

LoReMi

Local Responses to Precarious Migrants
Frames, Strategies and Evolving Practices in Europe

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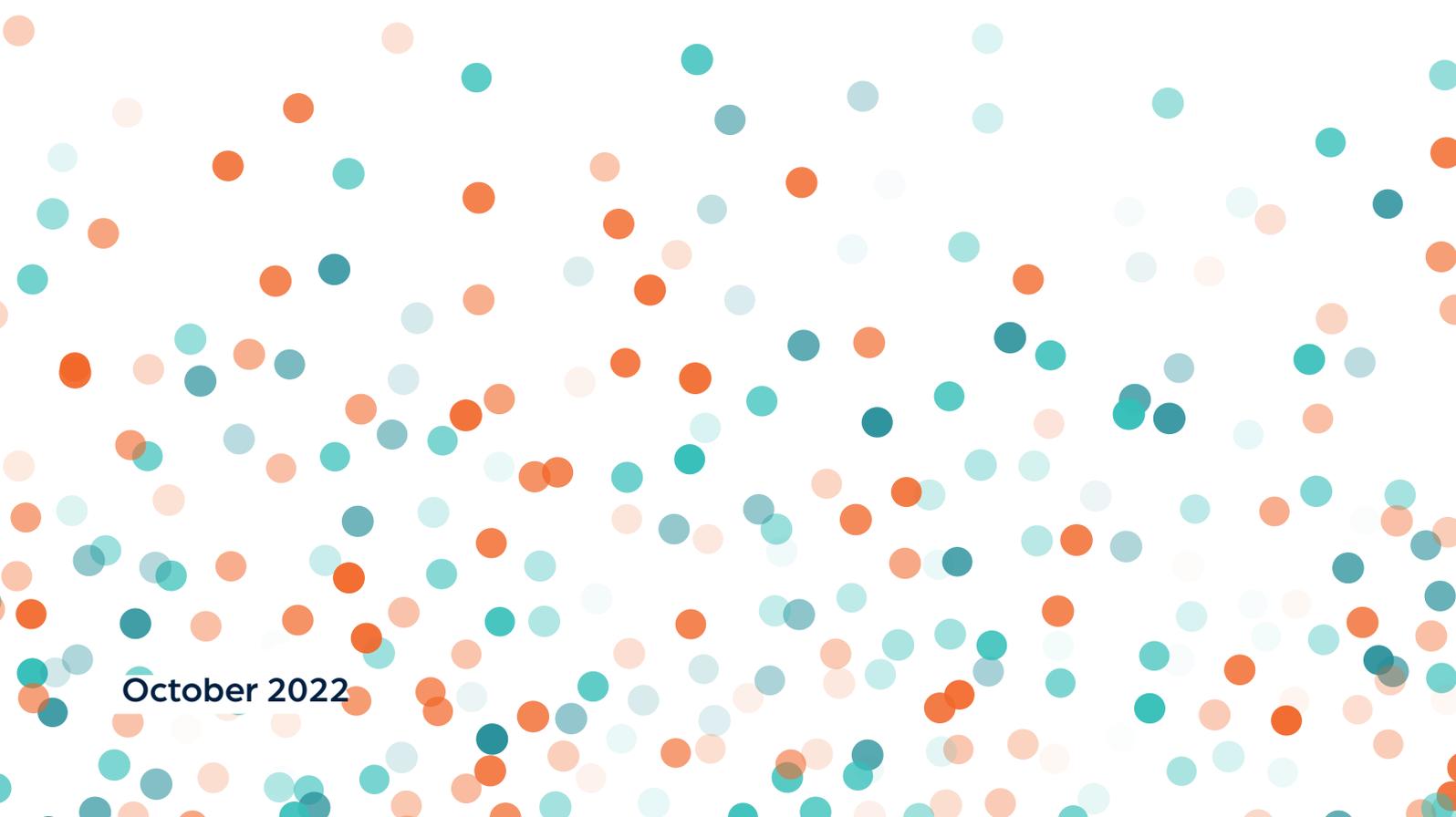
Responses to Migrants with Precarious Status in Cardiff: Frames, Strategies and Evolving Practices

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Acronyms

The following acronyms are used throughout this report:

HO	Home Office
LA	Local Authority
NGO	Non-governmental organisation
NHS	National Health Service
LHB	Local Health Board
WG	Welsh Government

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Introduction

This report sets out the findings of research on access to services for migrants with a precarious immigration status in the city of Cardiff. It forms part of an 18-month comparative study, Local Responses to Precarious Migrants: Frames, Strategies and Evolving Practices in Europe (LoReMi), in which reports have also been produced on the cities of Frankfurt and Vienna.

The Research Project

The aims of the LoReMi project are to investigate the ways in which local authorities address the inclusion of migrants with a precarious status within municipal services and, in that context, to explore the authorities’ cooperation with public and civil society organisations. It includes a particular focus on issues relating to women. The research set out to consider the ways in which each local authority frames (explains) its approaches in the context of the authority’s overall framing of its mission (Spencer & Delvino 2019); and to look at its actual policies and practices in relation to key services such as health, education and accommodation. The study has considered the legal, political and practical barriers to inclusion of this section of the local population; and the forms of communication, cooperation and co-responsibility within the authority, as with its external partners on this issue.

The study is funded by JPI Urban Europe, ‘the knowledge hub for urban transitions’. The aim has thus not only been to conduct research but to consider, in the light of the findings and of dialogue

with local stakeholders, the scope for policy and practice reforms. Comparative analysis of the contrasting legal frameworks, policies and practices in Cardiff, Frankfurt and Vienna, and knowledge-exchange between them and a wider group of European cities, has aimed to strengthen transnational networking to inform and enhance future practice.

The LoReMi project is carried out by three research teams working closely together over the 18 months of the project: In Austria, Professor Dr. Simon Güntner and Adrienne Homberger, at the Faculty of Architecture and Planning, Centre for Sociology, Technische Universität in Vienna; in Germany, Professor Dr. Ilker Ataç and Maren Kirchhoff, at the Centre of Research for Society and Sustainability (CeSSt), at Hochschule Fulda; and in the UK, Dr Sarah Spencer, Dr Marie Mallet and Dr Zach Bastick, at the Centre on Migration, Policy and Society, University of Oxford.

Migrants with Precarious Status in Europe

Migrants in European countries regularly experience restrictions on their entitlement to access public services. Those who have an irregular status (through overstaying their visa, for instance, or unauthorised entry to the country) have the most limited entitlements. The focus of the LoReMi study is on this group of people and, more broadly, on migrants with a 'precarious' status, that is:

'individuals who lack regular immigration or resident status or, having a conditional or temporary status, are vulnerable to the loss of that status. They are therefore deprived of, or run the risk of losing, most basic social rights and access to services.'

The people who fall within this definition, and any entitlements they have to access services, will vary between countries. In essence, it encompasses five categories of status:

- Rejected asylum seekers¹
- Third country nationals (migrants from outside of the EU) who have regular status but only in another EU country; or, in the UK (outside of the EU), EU citizens who have not been granted settled status
- EU citizens, living in another EU country, who cannot demonstrate economic self-sufficiency and so risk losing their right to residence

¹ Asylum seekers have access to basic social services, such as health insurance and housing. While they face distinct challenges, this study focuses instead on those facing the most restrictions to rights and service access, including rejected asylum seekers.

- › Individuals without regular status (irregular or 'undocumented' migrants)
- › Temporary migrants (with conditions of stay that they may not continue to meet).

Research Questions

Research has established that, for local authorities in Europe, the exclusion of a section of local residents from public services can pose challenges in relation to achieving their policy goals, such as in relation to street homelessness, public health, crime prevention, addressing domestic violence and child protection. Some local authorities have responded with initiatives designed to ensure that basic service needs are met, whether by municipal services directly or through partnering with a non-governmental organisation (NGO). In some cases, the authority has developed a corporate strategy setting out its approach; more commonly there are ad hoc initiatives which may not be consistent across the local authority as a whole (Delvino & Spencer 2019).

In that context, the LoReMi study set out to explore the approach of three city authorities in some depth, focusing on three research questions:

- › What is the city's approach to inclusion of precarious migrants within municipal services; in particular regarding access to healthcare, accommodation, education and legal advice? Is there an awareness of the particular challenges facing women? How does it frame the reasons for its approach and is there a connection or disconnect with the overall city framing of its mission?
- › What actual measures are in place to include precarious migrants in key services provided by the municipality, related public agencies and NGOs, including measures of particular relevance to women? What are the legal, political and practical barriers to inclusion and rights protection for this section of the population?
- › How and why do governmental and non-governmental bodies cooperate in this context? Which governance mechanisms exist; and are the voices of migrants, including women, heard? Which processes of cooperation and conflict emerge in these interactions?

Method

In each city an official within the city council, a formal partner in the project, has facilitated the study. They have briefed the researchers, facilitated communication with relevant staff from departments across the authority and among external partners, and provided insights in relation to the research questions.

The method of the study has been threefold:

- › Background research on the national legal and policy frameworks, on the city's remit, structure and approach, and on what is known about its residents with precarious status
- › Convening of public and NGO stakeholders on three occasions: before the fieldwork began, later to consider emerging findings and finally to consider potential implications for policy and practice
- › 20-30 interviews with local authority and other public sector staff; with NGOs; and where possible with migrants with a precarious status.

In the case of the Cardiff study, there were 23 interviews: 8 with local authority staff; 3 with staff in the National Health Service; and 12 with representatives of NGOs.

National context: the United Kingdom and Wales

Cardiff is the capital city of Wales, a nation within the United Kingdom. The Welsh Parliament (Senedd Cymru) has devolved responsibility for primary and secondary legislation in specified areas of governance. Significantly, for this report, these include a high level of responsibility for education, housing, health and social care. Immigration and Nationality are not devolved matters, coming under the responsibility of the UK Home Office. The National Health Service (NHS) in Wales is part of the UK-wide NHS but has a level of autonomy in determining its own structure, policies and expenditure. We found confusion regarding precisely which policy areas relating to migrants' entitlements are devolved and a lack of familiarity with the relevant provisions of Welsh legislation.

The Wales Strategic Migration Partnership (WSMP) facilitates coordination between the UK Home Office, Welsh Government, local authorities and the voluntary sector. Funded by the Home Office, its role is to facilitate collaboration, contribute to policy development, share best practice, assist in the delivery of services to migrants and act as a two-way conduit of information between UK government departments and Welsh organisations in the field. A Cardiff City councillor currently chairs its executive board.

UK law and policy

UK immigration law and regulations determine the differing immigration status of those people in the UK who are not UK citizens, and the conditions attached to each status in relation to their right to work, access services and welfare support. There has been a progressive hardening of UK

law in this respect. The 1997-2010 Labour governments extended internal control measures to deter the arrival and stay of asylum seekers and irregular migrants (DeVerteuil, 2017). This trend became more pronounced after 2010 when the Home Office instituted a “Hostile Environment” policy that included a “Go Home or Face Arrest” message on vans campaign, and widened the categories of migrants who have, as a condition of their immigration status, No Recourse to Public Funds (NRPF) (Farmer, 2021).

The NRPF rule, introduced in 1971, restricts access to a range of public funds (e.g. social security benefits, tax credit, council housing and homelessness assistance) for individuals subject to immigration control. The hostile environment and the tightened eligibility rules for benefits increased the risk of destitution. While some public-funded services such as the National Health Service (NHS), education and legal aid are not included in the NRPF rule, the hostile trend in immigration policy was also seen beyond the NRPF rule, for instance in the extension of “overseas visitors” fees in the NHS (Jolly et al., 2022).

Specific protections are nevertheless granted to various categories of precarious migrants. The Immigration and Asylum Act 1999 (s95) provides that destitute asylum seekers (or those likely to become destitute) are eligible for accommodation and a level of financial support provided by the Home Office while waiting for a decision (Muggeridge & Maman, 2011). This support ends 28 days after a migrant’s claim and appeal rights are exhausted (ARE) (Price & Spencer, 2015). However, under section 4 of the 1999 Act, refused asylum seekers who are destitute are eligible for support from the Home Office under certain conditions.

Protection for migrant children (and in effect their parents, so that they can be cared for) may also be also provided under section 17 of the Children Act 1989 which requires their local authority to provide accommodation and limited financial support to any child assessed to be ‘in need’. The courts have judged that this applies regardless of immigration status (Jolly, 2019). Meanwhile, the Education Act 1996 establishes that all children in the UK have the right to access government-funded education. Wales further incorporated the universal right to school in its devolved legislation under the Rights of Children and Young Persons (Wales) Measure 2011 (see also Trevena & Maclachlan, 2016).²

² *Rights of Children and Young Persons (Wales) Measure 2011*, Section 1.
<http://www.legislation.gov.uk/mwa/2011/2/section/1> archived at <https://perma.cc/5SFC-FEPG>

Precarious migrants

While the exact number of migrants with an irregular status in the UK is unknown, it was estimated at 674,000 in 2017³. Additionally, there were an estimated 142,496 children under the age of 18 and 1,002,091 adults with leave to remain who may have NRPF⁴. Following the 2016 referendum, which led to the UK's exit from the EU, the NRPF category effectively, expanded to encompass EU nationals who did not apply for or receive a settled status. It is estimated that approximately 3.6 million EEA nationals resided in the UK prior to Brexit (Sumption & Walsh, 2022) - those who are unable to obtain settled status will be subject to NRPF and thus ineligible for welfare benefits or homelessness assistance.

Home Office statistics show that, as of March 2022, there were 55,146 asylum applications in the UK⁵. This represents the highest figure since 2003. The increase partly reflects the scale of persecution, conflict, violence, human rights violations and events seriously disturbing public order in parts of the world. The easing of global pandemic travel restrictions facilitated movement in 2021. There was also a notable increase of small boat arrivals to the UK, as well as variation regarding their country of origin. If their application is refused, asylum seekers may then fall into the precarious migrant category, and have NRPF. Home Office statistics indicate that 36,792 irregular migrants were detected in the UK or at UK ports of entry in 2021. Detailed statistics exist for irregular arrivals by small boats (28,526 migrants): for the cases for which gender is recorded, 90% were men, of which 84% were between 18-39 years old⁶. Most arrivals by small boat that were detected in 2021 and for which nationality was recorded were from Iran, Iraq, Eritrea, Syria, Vietnam, Afghanistan, Sudan, Albania, Ethiopia and Kuwait, with 84% of them coming from one of these countries⁷. Earlier research in Wales has found:

“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

³ <https://migrationobservatory.ox.ac.uk/resources/commentaries/recent-estimates-of-the-uks-irregular-migrant-population/>, archived at <https://perma.cc/PDV6-3U7B>

⁴ Dickson, E., Jolly, A., Morgan, B., Qureshi, F., Sojka, B., & Stamp, D. (2020). Local authority responses to people with NRPF during the pandemic.

⁵ Home Office (2022) Immigration Statistics year ending March 2022 <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2022/how-many-people-do-we-grant-asylum-or-protection-to>

⁶ Home Office statistics indicate that of 26,142 irregular arrivals by small boats, 23,655 were male and 2,487 were female. Of cases labelled as male, there were 8,924 between 18-24 years old, and 11,908 between 25-39 years old. See Home Office (2021). Irregular migration to the UK, year ending December 2021.

<https://www.gov.uk/government/statistics/irregular-migration-to-the-uk-year-ending-december-2021>

⁷ *ibid.*

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” (Petch & Stirling, 2020, p. 33).

Welsh Government policy

The Welsh Government “wants to make sure Wales is an inclusive country in which people from all backgrounds are welcomed and there is zero tolerance of xenophobia, racism or bigotry”.⁸ Working with local authorities, other public bodies and NGOs, it has had a community cohesion strategy for many years, funds regional community cohesion coordination teams, and has taken a series of practical steps to address inequality and promote good community relations. These include tackling hate crime; funding legal advice for EU citizens following Brexit; providing free bus travel for refugees in Wales; providing guidance and funding the Reach ESOL Hub that coordinates, and ensures the quality of provision of, English as a Second Language teaching.⁹

In 2019, it announced that Wales would become the world’s first ‘Nation of Sanctuary,’ with a cross-departmental strategy to improve outcomes for refugees and asylum seekers and avoid destitution, through ensuring access to services and legal advice.¹⁰ As part of the plan, it pledged to revisit the recommendations of a report on violence against migrant women in Wales, which had, inter alia, found that precarious immigration status was one reason, why victims of domestic violence were not seeking the refuge and support available to other women (Hubbard et al., 2013).

As the UK government is responsible for immigration policy, the challenges experienced by precarious migrants cannot be fully resolved by the Welsh government. While the Welsh Government must comply with UK Government legislation in this policy area, it has sometimes expressed its disapproval of UK policies, such as the practice of using former army barracks in Wales to accommodate asylum seekers (Thomas & Moran, 2021).

⁸ See Welsh Government’s Preparing Wales: <https://gov.wales/preparing-wales-brexit/community-cohesion> archived at <https://perma.cc/GZ2Q-J2RU>

⁹ See REACH: <https://reach.wales> archived at <https://perma.cc/R8CW-5FKB>

¹⁰ Welsh Government (2019). *Nation of Sanctuary – Refugee and Asylum Seeker Plan*. <https://gov.wales/refugee-and-asylum-seeker-plan-nation-sanctuary> archived at <https://perma.cc/BS4L-6WLQ>

Cardiff

Cardiff is located in the South East of Wales and is its largest city, with a population of over 369,000 in 2020 (Statistics Wales, 2021a). Census data projections indicate that Cardiff will continue to have the largest population of all local authorities in Wales, rising rapidly to over 375,000 by 2028 (Statistics Wales, 2020). A port city with a long history of migration, Cardiff 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 the coal export industry and other jobs linked to international trade.¹¹

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). In 2021, 15% of Cardiff residents were of Black, Asian or Minority Ethnicity (Statistics Wales, 2021b). Over 100 languages are spoken. Under UK asylum policy, Cardiff is one of four designated asylum dispersal areas in Wales, along with Newport, Swansea and Wrexham. Together, by 2020, these 4 areas were welcoming 3,219 asylum seekers at any one time (Home Office, 2022a). As of December 2021, there were 1,351 asylum seekers living in Cardiff in receipt of Home Office s95 support (Home Office, 2022b).

There is no data on the number or characteristics of migrants with a precarious status in the city. As many choose to stay unknown to the authorities unless circumstances force them to seek help, the lack of data is no surprise. NGOs providing services can give some indication of scale. The Welsh Refugee Council suggested in 2019 that several hundred asylum seekers were likely to become destitute annually in Wales. It was estimated in 2018 that there were 7,350 asylum seekers in Wales seeking advice or aid from the voluntary sector, of whom 5,300 were destitute (Petch & Stirling, 2020, pp. 8–11). Although asylum seekers have a temporary immigration status, they are vulnerable to destitution before they make an application for asylum and if their application is refused.

We were told that, although Cardiff Council is providing services to some precarious migrants, the local authority lacks data on immigration status and nationality for many of its cases (e.g., looked after children).

¹¹ Cardiff Council (2020). Equality & Inclusion Strategy 2020 - 2024. <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>. p9. Archived at <https://perma.cc/DQ9T-LC8R>

Responsibilities relating to migrants

The Well-being of Future Generations (Wales) Act 2015 requires local authorities (LAs) and other Welsh public bodies to work together for sustainable development. LAs are expected to provide local leadership for their communities in several areas of local services, 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, disabled people and vulnerable groups (Welsh Local Government Association, 2022)

Local authorities also play a role in providing information and signposting to services, including to newly arrived migrants.

The Social Services and Well-being (Wales) Act 2014 replaced areas of UK welfare legislation including parts of the Children Act 1989. Unlike immigration and welfare benefits, social care is a devolved area so that, while restrictions to services may originate from UK legislation, some entitlements may be established in devolved legislation (Price, 2016c, p. 4). The 2014 Act provides an eligibility framework to ensure a consistent approach across Wales, and creates duties on local authorities to promote the well-being of people who need care and support.¹²

LAs have different duties based on the category of migrants (e.g., single adults, children and trafficked individuals). For adults, the Act sets out that LAs must provide preventative services in their areas, promote the development of non-governmental (NGO) services and provide individuals with information regarding the care and support available for them. The Act further sets out that LAs have a safeguarding obligation and must protect people from harm, including those who are ineligible for care and support. It creates a duty on LAs 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) sets out grounds on which they should be excluded. People subject to immigration control can only receive support from local authorities if their need for care and support is independent of the impact on their health and well-being of being destitute (s35). Specifically, s19

¹² Welsh Government (2021). Briefing: Briefing: supporting unaccompanied asylum-seeking children in Wales. <https://gov.wales/briefing-supporting-unaccompanied-asylum-seeking-children-wales-html> archived at <https://perma.cc/593S-7KRU>

outlines three steps in the assessment: (1) establish whether the person has needs for care and support; (2) assess whether this need arises due to the physical effects (or anticipated effects) of destitution and (3) determine if those needs are eligible under The Care and Support (Eligibility) (Wales) Regulations 2015.

Some adults with NRPF who request LA support may be ineligible if they are in breach of immigration laws, asylum seekers, or have been granted refugee status by another country (Schedule 3 Nationality, Immigration and Asylum Act 2002 (NIAA)). In this case, LAs should undertake a human rights assessment to determine if the provision of services under the 2014 Act (s35) is necessary to prevent a breach of the individual's right under the European Convention on Human Rights (ECHR). LAs can, however, use their discretion to provide care and support regardless of that assessment's outcome (Price & Spencer, 2015, p. 15). The Act (s34) sets out the types of support LAs can provide. For those who are excluded, NGOs may be able to step in. Several organisations in Cardiff provide accommodation and support to destitute migrants ineligible for LA support.

Specific provisions apply for migrant children and their families, as well for unaccompanied or separated children. Since support under the Children Act 1989 and the Social Services and Well-being (Wales) Act 2014 is not considered a public fund, children are eligible for the full range of support provided under the law. Cardiff, like all LAs in Wales, has a duty to meet children's needs and the 2014 (s34) Act sets out the various ways it can do so. LAs have wide and flexible powers that enable them to respond to children's particular needs and circumstances.¹³ For looked after children, for instance, (that is, those in the care of a local authority for more than 24 hours), they have a statutory duty to provide a reasonable standard of health and development, and are required to promote educational achievement as an integral part of their duty to safeguard and promote their well-being (Care Planning Placement and Case Review (Wales) Regulations 2015; Price, 2016b).

Under the 2014 Act (s107), LAs also have a duty to prepare a pathway plan for young people who are leaving care. They must provide a Personal Advisor and give advice and support about accommodation, education, training and employment. They may also provide a one-off bursary for young people pursuing a higher education course. However, once they turn 18, these young

¹³ Welsh Government (2021). Briefing: Briefing: supporting unaccompanied asylum-seeking children in Wales. <https://gov.wales/briefing-supporting-unaccompanied-asylum-seeking-children-wales-html>. P10. archived at <https://perma.cc/593S-7KRU>

people are excluded from leaving care services because of Schedule 3 NIAA 2002. In this case, LAs have a duty to assess whether the provision of leaving care services is necessary to prevent a breach of their rights under the European Convention on Human Rights (Price, 2016c, p. 6).

Structure and governance of Cardiff Council

Cardiff Council is a unitary authority (a single authority exercising all local government functions in its area). Elections for the whole council take place every five years. The Labour Party has been the largest party, in control of the council, since 2012, securing a substantial majority in the most recent elections in 2022.

The administration of the council comprises seven Directorates of which four have particular relevance here: Children's Services; Adults, Housing and Communities; People and Communities (which includes the Cohesion and Community Engagement team, working directly with this research); and Education and Lifelong Learning.¹⁴

Cardiff's approach to migrants with a precarious status

Cardiff Council has a clear commitment to reducing inequality and strengthening inclusion in the city, demonstrated by a series of initiatives in recent years. 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. 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 to *all* of the city's residents:

*'We will deliver inclusive services and partnerships which actively address inequality and exclusion and enable all of Cardiff's residents to realise their potential and live safely.'*¹⁵

¹⁴ Cardiff Council (2022). Management Chart as of January 2022. <https://foi.cardiff.gov.uk/ENG/FOI/FOI17265/FOI17265%20Response%20-%20Attachment%201.pdf> archived at <https://perma.cc/9Y2Q-3ZKT> archived at <https://perma.cc/9Y2Q-3ZKT>

¹⁵ Cardiff Council (2020). Equality & Inclusion Strategy 2020 - 2024. <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>. P15. archived at <https://perma.cc/PR5Y-3LZL>

To address issues facing ethnic minorities in particular, the Council convened a Race Equality Taskforce (July 2020-March 2022) asked to identify practical opportunities for the council and organisations in the city to improve race equality outcomes across the fields of 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 Directorate.¹⁶

The Social Services and Well-being (Wales) Act 2014 Act requires each local authority to carry out a population needs assessment, of which the most recent for Cardiff was published in April 2022 by the Cardiff & Vale Integrated Health & Social Care Partnership. Significantly, its analysis and recommendations refer not only to asylum seekers and refugees but also to irregular ('undocumented') migrants. These include the need for training and ongoing support for professionals working with undocumented migrants to improve quality of service provision; data collection; co-location of health services most relevant to those who are vulnerable, including destitute asylum seekers and irregular migrants; and for models of primary care that could overcome known barriers for this group of people. Some of the concerns identified in our report have thus already been identified recently in a formal needs assessment. These are expected to be addressed by the local health board and the Welsh Ambulance Services NHS Trust, with collaboration from Cardiff Council and third sector representatives.¹⁷

Cardiff was one of the founding cities of the UK Inclusive Cities programme, convened by the Centre for Migration, Policy and Society at the University of Oxford. Cities in the programme commit to working with their local partners to achieve, through an action plan, a step-change in their approach to supporting and welcoming newcomers in their city. The Equality and Inclusion Strategy notes that the action plan included supporting access to legal provision for those with complex immigration issues, which contribute to, or cause, destitution.¹⁸

¹⁶ 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> archived at <https://perma.cc/2P36-KT3J>

¹⁷ Cardiff & Vale Regional Partnership Board (2022). Cardiff and the Vale of Glamorgan Population Needs Assessment 2022. <https://cvihs.co.uk/about/what-we-do/population-needs-assessment/>

¹⁸ Cardiff Council (2020). Equality & Inclusion Strategy 2020 - 2024. <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>. P43. Archived at <https://perma.cc/59Q2-JD32>

Cardiff Council received funding from the Welsh Government and Welsh Local Government Association to deliver, with Newport Council, an 18-month development project (to October 2022) building regional capacity and expertise regarding Unaccompanied Asylum Seeking Children, building upon the existing strengths of the two local teams. The development work in this project, identifying governance, data collection and training needs, may also be valuable for future work on migrants with a precarious status.

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”.¹⁹ Cardiff Council is one of the partner organisations and agreed to participate in the refugee resettlement scheme set up by the UK government. Cardiff’s first School of Sanctuary, Llanishen High School, achieved that status in 2018 for its good practice in fostering a culture of welcome and inclusion.

The Council’s focus has however not only been on the need to address inequalities. Rather it has also identified the competitive advantage for the city of its diverse population, not least in its cultural and leisure infrastructure.²⁰

Healthcare

National Frameworks

Public health is a devolved responsibility of the Welsh Government (WG) and access to the National Health Service (NHS) is also not a public fund for immigration purposes. As such, whether NHS services are charged is determined by devolved legislation.²¹ NHS Wales is composed of three NHS Trusts, which have all-Wales remits, and seven local health boards (LHBs).²² These work

¹⁹ Cardiff City of Sanctuary website: <https://cardiff.cityofsanctuary.org> archived at <https://perma.cc/6U7L-DHHN>

²⁰ Cardiff Council (2020). Equality & Inclusion Strategy 2020 - 2024. <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>. P44, archived at <https://perma.cc/969R-25LC>

²¹ 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/109089/6/overseas-NHS-visitors-charging-regulations-guidance-July-2022.pdf Para 23. Archived at <https://perma.cc/Z7A8-ZU36>

²² 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

together to, collectively, assess health needs and administer, deliver and monitor healthcare services. The LHB responsible for Cardiff is the Cardiff and Vale University Health Board (CAVUHB).

The LA, while not the provider of healthcare services, has duties and powers to assess and protect public health in its area. Under the Social Services and Well-being (Wales) Act 2014 (s14), LAs and LHBs must jointly identify the needs for care and support in their area, the extent to which these needs are unmet, and the range and level of services required to meet them. LAs must secure the provision of information, advice, and assistance (s17); and to facilitate this, LHBs and NHS Trusts must provide LAs with information on their local services. Further, LAs must ensure the provision of preventative services (s15).

The LA has additional responsibilities under public health legislation outside of the 2014 Act, particularly related to cases of infectious diseases, which medical practitioners and diagnostic laboratories must report to the LA.²³ If necessary to protect public health, LAs can take steps such as to remove children from school, oblige head teachers to provide the contact details of pupils, and make requests of the public. LAs can also apply to a magistrate for additional powers to manage infections and contamination, including closing a premises or detaining an individual in a hospital.²⁴

The WG set out a cross-institution public health roadmap for some migrants in its 2019 *Nation of Sanctuary Refugee and Asylum Seeker Plan*. This covers actions for “people seeking sanctuary”, including those with NRPF. The actions involve LAs working with LHBs, Public Health Wales, the UK Government, the Welsh Refugee Coalition, and other partners, to: (1) assess the needs of refugees and asylum seekers; (2) “maintain free healthcare [our emphasis] for refugees and asylum seekers, including those who have No Recourse to Public Funds” (through staff awareness training, promoting initial health assessments, and supporting primary care registration); (3) share good practice; (4) support migrant children’s physical and mental health; (5) provide and assess mental health support, both institutional and volunteer-based; and (6) support inclusion in sports. In addition, in 2018 the WG released *Policy Implementation Guidance on Health and Wellbeing Provision for Refugees and Asylum Seekers* – a substantial resource for practitioners

communication). Other more specialised NHS Wales institutions exist, such as Digital Health and Care Wales.

²³ Welsh Government (2010). Health Protection Legislation (Wales) Guidance. <https://gov.wales/health-protection-legislation-2010-guidance> archived at <https://perma.cc/2FP6-9F33>

²⁴ Health Protection (Part 2A Orders) Regulations 2010). <https://www.legislation.gov.uk/uksi/2010/658/made> archived at <https://perma.cc/C2SC-V2ZE>

on legislation, governance, healthcare needs, good practice, and risk management in relation to asylum-seeker health, but also including refused asylum seekers.

The General Practitioner (GP) is the main gateway to NHS services. GPs are required to register individuals living within their service area unless certain criteria are met (e.g., they have closed their list); and they are required to justify refusal reasons in writing. The Equality Act 2010 makes it unlawful for GPs to refuse to register individuals due to protected characteristics (including race, religion, and ethnic or national origin). To register, patients must complete a GMS1 form, which includes a field for home address.²⁵ Despite this, proof of address is not required for GP registration.

Under 1989 NHS regulations, patients who are overseas visitors (that is, not 'ordinarily resident' of the UK with regular immigration status) may be charged for NHS services.²⁶ Under these regulations, the LHB has the responsibility of determining whether a patient is an overseas visitor. However, subsequent Welsh legislation on NHS charging has established exceptions in which overseas visitors should be provided free primary care.²⁷ These exceptions include emergency treatment and 'immediately necessary' treatment. The WG 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).²⁸ This treatment is to be provided for free for up to 14 days (unless the person is present in the GP's area for less than 24 hours, in which case it is to be provided free until the person leaves, up to 24 hours) (para 17). If the treatment is not immediately necessary, it is for the GP to decide whether to accept the person as a private patient, in which case they must pay for treatment, or as an NHS patient, in which case the treatment is to be provided free of charge (para 23).

²⁵ The GMS1 form and practitioner guidance are available online:

<https://www.gov.uk/government/publications/gms1>

²⁶ National Health Service (Charges to Overseas Visitors) Regulations 1989.

<https://www.legislation.gov.uk/ukSI/1989/306/made> archived at <https://perma.cc/MJ2B-AZB6>

²⁷ 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/overseas-visitors-and-the-nhs/> archived at <https://perma.cc/F9UC-PE54>

²⁸ Welsh Government (2021). Overseas Visitors' Eligibility to Receive Free Primary Care.

<https://gov.wales/overseas-visitors-eligibility-receive-free-primary-care-whc021026> archived at <https://perma.cc/K88Y-X8FS>

Additionally, free treatment is provided in the case of 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, treatment for mental health by a court order, and family planning. Treatment in Accident and Emergency (A&E) departments is also free, but only while in the department; care in follow-up outpatient appointments or in a ward are chargeable.²⁹

In secondary healthcare, including services administered in a hospital or requiring a referral, those who are not ordinarily resident are charged for services before treatment is initiated. Exceptions exist for communicable or sexually transmitted diseases, A&E departments (as above), and for victims of trafficking or domestic violence. The WG has produced 2019 guidance on charging in secondary healthcare.³⁰ While ‘immediately necessary’ treatment is chargeable in secondary healthcare, it cannot be denied for lack of funds. For ‘urgent treatment’ (i.e. treatment which is not ‘immediately necessary’ but cannot wait until the person leaves the UK), patients are expected to pay the full cost of treatment before treatment. The 2019 guidance states that while NHS Trusts “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” (p9).

Asylum seekers with active claims are exempt from NHS charges across the UK; while in Wales, refused asylum seekers have been exempt since 2009.³¹ In Wales, if a migrant receiving free treatment loses their status, or it is later determined that they were an irregular migrant, they cannot be charged for past treatments if they have lived in the UK for more than 12 months. However, subsequent treatments are chargeable.³² Likewise, EU citizens without settled or pre-settled status are chargeable, although reciprocal national agreements exist for certain cases.³³

²⁹ Welsh Government (2021). Overseas Visitors’ Eligibility to Receive Free Primary Care. <https://gov.wales/overseas-visitors-eligibility-receive-free-primary-care-whc021026> archived at <https://perma.cc/K88Y-X8FS>

³⁰ 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> archived at <https://perma.cc/YM7Z-M4JK>

³¹ The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2009. <https://www.legislation.gov.uk/wsi/2009/1512/made> archived at <https://perma.cc/U2MC-K27N>

³² 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. Archived at <https://perma.cc/HXX3-TVD3>

³³ 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).

Those not able to pay for NHS dental and optical treatments, or travel to receive NHS treatment, can apply for an HC2 certificate to cover some or all of the costs, including migrants with precarious status. However, a previous study noted “variable awareness of the entitlements provided by the HC2 certificates” (Khanom et al., 2019, p.8) among refugees and asylum seekers; and it is likely that this also affects migrants with precarious status, especially those having arrived most recently to the UK.

Under the UK Immigration Act 2014 and consequent Immigration (Health Charge) Order 2015, a significant immigration health surcharge applies to applications for leave to remain or entry into the UK. Asylum seekers and their dependents are exempt from the surcharge, as are some other groups, including victims of trafficking and those eligible for the Destitution Domestic Violence Concession. However, the health surcharge directly affects those with a temporary status who need to secure continuity of residence – for example, a migrant seeking to extend their leave to remain for an additional 30 months must pay a health surcharge of £1,560 in addition to other immigration fees.³⁴

Cardiff and Vale Health Inclusion Service

Migrants with precarious status are entitled to access public health screenings and short-term health support through the Cardiff and Vale Health Inclusion Service (CAVHIS), previously known as the Cardiff Health Access Practice (CHAP). The service provides health assessments for asylum seekers in initial accommodation before they are dispersed within Wales and expected to integrate into the mainstream NHS. Since September 2021, these services have been generalised to a larger cohort of individuals with limited access to the NHS, such as irregular migrants. In the health assessments, nurses discuss the health history of the patient and offer missing immunisations and tests for infectious diseases. They also signpost to other services and orient patients towards registering with a GP.

Barriers to healthcare in Cardiff

Administrative and Financial Barriers

NHS interviewees stated that GP practices sometimes require proof of address to register new patients. This introduces barriers for accessing further NHS services, especially for refused asylum

³⁴ The UK Government provides a health surcharge calculator:
<https://www.immigration-health-surcharge.service.gov.uk/checker/type>

seekers, irregular migrants with no fixed abode, migrants fleeing domestic violence, or migrants who have moved within the UK. CAVHIS partly mitigates this by providing inclusive treatment. One LA interviewee expressed concerns that, at CAVHIS, highly vulnerable migrants seek help alongside individuals who have been 'delisted' by GPs for assault. There were also concerns that CAVHIS introduces a "dual healthcare system" for precarious migrants, which runs parallel to mainstream GPs. However, CAVHIS conducts outreach work to sensitise mainstream healthcare professionals to precarious migrants and patient registrations, curtailing the rise of a dual system.

The fear of being charged for services may also dissuade 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 outstanding debts of £1000 or more, or in some cases £500 or more, depending on when the debt was incurred and the type of application - affecting migrants even where treatment cannot be delayed due to lack of financial capacity.³⁵

Communication Barriers

The Well-being (Wales) Act 2014 places requirements on public bodies to ensure that accessible services are provided. NHS Wales has worked to increase accessibility to migrants, and this is monitored by the WG.³⁶ In particular, WG guidance stipulates the use of accredited interpreters.³⁷ Both remote and in-person interpretation services are available - including contracted private companies such as The Big Word, and the Wales Interpretation and Translation Service (WITS), which is dedicated to the Welsh public sector.

Despite this, NHS interviewees indicated that interpreters are not routinely used. NHS staff sometimes rely on family members for interpretation, and this can lead to patients or their interpreter withholding information. Examples raised include women being embarrassed to share symptoms through their husband, or children withholding significant information for fear that it will be considered inappropriate or would lead to unwanted intervention.

³⁵ Home Office (2022). Suitability: debt to the NHS caseworker guidance.

<https://www.gov.uk/government/publications/suitability-debt-to-the-nhs-caseworker-guidance>

³⁶ 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>. Archived at <https://perma.cc/6VWU-TJQE>

³⁷ Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>, pp.32-33. Archived at <https://perma.cc/X8A7-GVG6>

Communication barriers also occur when staff overestimate a patient's command of English. Migrants may nod in agreement without fully understanding. This may in part be due to cultural frames of obedience to doctors, and the notion that patients have a passive role in accepting treatment options. Even for migrants with a sufficient command of English, ongoing concerns about their immigration status overshadow medical needs. For some pregnant migrants attending appointments, "the baby is sometimes the last thing on their mind as they have so many other issues".

There was also concern about the quality and safety of accredited interpretation services. WG guidance notes that professional interpreters are typically male despite the fact that "female interpreters are available and the client's wishes over the gender of the interpreter should be respected".³⁸ The use of male interpreters complicates posing gender-sensitive questions (including related to domestic violence). An NHS interviewee said that traffickers had previously registered as official interpreters and, because of this, they kept patients' names from interpreters. There was also 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, typically lack the time and cultural awareness to ensure that information is sufficiently understood. While WG guidance on interpretation services is apparently not widely applied, the guidance is considered useful as a resource for referring colleagues, and as grounds for migrants to lodge concerns and complaints. Nevertheless, precarious migrants have less capacity to lodge complaints, and an interviewee noted that when complaints are lodged (for instance by a social worker acting as an advocate), such migrants may not receive compensation on equal grounds if, for example, they do not have a bank account or rely on money transfer services such as Western Union which are not commonly used in the NHS.

Cross-organizational links

The WG has emphasised the need for joint working on health and highlighted regional partnerships and frameworks that link LAs with other partners.³⁹ Public Health Wales participates

³⁸ Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>, p. 33. Archived at <https://perma.cc/X8A7-CVG6>

³⁹ Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>, p.17. Archived at <https://perma.cc/X8A7-CVG6>

in the Wales Strategic Migration Partnership, which provides a platform for working with the HO, WG, LAs, NGOs, accommodation providers, and the Welsh Police Force. Public Health Wales also participates in forums (including the DPIA Asylum Seeker Advocacy Forums, funded by the WG Asylum Rights Programme).

LA interviewees also stressed the importance of joined-up services and perceived few barriers with the NHS. Housing Options Services, for example, prioritises discharged NHS patients with precarious accommodation situations. Yet both NHS and LA interviewees noted limited capacity and migrant-specific expertise in their institutions. Staff learn 'on the job' and expertise is generally transferred laterally between colleagues rather than through training modules.

NGOs provide basic services and bridging services that facilitate NHS access. NHS interviewees characterised NGOs as providing the "nuts and bolts" necessary for including precarious migrants. The British Red Cross works alongside CAVHIS for social prescribing⁴⁰ and signposting to NHS services. Displaced People in Action (DPIA) is launching training sessions for asylum seekers that include how to access GPs and pharmacies. To help migrants make appointments, NGOs provide access to phone lines, mobile phones and mobile data. Some NGO workers help migrants understand their interactions with the NHS. NGOs also enable community outreach; for example, the Trinity Centre (in conjunction with the British Red Cross and Welsh Refugee Council), ran a weekly drop-in clinic before COVID for vulnerable people including migrants with precarious status.

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 staff to enable food parcels to be delivered. These relationships depend on staff initiatives, capacity, local knowledge, and networking. An NHS interviewee noted that they feel obliged to remain reachable to colleagues during their time-off, as their local expertise is not institutionalised. Likewise, since no centralised NHS resources on migrants with precarious status exist for local NGOs, an NHS interviewee stated that they are sometimes limited to redirecting NGO inquiries to colleagues in other parts of the NHS.

⁴⁰ Social prescribing is the practice of referring patients to non-medical, community-based activities or support. See Drinkwater, C., Wildman, J., & Moffatt, S. (2019). Social prescribing. *British Medical Journal*, 364.

Data collection and sharing

The collection and sharing of health data has gained increased attention since COVID-19 and the popularisation of evidenced-based practices leveraging big data⁴¹. The LA, LHB, and local GPs are among the signatories of the Wales Accord on the Sharing of Personal Information (WASPI), which provides a framework for data sharing. The WG also funds the Secure Anonymized Information Linkage (SAIL) Databank. WG guidance notes the need for centralised datasets to account for migrant mobility, and tasks LHBs with agreeing on dataset standards that include data on; countries of origin and transit, languages spoken, initial assessment date, medical diagnoses, NGO referrals, and female genital mutilation (FGM)⁴². It recommends that LAs share data on service delivery and uptake.⁴³

Various standardised coding schemes are used to record health data. Traditionally, READ codes have been used, and WG guidance has stipulated that LHBs should ensure the use by medical staff of 'refugee' and 'asylum seeker' READ codes (the guidance does not mention codes relevant to migrants with precarious status, such as irregular migrants).⁴⁴ An NHS interviewee noted that code lists are voluminous and can be obscure, and that local codes can be created. They noted that migrant codes are not systematically used by clinicians; that staff may be unaware of codes related to migrants; and that clinicians may worry that asking about immigration status will rupture the clinician-patient relationship, or fall outside of a 'need to know' basis. Migrants may withhold information on immigration status such that it cannot be recorded - for example, due to concerns about charging, confidentiality, data sharing with the HO, or being declined care.

Following NHS England, NHS Wales is transitioning from READ codes to SNOWMED CT⁴⁵. An NHS interviewee noted that code-driven designs of clinical software affect data practices, and that

⁴¹ For health data within the context of NHS England, see UK Government (2022). 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>

⁴² Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>. Pp17-19. Archived at <https://perma.cc/X8A7-GVG6>

⁴³ Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>. P28. Archived at <https://perma.cc/X8A7-GVG6>

⁴⁴ Welsh Government (2018). *Health and wellbeing provision for refugees and asylum seekers: Policy implementation guidance*. <https://gov.wales/health-and-wellbeing-refugees-and-asylum-seekers-guidance-health-boards>. Pp17-19. Archived at <https://perma.cc/X8A7-GVG6>

⁴⁵ 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> archived at <https://perma.cc/ESE9-ET7F>

free-text entries related to immigration status may not be easily retrievable. Lack of health data on such migrants limits public health oversight, as cases are too few to remain unidentifiable in reporting. More generally, they raised the need to examine the extent to which coding systems are encouraged by institutional culture and the ways in which societal discourses on migrant data limit confidentiality and exacerbate fear among precarious migrants seeking to access healthcare.

Special Services for Women

Female migrants with precarious status face distinct vulnerabilities including domestic violence, FGM, trafficking, social stigmatization, and honour-based violence. Women under family reunion may struggle cohabitating with spouses who have since adapted to life in Wales or resent having been 'left behind'. These factors add to access barriers. For example, one interviewee shared that an irregular migrant presented at the hospital during labour with preeclampsia, and had not sought prenatal care for fear that she might be removed from the UK, which contributed to the death of the child. The mother was later charged as an overseas visitor but secured financial assistance from a faith community. Some health services, including at-home labour induction, are not provided to some migrants due to limited English.

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 particular cross-sectoral awareness of FGM. The All-Wales Clinical Pathway for FGM standardizes safeguarding and reporting procedures for children, adults, and pregnant women who are victims (or at risk) of FGM. Healthcare, social care and education workers have a duty to report being informed of FGM or observing evidence of FGM on a child.⁴⁶ Yet an interviewee noted that women who have undergone FGM might not see themselves as having been victimized and can resent being classified as a victim. CAVHIS employs a midwife specialized in FGM and provides 1-hour appointments that are longer than those typical in the NHS are. These are available to pregnant precarious migrants, generally, irrespective of FGM status.

Having no childcare can complicate attending appointments, although emergency childcare is sometimes obtained from religious communities or other residents in shared accommodation. CAVHIS will sometimes refer women who are in the early stages of pregnancy to the LA, where

⁴⁶ Serious Crime Act (2015). <https://www.legislation.gov.uk/ukpga/2015/9/contents/enacted>. Archived at <https://perma.cc/5D9J-5Q2J>

Children's Services will establish contact with a family that can host the child while the mother is in labour. An NHS interviewee noted that trust must be built to assuage fears that mothers will be permanently separated from their child.

An NHS interviewee noted a lack of awareness of precarious migrants in the NHS, and that this produces misinterpretations among staff (e.g., "women who struggle to attend appointments are disengaged"). As with general awareness of the needs of such migrants, knowledge on the needs of female migrants is gained on-the-job rather than through training. Precarious migrants sometimes arrive in ambulances as they are unfamiliar with how to access healthcare, and this is sometimes interpreted by staff as theatrical or wasteful. Precarious migrants who have undergone sexual abuse may struggle with invasive examinations or the compression of a blood pressure cuff. An interviewee emphasised that NHS staff lack capacity to manage complex trauma and, for pregnant women, trauma is only addressed after delivery, limiting service quality.

An NHS interviewee noted that a few engaged workers sometimes personally transport migrants to appointments, pay taxi fares for discharged migrants, or refer pregnant women to NGOs that will support and 'hide' them from the LA (and HO) until they are 34 weeks pregnant and thus cannot be made to leave the UK. Specialized NHS staff, including at CAVHIS, personally foster relationships with NGOs that support female precarious migrants; including, for example, the Cwtch Baby Bank (which provides baby bundles to destitute mothers), the Birth Partner Project (which provides doulas⁴⁷ so women do not give birth alone), and Bawso (which provides support for victims of domestic abuse and FGM).

Accommodation

Although there is no data on the exact number of migrants with precarious status in Wales, the Welsh Refugee Council estimates that hundreds of refused asylum seekers become destitute each year and thus become at risk of homelessness. This is especially the case for single adults, as refused asylum seeker families will continue to receive support. As we saw, the Destitution Clinic 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). One LA interviewee confirmed similar numbers during the COVID pandemic, noting that they had housed 72 migrants with NRPF, providing, at the same time, access to legal advice on immigration status -

⁴⁷ A doula is a non-medical, professional who is trained in providing support during labour.

a problem solving approach also in place in other European cities such as Utrecht and Ghent. By providing legal advice, the Homeless Service found, significantly, that it had managed to address the cause of their precarious immigration status in 75% of cases.

Street homelessness is a political priority for the Welsh government.⁴⁸ Yet all of the LA and NGO interviewees working in housing or housing-related services acknowledged that a lack of resources has produced a general lack of accommodation. This, coupled with the lack of information from the HO on people who are due to be evicted, or on the numbers of people with NRPf or ARE, makes it difficult to assess the magnitude of the issue and plan appropriate housing provision.

Another challenge identified by LA interviewees was the lack of trust on the part of precarious migrants, and sometimes of NGOs, towards the LA. As a result, precarious migrants may be reluctant to seek help from housing services. LA interviewees noted that collaboration with external organisations, such as the Welsh Refugee Council or the Salvation Army, were key to overcoming the reluctance of migrants to approach the LA.

While the WG's ability to accommodate migrants with NRPf is restricted by UK immigration rules (Petch & Stirling, 2020, p. 13), its Nation of Sanctuary Plan includes actions to accommodate people seeking sanctuary in Wales (e.g. working with landlords to raise awareness)⁴⁹. The LA interviewee viewed statutory provisions as their "minimum level" of service provision, and they aimed to provide services humanely, even though the law binds them. For instance, migrants with precarious status are not eligible to receive housing provision via Part 2 of the Housing (Wales) Act 2014, which addresses homelessness, and cannot receive council housing. However, they are eligible for housing provided by associations or the private sector: contrary to England, Wales does not require landlords to verify the immigration status of prospective tenants ('Right to Rent', under the Immigration Act 2014).⁵⁰ When the LA are unable to provide accommodation, they refer migrants to NGOs who might be able to assist them.

⁴⁸ 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> archived at <https://perma.cc/WF6F-2SB8>

⁴⁹ Welsh Government (2019). Nation of Sanctuary – Refugee and Asylum Seeker Plan. https://gov.wales/sites/default/files/publications/2019-03/nation-of-sanctuary-refugee-and-asylum-seeker-plan_0.pdf archived at <https://perma.cc/8VMP-FWC4>

⁵⁰ The UK Government's Right to Rent policy has today 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

Refused asylum seekers are eligible to receive assistance from the WG's Discretionary Assistance Fund if they are destitute (Petch & Stirling, 2020, p. 68). However, under the Housing (Wales) Act 2014 (s60), the LAs have a statutory duty to provide information and advice about homelessness to all homeless persons, including people who are ineligible for housing assistance (Petch & Stirling, 2020, p. 63). Welsh Government guidance clarifies that LAs have a statutory obligation under the Social Service and Wellbeing Act 2014 to support NRPF households with children, young care leavers and vulnerable adults in need (Petch & Stirling, 2020, p. 26). Our interviews indicated that even in this context, it was challenging to find emergency accommodation particularly for families with precarious status because, first, they need to liaise with housing service, even though children's services and adults services come under the same directorate as homelessness; and, second, because of delays in HO processing of cases. In Wales, however, LA departments working outside housing do not have a duty to signpost someone who is homeless or at risk of being homeless to a housing authority (Petch & Stirling, 2020, p. 65). The interviewees indicated that they would nonetheless do so, and work closely with NGOs to aid those with NRPF.

In Cardiff, several organisations provide accommodation to migrants with 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). Other organisations, such as Oasis, provide drop-in and advice provision while the Huggard Centre provides temporary emergency accommodation to people experiencing street homelessness generally. The Huggard was described by NGO interviewees as accepting those who have exhausted other accommodation options. Although precarious migrants were not typically eligible for LA-funded emergency accommodation (even if managed by NGOs) prior to COVID, they may have occasionally been provided an emergency bed space while their rights were being 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, also provides emergency accommodation. Several faith groups such as the Trinity Center further provide emergency accommodation or practical support in partnership with other NGOs. Lastly, Cardiff Council may also exceptionally provide funding to emergency shelters or hotels when precarious migrants are particularly vulnerable (e.g., while recovering from surgery).

Rent policy in Scotland and Wales successfully challenged. <https://www.equalityhumanrights.com/en/our-work/news/right-rent-policy-scotland-and-wales-successfully-challenged> archived at <https://perma.cc/Y347-UFX4>

Prior to the coronavirus pandemic, in 2019, the WG established an independent Homelessness Action Group to find solutions to homelessness in Wales (Fitzpatrick, Bramley, et al., 2021). The Action Group published 3 reports⁵¹ indicating that their recommendations should 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";⁵² a view shared by LA and NGO interviewees.

The coronavirus pandemic introduced various changes to homelessness policy in Wales. The Welsh government said in March 2020 that everyone who was homeless needed to be accommodated, including migrants with NRPF, as part of a 'no-one left out' approach (Fitzpatrick, Bramley, et al., 2021). This was followed by Guidance on the Priority Need status of rough sleepers - stating that NRPF individuals should be accommodated⁵³. This was accompanied by a six-month moratorium on evictions, later extended to March 2021 (Fitzpatrick, Mackie, et al., 2021). The WG allocated funding to LAs to secure adequate accommodation to all homeless individuals. It first provided a £10 million funding package for emergency accommodation⁵⁴ in March 2020 (Phase 1), followed by another package providing an additional £10 million (in revenue and capital) in May 2020 to support longer-term housing solutions (Phase 2). LAs were invited to set out a plan detailing how they would ensure the long-term resettlement of every person currently residing in a form of temporary accommodation in Wales. This funding was later increased to £50 million in July 2020 (Fitzpatrick, Bramley, et al., 2021) and, as of July 2022, remains in place.

At the onset of the pandemic, the WG put in place emergency measures so that LAs could provide accommodation to people who were rough sleeping or living in inadequate temporary accommodation, including precarious migrants. The WG further invested over £195 million in

⁵¹ The October 2019 recommended winter actions and long-term solutions to prevent rough sleeping. The March 2020 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 coronavirus pandemic and the responses of the WG. Homelessness Action Group (2020 July). <https://gov.wales/sites/default/files/publications/2020-11/homelessness-action-group-report-july-2020.pdf> archived at <https://perma.cc/H9PE-8EBM>

⁵² 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. P45. Archived at <https://perma.cc/V8U4-7K8C>

⁵³ See Guidance on self-isolating and Guidance for LAs on continuing to support homeless people during the coronavirus pandemic https://gov.wales/sites/default/files/publications/2020-04/guidance-for-local-authorities-in-supporting-people-sleeping-rough-covid-19_0.pdf archived at <https://perma.cc/N6HC-XBY2>

⁵⁴ Welsh Government (2020). Written Statement: COVID-19 Response – Homelessness and Rough Sleepers. <https://gov.wales/written-statement-covid-19-response-homelessness-and-rough-sleepers> archived at <https://perma.cc/SP4V-J6UR>

housing support and homelessness services and launched a Private Rented Sector Leasing Scheme Wales, which invites property owners to lease their properties to the LAs.⁵⁵ Recognizing the benefits of the ‘no-one left out’ approach, the WG conducted a consultation to help shape its post pandemic policies, and proposed changes to homelessness provision to continue its approach to rough sleeping in Wales.⁵⁶

Within Cardiff Council, departments worked with the Cohesion Team to investigate solutions to continue providing accommodation at the end of the pandemic. There is concern that, as the WG must comply with HO legislation, there might be a “U-turn” in this approach. NGO and LA interviewees alike expressed concern that policies may end up reverting to “the old hostile environment,” so that many precarious migrants would become homeless again, wiping out the benefits of the recent approach. Both NGO and LA interviewees proposed the establishment of a reactive system that is more individualised, and a joined-up support service offered to all migrants regardless of status, combined with a forward-looking approach. Otherwise, only providing the minimum (e.g., emergency accommodation) will not solve the problem as it only alleviates the symptoms. NGO interviewees emphasise the need for a cross-disciplinary and departmental approach, particularly involving health, because precarious migrants often have trauma that need to be addressed. Another contribution would be to increase host schemes in Cardiff, helping to fill gaps when the local authority is not able to provide.

Overall, the problem solving approach put in place during the COVID pandemic, which enabled the LA to house 72 migrants with NRPF and provide them access to legal advice, should be replicated in other cities to further address homelessness.

Education and Children’s Services

As education is a devolved responsibility, the WG is responsible for education policy and oversight of services. It works closely with the nation’s 22 LAs (Evans, 2022), which are responsible for education provision. Education in Cardiff is the responsibility of the council’s Education Department, which set out a new vision for education services in 2016: Cardiff 2020. Building on

⁵⁵ Welsh Government (2022). Consultation: Post pandemic interim homelessness measures. <https://gov.wales/post-pandemic-interim-homelessness-measures-html> archived at <https://perma.cc/M9QY-CLMY>

⁵⁶ Welsh Government (2022). Consultation: Post pandemic interim homelessness measures. <https://gov.wales/post-pandemic-interim-homelessness-measures-html> archived at <https://perma.cc/M9QY-CLMY>

Cardiff 2020, it set out Cardiff 2030 to consolidate and extend the progress made⁵⁷. It refers to the importance of equality of opportunity and championing the success and life chances of all children by narrowing the gap in education outcomes, but makes no specific reference to children with a migrant background.⁵⁸ Additionally, with the support of Cardiff Council, the City of Sanctuary movement initiated a School of Sanctuary programme, designed to provide a welcoming and caring environment for those people in need of help. Several schools in Cardiff have already achieved School of Sanctuary status and several others are in the process (C2).⁵⁹

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 properly. This is due to many factors, such as the lack of information shared by the Home Office, parents being hesitant to approach children's services out of fear that their children might be taken away, as well as the fact that social workers, due to lack of training, are not able to record information consistently.

Children in need

Under the Social Services and Well-being (Wales) Act 2014 (s21), the council has a duty to assess any child if there is a risk that they are in need, and a duty to safeguard them if this is the case. Precarious migrant children have the same rights and protections as any other child in Wales and practice guidance indicates that they should be regarded as "children first and migrant second", albeit against a backdrop of immigration rules.⁶⁰ Safeguarding is the LA's priority, and if children under 18 (who are not aged disputed) with a precarious migration status are deemed to be in need, they are referred to Children's Services and social workers conduct a "wellbeing" assessment⁶¹.

⁵⁷ <https://www.cardiff.gov.uk/ENG/resident/Schools-and-learning/Cardiff-2030/Documents/2030%20CARDIFF%20VISION%20low%20a.pdf> archived at <https://perma.cc/BS88-8DJ6>

⁵⁸ Cardiff Council (2016). 2020: A renewed vision for education and learning in Cardiff. <https://www.cardiff.gov.uk/ENG/resident/Schools-and-learning/Documents/Cardiff%202020.pdf> archived at <https://perma.cc/QT4C-73RT>

⁵⁹ Cardiff Council (n/d). Celebrations at latest Cardiff school to become a School of Sanctuary.

<https://www.cardiffnewsroom.co.uk/releases/c25/20616.html>. Archived at <https://perma.cc/3RSC-R52G>

⁶⁰All 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.cardiffandvalersb.co.uk/wp-content/uploads/Safeguarding-and-Promoting-the-Welfare-of-Unaccompanied-Asylum-Seeking-Children-and-Young-People-All-Wales-Practice-Guidance.pdf>

⁶¹ 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.

Preschool and School for children of school age

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

In 2014, the Welsh Government published *Qualified for Life: An education improvement plan for 3 to 19-year-olds in Wales*.⁶² This emphasised that the needs of pupils who require extra support such as those with special needs, health needs, as well as migrant and refugee pupils and looked-after children, should be met.⁶³ It introduced an Education Improvement Grant (EIG) to reduce the impact of further deprivation on all students, including those with precarious status.⁶⁴ The Special Educational Needs: Code of Practice for Wales⁶⁵ establishes that LAs must meet any special educational need if necessary.⁶⁶ The Inclusion and Pupil Support Guidance⁶⁷ recognizes 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).

⁶² 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>. Archived at <https://perma.cc/U2BV-DHS3>

⁶³ 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>. Archived at <https://perma.cc/FLW4-YNTD>

⁶⁴ 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> Archived at <https://perma.cc/L66K-P9WR>

⁶⁵ Education Act (1996). Section 312(1). <https://www.legislation.gov.uk/ukpga/1996/56/section/312> Archived at <https://perma.cc/35AQ-FYAK>; Welsh Government (2013). Special Educational Needs: Code of Practice for Wales. <https://gov.wales/special-educational-needs-code-practice> Archived at <https://perma.cc/233L-BMFO>

⁶⁶ 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> archived at <https://perma.cc/XM8L-HWTQ>; 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> archived at <https://perma.cc/F5TB-PRS7>

⁶⁷ 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> archived at <https://perma.cc/WP6F-KGTZ>

In Cardiff, LA interviewees indicated that they are able to use their discretionary powers to support precarious migrant children, and might also apply a lower eligibility threshold to them due to their heightened vulnerability. For instance, they may provide school uniforms to families who are not eligible for the Pupil Development Grant⁶⁸ or provide free transportation to migrant children if they deem it necessary.⁶⁹ Children Services will also cover children's basic needs (e.g. a warm coat in winter) and may provide a mobile phone so that they can contact their families or a solicitor.

Cardiff 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 provide free school meals to some primary school pupils. As the policy is progressively implemented throughout Wales, all students - including precarious migrant children - will be offered free lunches by September 2024.⁷⁰

Impact on school pupils of Covid-19 pandemic

While specific programmes were developed to improve refugee children's integration into the school system (e.g. the Education Toolkit for Syrian Refugee Children in Wales and Cultural Orientation Training Package for Resettled Refugees), no such programmes have been developed for precarious migrant children. However, the Coronavirus pandemic has created more awareness around precarious migrant children and increased forms of assistance.⁷¹

⁶⁸ 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 that 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> archived at <https://perma.cc/BL7B-R8ZQ>

⁶⁹ 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> archived at <https://perma.cc/RCN3-U273>

⁷⁰ 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> archived at <https://perma.cc/8PE7-AT3F>

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.

⁷¹ Cardiff Council (n/d). Celebrations at latest Cardiff school to become a School of Sanctuary.

<https://www.cardiffnewsroom.co.uk/releases/c25/20616.html>. Archived at <https://perma.cc/MMX3-8R8K>

Some LAs in the UK were found to have exercised their discretionary powers during the pandemic to provide additional support to precarious migrant children by providing tablets and IT kits so that they could study from home and continue to improve their educational outcomes (Sibieta & Cottell, 2020). 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). Additionally, school closures meant that children who would normally receive a free school meal no longer could. The Welsh Government 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 provide them after seeking advice from the WG.

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

Post school provision

Although school is only compulsory until the age of 16, the Welsh government encourages further education. For children who are between the ages of 16 and 18, the Education Maintenance Allowance (EMA) is available to UK citizens and residents but not to precarious migrant children. There are two main paths to pursue an education post-secondary school: by enrolling in Further Education (FE) or Higher Education (HE).

Further Education includes programmes beyond secondary education such as courses in colleges or apprenticeships.⁷² The Welsh government funds FE Colleges that offer various academic and vocational training. For children and young people under the age of 19, FE Colleges are free. However, young adults with precarious migration status may need to pay a registration or tuition fee. Some exceptions include taking basic skills courses such as literacy, numeracy or ESOL, which are typically free. While precarious migrants are not normally eligible for grants such as the Welsh Government's support for those in Further Education, they may benefit from

⁷² Welsh Government (n/d). Sanctuary: Refugees and Asylum Seekers – Education. <https://sanctuary.gov.wales/refugeesandasylumseekers/education> archived at <https://perma.cc/R5ZD-QZSH>

discretionary funds such as the Financial Contingency Funds (Trevena & Maclachlan, 2016). Additionally, in some cases, LAs will refer them to other services within the Council or to NGOs to get support.

The second path to pursue an education is through Higher Education - institutions that award academic degrees such as universities. Some funding is provided to cover tuition fees or living costs to UK citizens and residents. Most HE institutions charge fees: overseas fees for international students or home fees for those who are considered residents. A Welsh Government Learning Grant (WGLG) is available for those whose income is below a threshold; however, young migrants with precarious immigration 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). The interviews further revealed that Children's Services may sometimes offer support to those who are appeal rights exhausted (ARE) so that they can attend university.

LA interviewees indicated that young adults leaving the care system are a group that is particularly vulnerable and that they encounter difficulties providing support to them. They strongly advocate development of a strategy within the LA to deal with this group through a cross departmental board instead of individual responses by each department. They welcomed the fortnightly team meetings that were set up during the pandemic, and enabled various teams to share information. Having a more holistic approach that involves several departments and LAs would help them to be more efficient and provide young adults with long term planning, preparing them for their transition into adulthood.

Legal advice and other services

Immigration status underpins the experiences of migrants with precarious status, and legal advice and representation can support these migrants in pivotal moments of their life. They may need support to submit an initial asylum claim, appeal a rejected asylum claim, submit a fresh claim based on new evidence, extend their limited leave to remain, or apply for settlement after 10 continuous years in the UK, or in challenging a removal notice. Without advice, migrants may lose status by completing incorrect forms, such as applying for a travel document instead of an extension of leave; 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 having missed deadlines by submitting 'out of time' appeals.

Accessibility of legal resources for migrants

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

Numerous interviewees described UK immigration law as being 'incomprehensible' to non-specialists, and especially to migrants. The Welsh Government has developed a Nation of Sanctuary website,⁷³ which provides pertinent information and links to the Right to Remain Toolkit.⁷⁴ However, the website targets refugees, asylum seekers, EU citizens, and Ukrainians, but lacks resources for many migrants with precarious status, including those with no status or on spousal visas. It is also unclear whether migrants would know to access the website. NGO interviewees commented that a 'nation of sanctuary' presupposes that migrants feel secure in understanding their rights and how to access legal assistance, but that this is not currently the case.

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 justifiably worried of being detained. Additionally, multiple solicitors typically turn migrants away before securing legal assistance.

Home Office fees

Migrants who have NRPF may struggle to pay HO application fees. Migrants on a 10-year settlement are faced with hefty application and NHS fees every 2.5 years, and so are liable to losing their status and restarting their 10-year counter. One interviewee characterised this as being sent to the bottom of a 'Snakes and Ladders' board game. Even when eligible for settlement, some migrants may not be able to afford settlement application fees, and so may continue renewing their limited leave and being subject to NRPF. While fee waivers exist, the granting of these is

⁷³ Welsh Government (n/d). Sanctuary: Help for sanctuary seekers to understand their rights. <https://sanctuary.gov.wales/> archived at <https://perma.cc/643C-C3CL>

⁷⁴ The Right to Remain Toolkit is a guide to UK immigration law; see: <https://righttoremain.org.uk/toolkit>

contingent on the HO determining that sufficient financial evidence has been presented, which may be a challenge for some migrants.

Legal aid and external legal capacity

Wales is a legal advice desert. The legal-sector interviewees noted that lawyers are disincentivised from taking on many immigration cases due to legal aid reforms, which introduced fixed fees and progressive rate cuts, while legal aid is not indexed on inflation.⁷⁵ The closure of national legal advice providers further limits capacity; including that of Refugee and Migrant Justice (in 2010) and the Immigration Advisory Service (in 2011). As this lack of legal capacity is regional, the retirement of a single lawyer in Plymouth or the shuttering of a firm in Bristol can immediately affect capacity in Cardiff.

In contrast to migrants seeking to make initial asylum applications, migrants appealing asylum refusals struggle to find solicitors, in part due to the low legal aid rates and complexity of these cases. Interviewees described solicitors sometimes misapplying the merits test for legal aid; either by unwittingly underestimating the success of such cases, or to avoid the case deliberately.

Moreover, legal aid does not cover many other immigration applications - including for family reunification, visitor visas, or those based on family and private life.⁷⁶ These are often the paths most accessible to precarious migrants - since they may eventually develop grounds for secure status based on their life in the UK, such as through a child - but they would typically need to fund these privately, despite being less likely to have the financial capacity to do so. However, it is possible to apply for Exceptional Case Funding from the Legal Aid Agency if not providing legal aid would be in breach of human rights.

Legal aid sometimes limits the services provided to migrants with precarious status. Specialist legal assistance outside of immigration law can address street homelessness or mental health, but while precarious migrants are unlikely to know how to access specialist lawyers themselves, solicitors, too, are dissuaded from making referrals to other solicitors as this work is out of scope of legal aid. This lack of integration between solicitors affects all actors: precarious migrants, who typically face complex legal and socio-economic situations; solicitors, who remain siloed; and the LA, which may overlook solutions (such as to pay for immigration applications that would enable

⁷⁵ Notably, the *Legal Aid, Sentencing and Punishment of Offenders Act* (2012).

⁷⁶ The right to remain based on a right to private and family life is guaranteed by Article 8 of the European Convention on Human Rights (ECHR).

a family to access benefits and employment, rather than paying larger sums to directly support the family).

In 2022, the WG stated that “action is needed to tackle [the] legal aid crisis”,⁷⁷ and it also supported the development of a new legal apprenticeship pathway, which, although not specifically targeted towards addressing the legal situations of migrants with precarious status, aims to increase the capacity of the legal sector as a whole.⁷⁸

Local authority’s legal capacity

The Office of Immigration Services Commissioner (OISC) regulates immigration advice and services in the UK. The OISC is sponsored by the Home Office and was created under the Immigration and Asylum Act 1999 to ensure that immigration advisors are competent and act in their client’s best interest. The OISC maintains a register of advisors that it accredits at three levels of practice: providing initial advice (level 1), conducting casework (level 2), and conducting advocacy and representation (level 3). It is an offence to provide unaccredited immigration advice or services,⁷⁹ and the OISC has the power to prosecute for illegally advertising or providing immigration services.⁸⁰ Nevertheless, LA interviewees told us that colleagues sometimes provide immigration advice, and that they frequently find the need to inform these colleagues that this is an offence.

The LA has limited internal legal capacity. While LA interviewees describe this as a ‘shortfall’, an NGO interviewee noted that it is also desirable to develop legal capacity outside of the LA, as they believed that “keeping the LA to account” helps to improve services. This stems from a perception from some NGOs that the LA’s legal team aggressively litigates challenges to age assessments. However, the LA is increasingly seen as approachable, and has now developed strong

⁷⁷ Welsh Government (2022). Press Release: Action needed to tackle legal aid crisis.

<https://gov.wales/action-needed-to-tackle-legal-aid-crisis> archived at <https://perma.cc/CT3P-DGSS>

⁷⁸ CILEX (2022). Legal apprenticeships launch in Wales.

https://www.cilex.org.uk/media/media_releases/legal_apprenticeships_launch_in_wales archived at <https://perma.cc/3K27-PPXM>

⁷⁹ 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-2>

⁸⁰ 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).

relationships with external providers. These include Newfields Law, a law firm that provides advice regarding EUSS applications as part of a LA pathway funded by the WG, as well as Asylum Justice.

Asylum Justice is a major external legal resource for the LA and NGOs. It is the only charity in Wales that is OISC level 3 accredited and offers legal advice and representation to precarious migrants with no access to legal aid. This enables Asylum Justice to fund cases that would otherwise be out of scope for legal aid or rejected based on the merits test. Asylum Justice relies heavily on short-term funding from charitable donations, the WG, and the LA. However, due to limited funding and staffing, Asylum Justice is oversubscribed and frequently has to reject or waitlist cases (by urgency). Indeed, an LA interviewee described it as unlikely to have a case accepted by Asylum Justice unless it is high profile or particularly urgent.

Outside of ad hoc referrals, the LA has developed pathways to Asylum Justice. The LA Cohesion Team obtained funding for it to provide legal assistance to those referred to the Council with NRPF. The LA has also contracted Asylum Justice to provide legal advice to asylum seekers who may be evicted at the end of COVID policies. Globally, the LA and NGO interviewees viewed Asylum Justice as a crucial part of the local legal infrastructure: a “last hope” for many precarious migrants. Interviewees stressed the importance of the WG continuing to fund legal assistance.

LA data on immigration status

LA interviewees emphasised the lack of data within the Council. In a recent scoping exercise, Children’s Services found that it had no data on the immigration status, nationality, or parental status of over 100 of the LA’s ‘looked after’ children. LA interviewees shared being incorrectly told by colleagues that their clients have NRPF, before discovering that they have access to funds such as Universal Credit; and that British citizens have been incorrectly classified as having NRPF based on having names of Arabic origin. This confusion can produce unnecessary work - for instance, in a case where Homelessness Services struggled to find accommodation for an individual who it later determined was eligible for NASS (i.e., HO asylum) accommodation. Of note, the WG’s Nation of Sanctuary Refugee and Asylum Seeker Plan encourages LAs to “develop a common recording system to capture consistent data in relation to individuals with No Recourse to Public Funds (NRPF)”.⁸¹

⁸¹ Welsh Government (2019). *Nation of Sanctuary – Refugee and Asylum Seeker Plan*. <https://gov.wales/refugee-and-asylum-seeker-plan-nation-sanctuary>. P33. Archived at <https://perma.cc/Q7MW-HVC4>

The LA is currently exploring new database options to address some of these challenges. Cardiff is not one of the 73 LA members of NRPF Connect – a service that enables data protection-compliant access to HO data. Relatedly, NGO interviewees desired statistics from the LA in order to plan their work, including the number of people with NRPF within their area, migrants due to be evicted from NASS accommodation, and non-removed refused asylum seekers. LA interviewees likewise expressed frustration that the HO does not share this information. However, one NGO interviewee stressed that the lack of this data can obfuscate issues, and that this should not be used as an excuse to delay action.

LA expertise on migrants with precarious status

The complexity of immigration law produces confusion on migrant entitlements within the LA. When workers “hear that someone is a migrant, they panic”, especially when NRPF applies. An NGO interviewee noted that the LA frequently pushes back to NGOs referred migrants when the LA assesses complex or no immigration status. Due to this, some NGO interviewees said that they were exploring, or presently used, pre-action letters in conjunction with solicitors to “hold the LA to account legally”.

Within the LA, the problem was viewed as a lack of awareness and training. There was criticism of colleagues in other departments for referring to ‘appeals rights exhausted’ (ARE) asylum seekers as ‘illegal immigrants’ (despite the possibility that they may have ongoing relationships with the HO or may not have been issued a removal notice).⁸² NGO and LA interviewees noted that successful protocols have been informally developed for referring and case-working migrants – and in general, NGO and NHS interviewees described productive and collaborative relationships with the LA. However, difficulties arose outside of these informal protocols and key interpersonal relationships; and LA, NHS and NGO interviewees called for greater training on immigration and precarious migrants within the wider authority.

LA social workers also struggle to find time to assess migrants with precarious status fully. One LA interviewee told us that they routinely spend hours assessing a person’s immigration status. An LA interviewee noted that since precarious migrants have complex circumstances and histories, substantial casework is needed to provide appropriate services, especially for those

⁸² 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, 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.

migrants who present to the LA as destitute or abused. For these reasons, some of our LA interviewees called for a person-centred and cross-departmental approach to supporting precarious migrants. Conversely, some NGO interviewees criticised the LA for expediting cases or incompletely exploring the eligibility of migrants for services. These interviewees desired the LA to produce statistics for transparency – such as on the number of Human Rights Assessments actually conducted.

There is also confusion across sectors on which policy areas are devolved, and on when English or Welsh legislation applies. One LA interviewee recounted being rebuked by a manager for providing support to a migrant with NPPF when this was in fact appropriate under Welsh law.

COVID-19 Pandemic

The pandemic extended processing delays at the HO, prolonging uncertainty for many migrants with precarious status. Additionally, the turn to digital technologies and phone drop-ins (instead of in-person drop-ins) in the legal sector excluded migrants with limited access to digital technology, phones, or phone credit and data. A legal-sector interviewee noted that verbal cues are lacking in remote communication, especially when telephone-based interpretation is used (for instance, as to when a migrant has finished talking).

Conversely, a legal-sector interviewee noted that as HO backlogs mounted due to the COVID pandemic, and as 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 increased the prominence of precarious migrants in public discourse, attracting increased charitable donations to support pro-bono legal work

Discussion

The aims of the study were to investigate the ways in which Cardiff Council addressed the inclusion of migrants with a precarious status within municipal services, and its relationship with public and civil society organisations in relation to actual service provision. It sought to situate this within the Council's overall framing of its mission, and to explore the range of barriers to inclusion of this section of the local population.

Key issues arise from our review of the legislative and policy framework, from the meetings with stakeholders hosted by the City Council, and from the interviews we conducted. We set these out

here and include some suggestions on steps that could be taken to address the challenges identified.

Complexity of law

It is evident, first, that the range of UK and Welsh legislative measures governing the entitlements of precarious migrants to services is hugely complex. These provisions lie at the intersection of immigration law and provisions on well-being, health, education, child protection, homelessness and beyond. It is understandable that those in the Council and its partner organisations who are experts on the latter generally have less familiarity with UK immigration law and how it intersects.

There is an urgent need for **clarity on the entitlements** of different categories of precarious migrants to different Council services; achievable through a review of provisions, updated on a regular basis and available to service providers. There is equally a need for **clarity on the responsibilities of Council departments, and extent of discretion to be inclusive;** so that staff are clear both on what they should do and can do in relation to individual cases.

Overlapping remits, limited coordination

There is complexity, also, 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 is not very evident and, on individual cases, often too limited. There is greater recognition of the need for coordinated services in relation to healthcare.

There is a need to address this fragmented approach through **regular communication** within relevant departments, and between departments and external partners. The regular meetings between the local authority departments and external partners held during the Covid-19 pandemic were judged to have helped considerably. Following consultation on the optimal model and frequency of meeting, a new arrangement could be found.

Third, neither of those goals will be achieved without **clarity on where primary responsibility** within the Council lies. Is this a responsibility of the department that leads on cohesion or of one of the departments leading on service delivery: education, social services or housing?

Negative consequences of exclusion and of fear

It is no surprise, from past studies, that the consequences of restricted access to services – but also of fear in some cases of detection and removal - are damaging the wellbeing of adults and children. Pregnant women are not always seeking antenatal care; victims of domestic violence not accessing support services. Some mothers are afraid that their children will be taken into care by Children’s Services if they ask for help (whether or not there is any risk of that practice, the fear is there). Reform of immigration law to address restrictions on entitlements is a matter for the UK government but **where services can be accessed without fear of child separation or removal, an unequivocal statement could be made**, for migrants and the NGOs supporting them, so that unnecessary fears are assuaged.

Paucity of legal advice and costs of applications are causal factors

Limited access to legal advice is clearly a factor leading to precarious status and in prolonging it. Incorrect applications and missed deadlines compound the barriers erected by very high application fees (for which destitution does not necessarily lead to a fee waiver). Cardiff Council is right to have identified access to legal advice as an essential measure to reduce exclusion, saying that it “considers advice services key to preventative support” (Lewis et al., 2021, p. 2).

Resources are limited, and expertise in the NGO sector is not widespread, with only one NGO (Asylum Justice) sufficiently accredited and resourced to provide representation to unfunded migrants with precarious status. This is difficult to resolve. Could **a joint Cardiff Council – NGO approach** to philanthropic organisations funding NGOs in this area potentially contribute to finding a solution? More generally, to what extent can the Welsh Government continue to strengthen the Welsh legal sector as a whole, and build legal capacity within Cardiff Council and NGOs, in particular? To what extent can it facilitate pathways between local authorities and external sources of legal assistance?

Good practice

There are positive examples of inclusive public policies and practices on which to build: in the legislation and policy of the Welsh Government (e.g. on access to free healthcare); and of the Council in some recognition of the need for inclusion regardless of immigration status in its Equality and Inclusion Strategy; in communication and coordination (as facilitated by the council during the pandemic, and most evident on a continuing basis in relation to healthcare); in provision of specialist services (such as the Council’s funding of advice to EU citizens to register

for settled status and thus avoid a precarious status, and in CAVHIS); and in the inclusion within services of migrants regardless of status (as in accommodation during the COVID pandemic, distribution of food parcels, and provision of Chromebooks to pupils for home learning). The Council says of its groundbreaking work on homelessness during the pandemic, which enabled it to ensure provision of legal advice as well as shelter:

'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, p. 24)

Reliance on exercise of discretion

As research has found in other European cities, a lack of clarity on entitlements, on the one hand, and on the resolve of the authority on the other, has led some public sector staff to exercise their discretion to provide access to a service without drawing attention to the fact that they have done so.

Low visibility provision in relation to this group of migrants has significant disadvantages. It fails to raise the issue within the authority for debate and resolution; it leaves migrants and NGOs unsure whether there is an entitlement and whom in the department to approach; it relies on staff working long hours to deliver above and beyond their designated responsibilities; and is unsustainable when demand grows (as is likely in the growth of this section of the population). It can only be **resolved by the Council clarifying its approach**, and the implications of the approach for each department.

Barriers to inclusion

There remain multiple barriers to inclusion despite the positive intentions of the Welsh Government, Cardiff Council and the healthcare providers, and the work of the NGOs. Some barriers are common to other migrants; others reflect the particular vulnerabilities of those with precarious status. Among them, the most significant and perhaps easiest to address is the fear that accessing a service will result in removal from the country.

There was a telling comment from one local authority interviewee that a local authority, however well intentioned towards people with a precarious status, is still part of the state. As such it has a

responsibility, in some circumstances (as does the NHS), to transfer the personal data of service users to the immigration authorities. In many cases, it does not have that responsibility (as in relation to school pupils) but the possibility is undermining service provision in two ways: the confidence of migrants to approach the Council for help; and the willingness of other public and non-governmental organisations to discuss individual cases. NGOs equally can fear that communicating with Council staff may undermine the trust they have built up with migrant service users.

There is an urgent need to review and to **clarify the limited circumstances in which there is a statutory duty to alert the immigration authorities** and to consider additional measures that can be taken. A review could be conducted of each service (as Zurich City Council has done) to see whether information on status is currently collected and remove that requirement if unnecessary. Where there is no statutory duty to inform the immigration authorities but data on status is needed, a **'firewall'** can be put in place: informing staff that it is Council policy that no transfer should be made (with any necessary exceptions in relation, e.g., to non-immigration related criminal offences).

Lack of Capacity

A strong theme that emerges from the findings 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 (recently also identified as a gap to be addressed in the Cardiff and Vale of Glamorgan Equality and Health Impact Assessment⁸³); of **legal expertise** on immigration law and its applicability to areas of service provision (on which it was worrying to learn of staff advising each other, and migrants, on the law despite not being authorised to do so); 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**, making 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, and could be addressed.

⁸³ 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>. p21.

English local authorities have greater support in relation to data and training when part of NRPF Connect, coordinated by the London Borough of Islington. It also runs the NRPF Network that runs regular **training courses and houses an online tool** through which local authorities, NGOs and migrants themselves can identify whether, in their particular circumstances, they are eligible for local authority support. This provision is not adapted to the differing legislation in Wales, perhaps reflecting a lack of local authority interest in the past for this. It leaves a **gap in provision that could be addressed**, whether through the NRPF Network or a separate arrangement in Wales.

This study was unusual in focusing on migrants with precarious status, most related research focusing on refugees and asylum seekers. A small study, it did not have capacity to conduct research among the migrants themselves. The major gap in knowledge of their needs, experiences and aspirations needs to be addressed to provide the evidence base that is needed in Cardiff and indeed in Wales as a whole.

Reliance on NGOs

NGOs are relied on to fill gaps in service provision. In some cases, they are better suited to reach and secure the trust of migrant service users, and can provide services beyond the statutory remit of public bodies. They should not however be a substitute for a council or NHS service because individuals are unnecessarily being excluded from that service. A Council strategy to address the needs of precarious migrants could build on consultation with NGOs on an **optimal division of responsibilities and allocation of available funds**.

Need for Vision and Council-wide approach

Cardiff is committed to delivering equality of opportunity and community cohesion, with strategies and resources allocated to this. It has overt commitments in relation to refugees and is working to facilitate their full participation as residents of the city. Within its departments are staff who are committed to the inclusion of migrants with a precarious status; and the legal provisions do provide considerable opportunity to do this, despite the restrictions in UK law. What Cardiff lacks is an agreed, corporate approach towards this vulnerable group of residents: **a vision for their inclusion, as neighbours, and a strategy to deliver that vision**: allocating responsibility and with clear steps identified to achieve it. The **narrative of the vision** would fit well with the Council's existing framing of its approach prioritising equality and inclusion and as a City of Sanctuary.

In its Equality and Inclusion Strategy (2020-2024) the Council says

“We will seek to understand and address the root causes of inequality and exclusion in Cardiff and to focus our efforts on tackling them.”

A **mid-point review of the strategy** is due in 2022 and this could perhaps provide a context in which the need to develop and approach to precarious migrants could be addressed, with recommendations taken forward in the city’s Corporate Plan. One practical step could be the inclusion of migrants within **equality impact assessments** (EIAs). EIAs are an evidence-based tool that enable public bodies to consider the likely impact of policies and services, and a legal requirement for groups that are protected under the Equality Act 2010.⁸⁴

Conclusion

The readiness of Cardiff Council to take part in this study reflected its concern to identify whether there are additional steps that it needs to take in relation to a vulnerable group of residents, those with a precarious immigration status. The study found that it is operating within a particularly complex legal framework, but with a favourable Welsh legislative and policy context, and a recent Population Needs Assessment that helpfully points the way to inclusion of ‘undocumented’ migrants within a range of reforms.

The complexity of the law and overlapping remits of the different tiers of governance 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 that need to be addressed. There are strong examples of good practice on which to build, in Council and NHS services, and clear awareness of the particular vulnerabilities of women; but also areas where staff have to rely on their own discretion, leading to inconsistencies in practice. There are major capacity issues, in which lack of legal expertise, lack of data and limited coordination across teams stand out. Precarious migrants experience the same barriers to accessing services as other migrants but with the additional fear for some that accessing a service will lead to detection and removal because of the absence of a ‘firewall’ preventing the transfer of personal data. There is a lack of effective data recording and sharing practices within and between departments; and of coordination with NGOs to enable their

⁸⁴ Cardiff Council (2020). Equality & Inclusion Strategy 2020 – 2024. <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>. p10; p13; p16. Archived at <https://perma.cc/Q4LZ-4SKT>

contribution to a 'whole of society' approach. The paucity of legal advice and the cost of applications to remain are contributory factors in causing and prolonging precarious status. In addressing the many challenges these migrants face, the contribution of NGOs in Cardiff is vital.

These issues are set out in the Discussion section above which draws out the key themes, and in each case suggests potential steps that could be taken by the Council and its public and civil society partners to address them.

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LOCAL RESPONSES TO PRECARIOUS MIGRANTS: FRAMES, STRATEGIES AND EVOLVING PRACTICES IN EUROPE (LOREMI)

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