

Access to healthcare: a guide for organisations working with people seeking asylum



**Equality and
Human Rights
Commission**

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Overview

This document sets out the rights and entitlements to healthcare for adults and their dependants seeking asylum in England, Scotland and Wales.

It provides information about access to healthcare services and the support that people seeking asylum should expect from:

- healthcare professionals
- the Home Office
- accommodation providers

This document shows what should be done by the Home Office, organisations contracted by the Home Office to provide accommodation and other support services for people seeking asylum, and healthcare service providers to make sure those seeking asylum and their

dependants can enjoy their right to the highest standard of physical and mental health.

This information is accurate as of January 2019.

Why have we produced this document?

Our job is to protect and promote the human rights of everyone in Britain.

The right to health exists in domestic, European, and international law and imposes obligations on the State to make sure that everyone enjoys the

highest attainable standard of physical and mental health. (For further information, please see the section of this document on the law and policy.) This right applies to everyone, regardless of who you are or where you come from.

Our review of the most disadvantaged groups in Britain showed that people seeking asylum face barriers in accessing public services, including health services. They are also more likely to have particular healthcare needs caused by distressing experiences and the traumatic effects of fleeing to a different country.

We want to remove these barriers to make sure that groups and individuals can enjoy their human rights.

The information provided here is not exhaustive. We aim to promote discussions and ideas about ways to improve access to healthcare for people seeking asylum.

Who is this document aimed at?

- organisations working with people seeking asylum
- legal representatives and advisors
- healthcare policy makers
- asylum support policy makers
- Home Office caseworkers and frontline staff
- asylum accommodation and support providers
- healthcare professionals
- healthcare commissioners

Who is not covered by this document?

This document sets out the **minimum** rights and entitlements that all people seeking asylum have in accessing healthcare. This does not mean that service providers cannot go beyond these minimum entitlements to help meet the specific needs of people seeking asylum. The section that sets out a human rights-based approach provides suggestions for what service provision could look like.

This document does **not** set out the **additional** rights and entitlements that some categories of people seeking asylum may have; nor does this document set out the separate legal and policy regimes that apply specifically to certain groups, such as:

- unaccompanied children seeking asylum
- victims of trafficking and modern slavery
- people in immigration detention
- people who have been granted asylum, temporary or humanitarian protection in the UK
- people who have been granted leave to remain in any other category

- people who do not have a claim for international protection and are applying for leave to remain based on, for example, Article 8 of the European Convention on Human Rights (ECHR) or discretionary leave to remain
- people who have been refused asylum (who have exhausted all rights to appeal), either receiving Section 4 support (see 'Glossary' for further information) or not.

Who are 'asylum seekers'?

An 'asylum seeker' is someone seeking protection from persecution abroad. Those seeking asylum may also seek humanitarian or temporary protection including a claim under Article 3 of the ECHR because they fear serious harm, torture, inhumane and degrading treatment or punishment (see 'Glossary' for further information).

A person seeking protection in the UK is here legally and is allowed to stay in this country while waiting to hear of the outcome of their claim.

Making sure adults seeking asylum can access healthcare

This section gives an overview of the rights and entitlements to accessing healthcare and the common barriers to healthcare access reported by people seeking asylum.

Application process for claiming asylum

This section maps out existing rights and entitlements to accessing healthcare at each stage of the process of claiming asylum for people supported by the Home Office under section 95(a) of the Immigration and Asylum Act 1999.

It outlines the bare minimum requirements those seeking asylum should expect, as laid out in policy, guidance and legal frameworks.

Further detail about the law and policy basis for the rights and entitlements set out in this document

See further information about the law and policy basis for the rights and entitlements set out in this document.

Human rights-based approaches to ensuring access to healthcare

The section of this document about taking a human-rights based approach to accessing healthcare for people seeking asylum, is aimed at Home Office staff, accommodation and healthcare providers, and commissioners. It sets out the principles and practical implications of a human rights-based approach to the delivery of healthcare and support for people seeking asylum.

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Making sure adults seeking asylum can access healthcare

What are the rights of people seeking asylum?

People seeking asylum and their dependants in England, Scotland and Wales are entitled to use all NHS services that are free of charge to UK residents.

This includes **all types of healthcare**, from primary care through to secondary care, mental healthcare, community healthcare services and emergency care.

Free primary care (for example, access to a GP) **and emergency care** (for example, accident and emergency services) are free to access for **anyone in Britain regardless of immigration status**, whether or not they have proof of address or other forms of identification.

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What is stopping people seeking asylum from accessing healthcare?

The Equality and Human Rights Commission's research into the experiences of accessing healthcare for people seeking asylum highlighted the following barriers:

- moves in accommodation disrupting or delaying healthcare
- people not having enough money or any or adequate housing
- frequent experiences of trauma and torture resulting in complex physical and mental healthcare needs
- fear of reporting sexual violence, trafficking, exploitation or female genital mutilation (FGM), torture or other forms of abuse
- lack of familiarity with a new health system and culture, and/or fear around how asylum decisions are made
- healthcare policies and entitlements, including charges for healthcare services, not being clearly explained, leading to people delaying or not seeking healthcare
- a lack of widely available information about rights and entitlements to healthcare in different languages or accessible formats (such as easy read format)
- language barriers, including a lack of English language support such as professional interpreters or translated information in a language the individual can understand

- low levels of understanding about healthcare rights and entitlements, and/or wrong application of law and policy, by clinical and non-clinical healthcare staff; for example, difficulties in registering with a GP or being denied access to a GP
- low levels of understanding among clinical and non-clinical healthcare staff about the specific healthcare needs and cultural requirements of people seeking asylum.

Provisions in this document

The provisions used in this document (that is, the statements that outline what should happen) determining access to healthcare for people seeking asylum are mainly found in policy. Public bodies such as the NHS and Home Office should follow their own published policy unless there is a good reason not to. Failure to do so may be unlawful and therefore subject to legal challenge.

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The published policies referenced in this document use a mixture of terms to explain to Home Office caseworkers and staff working in asylum accommodation what they **should** or **must** do, or to explain what should or will happen in a particular situation. If the published policy says that something will or should happen, the relevant term has been taken from the policy document itself, and where possible the term is presented in **bold**. Policies are provided via hyperlinks at relevant points. The reader can then rely on those policies for what they state are **required** or **should** or **will** happen in particular instances.

When something has a legal basis in primary legislation, we refer explicitly to the legislation in the text of the document (for example: Section 95, Immigration and Asylum Act 1999). Secondary legislation and immigration rules, as well as published policies, are referred to as appropriate.

Asylum process for people seeking asylum who qualify for asylum support

What is asylum support?

People seeking asylum are excluded from claiming mainstream benefits and in most cases from working. Asylum support, referred to in this document, also known as Section 95 support, is a Home Office scheme to provide accommodation and/or financial support to a person seeking asylum whose claim is ongoing and who is, or is likely to become, destitute. This means the person is homeless and/or does not have enough money to buy food and other essentials.

If people seeking asylum in the UK are eligible for asylum support they will receive it in the form of housing and/or a weekly allowance to cover basic living expenses (subsistence).

The rules governing the provision of asylum support can be found in the Immigration and Asylum Act 1999 and the Asylum Support Regulations 2000. Information about eligibility, and how to apply for, asylum support is available [here](#).

A person who qualifies for asylum support will go through the process outlined in this section while claiming asylum and waiting for a decision. Asylum support may be subsistence-only cash support (for those who already have adequate accommodation) or a package of accommodation and cash support.

The current rate of subsistence is £37.75 per week per person in the household. Subsistence is provided on an ASPEN debit card (a plastic payment card that can be used instead of cash). Pregnant mothers or mothers of a child aged one to three can apply for an extra payment of £3 per week; mothers with a baby under one year old can apply for an extra £5 per week. Further support is available in the form of one-off maternity payments as well as support under Section 96(2) in exceptional circumstances.

People receiving subsistence-only asylum support

Most of the people who get asylum support receive accommodation and subsistence, and so this document focuses mainly on this group. However, some people seeking asylum receive subsistence only, and they will be living with friends, family or frequently moving home and so are less likely to have proof of address. They are entitled to the same healthcare access and support as those receiving accommodation and should be issued with an HC2 card within 14 days of having their application for Section 95 support approved.

The contents of the following sections have mainly been drawn from the Home Office's '[Healthcare Needs and Pregnancy Dispersal Policy](#)'.

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Overview of the asylum application process

People receiving accommodation and subsistence asylum support

Claiming asylum and receiving a decision is not always a direct or straightforward journey for many people, and each stage highlighted here does not take an equal amount of time.

1. Claiming asylum in the UK



Overview

1. People may claim asylum in England, Scotland or Wales at the point of entry (for example, port or airport), when encountered, or by presenting themselves to the Home Office or by booking an appointment with the asylum screening unit (ASU) in Croydon, run by the Home Office.
2. In some cases, such as for people with mental health conditions and pregnant women, the screening appointment can be conducted elsewhere.

2. Screening interview

Information in this section, including quotes, is mainly drawn from [‘Home Office Healthcare Needs and Pregnancy Dispersal Policy’](#) and [‘Asylum screening and routing’](#) guidance.

The screening interview is the first interview used to register an asylum claim and records the basic details of the claim only. The interview **will** also be used to find out, as far as possible, if the person has any health or medical concerns or disabilities, and whether anything suggests that they are in vulnerable situations or that safeguarding is needed. This information is to be noted along with any reasonable adjustments that are needed to allow the person to access the asylum procedure, including

suitable accommodation being provided and any safeguarding actions being taken.

“Due to the claimant’s disability or medical condition, [interviewing officers] may **need** to make reasonable adjustments to ensure the claimant can engage with the process as much as possible. This could mean, for example, giving [claimants] additional breaks”.

Information about health and special needs, if provided, **should** only be used to inform Home Office decisions about the location and/or nature of accommodation and support, or any immediate emergency treatment. The information that is recorded about any health or medical conditions or pregnancy will help the Home Office make the decision about where the person should be moved to, how they can be supported through the asylum process, and how they can access appropriate treatment.

An application for asylum in the UK should not be affected by any illness a person has or any treatment they are receiving, and people seeking asylum will be told this by the screening officer during the interview.

The screening officer **must** also arrange immediate access to healthcare in cases of emergency, including taking actions such as calling an ambulance.

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Medical information **should** also be given to the initial accommodation providers so they can make any reasonable adjustments before the person arrives there. The Initial Assessment Healthcare Team **must** be notified of medical needs which require urgent referrals as soon as practical.

The person applying for asylum **should** be able to understand the information they are being given and they **should** be provided with an interpreter, if they need it.

Before commencing any interview, the screening officer **must** ensure that the person applying for asylum and the interpreter can understand each other.

Information people seeking asylum can provide to help with access to healthcare:

People seeking asylum should let Home Office staff know as soon as possible if they:

- need any reasonable adjustments because of a disability or long-term health condition
- need an interpreter
- are pregnant

People seeking asylum should give the screening officer as much information as possible about any healthcare treatment that is ongoing, including:

- contact details of the person treating them
- contact details of their midwife
- any booked medical appointments, including their location
- any ongoing medical appointments, including their location

Overview

1. The asylum screening interview will be with an immigration officer (a member of Home Office staff).
2. This is usually the first time that an individual **will** be asked about their medical conditions or treatment; this information, if provided, should only be used for the limited purpose of informing Home Office decisions about the location and/or nature of accommodation and support, or any immediate emergency treatment.
3. The immigration officer **will** tell the individual that any illnesses they may have or medical treatment they are receiving **will not** affect their application for asylum in the UK.
4. Consideration **should** be given to the most suitably located initial accommodation for applicants with healthcare needs.

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3. Substantive interview



Overview

1. The substantive interview is 'the main opportunity for the claimant to provide evidence about why they need international protection'.
2. For further information, see the Home Office's 'Asylum Policy Instruction'.

4. Initial accommodation

Information in this section including quotes is mainly drawn from the Home Office's [‘Healthcare Needs and Pregnancy Dispersal Policy’](#) and [‘Asylum Support: Policy Bulletins Instruction’](#)

If people applying for asylum are likely to become destitute, (see more information about destitution in the [Glossary](#) section), they will be housed in initial accommodation until they go to dispersal (longer-term) accommodation.

Initial accommodation is temporary, full-board or self-catering accommodation for short-term use.

People seeking asylum are entitled to access healthcare free of charge. This includes services in the community, hospital services and specialist services such as mental health support.

When deciding which type and location of initial accommodation is suitable, the Home Office **should** consider the health needs of the individual. This is particularly important for pregnant women and disabled people.

If the person is being treated in the UK for a medical condition, they **should not** be sent to dispersal accommodation but instead be put in accommodation closest to where they are being treated, and the type of accommodation **should** be suitable for their needs (for example, a single room (no sharing) or self-contained).

Before being sent to initial accommodation, the person's health needs **should be** assessed and they **should be** given the most appropriate accommodation in a location that meets their needs. The Home Office **should** communicate with the initial accommodation provider about what these needs are.

If an individual thinks that the accommodation is inadequate or unsuitable due to their health needs, pregnancy or disability, they should tell the accommodation providers as soon as possible.

Once they are in initial accommodation, every person **will** be offered a health screening by the onsite Medical Teams (known as Initial Accommodation Healthcare Teams). People seeking asylum can register with a GP at any point. However, the Initial Assessment Healthcare Team **will** make appropriate healthcare referrals and help individuals to make appointments to see a GP or access other appropriate health care services if needed, in a range of situations – for example:

- applicants with HIV **will** be referred to the local sexual health clinic (Genito-Urinary Medicine clinic) if no arrangements are in place to continue the care

- children under the age of five years old **are** referred to a health visitor where there is a clinical need
- consideration of future help can be made for individuals identified with a history of physical or psychological maltreatment, or mental health issues

The Home Office policy says that “caseworkers who are responsible for dispersing pregnant applicants” **must** consider the needs of pregnant women (and those of mother and baby after she has given birth). The policy refers to the National Institute for Health and Clinical Excellence (NICE) guidelines 2010 which recommend early booking into maternity services, ideally by 10 weeks gestation; continuity of care; family and social support; planning labour; post-natal care for 6-8 weeks.

Information people seeking asylum can provide to help with access to healthcare:

Individuals should tell initial accommodation staff as soon as possible if they:

- don’t have enough medication for an ongoing health need
- have an urgent health concern
- would like to see a GP

Individuals should tell the Initial Assessment Healthcare Team as much information about their health as possible including:

- contact details of the person treating them
- contact details of their midwife
- any booked medical appointments, including their location
- any ongoing medical appointments, including their location

Overview

1. Initial accommodation (IA) is temporary, full-board or self-catering accommodation for people while they wait to be sent to longer-term (dispersal) accommodation.
2. People seeking asylum who are receiving subsistence-only support from the Home Office and who then apply for accommodation and subsistence may also be admitted to IA while their change of circumstances application is considered. (see [Asylum Support: Policy Bulletins Instructions. Vol 7](#)).
3. As well as offering general medical assistance, applicants **will** be offered health screening (see the Home Office’s [‘Healthcare Needs and Pregnancy Dispersal Policy’](#)), known as an initial accommodation site health check, from onsite Medical Teams known as The Initial Accommodation Healthcare Teams.
4. Everyone has the right to register with a GP while in initial accommodation: ‘Whilst applicants are in IA, the IA Healthcare Team **will, if required**, make appropriate healthcare referrals and assist them in making appointments to see a GP’ ([‘Healthcare Needs and Pregnancy Dispersal Policy’](#)).

5. Dispersal (longer-term accommodation)

If a person seeking asylum receives asylum support (support in the form of housing and/or basic living expenses through a Home Office scheme), they will be given somewhere to stay after their application has been processed and while they are waiting for a decision.

People will have no choice over dispersal accommodation, but specific healthcare or reasonable adjustment requirements should be considered when deciding what accommodation to provide and whether the accommodation meets the person's needs.

Home Office responsibilities

Information in this section refers to the Home Office's 'Healthcare Needs and Pregnancy Dispersal Policy'.

The Home Office **must** consider the health needs of an individual before they send them to dispersal accommodation. This means that caseworkers should assess how medical needs or a disability could affect the type or location of a person's accommodation. To do this, Home Office caseworkers may require medical advice (for example, regarding mental health) from the Asylum Support Medical Adviser on a case-by-case basis or would need to have sensitive discussions with the person if there are good reasons to suggest that they may have health needs or require reasonable adjustments affecting which type and location of accommodation is appropriate for them.

People seeking asylum who receive asylum support should automatically be provided with an HC2 certificate through the Home Office. This entitles the individual to free NHS prescriptions, dental treatment, and necessary travel costs to and from hospital for NHS treatment under the care of a consultant. HC2 certificates should be automatically renewed every six months.

People seeking asylum who do not receive asylum support may be able to apply for an HC2 certificate based on having a low income by using the HC1 form.

Accommodation provider responsibilities (see the Glossary section for more info about accommodation providers)

Information in this section refers to the Home Office's 'Healthcare Needs and Pregnancy Dispersal Policy' and the Statement of Requirements for the COMPASS contracts. The Statement of Requirements set out the duties placed on both the Home Office and the accommodation providers. The contracts, including the Statement of Requirements, can be accessed [here](#).

The accommodation provider **must** brief everyone within one day of arrival at the dispersal accommodation, in a language they understand via both oral and written instructions, about:

- a local doctor and a dentist
- how to make contact with them
- how to make an appointment with them

For people with pre-existing health conditions, or in need of an urgent GP appointment, the accommodation provider **'is contractually obliged** to take a 'supported person' (a person seeking asylum who receives asylum support) to a GP within 5 working days of his arrival at the dispersal address'.

Pre-existing medical conditions or scenarios that require the accommodation provider to register a supported person with a GP include:

- long-term conditions that need regular medication; for example, diabetes, heart problems, asthma, epilepsy, haemophilia and non-active tuberculosis
- HIV if already diagnosed and if no continuation of care arrangements have been made before dispersal
- acute mental health conditions
- pregnancy
- a child under nine months old

'If a supported person has a pre-existing condition or is in need of an urgent GP appointment, **and** states that he is in urgent need of a new supply of prescribed medication, the provider **is contractually obliged** to take the supported person to a GP within 1 working day of his arrival at the dispersal address'.

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Information people seeking asylum can provide to help with access to healthcare:

If an individual thinks that they should not be sent to dispersal accommodation because of a health condition, and that they should stay in initial accommodation, they should:

- let the initial assessment healthcare team know as soon as possible
- talk to any healthcare professionals who are treating them or any support agencies they are in contact with, or a solicitor (with legal aid), and ask them to provide a letter or information about why they should not be dispersed

If the individual has been dispersed and the accommodation is inadequate or inappropriate for reasons relating to a health condition or disability, the individual should immediately inform the accommodation provider.

If an accommodation provider is not complying with the duties set out in the contract Statement of Requirements, advisers could notify the applicable regional contract compliance team. This team is responsible for overseeing that the accommodation provider is following the requirements set out in the contracts.

If an individual does not know if they have been registered with a doctor, or have not been given any details about their local doctor, they should ask the accommodation provider immediately for this information.

Overview

1. If a person seeking asylum is given Section 95 support, they will be given somewhere to stay after their application has been processed and while they are awaiting a decision.
2. People seeking asylum have no choice over dispersal accommodation; however, 'Caseworkers **should** always check whether an applicant has any special medical needs that will affect dispersal,' including the location or type of accommodation ('[Healthcare Needs and Pregnancy Dispersal Policy](#)').
3. 'Dispersal Accommodation Providers' **are required** to ensure that all supported people are briefed within one day of arrival at dispersal accommodation,' in a language they understand and through oral and written instructions, about a local GP and dentist, how to make contact with them, and how to make an appointment ('[Healthcare Needs and Pregnancy Dispersal Policy](#)').
4. People seeking asylum who are supported by the Home Office **will** be issued with an HC2 certificate, showing that they are entitled to receive free prescription medication and help with other health costs. People seeking asylum who are not supported by the Home Office will need to apply independently for an HC2 certificate using an HC1 form (see the Home Office's '[Healthcare Needs and Pregnancy Dispersal Policy](#)'; and the NHS Claim for Help with Costs HC1 form which is available [here](#)).

6. Accessing healthcare in dispersal

While waiting for a decision on their application, people seeking asylum (and their dependants), will continue to live in dispersal accommodation.

People seeking asylum are entitled to free NHS healthcare, including services in the community and specialist services such as mental health support.

GP registration

An individual does not need identification, proof of address or proof of immigration status to register with a doctor. The only reasons a GP surgery can refuse registration are if the patient list is full or the patient provides proof of address outside the area it covers.

For further information, see:

- [asylum support](#)
- [NHS guidance about how to register with a GP practice](#)
- [NHS guidance for those seeking asylum and refugees about how to register with a GP](#)
- [guidance from the NHS for those in Scotland](#)
- [guidance from the NHS for those in Wales](#)

Language support

Public Health England's migrant health guide advises that where a language barrier hampers communication between a patient and healthcare professional, a professional interpreter should be provided. Family, friends and, in particular, children are not appropriate interpreters.

[General Medical Council guidance](#) states that healthcare professionals must make sure, wherever practical, that arrangements are made to meet patients' language and communication needs.

The following sources provide more information:

- [England: 'Language interpretation: migrant health guide'](#)
- [Scotland: 'Now we're talking: Interpreting guidelines for staff of NHS Scotland'](#)
- [Wales: 'Refugees and Asylum Seekers': Public Health Wales guidance for General Medical Practices](#)
- [Royal College of General Practitioners \(RCGP\): guide to using an interpreter](#)

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The Care Quality Commission's (CQC's) regulations state that people must be given relevant information in the most suitable way for them and in a way that they can understand (see the CQC's ['Regulations for service providers and managers'](#)).

The Patient Rights Act 2011 in Scotland states that people should be communicated with in a way that they can understand and that healthcare staff should make sure that the patient has understood the information given (see information provided by Scottish Government [here](#)).

The Health and Care Standards in Wales state that people must receive full information about their care and this information should be accessible, understandable, and in a language and manner sensitive to their needs. This should enable and support them to make an informed decision about their care as an equal partner (see the Health and Care Standards in Wales [here](#)).

Information people seeking asylum can provide to help with access to healthcare:

While individuals do not need documents or proof of address to register for GP services, if they have any one or more of the following documents to take to medical appointments, it will help avoid delays and misunderstandings:

- HC2 certificate
- application registration card (ARC)
- documents or letters from the Home Office showing that the individual has applied for asylum in the UK, including an IS96 document regarding temporary admission (now known as immigration bail) and any reporting restrictions
- a recent utility bill (electricity, water or gas bill) or council tax bill
- identification with name and date of birth (for example, passport, driving licence, birth certificate, biometric residence permit or travel document)

The only reasons a person can be refused to be registered by a GP is:

- if the doctor's patient list is full and they are not accepting new patients
- if the person has proof of address that shows they live outside the area that surgery covers

What should a person do if they are refused registration at a GP surgery?

The individual should ask for reasons why they have been refused.

If they have been refused because the patient list is full, or they live outside the area that the surgery covers, the person should ask for a list of other GP surgeries nearby and go to them instead.

If they have been refused for another reason, the person can try to challenge the refusal. The individual, a friend, a volunteer or an adviser should:

- tell the receptionist that the person has been wrongly refused or ask to speak to the doctor or practice manager
- ask the receptionist or manager to write down the reasons why they cannot register the person on a piece of paper or, if they are in England, using the [NHS England 'Asylum seeker and refugees: How to register with a doctor \(GP\)' leaflet](#)

Make a complaint to the NHS

If the person is in England, they can complete the NHS England leaflet and send it to NHS England by email at england.contactus@nhs.net (with 'For the attention of the complaints manager' in the subject line) or by post at:

NHS England
P.O. Box 16738
Redditch
B97 9PT

Phone: 0300 311 2233

If the person is in Scotland or Wales they can contact their local NHS or health board, which can look into the complaint and allocate the person to a practice.

The following leaflets provide useful information about how to register with a doctor in different parts of the country:

- [England: 'Asylum seekers and refugees: How to register with a doctor \(GP\)'](#)

- [Scotland: 'Health care for asylum seekers and refugees in Scotland'](#)
- [Wales: 'Refugees and Asylum Seekers': Public Health Wales guidance for General Medical Practices](#)

Ask for an interpreter as soon as possible

At the earliest opportunity, before any appointment or before the person is going to use healthcare services, they should ask that an interpreter be provided and for information to be given in a language that they understand.

Individuals should not need to rely on family and friends for interpretation. In particular, it is not appropriate for children to act as interpreters for adults.

Overview

1. Dispersal accommodation is often the place where people seeking asylum (and their dependents) will spend the longest period of time while waiting to hear the outcome of their application for asylum.
2. During their time in dispersal accommodation most people will need to access healthcare services.

7. Determination of the asylum or protection claim



Overview

1. People who have been granted refugee status, humanitarian protection or discretionary leave will have 28 days to move on from their dispersal accommodation. Their subsistence payments will stop after this. Once someone has refugee status or humanitarian protection and discretionary leave, they are eligible for mainstream benefits and have the right to work.
2. People who have been refused refugee status or humanitarian protection in a decision with an in-country right of appeal can appeal this decision.
3. Individuals who have been refused refugee status or humanitarian protection and have exhausted all rights to appeal have 21 days to leave their Home Office accommodation and before their subsistence payments stop. In certain limited circumstances, individuals may apply for support from the Home Office (Section 4 support) and, if successful, will receive the same healthcare entitlements as those who are seeking asylum.
4. Individuals who have their application for asylum or protection refused and are not eligible for Section 4 support face different rules about healthcare entitlements across England, Scotland and Wales. However, access to primary and emergency care is always free and accessible to everyone, regardless of immigration status.
5. For more information see [‘Ceasing Asylum Support Instruction v. 12’](#)

Suggestions for a human rights-based approach to accessing healthcare for people seeking asylum

This section is aimed at Home Office staff, accommodation providers, healthcare providers, and commissioners.

It sets out the principles and practicalities of a human rights-based approach to the delivery of healthcare and support for people seeking asylum, including:

- approaches based on international human rights treaties

- guidance on putting human rights principles into practice published by healthcare providers in England, Scotland and Wales
- suggestions about how access to healthcare could be improved for those seeking asylum by using a human rights-based approach.

The human right to health

The right to health is expressly set out in The UN Committee on Economic, Social and Cultural Rights (CESCR) guidance on Article 12 of the Covenant in General Comment No.14: the right to the highest attainable standard of health; which obliges states to give equal access to the right to health for all persons including “asylum seekers and illegal immigrants.”

Article 12(1) states: ‘the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.’

Article 12(2) requires a number of “steps to be taken by the States parties... to achieve the full realization of this right”.

The right to health and wellbeing is also found in Article 25 of the Universal Declaration of Human Rights.

The right to health is written into other international treaties and case law, including within the European Convention system (in relation to Articles 3, 8 and 14 of the European Convention on Human Rights). It has been described as a norm of customary international law.

The right to health applies to everyone, no matter what their immigration status. This means that the State must have measures in place to ensure medical services and medical attention are given to everyone in the event of ill health.

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This in turn means that States must provide and guarantee access to good quality healthcare services, including the wider areas of life that affect health, such as good housing and each person having the freedom to choose what happens to their body.

Countries have three levels of responsibility to make sure people have the right to health. They must:

- **respect** everyone's enjoyment of the right to health
- **protect** this right by stopping others from interfering with it
- **fulfil** the right to health, which means countries must act to ensure people can fully benefit from the right to health.

Applying an approach to healthcare that is focused on people's human rights

A human rights-based approach puts human rights at the heart of policy and practice.

Human rights apply to everyone. However, 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 'particularly underprivileged and vulnerable population group in need of special protection' (Case of M.S.S. v Belgium and Greece, Application number 30696/09).

People seeking asylum who are waiting for their application to be processed will need special attention to access their right to healthcare because of their situation and status.

In particular, attention may also need to be given to people who have additional requirements, such as survivors of torture and other forms of violence, including female genital mutilation (FGM), domestic violence, and sexual violence; as well as pregnant women, disabled people and victims of trafficking and modern slavery.

While victims of trafficking are not covered by this document, because they are subject to a separate set of rules and requirements in law and policy and under the National Referral Mechanism for the identification of victims of trafficking (NRM), they are included in this list because trafficking and exploitation is an extremely serious human rights violation that some people seeking asylum may have faced.

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

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In healthcare, a human rights-based approach includes the following characteristics:

Healthcare law, policy and practice is in line with international human rights standards, and are reviewed and monitored through processes that are effective and transparent with clear accountability.

People seeking asylum, their dependants and their communities should have easy access to healthcare and information about their rights in a language that they understand. They should be able to actively participate in shaping the policies and services that affect them.

Staff are empowered with the knowledge and skills to consider human rights, including through being provided with appropriate training.

Leadership is committed to human rights.

Everyone enjoys the right to non-discrimination and the right to privacy, and specific attention is paid to individuals in vulnerable situations and disadvantaged groups.

For more information see Office of the United Nations High Commissioner for Human Rights and World Health Organization, ['The Right to Health: Fact Sheet No. 31.'](#)

Human rights framework principles in operation in healthcare

Below are some common principles used in England, Scotland and Wales by healthcare providers to implement a human rights-based approach to healthcare.

FREDA principles

The Care Quality Commission (CQC) uses the following human rights principles to make sure that healthcare in England is safe, effective, compassionate and high-quality:

1. **Fair:** People using healthcare services have access to clear and fair processes for decision making about care and treatment, and for getting their views heard.

2. **Respectful:** People are valued as individuals, and what is important to them is viewed as important by healthcare services.
3. **Equal:** People do not experience discrimination in accessing services.
4. **Dignified:** People are treated with compassion, in a way that values them as a human being and supports their self-respect.
5. **Autonomous:** People can exercise the maximum amount of control and choice possible in their care and treatment.

(Information taken from this section is taken from the CQC's ['Human rights approach for our regulation of health and social care services.'](#))

PANEL principles

Health Improvement Scotland, and older people and children's commissioners in Wales, use PANEL principles:

6. **Participation:** People should be able to voice their experiences and take part in decision making. Policies and practice should support people to participate in society and lead fulfilling lives.
7. **Accountability:** Organisations and people should be accountable for realising human rights. There is a level below which service standards must not fall, but above that level the journey towards full realisation of human rights should be understood as progressive.

8. **Non-discrimination:** Everyone has the same rights regardless of their ethnicity, gender, income, religion, etc.

9. **Empowerment:** People, communities and groups should have the power to know about and claim their rights to make a difference to their lives.

10. **Legality:** All decisions should comply with human rights legal standards.

(Information from this section is taken from NHS Scotland's 'The right to health.')

Relevant information from international human rights treaties

As described in the CESCR General Comment no. 14: The Right to the Highest Attainable Standard of Health, healthcare professionals and staff working for accommodation providers must respect the right to health by ensuring equal access for all persons.

Pregnant women and new mothers

Pregnant women and new mothers may face extra challenges in accessing healthcare.

Under two UN treaties that the UK has ratified, the UN Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), pregnant women and new mothers should be given appropriate nutrition and access to services. Women should have access to education and be supported with information on child health and nutrition.

To help achieve this, checks should be made by healthcare professionals at each appointment to make sure the woman understands her care and has the means to attend her next appointment.

Disabled people

Disabled people may also face extra challenges in accessing healthcare services, and have support and accessibility requirements.

Under the Equality Act 2010, organisations have a responsibility to make sure that disabled people can access services as easily as non-disabled people. This is known as the ‘duty to make reasonable adjustments.’ Service providers and those carrying out public functions, have a duty to anticipate the need to make reasonable adjustments. This means, for example, that healthcare providers have to think ahead about what reasonable adjustments could be needed by service users with different types of disability and not simply meet the needs they are presented with.

The 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), to which the UK is signed up, means that states must provide health services which are needed by disabled people specifically because of their disabilities. The CRPD says States must make reasonable adjustments. The CRPD states that health services should be delivered as close as possible to people’s own communities and that professionals should be supported (for example, through training) to understand how to make sure disabled people receive the same quality of care as non-disabled people.

To help achieve this, information should be provided in a language and in a way that the person can understand in both speech and in writing. People seeking asylum should be given help with any language or communication barriers, including those related to a disability, a lack of familiarity with English or low levels of literacy. This help should include recognising the language needs of the individual and meeting those needs. This could be through providing an appropriate professional interpreter or translated information in a language the individual understands; or by making a reasonable adjustment, such as providing information in easy read format if the person needs this format to participate in their interview.

Suggested checklists for consideration by the Home Office and accommodation providers to ensure a human rights-based approach:

1. Does the asylum claim and the asylum support process help to create a sense of safety and security for people seeking asylum and their dependants?
2. Are discussions about healthcare needs with people claiming asylum clearly separate from the asylum decision making process?
3. Is information about how to access healthcare services explained clearly and separately from the asylum decision-making process to reduce fear and misunderstanding?
4. Are staff who work for accommodation providers trained on the rights and entitlements of those seeking asylum, as well as the problems they face in accessing healthcare, and their cultural sensitivities?
5. Are professional interpreters provided without the person having to ask for one?
6. Is the right to request interpreters explained clearly in a way the person can understand?
7. Are there clear monitoring and accountability processes, that monitor how people's needs are being met, set out in the asylum accommodation contracts?
8. In practice, do these processes work to make sure that people know their rights to healthcare and can access the healthcare they need?
9. Does a clear, independent complaints mechanism exist for people claiming asylum?
10. Are people clearly able to complain without fear of how it affects their claim for asylum?
11. Is this complaints mechanism monitored?
12. Are decisions about suitable accommodation taken based on the person's healthcare needs and to make sure there is continuity of care wherever possible?

Suggested checklists for consideration by healthcare service providers and commissioners to ensure a human rights-based approach:

1. Are healthcare professionals (including frontline staff such as receptionists) trained on the rights and entitlements of those seeking asylum, the problems they face in accessing healthcare, and their cultural sensitivities?
2. Is the process for registering with a GP well understood by staff and patients?
3. Are professional interpreters provided without the person having to ask for one?
4. Are healthcare staff trained to explore pro-actively and sensitively with patients whether they require an interpreter or other language support to ensure there are no barriers to communication during appointments?
5. Are there ways for people who don't speak English and have limited money and/or internet access to register with a GP and to make appointments?
6. Is healthcare provided in a person-centred way, with clear consent and involvement by patients in their care, and how is this provision monitored?
7. Are services commissioned locally that meet the healthcare and access needs of those seeking asylum?

Law and policy basis for the rights and entitlements set out in this document

Detailed information about how the asylum system operates and the types of support available are found in Home Office published policy; in particular, the [asylum support instructions](#) (for example, the [‘Asylum Support: Policy Bulletins Instructions’](#); [‘Healthcare Needs and Pregnancy Dispersal Policy’](#); and [‘Applications for additional support’](#)).

Public bodies such as the Home Office and NHS should follow their own published policy unless there is a good reason not to, and a failure to do so may be unlawful and therefore subject to legal challenge.

How human rights and equality laws apply

Under UK law, the Human Rights Act 1998 and the Equality Act 2010 apply to the situations covered in this document; for example, when a person seeking asylum is screened for healthcare needs by the Home Office in dispersal accommodation, or when they are treated by an NHS doctor or nurse in a GP surgery, hospital or at a walk-in-centre.

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Public authorities must follow the Human Rights Act in everything they do.
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Human Rights Act 1998 and the European Convention on Human Rights

The Human Rights Act (HRA) sets out the fundamental rights and freedoms that everyone in the UK is entitled to, regardless of citizenship or immigration status. It incorporates the rights set out in the European Convention on Human Rights (ECHR or ‘the Convention’) into domestic British law. Public authorities must follow the Human Rights Act in everything they do.

The NHS and the Home Office are public authorities that must act compatibly with Convention rights (s.6(1) HRA 1998); failing which victims of human rights abuses may bring legal actions in the courts (s. 7, HRA 1998).

The ECHR does not contain an express right to healthcare, but this right has been enshrined in the Convention system as an imperative of the right to dignity, and has been carved out in the Court’s caselaw.

For example, through the following articles:

Article 2 ECHR

The right to life; for example, a person's rights are not upheld if they have died after not receiving necessary medical treatment.

Article 3 ECHR

The prohibition on torture and inhuman and degrading treatment; for example, a person's rights are not upheld if they have suffered severe pain because treatment was delayed.

Article 8 ECHR

The right to private and family life, and the right to physical and moral integrity; for example, a person's rights are not upheld if they have suffered a deterioration in their mental health due to lack of access to mental health services.

Article 14 ECHR

The prohibition of discrimination relating to the exercise of other rights protected under the ECHR; for example, a person's rights are not upheld if they are denied medical treatment because they are seeking asylum. In interpreting the Convention, and this right, the Court has had regard to other international instruments protecting the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

(For more information see the European Court of Human Rights 'Thematic Report: Health-related issues in the case-law of the European Court of Human Rights,' June 2015; and factsheet 'Health', dated February 2018).

International human rights

The human right to health is contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR), a United Nations human rights treaty, which the UK has signed and ratified.

The right to health applies to everyone, regardless of immigration status. 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. (See CESCR, General Comment No. 14, the right to the highest attainable standard of health (Article 12)).

By ratifying this international agreement, the UK has pledged to make sure its domestic laws and policies comply with it. The State has three levels of responsibility to ensure the right to health can be realised in practice. It must:

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

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The right to health applies to everyone, regardless of immigration status. 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.

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Other UN human rights conventions to which the UK is a signatory provide further direction about how to uphold the right to health, including for groups who share protected characteristics. For example, the UN Convention on the Elimination of Discrimination against Women (CEDAW) and Convention on the Rights of Persons with Disabilities (CRPD), make clear that women and disabled people should be able to access healthcare on a basis of equality without discrimination (Article 12, CEDAW; Article 25, CRPD).

Equality Act 2010

The Home Office, the NHS and private contractors are also bound by the Equality Act (EA) 2010, which outlaws forms of discrimination. Under the Act, an individual or organisation that provides services to the public, or is carrying out public functions, must not unlawfully discriminate against others either directly or indirectly, or harass or victimise them on account of their protected characteristics, which are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity (which includes breastfeeding)
- race
- religion or belief
- sex
- sexual orientation

Service providers, and those carrying out public functions, must also take positive steps to ensure that disabled people can access services as easily as non-disabled people. This is known as the duty to make reasonable adjustments (s.20, EA 2010). This responsibility goes beyond simply avoiding discrimination and is instead ‘anticipatory’. Service providers, and those carrying out public functions, must think in advance (and on an ongoing basis) about what adjustments could be needed by people with different types of disability, support and access requirements.

For more information see the [Equality Act 2010 Statutory Code of Practice: Services, public functions and associations](#) at 7.3–7.4 and 7.20.

Public sector equality duty (PSED)

Public sector organisations and other organisations that carry out functions on their behalf must have ‘due regard’ to the need to eliminate the conduct prohibited under the Equality Act, to advance equality of opportunity, and to foster good relations between people who have particular protected characteristics and people who do not. This is called the ‘public sector equality duty’. The Home Office and NHS, and private contractors carrying out public functions on their behalf, are bound by the PSED. There are specific duties under the PSED, which are different in England, Scotland and Wales; more information can be found [here](#).

Glossary

Accommodation providers

This refers to the organisations who are contracted by the Home Office to provide accommodation. Accommodation is currently delivered through the COMPASS contracts by three main providers: G4S, Clearsprings and Serco. These providers are required to comply with the provisions of the Equality Act 2010. The contracts, including the Statement of Requirements, can be accessed [here](#).

There was an announcement in January 2019 that

- Clearsprings Ready Homes has been awarded the contracts in the South of England and Wales;
- Mears Group has been awarded the contracts in Northern Ireland, Scotland and the North East, Yorkshire and Humber region; and
- Serco has been awarded the contracts in the North West of England, and the Midlands and East of England regions.

Advice, Issue Reporting and Eligibility Assistance services will be integrated into a single, nationally operated end-to-end service; the contract for these services has been awarded to Migrant Help.

Application registration card (ARC)

The application registration card (ARC) is a credit card-sized plastic card issued by the Home Office to individuals who claim asylum. The ARC contains information about the holder's identity, including their nationality and age. It provides proof that the person is claiming asylum and is legally entitled allowed to remain in the United Kingdom while their asylum claim is being decided. Please note: an ARC isn't always issued and it isn't needed for a person to access services.

ASPEN debit card

This is a debit card given to all people claiming asylum in receipt of asylum support from the Home Office. The card allocates £37.75 to each person in a household per week and its intended use is payment for food, clothing and toiletries (or slightly more if women are pregnant, breastfeeding, have young children, or in other exceptional circumstances).

Asylum seeker

An asylum seeker is someone seeking protection from persecution abroad and is awaiting a final determination of their claim. (In this document, we use the phrase ‘people seeking asylum.’) People seeking asylum may also seek humanitarian or temporary protection, including a claim under Article 3 of the European Convention on Human Rights (ECHR), because they fear serious harm, torture, inhuman and degrading treatment or punishment. A person seeking protection in the UK is here legally and is allowed to stay in this country while waiting to hear of the final outcome of their claim (including the outcome of appeals).

Destitute asylum seeker

A destitute asylum seeker is someone seeking asylum without adequate accommodation or any means of obtaining it, or someone who is seeking asylum and unable to meet their essential living needs. Asylum support under Section 95(1) of the Immigration and Asylum Act 1999 is limited to those seeking asylum and their dependents who are ‘destitute’ within the meaning of Section 95(3) of the Immigration and Asylum Act 1999.

People seeking asylum in the UK who are destitute can get support in the form of housing or basic living expenses through a Home Office scheme. This is known as Section 95 support or ‘asylum support’ (for more information, see the ‘Section 95 support’ section below).

Female genital mutilation (FGM)

FGM comprises all procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs, carried out for traditional, cultural or religious reasons. The Equality and Human Rights Commission’s position is unambiguous: FGM amounts to torture and risks the health and lives of girls and women.

HC2 certificate

The HC2 certificate is issued by the Home Office on behalf of the Department of Health and attests that those seeking asylum, and their dependants, are entitled to receive free prescription medication and help with other health costs. The HC2 is valid for six months.

Although it is not compulsory to show the HC2 form to access free healthcare, in practice it avoids misunderstandings and makes access quicker and easier if a person takes it with them when they go to register at a GP, attend medical appointments and collect prescriptions.

The HC2 shows that the holder is entitled to:

- free NHS prescriptions
- free NHS dental treatment
- free NHS wigs and fabric supports
- free NHS eyesight tests
- vouchers towards the cost of spectacles
- refunds of necessary travel costs to and from hospital for NHS treatment under the care of a consultant.

NHS

The National Health Service (NHS) is the Government-funded medical and healthcare service that everyone living in the UK can use without being asked to pay the full cost of the service. The service includes:

- visiting a doctor or a nurse at a doctor's surgery
- getting help and treatment at a hospital if unwell or injured
- seeing a midwife if pregnant
- getting urgent help from healthcare professionals working in the ambulance services if serious or life-threatening injuries or health problems emerge (this may include being transported to hospital).

People often refer to these health services as 'free at the point of use (or delivery)'. This means that any UK resident can, for example, see a doctor who will offer diagnosis or treatment for an illness without asking the individual to pay for this service during or after the visit. Instead, most health care services are publicly funded, which means money has been allocated the Government to pay for the visit to the doctor

There's more than one NHS in the UK, as the responsibility of healthcare has been passed from the UK government to the Scottish Government, Welsh Government, and Northern Irish Assembly. NHS England, NHS Wales (GIG Cymru), and NHS Scotland provide healthcare services in Britain.

Reasonable adjustments

Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and removing physical barriers.

The duty to make reasonable adjustments aims to ensure that, if you are a disabled person, you can use an organisation's services in a way that is as close as reasonably possible to the standard usually offered to non-disabled people.

Refugee status

Refugee status is awarded to someone who is recognised as a refugee, as described in the 1951 Convention Relating to the Status of Refugees (the Refugee Convention) and under paragraph 334 of the Immigration Rules. A person given refugee status is normally granted leave to remain in the UK for five years, and at the end of that period can apply for Indefinite Leave to Remain.

Refused asylum seeker

This refers to a person whose asylum application has been unsuccessful and is not awaiting a final decision on any other claim for protection or application for leave to remain.

Support

Support in this document means the formal support given by the Home Office to people at different stages in the asylum process, including those forms of support described below.

Section 98 support

Section 98 support is a form of temporary support that is provided to those seeking asylum who appear to be destitute and who are awaiting a decision on their application for Section 95 support.

Section 95 support or asylum support

People seeking asylum and their dependants who are destitute can get Section 95 support in the form of housing and/or basic living expenses while in the UK through a scheme administered by the Home Office under Part 6 of the Immigration and Asylum Act 1999.

An asylum seeker, for support purposes under the 1999 Act, is a person over 18 years old who has made an asylum claim or a claim under Article 3 of the European Convention on Human Rights (ECHR). A person is 'destitute' if they do not have adequate accommodation or enough money to meet living expenses for themselves and any dependants now or within the next 14 days. The period of time is 56 days if the asylum seeker is already in receipt of support.

Section 4 support

Section 4(2) of the Immigration and Asylum Act 1999 allows for the provision of support to those refused asylum. The Home Office gives support to those refused asylum-seekers who are destitute and meet certain criteria. In contrast to Section 95 support, there are no cash payments under Section 4 support. The individual must be destitute, or be likely to become destitute within the next 14 days (or 56 days if they are already receiving support); and must satisfy one or more of the following five conditions:

1. Be taking all reasonable steps to leave the UK or place her/himself in a position in which s/he is able to leave the UK.
2. Be unable to leave the UK because of a physical impediment to travel or for some other medical reason.

3. Be unable to leave the UK because, in the opinion of the Secretary of State, there is no viable route of return.
4. Have applied for judicial review of the decision on her/his asylum claim and been granted permission to proceed.
5. Require the provision of accommodation to avoid breaching her/his human rights.

Further info

Useful links for those seeking asylum to access further advice in relation to healthcare or accommodation

Individuals can contact the [Asylum Support Appeals Project](#) advice line between 2pm and 4pm on 020 3716 0283, or other charitable organisations, as well as legal aid lawyers.

Doctors of the World can be called on 020 7515 7534 for advice about accessing healthcare in the UK. The line is open from 10am to midday, Monday to Friday. Calls are charged at a local rate.

Alternatively, individuals can send a text message to 07974 616 852 or email to clinic@doctorsoftheworld.org.uk

Migrant Rights UK's [‘Asylum Advice: Useful Contacts’](#) is also a helpful resource.

Please note that these links are not for advice about an asylum claim.

You can download this publication from

www.equalityhumanrights.com

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