

Applying social work law to asylum and immigration



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Introduction

In this free online course, *Applying social work law to asylum and immigration*, you will hear from social work practitioners, lawyers, advocates and advice workers about the ways in which social work practitioners can support people with insecure immigration status, people with refugee status and people seeking asylum more effectively.



Figure 1 Scotland welcomes refugees

Given the professional commitment by social workers to support vulnerable and excluded people, and to promote social change and social justice, it would be logical to assume that social workers would also have significant obligations to provide services to asylum seekers and refugees, who seek refuge from human rights abuses, disasters, wars and other forms of persecution in their homelands. Asylum seekers and refugees are often among the most vulnerable and the poorest sectors of society. However, statutory social work is limited by law, and in some respects, in its ability to address the obvious needs of this group.

Legislation relating to immigration and asylum issues often intentionally restricts access to services and public participation on grounds of nationality – for example, section 21 of the Care Act (CA2014). Social workers must work within the constraints of relevant legislation; in some instances this will place them in a difficult position, but these moments can also be regarded as opportunities for social workers to educate, explain and lobby for legal change.

As political turmoil, wars and natural disasters seemingly continue to unfold, so does the need for people to seek refuge. At the time of preparing these OpenLearn course materials the War in Ukraine started to unfold and an estimated 2.6 million people had fled the country. As a result, the UK Government instigated the 'Homes for Ukraine' programme to allow individuals, charities and community groups across the UK to offer a room or home rent free in return for a compensation payment of £350. Also, whilst preparing this course, the Nationality and Borders Act (2022) was introduced, which brings changes to support provided to asylum seekers and also puts into statute the ability to remove people to a 'safe third country'. Rwanda has entered into agreement with the UK government to receive asylum seekers whose claims are inadmissible in the UK. However, legal challenges continue in the European Court of Human Rights and (at the time of writing) there have been no removals to Rwanda. This highlights the need for social workers to keep themselves informed about humanitarian crises and up to date with changing policy.

In this course, you will find out more about the realities of asylum and immigration in England, Wales, Scotland and Northern Ireland today and understand the ways social workers interact with the law in this area of practice.

This OpenLearn course is an adapted extract from the Open University course [K271 *Social work law*](#).

Learning Outcomes

After studying this course, you should be able to:

- appreciate why social workers need to know about asylum and immigration law
- understand what it means to be a refugee
- identify the rights asylum seekers have
- recognise the support available, as well as barriers to migrants, asylum seekers and refugees accessing services
- recognise how an understanding of the law and social work values promotes best practice when working with migrants, asylum seekers and refugees.

1 A brief history of immigration law

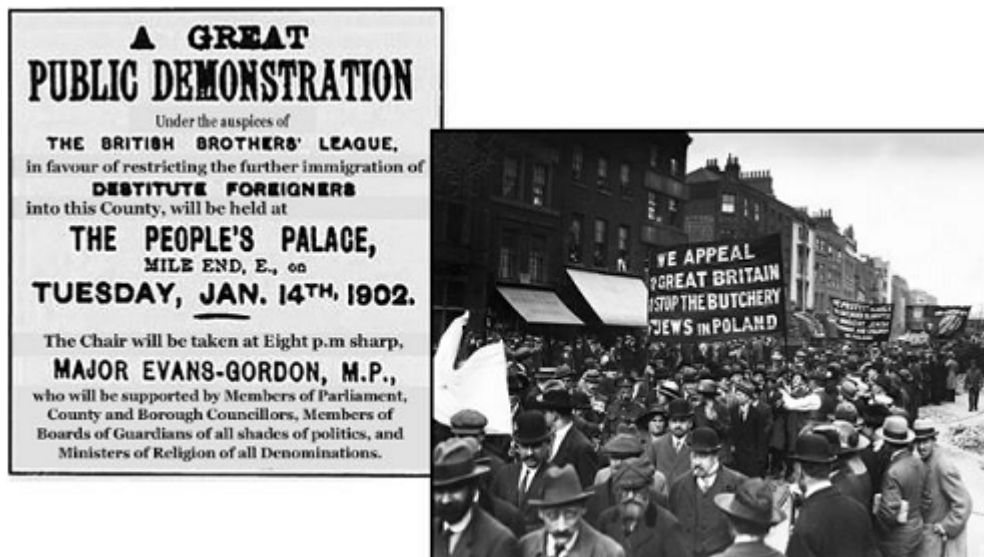


Figure 2 (1) An advertisement from 1902 for an anti-immigration demonstration. (2) A demonstration in the East End of London against the Alien Act 1905.

As Figure 2 shows, immigration restrictions in the UK are not new. The Aliens Act 1905 (AA 1905), which aimed to restrict the entry of Jewish refugees fleeing persecution from Eastern Europe, was the first UK Act relating to immigration in the twentieth century. Controls took place against a backdrop of widespread anti-Semitism in the UK and agitation for control over immigration by the labour movement and others. Although foreign migrants were referred to as ‘aliens’ in the legislation, rather than ‘Jews’, anti-Semitic prejudice was widespread in the debates of the time.

You might see echoes of these themes in the present day discussion of legislation to restrict migrants, asylum seekers and refugees from settling in the UK. Subsequent legislation such as the Commonwealth Immigrants Act 1962 and the immigration acts which followed are characterised by ever-increasing immigration controls against black and ethnic-minority communities, and subsequently other migrants such as those from Eastern Europe.

Although eligibility of public services to those without the right permission to be in the UK had been government policy prior to 2010, in 2012, Theresa May, the then Home Secretary, declared her intention ‘to create here in Britain a really hostile environment for illegal migration’ (Kirkup and Winnett, 2012). This was followed by rules and legislation to put this intention into practice, for example the Immigration Acts 2014 and 2016. In setting out to create an environment hostile to people with insecure immigration status, a danger has been that the environment has become hostile to all migrants, regardless of whether or not they are lawfully resident in the UK – including, for example, the recent scandal relating to the Windrush generation.

Despite these restrictions, there are many examples where social workers can, and do, support people with insecure immigration status in both the statutory and voluntary sectors. For example, acting as a point of contact, helping people to gather evidence and write evaluations, and helping people access permitted forms of support, including

unrestricted benefits (like school meals and clothing grants) and support from third-sector organisations, like food banks, and crisis grants.

Optional reading

One positive example of how social workers and students apply the law to support asylum seekers and refugees is featured in this article from *Community Care*: [The social workers defending the rights of refugees](#) (McNicoll, 2015).

In this course you will hear from practitioners working in this field and look at different ways in which social workers can best apply the law to support migrants, asylum seekers and refugees.

2 Social workers' obligations

The UK has an obligation under international treaties, such as the European Convention on Human Rights 1950 (ECHR), not to discriminate against individuals on the basis of migration status, and yet 'hostile environment' policies, as well as the imposition of conditions like 'no recourse to public funds' (NRPF), can lead to destitution and homelessness for people with insecure immigration status. Even people with leave to remain but subject to the NRPF condition may be at risk of destitution and homelessness, for example, when they experience economic hardship due to poor health or disability, or relationship breakdown.

The legal framework excludes people who are subject to immigration control from accessing many housing and welfare rights. Although alternative sources of support are provided, these are set at a lower level than those set for other claimants, and they do not have the status of rights. This is because they are conditional on a range of requirements that aim to control the movement and participation of migrants and asylum seekers in wider society and give a high degree of discretion to decision-makers in the determination of their case. In the following sections you will explore the extent to which this affects the social work role and creates dilemmas for practice, poverty and homelessness for those caught up in these difficulties.

Asylum and immigration law is complex, in part due to the pace of legislative change, but also because it is regularly contested in the domestic courts. Social workers do not need to be experts in this field, but they will encounter migrants, asylum seekers and refugees in the course of their work and should therefore be familiar with the asylum process and know where to go for further advice. They also need to understand the extent of their obligations to provide social work services to migrants, asylum seekers and refugees. However, this course suggests that this knowledge should be placed within its broader social, political and legal context. It is equally important for social workers to question the assumptions that underlie current policy in this area, to reflect on how these may impact on the professional role, and to consider how a commitment to legal and social work values can promote effective and ethical practice with migrants, asylum seekers and refugees.

3 Understanding asylum and immigration policy

Legislation on immigration and asylum matters originates in the UK Parliament. The government in Westminster sets policy in relation to external and internal controls, subject to EU and international law. The absence of a specific immigration policy for Northern Ireland, Wales and Scotland does not mean, however, that national debates and perceptions of this issue are identical to those in England.

In Wales, this is a non-devolved matter, therefore the laws in relation to immigration and asylum are the same for both England and Wales, unless otherwise indicated in this section (e.g. in relation to social care provision). The Welsh Government does, however, issue policies with a view to support refugees and asylum seekers.



Figure 3 Housing estate

The dispersal policy whereby asylum seekers receive one offer of accommodation is part of the immigration policy; Glasgow is one of the dispersal cities in the UK.

Scottish policy suggests a greater tolerance towards asylum seekers than is the case in England, in part because the Scottish Government has promoted positive messages about the need for migration, to address under-population and skills shortages affecting Scotland, see, for example, the *New Scots: Refugee Integration Strategy 2018–2022* (Scottish Government, 2018a). There has been a real concern to address destitution, for example *Hidden Lives* (Scottish Parliament, 2017), which makes recommendations to ameliorate destitution amongst migrants, asylum seekers and refugees. Media coverage of forced removals of families and the murder of a Syrian refugee in Edinburgh in 2018 heightened public awareness of this issue. Nevertheless, across the UK there is significant evidence of hostility towards asylum seekers and confusion and ignorance of the facts.

Therefore, one of the first things that social workers committed to anti-discriminatory practice may have to address is a lack of knowledge about immigration policy as a whole. This requires an understanding of the legal distinctions between different types of migrants to the UK and their corresponding immigration status.

4 Immigration, asylum and refugee status

Immigration legislation is complex. Box 1 gives more information about what the commonly used terms mean when discussing it.

Box 1 Immigration, asylum and refugee status

1. People subject to immigration control require **leave to enter** the UK from an immigration officer (in advance by obtaining a visa from a British embassy or high commission) and may apply to the Home Office for **leave to remain** in the UK. The Home Secretary operating through UK Visas and Immigration has wide discretion under immigration law to refuse leave to enter or remain, and to impose conditions on any leave granted. A person's immigration status affects their right to work and to access welfare services.
2. An **asylum seeker** is someone who has lodged an application for protection on the basis of:
 - the United Nations Convention Relating to the Status of Refugees 1951 (Refugee Convention); or
 - arts 2, 3 or 4 of the ECHR which prohibits unlawful killing, torture, and 'inhuman or degrading treatment or punishment', slavery and forced labour.

If successful, applicants for asylum will be granted 'refugee status' or 'humanitarian protection' in the UK.

A **refugee** is a person who

- owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country (art 1(A)(2) Refugee Convention).

The terms 'asylum seeker' and 'refugee' are often used interchangeably, but if a person has been granted refugee status they are granted leave to remain; they become eligible for mainstream benefits and are able to seek employment.

3. Under s95 Immigration and Asylum Act 1999 (IAA 1999), a person is defined as being '**destitute**' if they:
 - do not have adequate accommodation or any means of obtaining it (whether or not essential living needs are met)
 - have adequate accommodation or the means of obtaining it but cannot meet other essential living needs.
4. People with **insecure immigration status** can include someone who is waiting for a decision by the Home Office on leave to remain, where, for example:
 - their status is dependent on a partner, spouse or other family member
 - their permission to stay in the UK was time limited and they have overstayed their visa permissions
 - an individual is undocumented
 - they have no legal right to be in the UK but might secure their legal status if supported to do so.
5. Section 115 IAA 1999 states that a person subject to immigration control will have **no recourse to public funds** (NRPF). The IAA 1999 lists what is included as a public fund, but generally it includes non-contributory benefits, such as Child Benefit, Universal Credit, and disability benefits, as well as the Scottish Welfare Fund. Provision of healthcare – by the National Health Service (NHS) –

and education, with some exceptions, do not count as public funds. More information is available from the [NRPF Network](#).


6. A **migrant** is a person who moves from one place to another, especially in order to find work or better living conditions.

More detailed definitions of the terminology used in immigration legislation are available from the [Refugee Council](#).

4.1 Immigration facts and figures

There is often confusion about migrants, asylum seekers and refugees, including the terminology used and their perception as a threat. In the following activity you will have the opportunity to test your knowledge about the numbers behind the headlines. The [Refugee Council website](#) is a useful place to find up-to-date information. To avoid losing your place in the course, if you are studying on a desktop you should open the link in a new tab or window by holding down Ctrl (or Cmd on a Mac) when you click on it. If you are studying on a mobile device hold down the link and select to 'Open in New Tab'. Return here when you have finished.

Activity 1 Myth busting: how much do you know?

 20 minutes

1. Which countries do asylum seekers mainly come from?

Provide your answer...

Answer

Asylum seekers come mainly from countries where there is political or military conflict, such as Syria, Iran, Pakistan, Iraq and Afghanistan. This changes from year to year.

2. Are asylum applications in the UK going up or down?

Provide your answer...

Answer

Asylum applications in the UK have declined significantly since their peak and remained relatively stable since, although there has been some recent increase.

3. In what year did asylum applications peak?

Provide your answer...

Answer

Asylum applications (excluding dependents) peaked at 84,100 in 2002 and reached a low of 17,900 in 2010.

4. Approximately how many asylum applications were there in 2021 in the UK?

- ☐ 100,000
- ☐ 10,000
- ☐ 50,000

Answer

After several years of relatively stable numbers of asylum applications, there has been a recent increase after the COVID-19 global pandemic. There were 48,540 applications, which is still around half the level of the previous peak in 2002 (84,132 applications).

Unaccompanied children and young people

There were 3775 applications in 2019 and 3762 applications in 2021 in relation to unaccompanied children and young people seeking asylum. There has been an increase in applications from Iran, Iraq and Afghanistan.

In 2017, 89 per cent of applicants were male.

There were 712 age-disputed cases in 2017; in 55 per cent of these the decision was taken to grant refugee status. This demonstrates that the initial decision was incorrect in just over half the cases.

(Refugee Council, 2018a)

5. What was the Home Office asylum support allowance in 2021 for one asylum seeker for all necessities (food, clothing, travel, phone) excluding housing?

- ☐ £100 per week
- ☐ £57.90 a week
- ☐ £40.85 a week

Answer

£40.85 a week.

6. Approximately how many people are trafficked each year in the UK?

Provide your answer...

Answer

In the UK in 2019, approximately 10,000 potential victims of trafficking and modern slavery were identified.

7. How many of these were under the age of 18?

Provide your answer...

Answer

Nearly half of all potential victims were under the age of 18.

8. What countries do the children come from?

Provide your answer...

Answer

The most common country of origin of these children was the UK (32%), followed by Vietnam (17%), Albania (10%), Sudan (7%) and Eritrea (6%).

More than a quarter of all trafficked children go missing from local authority care each year in the UK.

(ECPAT UK, 2018)

Discussion

There is a great deal of confusion about the number of asylum seekers and refugees in the UK and the amount of support that they receive – in 2016 just over £5 a day. The numbers of asylum claimants is low compared with net migration to the UK as a whole.

The Refugee Council points out that:


- asylum seekers and refugees do not receive large handouts
- asylum seekers and refugees are law-abiding citizens
- refugees make a huge contribution to the UK
- Britain's asylum system is very tough
- poor countries look after most of the world's refugees.

(Refugee Council, 2018b)

4.2 The people behind the statistics

In this section you will look at the people behind the labels and statistics and then hear about the work of the Scottish Refugee Council.

Activity 2 The people behind the statistics

 20 minutes

Watch the video 'We slept on the buses: Britain's homeless children' (*The Guardian*, 2017) and think about how it makes you feel. Make notes in the box below.

Video content is not available in this format.

Video 1 'We slept on the buses: Britain's homeless children'



Provide your answer...

Discussion

This can feel like an upsetting and uncertain area to practice within. Sometimes, as the video shows, it is often difficult for people with insecure immigration status to meet the most basic of their needs, such as shelter, food and clothing. You will hear from practitioners as you progress through this course that being able to help people, acting with humanity and compassion, and being aware of the avenues that might be open to help people with NRPF – and where the law might make a real difference to someone's life – can be rewarding. Supervision and a network of support is also important for practitioners, in order to be able to maintain compassion and resilience in the face of often difficult situations and upsetting stories (Guhan and Liebling-Kalifani, 2011).

5 Working with asylum seekers and refugees

Activity 3 will allow you to consider in more detail the specific needs of asylum seekers and refugees in England, Wales and Scotland.

Activity 3 Working with asylum seekers and refugees

 30 minutes

Listen to the following clips from an interview with Wafa Shaheen, Head of Service at the Scottish Refugee Council (SRC). In the two audios she describes the work of her organisation and highlights the difficulties encountered by asylum seekers and refugees, including unaccompanied children and young people seeking asylum.

As you listen to the first audio where Wafa talks about the work of the SRC and the asylum process, make notes in answer to the question that follows.

Audio content is not available in this format.



Audio 1 The Scottish Refugee Council and the asylum process

1. What are the main difficulties that asylum seekers and refugees face on entering the UK and the barriers to them accessing services?

Provide your answer...

In the second audio, Wafa discusses the needs of asylum seekers, including families, unaccompanied children and young people, and vulnerable adults. Make notes in answer to the question that follows.

Audio content is not available in this format.



Audio 2 Social work with asylum seekers including unaccompanied children and young people

2. What are some of the issues for unaccompanied children and young people seeking asylum?

Provide your answer...

Discussion

Wafa Shaheen dispels many of the myths that affect some public perceptions of asylum seekers and refugees and outlines the problems that they face both on arriving in the UK, and applying for asylum and in accessing services. These include the immediate practical necessities for housing, clothing and food; the personal difficulties that stem from the traumatic experiences that have led to them seeking asylum in the first place, and the legal and social barriers that exist to securing shelter or safety. In 2017, the asylum allowance for an individual for everything excluding housing was £36.95 (to cover food, clothing, travel to appointments, phone and other necessities).

She mentions some of the legal processes that apply to asylum seekers and emphasises the importance for people working with asylum seekers to have a full appreciation of their situation and particular needs, including their vulnerability and the need for social support. Unaccompanied children, and those under the age of 18, seeking asylum are entitled to social work support and to be accommodated as 'looked after' children by the local authority. They are also able to access other entitlements such as education.

Under current legal arrangements those adults seeking asylum in most cases are not allowed to work, they do not have access to mainstream benefits or housing, and must depend on support from the Home Office asylum-support system for meeting their basic needs; where this is lacking, they are reliant on the availability of charitable help. Asylum seekers in receipt of support are required to sign an Asylum Support Agreement which sets out the conditions they must meet. These conditions include living at an officially approved address, obeying requirements about reporting weekly at a place designated by the Home Office in order to receive support. There is a high level of destitution among those from whom financial and housing support has been withdrawn; this has become part of government policy to encourage the return to their country of origin of those whose application for asylum has been refused. There is also a high level of demand for social work services in the area of community care, unaccompanied children and young persons seeking asylum and support for children and families.

You may have a range of ideas about ways in which social workers and other people can work with asylum seekers and refugees (including unaccompanied children and young persons seeking asylum) in empowering and anti-oppressive ways. Social work, as it relates to asylum seekers and refugees, should challenge the labels that are often applied to these potential service users and avoid generalised assumptions about their experiences and needs. It is important to 'see the individual', to be sensitive to the experiences that asylum seekers may suffer, and to consider the implications of this in relation to their effective engagement with social work services. Practitioners must also remember, as Wafa outlines, that this group are particularly vulnerable because they often lack access to other support networks, such as extended family and friends, that many of us take for granted.

Box 2 Barriers to accessing social work services

Listed below are some of the potential barriers to accessing social work support; you may have thought of others.

- lack of familiarity with the availability of social work services and the concept of social work
- language difficulties and inadequate interpreting and translation services, for example in the area of mental health
- suspicion and distrust of professionals due to previous encounters with public authorities
- specific needs may be hidden or unidentified due to cultural difference – for example, domestic violence, child carers and mental health problems, physical disabilities
- difficulties in filling out forms and coping with bureaucracy
- lack of continuity of care, for example as people move between accommodation or are 'dispersed'
- poverty and its impact on the individual being able to afford travel to access services, go to meetings and hearings etc.
- the use of detention for people with insecure immigration status, which limits their access to social work support.

6 The current legal framework

The right to claim asylum is protected by international law, but as you have seen, the process for claiming asylum is governed by a complex range of statutory sources, guidance and rules that are frequently subject to change. The main sources of law are summarised in Box 3.

Box 3 Key sources of law on asylum

International instruments

Article 14 **Universal Declaration of Human Rights 1948** (UDHR) states:

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

The UK is a signatory of the UDHR, but this only has the status of an international treaty in law and is not legally binding treaty obligation in the UK.

A much more comprehensive statement of the right to asylum is provided in the **Refugee Convention**, which prohibits the return of people persecuted on grounds of race, religion, nationality, membership of a particular social group or their political opinion. (The Refugee Convention was incorporated into domestic law by s2 Asylum and Immigration Appeals Act 1993.)

The **UN Convention on the Rights of the Child 1989** states that 'the best interests of the child shall be the primary consideration'.

UK domestic legislation

The policy of the UK government is to reduce net migration to the UK. There are tensions between the Scottish and UK governments in relation to asylum and immigration.

The **Immigration and Asylum Act 1999**, as amended, outlines the process for asylum applications and appeals. It removed remaining benefit entitlements and set up the separate system of economic support and dispersal.

The **Nationality Immigration and Asylum Act 2002** tightened the surveillance and control of asylum seekers with the introduction of accommodation and induction centres, asylum registration cards and measures to further restrict the availability of welfare support.

The **Asylum and Immigration (Treatment of Claimants etc.) Act 2004** contains the power to withdraw financial support and accommodation from families who 'fail to take reasonable steps' to leave the UK after asylum refusal and exhaustion of appeal rights. It introduced a new criminal offence of arriving without documents and made some types of case support conditional on undertaking 'community activities'.

The **Immigration, Asylum and Nationality Act 2006** replaced backdated welfare entitlements for those granted refugee status with integration loans, amended end-of-line support, and specifically excludes terrorists from the protection of the Refugee Convention.

The **UK Borders Act 2007** was part of a package of measures to tackle illegal working in the UK, and introduced new powers to, for example, enforce border controls, allow automatic deportation of some foreign nationals.

The **Borders, Citizen and Immigration Act 2009** established a 'path to citizenship' for refugees, imposing additional probationary periods after 'leave to remain' is granted, sometimes described as 'earned citizenship'. Section 55 introduced a duty for UK Visas and Immigration: to safeguard the welfare of children in line with the UK's obligations under the UN Convention on the Rights of the Child 1989.

The **Immigration Act 2016** and the **Nationality and Borders Act 2022** have built on the government intent to make the immigration environment more hostile. For example, the Nationality and Borders Act has established the process to remove people seeking asylum to a 'safe third country' (at the time of writing, the Government plan is to remove people to Rwanda).

6.1 The asylum process

It is important that people applying for asylum seek expert legal advice and get help and support when making a claim. UK Visas and Immigration (UKVI) has a range of powers to control and limit the freedom of those seeking asylum, which include: detention, fingerprinting, no-choice dispersal to another part of the UK, return to a safe third country, denial of mainstream welfare rights, denial of the right to work, and, ultimately (if the application is refused), the power of forced removal.

Asylum seekers who may have fled their homeland without any documentation will often face difficulties in proving their asylum claim. Trauma, language difficulties and the complexity of the process place considerable hurdles in the way of achieving a successful outcome. Not all asylum seekers are eligible for support from UKVI; in particular, support may be withheld where an application for asylum was not made at the earliest possible opportunity. The provision of accommodation and financial assistance, where available, comes with stringent conditions attached, and is restricted to subsistence levels. The rationale for this is to deter illegitimate claims, but its effects can lead to social isolation, forced dependence and, for those who fail to qualify or have their financial support from UKVI withdrawn, destitution.

Optional reading

The [Asylum Support Appeals Project](#) has published a practical information guide for refugees and asylum seekers; information is also available from the Refugee Councils for England, Scotland and Wales.

6.2 The right to support

While the legal right to claim asylum and have that claim determined by due process is protected within the UK, other rights ordinarily enjoyed by those not subject to immigration control are restricted by statutory provisions. However, it is important to remember that individual human rights are also protected within the broader legal framework, and to

recognise the particular significance that human rights challenges have in the context of determining asylum seekers' rights.

Although human rights law provides a valuable check on the power of the executive in asylum cases, the burden on the individual of having to establish legal rights through case law should not be underestimated. There is also no guarantee that an argument based on this source of law will be successful, even where the obligation to secure a right under the European Convention on Human Rights (ECHR) is absolute. For example, in the case of *Gezer v Secretary of State for the Home Department* [2004] EWCA Civ 1730, the English Court of Appeal rejected a claim by an asylum seeker and his family that it was a breach of their rights under art 3 ECHR to disperse them to Glasgow, where they had been subjected to racial abuse and harassment, culminating in them being attacked in their flat. It was held that, on the facts, the family had a choice of whether to accept the offer of housing on the estate, even though not doing so would result in the offer of National Asylum Support Service (NASS) support being withdrawn, although Lord Justice Elias did not think there was a real choice (at para 57).

Nevertheless, public authorities have a duty to respect asylum seekers' rights under the ECHR and to ensure their consideration and compliance in the planning of services. This duty clearly applies to the provision of social work services by local authorities, reinforced by the professional value commitments of social work.

7 The social work role

The greater part of service provision for people with insecure immigration status, asylum seekers and refugees has come from the voluntary and independent sector and faith organisations, many of which employ qualified social workers. Later in this section you will hear about the work of two voluntary sector organisations – Embrace Life, Luton, and Southall Black Sisters.



Figure 4 A social worker with a service user

The obligations of statutory social work in this area of social policy remain a source of some confusion and controversy. Hayes (2013) suggests that working in this field presents ethical dilemmas and social workers can find themselves enmeshed within a system of draconian immigration controls.

A 2017 study found that social workers within both the statutory and voluntary sector try to implement social work values and use their discretion on behalf of their clients in the face of a hostile immigration policy and resource constraints (Robinson and Masocha, 2017).

A broad understanding of the law and of appropriate legal rights is important. Chantler (2012) also suggests that social work leadership is needed at a higher level:

...to respond more effectively in this complex area of work, interventions at a practitioner, organisational and societal level are required if the espoused values of social work are to be more than mere rhetoric.

(Chantler, 2012, p. 331)

The dispersal policy, whereby asylum seekers and refugees are offered a no-choice, one offer of accommodation has established new asylum communities in cities around the UK. Social work responses to this have been mixed (Hayes, 2013) but all local authorities have an obligation to provide services to asylum seekers and refugees; as well as building expertise in specialist teams, this should also be seen as part of mainstream practice, rather than as a niche area (SCIE, 2010).

If asylum seekers are not eligible for social care services, they should be assessed under the Human Rights Act 1998 to establish whether a failure to provide appropriate services would be a breach of their human rights. For 'refused' asylum seekers, detailed practice guidance on assessing and supporting children, families and adults is available from the [NRPF Network](#) website.

It should now be obvious why this is a challenging area of social work practice. The legal provisions are complex – how do you exclude the effects of destitution from assessed needs? They are also difficult to reconcile with social work values and principles – should social workers be turning away those in obvious need and policing immigration controls?

7.1 Case study: Katy Eagle – a voluntary sector practitioner

The next activity provides an opportunity to listen to Katy Eagle, a voluntary sector social worker from Embrace Life, Luton in England, talking about her experience of working with migrants, asylum seekers and refugees and how social workers can help this vulnerable group of people.

In the first part of the activity, Katy discusses her top tips for social workers. In the second part, you can listen to Katy explain how she would practise, as you work through two case studies with her.

Activity 4 Katy Eagle – Social work practice with migrants, asylum seekers and refugees



Part 1

Firstly listen to Katy speak about the work that she does at 'Embrace Life,' Luton with migrants, asylum seekers and refugees. She discusses her social work practice within a voluntary organisation to support asylum seekers and refugees, and the legal framework that she practises within. She also outlines her top tips for social workers. As you listen to the audio, answer the questions that follow.

Please note, this audio is approximately 17 minutes long.

Audio content is not available in this format.



Audio 3 Katy Eagle

1. What are some of the common problems that refugees and asylum seekers coming to her agency face?

Provide your answer...

2. What kind of help can social workers give and what should social workers be alert to?

Provide your answer...

3. What are the limitations that social workers have to negotiate?

Provide your answer...

Discussion

Above all, Katy talks about remembering core social work values and acting with humanity and compassion. As well as offering practical help and support for people's immediate needs, she talks about the importance of supporting people emotionally.

You can hear Katy outline more of her practice observations in the next part of this activity.

Part 2

Now listen to the audios of Katy describing two case studies, one of a family and one of a gay man, who are seeking asylum. You can read the transcripts of the case studies if required.

Think about the questions that Katy poses as you go through each of the case studies and the kind of help and support you could offer. Make notes in the boxes below each part of the case study before listening to Katy reflecting on her practice in relation to the questions asked. Once you have worked through the case studies, look at the comments from Katy about good practice in the discussion.

Case studies

Case Study 1: Florence, Ronald, Peter and Grace

Audio content is not available in this format.



Audio 4 Katy outlines the story of Ronald and Florence and their two children

Questions to consider:

- How might social workers be involved with the family? What might their role be?
- How can the family be supported to ensure that their basic needs are met?
- How would you support the family? What would your priorities be? How can social workers support a family in this situation?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to these questions.

Audio content is not available in this format.



Audio 5 Katy reflecting on her practice

Audio content is not available in this format.



Audio 6 Ronald and Florence's story continues

- How can you support this family? Where would you look for advice, help?
- What impact could this situation be having on each member of the family? How would this impact on relationships within the family?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to these questions.

Audio content is not available in this format.



Audio 7 Katy reflects on her practice

Audio content is not available in this format.



Audio 8 Ronald and Florence's story continues

- How can social workers use their skills to continue to support the whole family?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to this question.

Audio content is not available in this format.



Audio 9 Katy reflects on her practice

Case study 2: Abdul

Katy now describes Abdul's story.

Audio content is not available in this format.



Audio 10 Katy outlines the story of Abdul

- What would your advice to Abdul be? What are his options for support?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to this question.

Audio content is not available in this format.



Audio 11 Katy reflects on her practice

Audio content is not available in this format.



Audio 12 Katy continues the story of Abdul

- How could this impact upon Abdul?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to this question.

Audio content is not available in this format.



Audio 13 Katy reflects on her practice

Audio content is not available in this format.



Audio 14 Katy completes the story of Abdul

- How can Abdul be supported?
- What are the risks and critical moments for Abdul?

Provide your answer...

Discussion

Now listen to Katy reflecting on her practice in relation to this question.

Audio content is not available in this format.



Audio 15 Katy reflects on her practice

Discussion

Katy commented:

We find that many of the people we support come to us at the point of crisis. People who are having problems related to immigration or asylum often become known to support services at that point of crisis – and this could be charities, health services, churches, food banks, or statutory services such as children's or adult social care, or mental health teams.

Often, our immediate support is to make sure that people's most basic needs are met – food, shelter, food/nappies for babies, clothing etc. Basic necessities that people have not been able to obtain when their support network has broken down, their circumstances have changed suddenly or they can no longer manage alone.

In terms of social work theory, we find it useful to consider Maslow's hierarchy of needs, which is a model that shows that a person has to have their fundamental basic needs (food, shelter, safety) met before they can reach their potential and go on to achieve their goals and ambitions. Accordingly, key support at this stage for a person seeking asylum who has arrived in the country may include signposting to a solicitor or immigration support service for advice – it is really important to know what specialist services are operating in your area: for example, British Red Cross, Migrant Help, Refugee Council and local projects supporting people – food banks, etc.

If children are destitute or at risk of this, we consider referring to children's service for support under Section 17 of the Children Act 1989 and Section 22 of the Children (Scotland) Act 1995. We also find that it's important to know some of the terminology around asylum and immigration – No Recourse to Public Funds, National Asylum Support Service (now Asylum Support), tribunals, appeals, further submissions and voluntary return but we also focus on not labelling people, for example as 'illegal'. We find that it is again important for us to know who can provide legal advice – e.g. our local law centre, university law clinic, pro bono advisers.

Immigration advice is regulated in the UK and providing immigration advice without registration is a criminal offence. Social workers therefore need to be aware of what information they can provide and when to seek further advice/support for people. The registration is known as 'OISC' (Office of the Immigration Service Commissioner) registration and advisers must be accredited through this scheme.

People in the UK who are experiencing difficulties with immigration often tell us that the process can be dehumanising and belittling and having to prove your case (for example your sexuality) can be very very difficult. Our advice for other professionals is always to focus on the person and be compassionate – seemingly simple things like taking the time to offer a hot drink to someone in crisis can make a huge difference. We often see other people that other agencies feel they can't support due to someone's immigration status – sometimes this is true, but other times, it is based on misconceptions or misunderstanding – but we often need to challenge the reasoning behind these decisions and advocate for people to have fair access to services. The climate of a 'hostile environment' immigration policy can make daily life difficult for people – even a trip to hospital could bring a large bill.

In the case studies, Florence, Ronald and family, and Abdul could also be vulnerable to exploitation and vulnerable to crimes such as modern slavery, as their lack of financial resources and the means to change this could lead them to alternative ways of providing for themselves that leave them vulnerable. We have heard from people who have found themselves in abusive and exploitative situations, but who are too afraid about the consequences to report this to the police or safeguarding teams.

Whilst modern slavery is not just about international borders and immigration issues, many people experiencing modern day slavery have come to the UK from overseas. We've found the most valuable support we can provide is a listening ear and being alert to the signs of modern slavery, and then knowing what to do with concerns – support is provided through a National Referral Mechanism (immediate concerns should be reported to the police) and there is a [national helpline](#) that can

provide advice to people and professionals, currently run by Modern Slavery Helpline.

(Comment prepared by Katy Eagle, Embrace Life, Luton, 2018)

Box 4 Seeking advice on immigration law

Social workers must not provide immigration advice to people with insecure immigration status and asylum seekers. Only accredited immigration advisers registered with the [Office of the Immigration Services Commissioner](#) (OISC) are authorised to do so. The Immigration and Asylum Accreditation Scheme (IAS) is also in operation. Incorrect advice can have devastating consequences for the individual concerned.

In Activity 4, Katy Eagle spoke about the importance of encouraging migrants, refugees and asylum seekers to get appropriate independent legal representation and other advice and support, and the importance of social workers being able to signpost their clients to these services appropriately.

7.2 Signposting to other organisations

Signposting can be an important role for social workers working with migrants, asylum seekers and refugees. In the box below there is a list of resources that have all been identified by lawyers and practitioners as being valuable sources of further information, support and advice – there may be many more in your nation and local area. National organisations that offer information and guidance have also been included.

Box 5 Further information, support and advice

Statutory agency

- UK Visas and Immigration

Legal advice

- [Find a legal aid adviser](#)
- [Find an immigration adviser](#)
- [The Law Society](#)
- [Law Society of Scotland](#)
- [The Law Society of Northern Ireland](#)
- [Law Centres Network](#)

Some useful organisations for advice and support

- Asylum Aid

- Asylum Support Appeals Project
- British Red Cross Refugee Services
- Freedom from Torture
- Helen Bamber Foundation
- Information Centre about Asylum and Refugees (ICAR)
- Joint Council for the Welfare of Immigrants
- Migrant Help
- Migration Scotland – which provides guidance about entitlements (Scotland)
- Northern Ireland Community of Refugees and Asylum Seekers
- NRPF Network – which provides guidance and a helpful tool about entitlements (England and Wales)
- Project 17
- The Refugee Council (England)
- The Scottish Refugee Council
- The Welsh Refugee Council

Trafficking and services to children and young people

- ATLEU (Anti-Trafficking and Labour Exploitation Unit)
- Barnardos
- Becoming Adult
- Child Trafficking Advice Centre (NSPCC)
- ECPAT UK
- JustRight Scotland
- Migrant and Refugee Children's Refugee Legal Centre
- Modern Slavery helpline and resource centre
- Scottish Guardianship Service
- Unseen

Domestic violence

- Rights of Women
- Scottish Women's Rights Centre
- Southall Black Sisters
- Women for Refugee Women
- Women's Aid

This dual role of providing support for people with insecure immigration status, refugees and asylum seekers, as well as signposting them to appropriate services is explored in the next section in relation to unaccompanied asylum-seeking children and young people.

8 Social work and unaccompanied asylum-seeking children and young people

Social services are responsible for children and young people seeking asylum who arrive in the UK unaccompanied or separated from their families. The support of unaccompanied asylum-seeking children and young people (UASC), or separated children, is the responsibility of local authorities under the Children (Scotland) Act 1995 and the Children Act 1989 (in England and Wales). (The term 'separated' is preferred by some organisations, as UASC may arrive in the UK with adults who are not their primary carers, or who exploit or abandon them.) These separated children will be entitled to the same range of services as any other 'looked after' child.

In England and Wales these young people are initially provided with support by a member of the Refugee Council's Independent Unaccompanied Asylum Seeking Child Support Service (IUSS), charged with the specific task of providing support and advice for such children (who by virtue of being alone are vulnerable and 'in need'). In Scotland, the Scottish Guardianship Service provides them with a guardian.

The majority of children that a social worker will meet in practice are children in need; today it is also likely that some of these children will be asylum seekers. Social workers can have a significant advocacy role in supporting the rights of children caught up in the asylum process.



Figure 5 Yarls Wood immigration detention centre

A Refugee Council report (Dennis, 2012) found that children continue to be wrongfully detained because they were erroneously being classified as adults. Young people can often arrive seeking asylum without any documentation showing their age. The detention of children is open to challenge on human rights grounds; social workers are well placed to contribute to public awareness of the need to recognise and protect the rights of the child.

8.1 Social work and age assessment

An ethically controversial area of social work practice is assessing the age of asylum-seeking young people. Correct age assessment is important so as to ensure that children get the protection and support they need and are entitled to under law. At the same time, determining the age of a young person claiming to be an asylum seeker is a very difficult issue for the local authority. In some cases, there might be an incentive for young persons entering the country to be held to be under 18, as it entitles them to services and accommodation and postpones questions of repatriation until they are adults. However, in more than half the cases of disputed age where age assessment has taken place, the decision was upheld that the person was in fact a child (Refugee Council, 2018a). These assessments require skilled social workers who take a child-centred approach that is both culturally sensitive and trauma informed. The Association of Directors of Children's Services (ADCS) has issued good-practice guidance on age assessment (ADCS, 2015),

which acknowledges the ethical issues in social workers being involved with this. The guidance states that:

Age assessments are a controversial subject, and indeed there is a robust debate on whether social workers should complete age assessments at all. While we acknowledge the contested nature of age assessments, some children arrive in the UK whose age may be unclear, unknown or disputed. The fact remains that social workers are currently required to complete age assessments in England so as to ensure any service a child requires is provided appropriate to their age and assessed needs. Social workers, by nature of their education, experience and specialist skills in working with and interviewing vulnerable children and young people, are uniquely positioned to undertake holistic assessments.

(ADCS, 2015, p. 3)

One of the first questions social workers ask is whether it is necessary in a particular case to conduct an age assessment at all? The ADCS guidance states:

Age assessments should only be carried out where there is significant reason to doubt that the claimant is a child. Age assessments should not be a routine part of a local authority's assessment of unaccompanied or trafficked children.

(ADCS, 2015, p. 7)

In 2018, the Scottish Government (2018b) published practice guidance to assist social workers in assessing the age of young people seeking asylum in Scotland.

Dyball et al. (2012) suggest that:

A legally compliant age assessment carried out to professional standards will serve the interests of both the young person and the assessing local authority, not least because of the possibility of a challenge to a decision through judicial review with all that this potentially entails for the parties concerned. It is important therefore to adopt assessment practices that are defensible as this will assist in avoiding unnecessary distress and cost later on.

(Dyball et al., 2012, p. 10)

Assessment should aim to take the trauma and anxiety of the asylum seeker into account and to recognise cultural differences in regard to the recording and significance of age.

8.2 Trafficking

Data suggests that 2118 young people were trafficked into the UK in 2016 for the purposes of modern day slavery (ECPAT UK, 2018). The UK government has an obligation arising under the Council of Europe Convention on Action against Trafficking in Human Beings 2005 to identify and protect survivors of trafficking. This happens in the UK through the National Referral Mechanism (NRM). Adults must consent to be referred into the NRM, but children are referred without their consent by first responders (e.g. the police, the Home Office, social workers and a range of non-governmental organisations (NGOs)). Scotland and Northern Ireland have also recently passed modern slavery Acts in order to progress their obligations to detect and prosecute trafficking, and to offer support to survivors of trafficking (see Box 3).

In Activity 5 you will consider some good practice guidance on dealing with suspected child trafficking.

Activity 5 Child trafficking

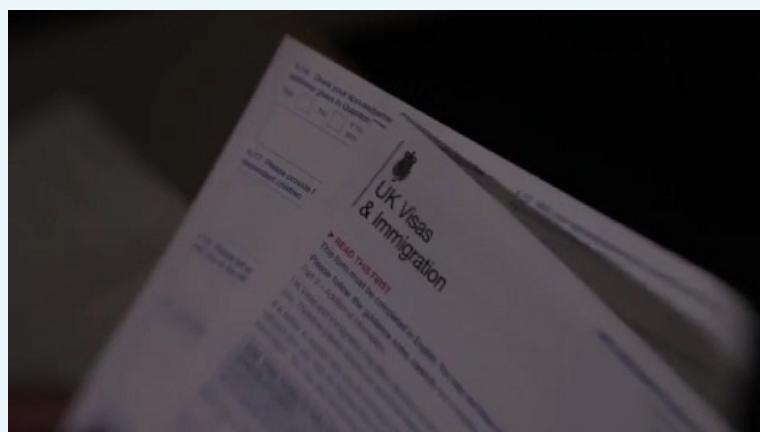
 45 minutes

In this activity, you'll be asked to watch a video on child trafficking, which mentions abuse and rape. If you are concerned that you might find this video distressing and that it could adversely affect your mental health, you might like to skip this activity or engage with it only very lightly.

Watch the following short video on child trafficking made by ECPAT UK and then read the document on [Age Assessment Guidance](#) from ADCS (ADCS, 2015). As you watch the video and read the guidance, answer the questions that follow.

Video content is not available in this format.

Video 2 Child trafficking



1. What can social workers do to support young people who may have been trafficked?

Provide your answer...

2. What are some of the barriers to the young people accessing help?

Provide your answer...

3. How might the barriers be overcome?

Provide your answer...

Discussion

The ADCS (2015) guidance states:

In 2014, 627 children were referred to the National Referral Mechanism as potential victims of trafficking, 327 females and 300 males. Most of these children were trafficked for sexual exploitation, labour exploitation or domestic servitude. Social workers must be alert to the possibility of child trafficking and be prepared to instigate a child protection response where a child may be at risk.

(ADCS, 2015, Appendix B)

Many of the trafficked young people are British. As you saw in Activity 1, at least a quarter of trafficked young people in the UK are young people who have gone missing from the UK care system.

Identifying trafficked children can be a challenge. Children are unlikely to disclose that they have been trafficked, and they may believe that they have come to the UK for a better life or be suspicious of authority or adults. They are also often disbelieved when they do disclose information and can find themselves being prosecuted in the UK for enforced criminality, rather than being identified as victims of exploitation (ECPAT UK, 2018).

For a variety of reasons, including fear of repercussions for themselves and for their families, it can also be difficult to get trafficked children to provide a clear story, especially given that they might have been coached to provide a particular story by their abusers. Taking the time to ensure their safety, gain children's trust and to build a relationship is crucial to an accurate social work assessment. Expert advice from the organisations working in this field can be helpful (see Box 5 in Section 7.2). One useful resource is the [London Safeguarding Trafficked Children Toolkit](#) (London Safeguarding Children Board, 2009).

The Modern Slavery Act 2015 requires statutory guardians for trafficked children. There is a commitment under Section 48 of the Modern Slavery Act for independent child advocacy to be made available to trafficked children; however, the provision of this service across England and Wales has been slow to materialise, and the pilots across ten local authorities were completed in 2022.

9 Women, asylum and immigration


Women face particular issues as migrants, asylum seekers and refugees. In the next activity, Meena Patel, of Southall Black Sisters (SBS), discusses some of the challenges that women can face in relation to the immigration system. She talks about the work of SBS, a campaigning and voluntary organisation working nationally with black and ethnic minority women. She focuses on the role of social workers in relation to law and practice in cases involving domestic violence, immigration and where there is no recourse to public funds (NRPF), especially for those on spousal visas. In addition, she considers the needs of women experiencing immigration, asylum and NRPF problems with other forms of gender-based violence, including sexual violence and harmful practices such as forced marriage, female genital mutilation and so-called 'honour' based violence.



Figure 6 Southall Black Sisters

Meena explores the definition of vulnerability, and how this can be applied to women and children seeking help from social services, and who are in need of housing and financial support to prevent destitution when leaving an abusive relationship. In particular, she explains how and why social workers can, and should, house and support women and children together – rather than simply place children into care, which is the practice of some local authorities.

Activity 6 Interview with Meena Patel, Southall Black Sisters

 40 minutes

As you listen to the audio featuring Meena Patel, note down your thoughts on the questions that follow.

Please note, this audio is approximately 21 minutes long.

Audio content is not available in this format.



Audio 16

1. What particular issues do women face as migrants, refugees and asylum seekers?

Provide your answer...

2. How can social workers support women who are experiencing violence and abuse?

Provide your answer...

3. Why has SBS campaigned to get various laws, including that on spousal visas, changed?

Provide your answer...

Discussion

Meena discusses how the law can be used to support women and why SBS has campaigned successfully for legal change – for example, on spousal visas. Effective early intervention by social workers can help to prevent the escalation of abuse and harm both to vulnerable women and their children, and reduce the possibility of litigation where they fail in their duty of care.

Also, as Meena outlines, faced with financial constraints and legal limitations, social workers need to look at other sources of help to which they can refer women for legal, housing and welfare assistance and support, such as women's domestic violence housing, support and advocacy services, and immigration lawyers or advisers.

Additionally, the needs of women with no dependent children can be met and, as some local authorities apply narrow interpretations of the law, social workers can help to ensure that these women can be defined as 'vulnerable' adults, by considering a range of factors, such as pregnancy, age, health and social circumstances. This is especially important in a context where migrant women face multiple problems and forms of discrimination. For instance, Asian women are three times more likely than women generally to commit suicide due to undiagnosed mental health problems caused by abuse. They also have higher rates of self-harm and suicide ideation, which can be compounded by an insecure immigration status or barriers to accessing support and protection because of the NRPF restriction (Siddiqui and Patel, 2010).


Meena discusses the importance of the support group run by SBS and the role of peer support in supporting women through challenging circumstances. Social support and building social networks is an important facet of support.

One source of information for women and girls escaping violence with insecure immigration status is Rights of Women.

9.1 Seeking asylum

In the final activity, Syeda Akbar – who herself sought asylum – speaks about her experience to help train practitioners and improve practice with asylum seekers.

Activity 7 Seeking asylum – a case study

 45 minutes

In the following interview, Syeda Akbar, a young woman from Pakistan who sought asylum in England with her two children, speaks of the many issues she faced during the asylum process, the help she received from Southall Black Sisters (SBS) and her experience of other services. As you listen to Syeda speaking about her different experiences, you might wish to stop and come back to particular issues.

Audio content is not available in this format.



Audio 17 Syeda Akbar introduces herself and the issues that led to her seeking asylum

Audio content is not available in this format.



Audio 18 Syeda Akbar talks about what she did when her visa ran out

Audio content is not available in this format.



Audio 19 Syeda Akbar talks about her first contact with SBS – the voluntary organisation for women

Audio content is not available in this format.



Audio 20 Syeda Akbar talks about turning up at social services to ask for support after being evicted

Audio content is not available in this format.



Audio 21 Syeda Akbar talks about the way she and her children were treated by the local authority while their case was pending

Audio content is not available in this format.



Audio 22 Syeda Akbar talks about her NASS (now Home Office asylum support) accommodation and being dispersed to Coventry

Audio content is not available in this format.



Audio 23 Syeda Akbar talks about her and her children getting leave to remain as refugees and leaving the NASS (now Home Office asylum support) system

Audio content is not available in this format.



Audio 24 Syeda Akbar talks about how she and her children have settled since being granted leave to remain

Make notes to answer the following questions.

1. What barriers did Syeda face during the asylum process?

Provide your answer...

2. What support did she find useful?

Provide your answer...

Discussion

The advocacy and practical support that an organisation like SBS was able to provide at a point where Syeda did not know where to turn was particularly valuable. As Syeda's story shows, although there are common themes in the experience of seeking asylum which we can learn from, every experience is also different. It is therefore important to treat migrants, asylum seekers and refugees as individuals in their own right with their own stories to tell and their own sense of agency. Being

spoken to in a humane way, being treated with dignity and being offered social and practical support can make a huge difference to someone's life, especially at a time when they may be feeling lonely. Syeda asks whether some of her poor treatment was as a result of the law or of attitudes. What do you think? As you have explored in this course, the law can be constricting in relation to social work practice with asylum seekers and immigrants, but – as you have seen – there are organisations that can offer support and knowledge about the law. It is also important to recognise the resilience that people like Syeda and her children show in adapting to their new circumstances.

Conclusion

Social workers are struggling to find their place in this strongly politicised field of asylum and immigration (Larkin and Maglajlic, 2019). Yet social workers are ideally placed both to challenge existing practice methods and to develop alternative ways of working within a framework of rights, justice and cross-cultural principles. Unlike other professions, social work espouses a holistic approach that breaks down the dichotomies of individuals–society, policy–practice, advocacy–casework. There will no doubt be as much contention within the profession as outside it on these issues, but the debate needs to be engaged.

In this course you have engaged with a difficult area of social work practice where, arguably, the law and social work values are in conflict. It has been suggested that even where the legislative framework seeks to limit social work intervention, an understanding of legal values, such as human rights and due process, can assist social workers to reflect on the space for ethical social work practice that exists within the law.

Key points

- Statutory social work is limited by law in its ability to address the housing and welfare needs of migrants and asylum seekers.
- Migrants, asylum seekers and refugees face significant barriers to accessing support services.
- Social workers need an understanding of immigration and asylum policy and the asylum process, in order to reflect on their professional role in this area.
- Migrants, asylum seekers and refugees are entitled to social work services where obligations exist under the legislation relating to children, families and adult care.
- An understanding of legal and social work values can assist professionals to negotiate the ethical dilemmas presented by this area of practice.

This course is part of a suite of courses on social work and the law. You may be interested in continuing your studies in this subject with the following courses:

- [An introduction to social work law](#)
- [Social work law and UK regulation](#)
- [Applying social work law with children and families](#)

This OpenLearn course is an adapted extract from the Open University course [K271 Social work law](#).

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Human Rights Act 1998

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Immigration Act 2016
Immigration and Asylum Act 1999
Immigration, Asylum and Nationality Act 2006
Modern Slavery Act 2015
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