



Making sure

people seeking

and refused

asylum can

access healthcare:

what needs to change?



Equality and
Human Rights
Commission

What change is needed to make sure that people seeking and refused asylum have full enjoyment of their right to health?

We set out a commitment in our business plan to make sure that people seeking asylum were able to fully access the public services to which they were entitled.

This commitment was fuelled by **our review of the most disadvantaged groups in Britain**, which showed that people seeking asylum face barriers in accessing public services, including health services.

They are also more likely to have particular health needs because of past distressing experiences and the traumatic effects of fleeing to a different country.



What is the right to health and how does it apply to people who have been in the asylum process?

The human right to health applies to everyone, regardless of immigration status, and is well established in international treaties and standards.

This includes the UN Committee on Economic, Social and Cultural Rights (CESCR): General Comment No.14: the right to the highest attainable standard of health (Article 12) and General Comment No.19: the right to social security (Article 9).

It means that everyone has the right to the highest possible standard of physical and mental health, which helps them to live their life in dignity.

This right imposes obligations on the State to provide and ensure access to good quality healthcare services, but also covers the areas of life that affect health, such as good housing and having the freedom to choose what happens to you and your body.



States, including Great Britain, have three levels of responsibility to make sure people have the right to health. They must:

-  respect all persons' enjoyment of the right to health
-  protect this right by stopping others from interfering with it, and
-  fulfil the right to health, which means they must take action to make sure people can fully benefit from it.

While human rights apply to everyone, some groups need extra attention and support to make sure they can enjoy their human rights to the same level as everyone else.

People seeking asylum are considered to be members of a population who are particularly at risk of vulnerability and in need of special protection.

Further useful examples are given by the UN Committee on Economic, Social and Cultural Rights, of how the right to health should be upheld, including:

-  making sure that health facilities, goods and services are accessible to everyone without discrimination, within safe physical reach for all sections of the population, especially vulnerable or marginalized groups
-  making sure that health services are culturally appropriate and that healthcare staff are trained to recognise and respond to the specific needs of vulnerable or marginalized groups, and
-  making sure that the State meets its obligations in sharing appropriate information relating to health issues, healthy lifestyles and nutrition, harmful traditional practices and the availability of services and supporting people in making informed choices about their health.

Human rights conventions, which Great Britain has signed up to, provide further direction on how to uphold the right to health, including for groups who share protected characteristics.

For example, the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) are clear that women and disabled people should be able to access healthcare on a basis of equality without discrimination (Article 12 (1) CEDAW) article 25 CRPD).

What is the Public Sector Equality Duty (PSED)?

The PSED requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

The Equality Act also explains that advancing equality of opportunity involves having due regard to the need to remove or minimise disadvantages suffered by people due to their protected characteristics.

Public authorities must also take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people, and encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

The specific duties of the PSED are different in England, Scotland and Wales.

Public authorities that are relevant to this work include:

- all UK government departments, including the Home Office and the Department of Health and Social Care
- the Welsh Government and Scottish Government
- NHS England, Scotland and Wales
- public health organisations across England, Scotland and Wales
- healthcare regulators, including the Care Quality Commission, Healthcare Improvement Scotland and Healthcare Inspectorate Wales
- local authorities
- local health organisations, including Clinical Commissioning Groups, NHS Boards and Trusts and Integrated Joint Boards

What has our research found?

We commissioned research in two parts. The first part reviewed the published evidence across primary research and 'grey' literature relating to barriers to healthcare facing people seeking or refused asylum in England, Scotland and Wales, how these can be overcome, and their lived experiences of accessing healthcare.

The second part was primary research that explored the detailed views and experiences of 21 people who were seeking asylum and nine whose asylum application had been refused, and who were currently living in England, Wales and Scotland.

We also engaged with service providers, including healthcare professionals and people who work with these two groups in other capacities, for example through charities and voluntary organisations.

Our research identified that elements of **legislation or policy** can negatively affect access to healthcare:

- **NHS charging policy in England** made some healthcare unaffordable for people refused asylum, causing some to delay or avoid treatment. Concern of the consequences of **data being shared** with the Home Office also had a deterrent effect.
- Most people seeking asylum live in accommodation provided by the Home Office, and can be moved or dispersed between this allocated accommodation, on a no-choice basis. This **dispersal was found to disrupt continuity of healthcare** and social networks that people rely upon.
- These issues had a more pronounced impact on pregnant women and disabled people.

The research found several examples of people delaying or avoiding healthcare because of **fear** of what may happen as a result.

- People reported their fears of arrest, detainment and/or deportation because of **data sharing or charging debts**. For some people, this was due to misconceptions or inaccurate information they had. For example, some people seeking asylum who would not be affected by charging still held the same fears, as did some people who were refused asylum in Scotland.

- There were also fears about whether health conditions would be taken into consideration in the asylum process, particularly conditions considered stigmatising such as HIV or mental health conditions.
- People who had traumatic pre-migratory experiences found it difficult to build trust in health professionals. Some people reported negative experiences with health professionals that **undermined trust**, perceiving that they were subject to unprofessional, discriminatory or abusive behaviour.

Health professionals who lacked knowledge on the rights and entitlements, and how the healthcare system works for people in the asylum system also created barriers to healthcare.

- A variety of sources in the research described **difficulties registering with a GP** because staff believed they were ineligible or didn't provide requested documentation. In almost all cases, this is incorrect refusal and everyone should be able to register for primary care with no documentation.
- There were several cases where eligibility checks for free secondary care delayed treatment or resulted in incorrectly refused treatment.

Information provided to people seeking asylum was not consistently accurate or always in a language or format they understand.

- Many people were **not aware of their rights** or about documents that could help them assert these rights, such as HC2 certificates for free prescriptions.
- **Language barriers** were an important issue that was reported frequently in the research. Interpreters were not always used when they were needed, and people were not consistently made aware that they can request an interpreter.

Despite most people seeking asylum being in the Home Office asylum support system, which most people refused asylum are not eligible for, both groups live in **a level of poverty that can be detrimental to their health.**

- People told us that they had to **choose between medicine and food** and that they were unable to travel to appointments because they had no money for transport. This again had a greater impact on disabled people and pregnant women who were likely to have a greater need for health services, to attend more appointments and to follow nutritional advice.

It was also clear that rights and entitlements to healthcare were not as clear cut in practice as they appear to be on paper. In reality for many people **immigration status can change rapidly and multiple times.** This is confusing for both people in the system and healthcare staff administrating services.

- Status checks can be inaccurate and out of date leading to delays and incorrect refusals of treatment that are potentially damaging to health.
- Entitlements to access healthcare after a negative asylum decision, and other aspects of services, differ in England to Scotland and Wales. **This leads to confusion** when people are dispersed across borders.

Across the research, there was evidence of more frequent negative impact of barriers on **disabled people, women and particularly pregnant women and new mothers.**

However, more evidence disaggregated by other protected characteristics would give a better picture of the experiences of other groups as to would further research into the experiences of people who have been in the asylum system, distinct to other migrant groups.



How should the UK Government and healthcare providers respond to this research?

Recommended actions:

To uphold equality and human rights obligations, it is critical that immigration policies and the process of claiming asylum facilitates access to healthcare services to ensure full enjoyment of the right to health.

Our new research provides the UK and devolved governments, as well as relevant healthcare institutions across England, Scotland and Wales, with evidence of the barriers to accessing healthcare faced by people seeking and refused asylum.

We draw on human rights conventions, particularly the CESCR's general comment no. 14 on the right to health (article 12), as the basis of proposals for the actions required to fully protect the human rights of people who are, or have been, in the asylum system.

To achieve this full protection, and to fulfil its obligations under the Equality Act 2010, we recommend the UK Government should:

1. Ensure a clear separation between immigration proceedings and the provision of healthcare services by:

- ceasing the sharing of data between healthcare providers and immigration officials in England
- improving awareness of people who are, or have been in the asylum process and of healthcare professionals, on how information about healthcare is used in the process of claiming asylum
- undertaking eligibility checks for healthcare services in a way that promotes equality and does not deter or delay people from accessing healthcare
- exempting all people who have been in the asylum process from NHS healthcare charging in England, in line with policy in Scotland, Wales and Northern Ireland, and
- ensuring free and full access to all family planning services and pregnancy and maternity services, regardless of immigration status.

- 2. Review current Home Office accommodation and dispersal policy and practice to ensure that healthcare needs, especially of disabled people and pregnant women, are met in the provision of asylum accommodation.**
- 3. Ensure that people seeking asylum have the necessary financial resources to fully access healthcare services by:**
 - ensuring they are able to afford costs associated with making and attending relevant healthcare appointments, by either raising the level of financial support provided by the Home Office, or extending the right to work for people seeking asylum who have been waiting for a decision on their application for more than 6 months, and
 - extending support for pregnant women who have been refused asylum to cover the whole of pregnancy to ensure the needs of the woman are fully met.

Similarly, we recommend that local and national listed health bodies in England, Scotland and Wales should take the following actions (please see section on PSED for a non-exhaustive list of relevant listed health bodies).

- 4. Provide clearly communicated and accessible information to people seeking and refused asylum in a way that improves understanding of their rights to access health services, including specialist services such as gender specific or mental health services.**
- 5. Ensure that healthcare services are able to provide professional interpreters to help people seeking and refused asylum to navigate unfamiliar healthcare systems, facilitate clear communication between patient and doctor, and ensure informed consent for any treatment.**
- 6. Increase the knowledge among both clinical and non-clinical healthcare staff of the healthcare rights and entitlements for people seeking and refused asylum, and ensure that this understanding is applied in practice.**
- 7. Put mechanisms in place to monitor and address any barriers to accessing healthcare services experienced by people who are or have been in the asylum process, such as instances of incorrect refusal of GP registration.**

We welcome responses from the UK Government and from devolved governments and healthcare bodies across England, Scotland and Wales on this evidence and proposed actions for reducing barriers for people who are, or have been in the asylum process.

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