified for Life: An education improvement plan for 3 to 19-year-olds in Wales*.<sup>42</sup> This emphasised that the needs of pupils who require extra support, as well as migrant and refugee pupils and looked-after children, should be met.<sup>43</sup> It introduced an Education Improvement Grant to further reduce the impact of deprivation on all students, including those with precarious

<sup>40</sup> Cardiff Council (2016). Cardiff 2020: A renewed vision for education and learning in Cardiff. <https://www.cardiff.gov.uk/ENG/resident/Schools-and-learning/Documents/Cardiff%202020.pdf>; <https://www.cardiff.gov.uk/ENG/resident/Schools-and-learning/Cardiff-2030/Documents/2030%20CARDIFF%20VISION%20low%20a.pdf>

<sup>41</sup> Cardiff Council (n.d.). Celebrations at latest Cardiff school to become a School of Sanctuary. <https://www.cardiffnewsroom.co.uk/releases/c25/20616.html>

<sup>42</sup> Welsh Government (2014). Written Statement – Qualified for Life: delivering a national qualifications system for Wales in 2015. <https://gov.wales/written-statement-qualified-life-education-improvement-plan-wales>

<sup>43</sup> Welsh Government (2016). Inclusion and pupil support: Guidance for schools and local authorities. <https://gov.wales/inclusion-and-pupil-support-guidance-schools-and-local-authorities>

status.<sup>44</sup> The Special Educational Needs: Code of Practice for Wales<sup>45</sup> establishes that local authorities must meet any special educational need.<sup>46</sup> The Welsh Government further recognises<sup>47</sup> that migrant children may have special needs due to their previous experiences as well as to their limited ability to speak English (Trevena & Maclachlan, 2016). It has also, since 2010, funded a Flying Start programme for all children under the age of 4, regardless of immigration status, who are living in disadvantaged areas of Wales. The programme offers part time childcare and health support services, as well as speech, language and communication support.

In Cardiff, local authority interviewees (C13, C14) indicated that they can use discretionary powers to support precarious migrant children and apply a low eligibility threshold to them due to their heightened vulnerability. For instance, they may provide school uniforms to families which are not eligible for the Pupil Development Grant<sup>48</sup> or free school transport if necessary.<sup>49</sup> Children's Services will also cover children's basic needs (e.g., a warm coat in winter) and may provide a mobile phone so that children can be in contact with their families or a solicitor. The Welsh Government has developed its own policies and procedures (e.g. the All Wales Age Assessment Toolkit), as well as financial policies and guidelines. As of September 2022, Wales will start working with local authorities to extend free school meals provision for primary school pupils. As the policy is progressively implemented throughout Wales, all students—including precarious migrant children—will be offered free lunches by September 2024.<sup>50</sup>

<sup>44</sup>GwE (2018). Education Improvement Grant 2018–19 (EIG). [https://www.gwegogledd.cymru/wp-content/uploads/2018/07/Llythyr-GGA-2018-2019-\\_EIG-Letter-2018-2019-2.pdf](https://www.gwegogledd.cymru/wp-content/uploads/2018/07/Llythyr-GGA-2018-2019-_EIG-Letter-2018-2019-2.pdf)

<sup>45</sup>Education Act (1996). Section 312(1). <https://www.legislation.gov.uk/ukpga/1996/56/section/312>; Welsh Government (2013). Special Educational Needs: Code of Practice for Wales. <https://gov.wales/special-educational-needs-code-practice>

<sup>46</sup>UNICEF (2017). UNICEF UK Policy Position: Access to Education for Refugee Children. <https://www.unicef.org.uk/wp-content/uploads/2018/09/UNICEF-UK-POLICY-POSITION-Wales-1.pdf>; Gladwell, C., Chetwynd, G. (2018). Education for refugee and asylum-seeking children: Access and quality in England, Scotland and Wales. UNICEF Retrieved May 8, 2022, from <https://www.unicef.org.uk/wp-content/uploads/2018/09/Access-to-Education-report-PDF.pdf>

<sup>47</sup>Welsh Government (2016). Inclusion and pupil support: Guidance for schools and local authorities. <https://gov.wales/inclusion-and-pupil-support-guidance-schools-and-local-authorities>

<sup>48</sup>The Welsh Government offers financial support through the Pupil Development Grant to pupils to purchase school uniforms or cover other school related costs. This grant is available to eligible families which include those who receive support under Part VI of the Immigration and Asylum Act 1999.

<https://gov.wales/sites/default/files/publications/2018-03/frequently-asked-questions-free-school-meals.pdf>

<sup>49</sup>LAs also have a duty to provide free transport to all children, if it is necessary to enable them to attend school. The law establishes that the walkable distance to a primary school is 2 miles and to a secondary school 3 miles.

Section 509, Education Act 1996, available at: <http://www.legislation.gov.uk/ukpga/1996/56/section/509>

<sup>50</sup>Welsh Government (2022). £25m to kick-start free school meals for all primary school children in Wales. <https://gov.wales/25m-kick-start-free-school-meals-all-primary-school-children-wales>

While specific programmes have been developed to improve refugee children's integration into the school system<sup>51</sup> no such programmes have been developed for precarious migrants. However, the COVID-19 pandemic created more awareness of these children and led to some forms of assistance. In Wales, 2.7% of pupils considered 'disadvantaged learners' received an IT kit (laptop and Wi-Fi) by the end of May 2022 (Sibieta & Cottell, 2020). School closures meant, moreover, that children who would normally receive a free school meal no longer could do so. The Welsh Government therefore provided a £19.5 weekly voucher to eligible children (Sibieta & Cottell, 2020) and, although precarious migrant children were not eligible under UK rules, Cardiff Council did ensure that they received them, after taking advice from the Welsh Government.

Overall, during the pandemic, Education Services in Cardiff were judged by interviewees to have done what they could to support families, regardless of status. The schools know their children and families and were able to address issues such as digital exclusion and lack of food. Schools sent surveys or people to knock on families' doors to be able to provide individualised support and ensure that their basic needs were covered. Now that COVID-19 is no longer preventing children from attending school, however, this support has been withdrawn, and some families have reportedly begun struggling again with digital deprivation.

#### ***4.6.2 Limited Access to Post School Education***

Although school is only compulsory until the age of 16, the Welsh government encourages further education. There are two paths to pursue this: by enrolling in Further Education (FE) or Higher Education (HE). Further Education includes vocational courses in colleges and linked apprenticeships.<sup>52</sup> For young people under the age of 19, FE Colleges are free. However, those with precarious status may need to pay a registration or tuition fee. Some exceptions include basic skills courses such as literacy, numeracy or ESOL, which are typically free. For young people between the ages of 16 and 18, an Education Maintenance Allowance is available to UK citizens and residents but not to precarious migrants. While they are also not normally eligible for grants such as the Welsh Government's support for those in Further Education, they may benefit from discretionary funds such as its Financial Contingency Funds (Trevena & Maclachlan, 2016). Additionally, in some

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In the UK, free school meals are offered to some migrant children, if their family is receiving Home Office asylum support under part VI of the Immigration and Asylum Act 1999. However, following the Immigration Act 2016, those who are ARE will no longer receive s95 support and will therefore not be eligible for free school meals.

<sup>51</sup> <https://www.wlga.wales/SearchResults.aspx?q=SYRIAN+EDUCATION+TOOLKIT>

<sup>52</sup> Welsh Government (n.d.). Sanctuary: Refugees and Asylum Seekers – Education. <https://sanctuary.gov.wales/refugeesandasylumseekers/education>

cases, local authorities will refer them to other services within the Council or to NGOs to get support.

The second path is through Higher Education (HE)—institutions that award academic degrees. Most HE institutions charge fees: overseas fees for international students or home fees for those who are considered residents. A Welsh Government Learning Grant is available for those whose income is below a threshold; however, young migrants with precarious status are usually ineligible. While HE institutions may use their discretionary powers to charge the lower residents' fees, they do not typically offer financial aid, thereby making it particularly difficult for precarious migrants to access their courses (Trevena & Maclachlan, 2016). Cardiff Children's Services may sometimes offer support to refused asylum seekers so that they can attend university.

Cardiff Council interviewees (C13, C14) indicated that young adults leaving the care system are a group that is particularly vulnerable and for whom it is difficult to provide support. They strongly advocate development of a strategy within the local authority to deal with this group through a cross departmental board instead of individual responses by each department. They welcomed the fortnightly team meetings which were set up during the pandemic that enabled various teams to share information more broadly about this vulnerable group of residents as a whole. Having a more holistic approach that involves several departments would, it was argued, help them to be more efficient and provide young adults with long term planning, preparing them for their transition into adulthood.

## **4.7 Addressing the Underlying Problem: Access to Legal Advice**

Legal status underpins the experiences of migrants with precarious status, so legal advice and representation can support them at pivotal moments of their lives. They may need help to submit an asylum claim, appeal a rejected claim, submit a fresh claim based on new evidence, extend their limited leave to remain, apply for settlement after 10 continuous years in the UK, or to challenge a removal notice. Without advice, migrants can lose status by completing incorrect forms or by missing deadlines to resubmit an application—deadlines which can be as short as 10 days. In some cases, lawyers can also aid migrants who have missed deadlines by submitting 'out of time' appeals.

Migrants with precarious status are often unfamiliar with immigration rules or their rights. They may compile knowledge from unreliable sources, including misinformation from family, smugglers or other migrants (Bastick & Mallet-Garcia, 2022). They are also susceptible to deliberate disinformation—including from employers or spouses who are benefiting from abusive employment or marital relationships. They may be unaware of changes to immigration policies that affect them, as were some EU nationals who, post Brexit, did not apply to the EU

Settlement Scheme. Numerous interviewees described UK immigration law as ‘incomprehensible’ to non-specialists. The Welsh Government has developed a Nation of Sanctuary website<sup>53</sup> which provides pertinent information and links to its Right to Remain Toolkit.<sup>54</sup> The website targets refugees, asylum seekers, EU citizens, and Ukrainians, but lacks materials for many migrants with precarious status, including those with no status or on spousal visas. It is also unclear how many migrants would know how to access the website. Precarious migrants may also hesitate to approach legal professionals or worry that doing so will put them ‘on the radar’. Those who have not been compliant with reporting instructions but must resume reporting to submit a fresh claim, may be worried that they will be detained.

Migrants who have NRPF may also struggle to pay Home Office application fees for a change of status. Those on a 10-year route to settlement are faced with high application fees every 2.5 years, as well as the surcharge to cover access to the NHS to which we have referred. If they cannot pay, they are liable to lose their status and must restart their 10-year eligibility for a right to remain. One interviewee characterised this as being sent to the bottom of a ‘Snakes and Ladders’ board. Even when eligible for settlement, some may not be able to afford application fees, and so may continue renewing their limited leave under which they are subject to NRPF. While fee waivers exist, the Home Office must judge that sufficient factual evidence of financial need has been presented: a challenge for some migrants.

### ***4.7.1 Severe Shortage of Legal Expertise on Immigration***

There is such limited expertise in Wales on immigration matters that interviewees (C3, C4, C11) referred to it as a ‘legal advice desert’. There is limited expertise on immigration within the legal profession, and the closure over the past decade of some national legal advice providers further limits capacity. Legal-sector interviewees noted, further, that lawyers are disincentivised from taking on many immigration cases due to low legal-aid fees.<sup>55</sup> Migrants appealing asylum refusals in particular struggle to find solicitors, due to the low legal aid rates that apply and to the complexity of these cases. Legal aid, moreover, does not cover many other immigration applications—including for family reunification, visitor visas, or those based on the ECHR right to family and private life.<sup>56</sup> These are often the paths most accessible to precarious migrants since they may eventually develop grounds for

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<sup>53</sup>Welsh Government (n.d.). Sanctuary: Help for sanctuary seekers to understand their rights. <https://sanctuary.gov.wales/>

<sup>54</sup>The Right to Remain Toolkit is a guide to UK immigration law; see: <https://righttoremain.org.uk/toolkit>

<sup>55</sup>Notably, the *Legal Aid, Sentencing and Punishment of Offenders Act* (2012).

<sup>56</sup>The right to remain on the basis of a right to private and family life is protected by Article 8 of the European Convention on Human Rights (ECHR).

secure status, such as through having a child. Without legal aid they need to fund their case privately but are unlikely to have the financial capacity to do so. It is possible to apply for Exceptional Case Funding from the Legal Aid Agency if a failure to provide it could lead to a breach of the individual's human rights. In 2022, the Welsh Government recognised that "action is needed to tackle [the] legal aid crisis."<sup>57</sup> It has also supported the development of a new legal apprenticeship pathway which aims to increase the capacity of the legal sector as a whole.<sup>58</sup>

Specialist legal assistance outside of immigration law can address issues such as street homelessness or the need for mental healthcare. However, solicitors can be reluctant to make referrals to other solicitors with that expertise as this work is also out of the scope of legal aid. The Council itself may overlook solutions, such as paying for immigration applications, where that would enable a family to access benefits and employment as an alternative to the Council having to provide support to the family. Meanwhile NGOs are concerned that where the Council does engage on immigration matters, for instance to litigate challenges to its age assessments (that a migrant is an adult not a child), it is not always helpful for the migrants concerned. However, the Council is increasingly seen as approachable and has now developed strong relationships with external legal advice providers.

Meanwhile, the COVID-19 pandemic extended processing delays at the Home Office, prolonging uncertainty for many migrants. Additionally, reliance on digital technologies and phone drop-ins (instead of in-person drop-ins) excluded migrants with limited access to digital technology, phones, or phone credit and data. A legal-sector interviewee noted that verbal cues are also lacking in remote communication, especially when telephone-based interpretation is used. Conversely, as Home Office backlogs mounted during the pandemic, and initial asylum claim work dwindled, some solicitors began applying for Exceptional Case Funding from the Legal Aid Agency to support family reunion cases, increasing the access of a limited section of precarious migrants to legal assistance. Additionally, COVID-19 increased the prominence of precarious migrants in public discourse, attracting increased charitable donations to support pro-bono (free) legal work.

## 4.8 Lack of Capacity and Expertise Within Cardiff Council

Cardiff Council experiences some significant limits in its capacity to meet the service needs of precarious migrants and fulfil its responsibilities. Among the capacity issues, a lack of expertise on immigration matters stands out. Immigration advice and services in the UK are regulated by the Office of Immigration Services

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<sup>57</sup> Welsh Government (2022). Press Release: Action needed to tackle legal aid crisis. <https://gov.wales/action-needed-to-tackle-legal-aid-crisis>

<sup>58</sup> CILEX (2022). Legal apprenticeships launch in Wales. [https://www.cilex.org.uk/media/media\\_releases/legal\\_apprenticeships\\_launch\\_in\\_wales](https://www.cilex.org.uk/media/media_releases/legal_apprenticeships_launch_in_wales)

Commissioner, set up to ensure that immigration advisors are competent and act in their client's best interests. The Commissioner maintains a register of advisors that it accredits at three levels: to provide initial advice; to conduct casework; and to conduct advocacy and representation. It is an offence to provide unaccredited immigration advice or services,<sup>59</sup> and the Commissioner has the power to prosecute anyone who does so.<sup>60</sup> Council staff can nevertheless feel under pressure to provide advice in the absence of an alternative source.

Asylum Justice is a major external legal resource for the Council and NGOs. It is the only charity in Wales that has the highest level of accreditation for immigration advice and representation and can provide it to precarious migrants who have no access to legal aid. It relies heavily, however, on short-term funding from charitable donations, the Welsh Government and the Council. With limited funding and staff, it is oversubscribed and frequently has to reject or 'wait-list' cases (by urgency). Council interviewees judged it unlikely that a referred case would be accepted by Asylum Justice unless it is high profile or particularly urgent. The Council Cohesion Team obtained funding for Asylum Justice to provide legal assistance to those referred to the Council with NRPF, and to asylum seekers if evicted at the end of COVID-19 housing policies. Asylum Justice was viewed by Council and NGO interviewees as a crucial part of the local legal infrastructure: a "last hope" for many precarious migrants, with Welsh Government funding considered vital to maintaining the progress made.

There is also a lack of expertise within the Council on the significance of the differing statuses individuals can have. The complexity of immigration law produces confusion on migrant entitlements. Council interviewees had been told by colleagues that their clients had NRPF before discovering that in fact they were entitled to welfare benefits such as Universal Credit; and similarly, that British citizens had been incorrectly classified as having NRPF based on having names of Arabic origin. Homelessness Services struggled to find accommodation for an individual whom it later determined was eligible for Home Office asylum accommodation. Some interviewees (such as C3) were critical of colleagues in other departments for referring to Appeals Rights Exhausted asylum seekers as 'illegal immigrants' (despite the possibility that they may have ongoing relationships with the Home Office or may not have been issued with a removal notice).<sup>61</sup> There is also confusion

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<sup>59</sup>The Office of the Immigration Services Commissioner has issued guidance on the regulated legal advice and services. See: Office of the Immigration Services Commissioner (2021). OISC regulation and solicitors". <https://www.gov.uk/government/publications/oisc-regulation-and-solicitors/oisc-regulation-and-solicitors%2D%2D2>

<sup>60</sup>In addition to the *Immigration and Asylum Act* (1999), the Office of the Immigration Services Commissioner has powers granted under the *Nationality, Immigration and Asylum Act* (2002) and the *Immigration Act* (2014).

<sup>61</sup>A refused asylum seeker who is Appeal Rights Exhausted (ARE) may be eligible to receive Home Office support under Section 4 support based on destitution or may still be entitled to Section 95 support (for example, if the asylum seeker had a child before their claim) or may still be receiving the tail-end of Section 95 support.



across sectors on which policy areas are devolved, and on when UK or Welsh legislation applies. One Council interviewee recounted being rebuked by a manager for providing support to a migrant with NPPF when this was in fact appropriate under Welsh law. Council social workers also struggle to find time to fully assess a migrant's situation, routinely spending hours assessing a person's legal status. As precarious migrants have complex circumstances and histories, substantial casework is needed to provide appropriate services, especially for those who present to the authority as destitute or abused.

Conversely, some NGO interviewees criticised the Council for expediting cases or incompletely exploring eligibility for services. When staff "hear that someone is a migrant, they panic," we were told, especially when NRPF applies. As a result, migrants referred to the Council are frequently pushed back to NGOs when council staff assess that the individual has a complex legal status. As a result, NGO interviewees said that they were using pre-action letters (that is, notice of potential court action) to "hold the local authority to account" (C11). In general, however, NGO and NHS interviewees described productive and collaborative relationships with the Council but difficulties arise outside of their key interpersonal relationships. Council, NHS and NGO interviewees called for greater training on immigration and on precarious migrants in particular within the wider authority, and for a person-centred and cross-departmental approach.

### ***4.8.1 Shortage of Data***

Cardiff Council interviewees emphasised a further capacity issue, the lack of data within the Council on the legal status of its service users. According to our interviewees (C8, C9), a scoping exercise in Children's Services found that it had no data on the legal status, nationality, or parental status of over 100 of its 'looked after' children. Yet in 2019 the Welsh Government's Nation of Sanctuary Refugee and Asylum Seeker Plan encouraged Welsh local authorities to:

develop a common recording system to capture consistent data in relation to individuals with No Recourse to Public Funds (NRPF). (Welsh Government, 2019: 33)

Relatedly, NGO interviewees desired statistics from the Council to plan their own work, including the number of people with NRPF in their area, migrants due to be evicted from Home Office accommodation, and non-removed refused asylum seekers. NGOs argued that the Council should also produce statistics for transparency—such as on the number of Human Rights Assessments conducted. Cardiff is exploring new data options to address these challenges. It is not (as of 2022) one of the 73 local authority members of NRPF Connect<sup>62</sup>—a service that enables data protection-compliant sharing of data with the Home Office on

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<sup>62</sup> See <https://www.nrpfnetwork.org.uk/nrpf-connect>



individual cases, alongside broader information and training services provided by the NFPF network based at the London Borough of Islington. Membership of the network is one option that it may now explore.

## 4.9 Conclusion

It is evident, first, that the range of UK and Welsh legislative measures governing the entitlements of precarious migrants to services is hugely complex. They lie at the intersection of immigration law and provisions on well-being, health, education, child protection, homelessness and beyond. UK law is largely but by no means entirely restrictive. There are areas where the law acknowledges the need for access to services regardless of status. The Welsh legislative and policy context is nevertheless more favourable towards inclusion and that is its direction of travel. Cardiff, like the Welsh Government, is at an early stage in recognising its need to respond more effectively towards its residents with a precarious status. The Population Needs Assessment, conducted in 2022 with the health board, helpfully points the way to inclusion of ‘undocumented’ migrants within a reformed approach.

The complexity of the law and the overlapping remits of the different tiers of government has led to a lack of clarity on migrants’ entitlements, and on the responsibilities of the Council in relation to different areas of service provision. There is also complexity in overlapping remits between the Welsh Government, the Council and other public bodies, and within the Council between departments, each responsible for different aspects of the wellbeing of this group of vulnerable people. Each department has its own remit, ways of working and resources. Inter-departmental communication on policy in relation to this issue and on individual cases is limited. There is greater recognition of the need for coordinated services in relation to healthcare. Beyond the law there is a series of further barriers to care. Fear of detection and removal applies to all services, because of the lack of a firewall preventing inappropriate transfers of personal data. Procedural barriers for individual services differ, with negative consequences where exclusion is the result. Limited access for migrants to legal advice is seen to be a factor that is leading to precarious status and to prolonging it. Incorrect applications and missed deadlines compound the barriers erected by very high application fees.

There are examples of inclusive public policies and practices on which to build: in the legislation and policy of the Welsh Government, and of the Council: in some recognition of the need for inclusion regardless of immigration status in its Equality and Inclusion Strategy; in its approach to communication and coordination during the pandemic; in provision of specialist services; and in the inclusion within some council services of migrants regardless of status. There are also areas where staff have no clear mandate and have to rely on their own discretion, leading to inconsistencies in practice. In addressing the many challenges these migrants face, the contribution of NGOs in Cardiff is vital.

A strong theme that emerges is the lack of capacity within the Council to deliver a better service to these residents: a paucity of data on migrants with a precarious status and knowledge of their needs (identified in the Cardiff and Vale of Glamorgan Equality and Health Impact Assessment as a gap to be addressed);<sup>63</sup> of legal expertise on immigration law and its applicability to areas of service provision; of staff time to provide services or explore cases thoroughly, leading to over-reliance on a small group of committed people; lack of shared institutional knowledge across the Council; lack of female interpreters, and lack of consistent funding. This makes additional service provision in some fields, and any long-term planning, very challenging. The lack of multidisciplinary teams that can adopt linked approaches to assess and support migrants with precarious status was frequently mentioned as a barrier that could be addressed.

## Bibliography

- Bastick, Z., & Mallet-Garcia, M. (2022). Double lockdown: The effects of digital exclusion on undocumented immigrants during the COVID-19 pandemic. *New Media & Society*, 24(2), 365–383. <https://doi.org/10.1177/14614448211063185>
- Cardiff Council. (2020). *Equality and inclusion strategy, 2020–2024*. Retrieved May 5, 2022, from <https://www.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Equality-diversity-and-cohesion/Strategic-Equality-Plan-and-Policies/Documents/Equality%20Inclusion%20Strategy%202020%202024.pdf>
- Drinkwater, C., Wildman, J., & Moffatt, S. (2019). Social prescribing. *British Medical Journal*, 364. <https://doi.org/10.1136/bmj.11285>
- Evans, G. (2022). Back to the future? Reflections on three phases of education policy reform in Wales and their implications for teachers. *Journal of Educational Change*, 23(3), 371–396. <https://doi.org/10.1007/s10833-021-09422-6>
- Fitzpatrick, S., Bramley, G., Pawson, H., Young, G., Watts, B., & Wood, J. (2021). *The homelessness monitor: Wales 2021*. Crisis. Retrieved May 3, 2022, from <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/homelessness-monitor/wales/the-homelessness-monitor-wales-2021/>
- Fitzpatrick, S., Mackie, P., Pawson, H., Watts, B., & Wood, J. (2021). *The COVID-19 crisis response to homelessness in Great Britain*. UK Collaborative Centre for Housing Evidence. Retrieved May 5, 2022, from <https://housingevidence.ac.uk/publications/the-covid-19-crisis-response-to-homelessness-in-great-britain/>
- Home Office. (2022a). *Asylum and resettlement – Resettlement by local authority*. Retrieved May 5, 2022, from <https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>
- Home Office. (2022b). *Asylum and resettlement summary tables*. Retrieved May 5, 2022, from <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2022/list-of-tables>
- Khanom, A., Alanazy, W., Ellis, L., Evans, B. A., Fagan, L., Glendenning, A., & Jones, M. (2019). *The health experiences of asylum seekers and refugees in Wales: Technical report of the HEAR*

<sup>63</sup> Integrated Health & Social Care Partnership (2022). Equality & Health Impact Assessment for Cardiff and the Vale of Glamorgan Population Needs Assessment 2022. <https://cvihsc.co.uk/wp-content/uploads/2022/03/EHIA-English.pdf>. p. 21.

- study. Public Health Wales. Retrieved June 26, 2022, from <https://phwwhoce.co.uk/ih/wp-content/uploads/2020/07/PHW-Swansea-HEAR-technical-report-FINAL.pdf>
- Krausova, A., & Vargas-Silva, C. (2014). *Wales: Census profile*. Retrieved May 5, 2022, from <https://migrationobservatory.ox.ac.uk/resources/briefings/wales-census-profile/>
- Lewis, J., Sanders, S., Kierans, D., & Broadhead, J. (2021). *Integration policy and practice during COVID-19: Cardiff City Council briefing*. Cardiff Council and COMPAS, University of Oxford. Retrieved May 8, 2022, from <https://www.compas.ox.ac.uk/wp-content/uploads/Inclusive-Cities-City-Briefing-Cardiff.pdf>
- Ministry of Social Affairs, Sweden. (2011). *Care as needed and on equal terms, a human right*. Report of an investigation. SOU 2011:48. Stockholm. <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2011/05/sou-201148/#:~:text=V%C3%A5rden%20ska%20erbjudas%20i%20samma,omr%C3%A5de%20de%20bor%20eller%20vistas>. (English summary p. 31).
- Orcutt, M., Verrecchia, R., & Abubakar, I. (2019). The UK National Health Service regulations for overseas visitors. *The Lancet*, 394(10200), 734–735. <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2819%2931337-6>
- Petch, H., & Stirling, T. (2020). *Providing accommodation for refused asylum seekers in Wales: A feasibility study commissioned by the Welsh Government*. Welsh Government. Retrieved June 24, 2022, from <https://gov.wales/accommodation-refused-asylum-seekers-feasibility-study>
- Price, J. (2016). *Migrant care leavers: Duties of Welsh local authorities under the Social Services and Well-being (Wales) Act 2014*. COMPAS, University of Oxford. Retrieved April 24, 2022, from <https://www.compas.ox.ac.uk/2016/migrant-care-leavers-duties-of-welsh-local-authorities-under-the-social-services-and-well-being-wales-act-2014/>
- Price, J., & Spencer, S. (2015). *Safeguarding children from destitution: Local authority responses to families with 'no recourse to public funds'*. COMPAS report. Retrieved April 24, 2022, from [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-No\\_Recourse\\_Public\\_Funds\\_LAs.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-No_Recourse_Public_Funds_LAs.pdf)
- Sibieta, L., & Cottell, J. (2020). *Education policy responses across the UK to the pandemic*. Education Policy Institute. Retrieved May 18, 2022, from <https://epi.org.uk/publications-and-research/education-responses-uk-pandemic/>
- Statistics Wales. (2021). *Ethnicity by area and ethnic group*. Welsh Government. Retrieved April 24, 2022, from <https://statswales.gov.wales/Catalogue/Equality-and-Diversity/Ethnicity/ethnicity-by-area-ethnicgroup>
- Trevena, F., & Maclachlan, S. (2016). Migrants' entitlements to education services in Wales. *Welsh Refugee Council*. Retrieved May 20, 2022, from [https://wrc.wales/wp-content/uploads/2020/03/MSiW-Legal-and-Policy-Briefing-Migrant\\_Entitlement\\_Education.pdf](https://wrc.wales/wp-content/uploads/2020/03/MSiW-Legal-and-Policy-Briefing-Migrant_Entitlement_Education.pdf)
- Welsh Government. (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. Retrieved May 16, 2022, from <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>
- Welsh Government. (2019). *Nation of sanctuary – Refugee and asylum seeker plan*. Retrieved May 5, 2022, from <https://gov.wales/refugee-and-asylum-seeker-plan-nation-sanctuary>
- Welsh Government. (2021). *Briefing: Briefing: Supporting unaccompanied asylum-seeking children in Wales*. Retrieved May 16, 2022, from <https://gov.wales/briefing-supporting-unaccompanied-asylum-seeking-children-wales-html>
- Welsh Local Government Association. (2022). *Local government in Wales—WLGA*. Retrieved May 16, 2022, from <https://www.wlga.wales/local-government-in-wales>

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