

SUMMARY: RESPONSES TO MIGRANTS WITH PRECARIOUS STATUS IN CARDIFF: FRAMES, STRATEGIES AND EVOLVING PRACTICES



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This paper highlights the findings of research on access to services for migrants with a precarious immigration status in the city of Cardiff. It is a summary of the full report of an 18-month study, *Local Responses to Precarious Migrants: Frames, Strategies and Evolving Practices in Europe (LoReMi)*. There are parallel reports on Frankfurt and Vienna, and a comparative overview on the three cities. This study was funded by JPI Urban Europe, through the Economic and Social Research Council (ESRC) and carried out in partnership with Cardiff Council.

The focus is on migrants with a precarious immigration status: that is, people who lack or are vulnerable to losing a regular legal status and who are therefore deprived of, or run the risk of losing, the right to access many public services. The exclusion of residents from public services poses significant challenges at the local level. The aim was to investigate the ways in which local authorities approach the exclusion of this group of residents, their cooperation with public and civil society organisations in relation to service provision, and the scope for policy and practice reforms. The study involved research on legal and policy frameworks; 23 interviews with local authority, NHS and civil society representatives; and three roundtables with local stakeholders.

Context

Cardiff is the capital of Wales, a nation within the UK with significant devolved legislative responsibilities. Managing migration, including restrictions on entitlements to services and welfare support ('No recourse to public funds' (NRPF)) nevertheless remains the responsibility of the UK Home Office. UK law permits access to services in limited circumstances, e.g. for children in need, schooling and some healthcare.

The Welsh Government has strategies to build community cohesion and address inequality. A 'Nation of Sanctuary,' it has a cross departmental plan to improve outcomes for refugees and asylum seekers, has been critical of UK asylum policy, and has funded legal advice for EU citizens following Brexit. Its landmark Social Services and Well-being (Wales) Act 2014 replaced areas of UK welfare legislation. The Act places duties on local authorities to promote the well-being of people who need care and support, through prevention, developing third sector services, informing individuals of services, and safeguarding them from harm. The Act empowers local authorities to meet the needs of all children. It contains restrictions on the extent of support that can be provided to adults subject to immigration control. The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 provides a framework for the protection of women, including from Female Genital Mutilation (FGM) on which there are safeguarding procedures.

Cardiff is a port city with a long history of migration. Among its 369,000 residents (2020), 13 percent were born abroad. One in five residents is from a Black or Minority Ethnic background,

as is 1 in 3 children of primary school age. Cardiff is one of four cities in Wales to which the Home Office disperses asylum seekers. There is no data on the number of its residents with a precarious immigration status but they are known to include rejected asylum seekers, irregular entrants, migrants who have overstayed their visa and EU citizens without settled status in the UK. In their exclusion from work and services, they are vulnerable to destitution, and at increased risk of exploitation. Earlier research in Cardiff highlighted the additional impact of being unable to plan for a future, to see loved ones outside of the UK, and of being unable to make a social contribution.

Cardiff Council's responsibilities include providing schooling, housing and social services. Four of the administration's Directorates have particular relevance here: Children's Services; Adults, Housing and Communities; People and Communities (in which the Cohesion & Community Engagement team leads on migration issues), and Education and Lifelong Learning. The Council's inclusive approach to refugees earned it recognition as a 'City of Sanctuary' in 2014. In 2020, the Council published a four-year Equality and Inclusion Strategy, in which asylum seekers, refugees, EU nationals and other migrants are identified as priority groups in a number of action areas.

Healthcare

While the National Health Service (NHS) provides healthcare in the UK, public health is a devolved responsibility. Local authorities do not provide healthcare but have a duty to assess and protect public health in their area. In Wales, the 2019 Nation of Sanctuary Refugee and Asylum Seeker Plan

promises free healthcare for refugees and asylum seekers and the assessment of migrants' needs, as well as to facilitate access to services and share good practice.

Refused asylum seekers are also able to access free care in Wales. NHS services that are free to all persons include family planning, some transmissible diseases (including Tuberculosis), court-ordered mental health treatment, treatment in accident and emergency (A&E) departments and sexually transmitted disease (STD) clinics.

Outside of these situations, migrants without a regular immigration status or who are not ordinarily resident in the UK are deemed 'overseas visitors', and have to pay for some services. However, free primary care can be provided (for up to 14 days) for 'immediately necessary' treatments (i.e., those which cannot reasonably be delayed until the patient returns to their home country) and 'emergency' treatments. In secondary care, 'immediately necessary' treatments are chargeable at the full rate but cannot be denied based on lack of funds; while patients are expected to pay the full costs of treatment up front for 'urgent' treatment (i.e. treatment which is not immediately necessary but cannot wait until the person leaves the UK). Other treatments are chargeable. Nevertheless, Welsh Government guidance notes that charges should not be unreasonably recovered and that NHS debts can be written off where a person is destitute.

In Cardiff, migrants with a precarious status can also access public health screenings and primary care through a specialised NHS gateway clinic, Cardiff and Vale Health Inclusion Service (CAVHIS). The clinic has staff specialised in migrant populations and also refers patients to mainstream NHS services.

However, the study identified numerous barriers to accessing NHS care, including fears of detection, of being separated from children, and of being charged for treatment. Fears of negative interactions due to language, or cultural and religious differences, are also barriers. Some GPs (erroneously) require a home address to register patients, which is a barrier particularly for migrants with no fixed abode, fleeing domestic violence, or having moved within the UK. As a result, care is not always sought, or sought too late (e.g., in pregnancy).

Barriers to receiving quality care include poor communication because of a shortage of interpreters, lack of migrant specific expertise, and training among staff, including awareness of needs and entitlements. Clinicians rarely apply migrant-related codes in their notes, limiting visibility in relation to public health for this group. As migrant-specific knowledge is not institutionalised, a minority of informed, committed staff endeavour to meet individuals' needs, advise colleagues, and connect with NGOs.

Women face health challenges related to female genital mutilation (FGM), honour-based violence, trafficking, sexual exploitation, and domestic abuse. There are national reporting and safeguarding procedures for FGM and trafficking. CAVHIS employs a midwife specialised in FGM and also coordinates with the local authority (Children's Services) to find families able to host migrant children temporarily while their mothers give birth. NGOs provide pregnant women with baby supplies and doulas.

NGOs are crucial for informing migrants in general, referring them to the NHS, providing assistance in making appointments,

access to data plans, mobile phones and specialised support (e.g., to victims of domestic abuse and of FGM). The NHS connects with NGOs and the local authority through platforms including NGO forums and the Wales Strategic Migration Partnership. Another partnership, the Cardiff & Vale Integrated Health & Social Care Partnership, produced a 2022 Population Needs Assessment, which identifies the needs of irregular ('undocumented') migrants and vulnerable migrants as including isolation, exploitation, and fear of approaching services. Recommendations include training for professionals, better data collection, and steps to overcome known barriers to healthcare.

Accommodation

It is estimated that hundreds of refused asylum seekers become destitute each year. Single adults are particularly at risk of homelessness. Others with NRPF, those granted refugee status, and young people emerging from the care system, are among those needing accommodation. The context for provision of accommodation is a systemic shortage of affordable housing in Cardiff and restrictions in UK immigration law on entitlement to it. Nevertheless, tackling homelessness regardless of status is a priority for the Welsh Government and for Cardiff Council.

The Home Office does not share information on migrants who, because of a change of immigration status, are at risk of eviction. Other migrants fear approaching the Council for help in case their information is transferred to the Home Office. While only NRPF households with children, young care leavers and vulnerable adults in need are entitled, under Welsh law, to access Council housing, the local authority must provide advice. These migrants can access housing provided by housing associations, NGOs and private landlords, as the law in Wales does not require landlords to verify the immigration status of prospective tenants. Destitute refused asylum seekers may be eligible to receive assistance from a Welsh Government Discretionary Assistance Fund.

During the coronavirus pandemic, the UK and Welsh Governments insisted that all homeless people should be accommodated, regardless of status. Funding was provided, currently still in place, to local authorities for emergency places and longer term solutions. Cardiff Council succeeded by April 2020 in accommodating all street homeless and, along with accommodation, provided access to advice on immigration status. Providing legal advice had a significant impact as it led to the resolution of migrants' precarious status in 75% of cases. There is concern in the Council and NGO sector that ending the 'no-one left out' policy would reverse these gains.

Education and Children's Services

Education is a devolved responsibility, funded by the Welsh Government. Local authorities provide schooling. Children have a right to schooling, school transport, and support for special educational needs, regardless of status. Cardiff has no data on the number of schoolchildren with a precarious status. There is concern that fear of detection or of removal of children into care may lead parents to avoid school registration, even though schools do not require information on a child's immigration status. Council staff exercise discretion to provide financial assistance for school uniforms and warm coats. The coronavirus pandemic disproportionately disadvantaged children without digital access or in receipt of free school meals.

Cardiff Council ensured pupils received a Welsh Government funded weekly voucher and an IT kit to enable home learning, regardless of status.

When compulsory schooling ends at age 16, children with precarious status are not entitled to any funding for further (FE) or higher education (HE). They can access a limited number of free FE courses when under 19 years old and discretion has occasionally been exercised by the Council to pay fees to keep young people in education. When children turn 18, the Council collaborates with NGOs to provide advice. Exclusion from work and services, and risk of removal from the UK, exposes young people to exploitation. Preschool children in deprived areas have access regardless of status to 'Flying Start,' the Welsh government funded Early Years programme providing a range of support services.

Children's Services has a duty to safeguard children in need and, in Welsh guidance, they are 'children first, migrants second'. The NHS or NGOs may refer children to the local authority for a 'wellbeing assessment'. The Council may secure legal advice for them to register an asylum claim. No data is readily available on how many children and parents with precarious status are receiving support, e.g. among looked-after children. There is uncertainty about what data to record and a potential tension with a duty to share some information with the Home Office. The Welsh Government wants local authorities to develop a common recording system on people with NRPF. Cardiff is not a member of the NRPF Network – a UK local authority network that provides information and training and, through NRPF Connect, facilitates data protection compliant recording and sharing of data.

There is concern that Children's Services, Education and Accommodation, and NHS Services do not have multi-disciplinary teams that would facilitate coordination and sharing of information on vulnerable migrants' needs. Local authority staff welcomed the fortnightly coordination meetings that were held between the authority's departments during the coronavirus pandemic but have since been discontinued.

Legal assistance

Access to legal assistance can address the underlying problem of precarious immigration status. It can enable timely, informed applications for a change of status and realistic forward planning. There is a severe shortage of expertise on immigration law in Wales (a 'legal advice desert'); and of expertise combining immigration and welfare law. A Welsh Government website provides links to resources on immigration law but does not cover the situation of many migrants with a precarious status. Migrants struggle to find lawyers who can take potentially complex cases. Non-asylum cases are typically not eligible for legal aid. Application fees for change of status, and the accompanying health surcharge, are high. Those who cannot access advice rely on less informed sources, can be ignorant of opportunities to resolve status (such as for EU citizens), and submit incorrect applications or miss deadlines. Lack of advice and unaffordability of applications can lead to, and prolong, precarious status.

Capacity within Cardiff Council to provide staff with advice on immigration law is very limited. Assistance to individuals is usually outsourced to a law firm and a single, oversubscribed NGO, Asylum Justice. Non-accredited council staff are not permitted by law to provide immigration advice to individuals,

but do so informally. There is frequent confusion on individuals' immigration status and entitlements, including confusion on the applicability of devolved legislation. Assessing eligibility is time consuming. Cases can involve complex circumstances and multiple needs. Staff uncertainty creates anxiety and frequent referral to NGOs. The pandemic extended Home Office processing delays. Reliance on digital technologies and phone calls exacerbated casework challenges; but the greater visibility of migrants' vulnerability attracted charitable donations to support pro-bono legal work.

Cross cutting themes

A series of themes emerged across the field of study.

- **Complexity of the law on entitlements:** Entitlements to services are governed by multiple complex areas of law that cover immigration, health and welfare. The consequent lack of clarity creates difficulties for Council and NHS staff, NGOs and migrants. There is an urgent need for clarity on entitlements to Council and NHS services, achievable through a regularly updated review.
- **Limited communication and coordination:** Further complexity arises from the range of agencies and departments with responsibilities for the wellbeing of this group of vulnerable people, a fragmented approach with limited coordination and communication. There is a need for clarity on responsibilities within the Council so that staff are clear on what they can and should do in relation to individual cases; and for regular coordination and communication, with internal and external partners, on policy and individual cases.
- **Paucity of legal advice:** Lack of access to legal advice and representation, and the cost of immigration applications are key factors in causing and prolonging precarious status. Urgent steps are needed to expand the capacity of solicitors and NGOs to advise and represent individuals.
- **Barriers to inclusion:** The fear of detection, and of separation from children, are significant barriers to the take up of services. This undermines trust in the Council and relationships with its partners, and has serious consequences for individuals. A review of each Council service could establish if it is necessary to collect (and in limited circumstances transfer to the Home Office) information on immigration status. Data 'firewalls' could be put in place to stop unnecessary transfers and reassure service users.
- **Lack of Capacity in Council:** There is a serious lack of data on precarious migrants in the city and among existing service users; of legal expertise, of knowledge of the needs of precarious migrants (on which research is needed); of staff time, training, interpreters, shared institutional knowledge and funding. Participation in the NRPF Network, if its information and training take account of Welsh law, could be one way to address some of those issues.
- **Reliance on NGOs:** NGOs fill some gaps in service provision. They play a vital advice and signposting role, and can be better suited in some cases to reach and secure the trust

of service users. They have limited resources and capacity and should not be a substitute for a council or NHS service. Better communication and coordination with the Council is needed and clarity on processes for NGO case referrals. Council funding of services could be reviewed, and NGO bids for philanthropic funding supported.

- **Examples of good practice:** there are positive examples of inclusive policies and practices on which to build – in Welsh Government policy; in Cardiff’s recognition of the risks of exclusion of these residents, in its Equality and Inclusion Strategy and in its recent Population Needs Assessment; and in some areas of practice: communication and coordination during the pandemic, inclusive practices in housing, health education and children’s services, and in referrals for legal advice. Good practice could be highlighted to attract resources, encourage others, and create a positive narrative of inclusion for these residents.
- **Lack of council-wide approach:** Cardiff Council is committed to addressing the root causes of inequality and exclusion and has overt commitments to refugees, but is at an early stage in identifying the importance of inclusion regardless of status. While individual staff are committed, there is no corporate vision, strategy or narrative to deliver it. The mid-point review of the Equality and Inclusion Strategy in 2022 could provide an opportunity to develop this, with agreed steps built into the Corporate Plan.

Conclusion

Cardiff’s readiness to take part in this study reflected its concern to identify whether steps need to be taken in relation to residents with a precarious immigration status. It is operating within a complex legal framework, lacks a strategy to address the needs of this vulnerable group, and has major capacity issues to address. There is a heavy reliance on NGOs to fill service gaps. The paucity of legal advice to address immigration status and the cost of applications to remain are contributory factors in causing and prolonging precarious status. Nevertheless, there are notable areas of good practice on which to build. Cardiff faces a series of legal, logistical and resource challenges, but also has current opportunities that make a shift in approach feasible and timely. Some reforms, such as reviewing whether service users need to provide evidence of immigration status, are not resource intensive but could have significant impact.

Scope for action

1. Review entitlements to services and provide information in an up-to-date accessible form.
2. Clarify responsibilities of Council departments and the extent of discretion in individual cases; and ensure coordination to enable a cross-department joined up approach.
3. Discuss with NGOs the optimal division of responsibilities, ways of working, case referrals and funding.
4. Establish a means of regular communication and coordination with public sector and NGO partners.
5. Prioritise provision of legal advice; continue to use accommodation as a gateway to advice and support the NGO sector in securing additional resources.
6. Review access to services: remove any unnecessary requirement to record immigration status; establish a ‘firewall’ to prevent inappropriate transfers; ensure the non-transfer policy is well known; and address unjustified fears that children of service users will be taken into care.
7. Address the shortage of data on precarious migrants, while protecting the anonymity of individuals, and of research evidence on their needs; and engage with the Home Office on securing timely information on individuals who will need housing or support.
8. Consider joining the UK NRPF network to address information and training deficits.
9. Publicise good practice to encourage others, attract resources and change the narrative.
10. Work towards a Council vision and strategy on precarious migrants, potentially using the mid-term review of the Equality and Inclusion strategy as an opportunity to reset the approach, and include precarious migrants in Equality Impact Assessments.
11. Lead a change in narrative, inclusive of precarious migrants as neighbours, to build public support.
12. Set a timetable to review progress



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