



**Unlocking the right to work: access to the  
labour market for asylum seekers in Northern  
Ireland**

**Recommendations for action**

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## Summary

Employment is a key driver of refugee integration. In addition to encouraging integration, supporting economic activity brings a range of benefits to asylum seekers and their families as well as to wider society. Securing employment:

- a. Improves well-being and mental health
- b. Reduces poverty and dependency
- c. Supports skills retention that enhances long-term employment prospects
- d. Brings valuable skills to the local economy
- e. Addresses critical skills shortages in the Northern Ireland labour market

A change in Home Office policy regarding asylum seekers and work permission now means that taking up employment is a viable option for a number of people in the asylum system.

A major barrier to asylum seekers looking for employment is the lack of clarity as to how employment earnings will affect ongoing eligibility to asylum support.

This paper identifies a number of issues that require clarification. Once available, this information will enable asylum seekers to make informed choices about accepting work. Other measures proposed in this paper will help reduce the risk of homelessness that could arise as a result of asylum seekers accepting work and will also help grow the healthcare and social care workforce.

## Summary of recommendations

1. The Home Office clarifies how people seeking asylum are required to report their earnings.
2. The Home Office publishes a clear process whereby people seeking asylum in employment can easily understand:
  - a. Whether they are eligible for continued NASS support; and
  - b. What financial contribution they may be required to make towards the cost of their accommodation; and
  - c. How this process will be administered.
3. TEO secures confirmation from the Home Office that asylum seekers who have been granted work permission are not considered to be “disqualified persons” for purposes of opening a current bank account. Further, that TEO issues guidance to the Northern Ireland banking sector on this issue and/or agrees a process of writing on behalf of individual asylum seekers to assist with opening a bank account.
4. TEO takes steps to safeguard people seeking asylum in NI against homelessness by making the Crisis Fund support available pending a new award of asylum support.
5. The Home Office / Migrant Help publishes a process for people seeking asylum who lose employment to be quickly reassessed for asylum support.
6. The TEO work with Education Authority to ensure that the children of asylum seekers who are in low-paid employment can retain their Free School Meals and School Uniform Grant.
7. TEO works with relevant departments to develop:
  - a. An employability programme for people seeking asylum who wish to work as care assistants / nursing auxiliaries;
  - b. Specific programmes to support highly skilled healthcare professionals to requalify and enter the NI workforce. Such programmes would be aimed at both people seeking asylum and refugees in NI.

These programmes should be reflected in the (forthcoming) Refugee Integration Strategy.

## Introduction

An asylum seeker who is aged 18+ years and who has waited for 12+ months for a decision on their asylum claim can request permission to work from the Home Office.<sup>1</sup> If granted, work permission will be limited to jobs on the [Shortage Occupation List](#) (SOL). An updated Application Registration Card outlining this restriction will be issued.

For many years, the only jobs on the SOL were very specialist, meaning that only a tiny number of asylum seekers were eligible to work. In 2021, the SOL was extended to include a number of healthcare professions including care assistants and nursing auxiliaries. This significantly increases the prospect of asylum seekers being able to obtain legal employment, which will bring with it many benefits.<sup>2</sup>

The Law Centre has long called for a change in UK policy that would enable all asylum seekers to work.<sup>3</sup> We view the expanded SOL categories as an interim step towards full realisation of the right to work. We have sought to inform asylum seekers about the practicalities of obtaining permission to work by publishing translated information briefings:<sup>4</sup>

- Briefing No 1 [Applying for permission to work](#);
- Briefing No 2 [Obtaining a National Insurance Number](#).

These briefings have been widely circulated and accessed.<sup>5</sup> This is evidence of the significant interest in employment within asylum seeker communities.

Briefing No. 3 (forthcoming) will explain the impact of employment on asylum support. We have also published template letters for use in requesting permission to work.<sup>6</sup>

## The Importance of Informed Choices

The large majority of people seeking asylum are in receipt of asylum support (“NASS”). When assessing eligibility for NASS, the Home Office takes into account all income and assets. This means that an asylum seeker in employment risks losing their eligibility for accommodation. In order to make an informed decision about whether to accept employment, it is essential that asylum seekers can understand exactly how their earnings will impact their NASS.

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<sup>1</sup> This is only available for the ‘primary’ asylum application and where the asylum application is still pending.

<sup>2</sup> Employment is one of the 5 domains within the [Home Office Indicators of Integration framework 2019](#) ([publishing.service.gov.uk](#))

<sup>3</sup> The Law Centre is a member of the [Lift the Ban](#) coalition. We have consistently raised the issue of work permission in consultation responses to NI consultations, Westminster consultations as well as in our submissions to UN treaty monitoring bodies.

<sup>4</sup> These briefings are available on the Law Centre NI website in the following languages Arabic, Farsi, Somali and Tigrinya.

<sup>5</sup> These briefings have reached 4,584 impressions on Twitter and 1,380 impressions on Facebook (in November 2022).

<sup>6</sup> Two template letters are available here: [Resource library | Law Centre Northern Ireland \(lawcentreni.org\)](#)

The right to gainful employment is protected by the International Covenant on Economic, Social and Cultural Rights.<sup>7</sup> Access to accurate information about the implications of accepting work is a necessary precursor to asylum seekers being able to exercise this right.

A legal framework underpins asylum support<sup>8</sup> and is supported by [Home Office guidance](#)<sup>9</sup> that explains, in general terms, how NASS payments are calculated. Limited information relating to asylum support and employment is also available in an [Asylum Policy Bulletin](#).<sup>10</sup> However, whilst the guidance outlines the relevant *principles*, **it does not provide detailed information about how NASS is affected by income.**

Currently, the Home Office has the [power](#) to require a NASS recipient to contribute towards the cost of their asylum support.<sup>11</sup> As far as we can ascertain, the Home Office has not yet devised a system whereby contributions can be calculated or recovered.<sup>12</sup>

The majority of asylum seekers who find SOL employment are likely to work in the low-wage care sector. Combined with the current shortage of affordable housing in Northern Ireland, it is very unlikely that asylum seekers will be able to afford their own private rental accommodation. This means that many asylum seekers will continue to be reliant on their NASS accommodation. This is why it is essential that asylum seekers fully understand what financial contribution they may be asked to make towards to their housing costs.

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<sup>7</sup> Article 6, International Covenant on Economic, Social and Cultural Rights 1966.

<sup>8</sup> Immigration and Asylum Act 1999 and associated regulations.

<sup>9</sup> Home Office, 'Assessing destitution: guidance for caseworkers', updated November 2021.

<sup>10</sup> Home Office, 'Asylum support: Policy Bulletins Instruction'. See Chapter 7.

<sup>11</sup> Asylum Support Regulations 2000, regulation 16

<sup>12</sup> The Law Centre has spoken to a number of refugee support organisations in GB including the Asylum Support Appeals Project and Network and has sought assistance from an NI MP who corresponded with the Home Office on our behalf. We have also spoken to asylum seekers who have received SOL employment and who are currently working to try and understand the process.

## What actions are needed?

There are a number of important clarifications that would unlock the right to work for people seeking asylum in Northern Ireland by enabling them to make informed choices about SOL employment:

### 1. Earnings

Asylum seekers are required to report 'any significant change in their material circumstances' to the Home Office.<sup>13</sup> Failure to do so without reasonable excuse is an offence.<sup>14</sup> Asylum seekers who are granted SOL work permission are advised as follows:

*If you are receiving any Home Office support, you are required to submit details of your employment when you start work in order that a review of your Home Office support can be conducted. Failure to provide the information requested could result in your Home Office support being terminated.*

*Please note that any earnings you receive may reduce or remove your entitlement to Home Office support. Any changes to the level or entitlement to Home Office support will take effect from the date that your first wage is received. This could mean that the Home Office will ask you to repay any overpaid Home Office support if you continued to receive Home Office support whilst receiving earnings from employment.<sup>15</sup>*

It is unclear, however, in practice, how asylum seekers should report their employment or whether this information will be captured via HMRC through the PAYE scheme. Clarity is also needed about how fluctuating earnings will be dealt with; given the prevalence of shift work within the care sector, it is anticipated that many workers' take home pay will vary week to week.

### The Law Centre recommends

The Home Office clarifies how people seeking asylum are required to report their earnings.

### 2. Housing

Home Office guidance states that asylum support is provided to persons whose income falls below the 'destitution threshold'. The general principles are as follows:

- If income is below the destitution threshold, NASS is paid.
- If income exceeds the destitution threshold, no NASS is paid.
- If there is some income but not enough to meet the threshold, NASS *may* be paid at a reduced level. Guidance states that income is deducted £1 for £1: so if an asylum

<sup>13</sup> Regulation 15 (1) of the Asylum Support Regulations 2000.

<sup>14</sup> Section 105(1) (c) of the Immigration and Asylum Act 1999.

<sup>15</sup> This text is taken from the Home Office letter issued to asylum seekers who are granted SOL work permission (ASL.4264).

seeker has an income of £20 per week, their NASS payment is deducted by £20 per week.

The destitution threshold is calculated on a 14 day basis:

$$\text{Destitution threshold} = \text{Subsistence support} + \text{cost of adequate accommodation}$$
$$= \text{£81.70}^{16} + \text{? [unknown]}$$

There is no standardised rate for the cost of 'adequate accommodation'. Home Office guidance specifies that the rate can be established by obtaining an average price for bed and breakfast in the local area.<sup>17</sup>

The onus appears to be on individual asylum seekers to calculate the destitution threshold in their local area before they can then know if their earnings exceed the threshold. This is cumbersome and, given the fact that the cost of accommodation fluctuates quite significantly throughout the year, it means that the destitution threshold could differ for individual asylum seekers. This is confusing and makes it extremely difficult for asylum seekers – and for their advisers - to understand eligibility for continued NAAS support.

There must be an easier way for the destitution threshold to be calculated, which provides legal certainty. One option might be for the Home Office to determine a specific amount in each area that might need to be updated regularly (e.g. similar to the Local Housing Allowance which is used to determine eligibility for housing costs).

Once the destitution threshold has been calculated, the next step is to understand whether the asylum seeker is then required to make a financial contribution to the cost of their accommodation. At present, there is no published information about how these contributions are calculated or recovered.

#### The Law Centre recommends:

The Home Office publishes a clear process whereby people seeking asylum in employment can easily understand:

- a. Whether they are eligible for continued NASS support; and
- b. What financial contribution they may be required to make towards the cost of their accommodation; and
- c. How this process will be administered.

### 3. Bank accounts

Employers will expect a prospective asylum seeker employee to have a bank account. The Law Centre anticipates that opening a bank account will be difficult for some asylum seekers

<sup>16</sup> NASS subsistence for a single adult is £40.85 per week i.e. £81.70 for a 14 day period.

<sup>17</sup> Home Office, 'Asylum support: Policy Bulletins Instruction'. See Chapter 8.

given the chilling effect of the Immigration Acts 2014 and 2016, which give the Home Office powers to prevent “disqualified persons” from opening or holding bank accounts.<sup>18</sup>

Many *refugees* already experience difficulties opening accounts due to the banks’ identity/evidential requirements. Through TEO’s Ukraine Operational Support Team, assistance has been provided to Ukrainian refugees to confirm identity and address for the purposes of opening bank accounts. This has operated well and could be rolled out to others also fleeing war and persecution.

#### **The Law Centre recommends:**

TEO secures confirmation from the Home Office that asylum seekers with SOL work permission are not considered to be “disqualified persons” for purposes of opening a current account.

TEO issues guidance to the Northern Ireland banking sector on this issue and/or agrees a process of writing on behalf of individual asylum seekers to assist with opening a bank account. The Ukraine Scheme provides a helpful precedent.

#### **4. Driving licences**

A similar issue applies with regards driving licences. Care assistant roles often require a driving licence, however, immigration legislation creates a residence requirement for driving licence that asylum seekers cannot meet. This affects the validity of insurance.

CAJ has identified that the regulation of driving licences, motor vehicle insurance and related road offences are transferred matters. Accordingly, the provisions enacted by Westminster can be amended, repealed and/or modified by the Northern Ireland Assembly.<sup>19</sup>

#### **The Law Centre recommends:**

TEO considers amending, repealing and/or modifying the regulation of driving licences for asylum seekers.

#### **5. Avoiding poverty and homelessness**

The Law Centre anticipates that some asylum seekers who enter SOL employment could experience further poverty and/or homelessness as a result.

This could occur if, for example, a person’s NASS payments are stopped before s/he starts receiving income through employment (mindful that employment is usually paid in arrears). This could leave a person without any income for a couple of weeks.

The risk of homelessness arises in the following example where a person:

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<sup>18</sup> Section 40 Immigration Act (2014) and Schedule 7 to the Immigration Act 2016. See also Mark Bassett BL, [‘Can Stormont rollback the Home Office ‘Hostile Environment’ policies?’](#) (CAJ, 2021) p.69

<sup>19</sup> Mark Bassett BL, [‘Can Stormont rollback the Home Office ‘Hostile Environment’ policies?’](#) (CAJ, 2021) p.34

- loses their ineligibility to NASS due to earnings; and
- moves into private rental accommodation; then
- loses their employment; and
- experiences delays with their subsequent (re)application for NASS support.

This risk of homelessness may discourage some asylum seekers from exercising their right to work. The TEO Crisis Fund could provide an important 'safety net' for asylum seekers who become homeless pending their NASS reassessment. This temporary support would bridge the gap until NASS is reinstated.

**The Law Centre recommends:**

The TEO takes steps to safeguard people seeking asylum in NI against homelessness by making the Crisis Fund support available to a person:

- a) who is experiencing poverty while waiting for first salary; or
- b) experiences homelessness pending a new award of NASS.

The Home Office / Migrant Help publishes a process for people seeking asylum who lose employment to be quickly reassessed for NASS support.

## 6. Free school meals

Asylum support acts as a 'passport' to Free School Meals / School Uniform Grant.<sup>20</sup> As outlined above, there is a possibility that some people seeking asylum who start work will lose their NASS asylum support. The Law Centre's view is that if earnings do not exceed the thresholds associated with Child Tax Credit or Universal Credit,<sup>21</sup> then Free School Meals / School Uniform Grant eligibility should continue.

**The Law Centre recommends:**

The TEO work with Education Authority to ensure that the children of asylum seekers who are in low-paid employment can retain their Free School Meals and School Uniform Grant.

<sup>20</sup> [Free School Meals / Uniform Grant Eligibility | Education Authority Northern Ireland \(eani.org.uk\)](https://www.eani.org.uk/free-school-meals-uniform-grant-eligibility)

<sup>21</sup> Free School Meals are available for applicants in receipt of Child Tax Credit or Working Tax Credit with an annual taxable income of £16,190 or less or Universal credit and have net household earnings not exceeding £14,000 per year.

## 7. Labour market access and workforce planning: insights in health & social care

Once an asylum seeker can make an informed choice about employment and NASS, the next step will be finding suitable SOL employment.

Given the acute pressures in the health system, in March 2022, the Law Centre worked with UNISON to survey asylum seekers and refugees with medical qualifications / experience and/or interest working in the healthcare sector. The findings of this survey are attached. See: *'Healthcare Skills of asylum seekers and refugees in Northern Ireland'*.

### a) Pathways for asylum seekers into care work

The Law Centre/UNISON survey found that out of the 62 asylum seeker respondents:

- 96% expressed an interest in working in the healthcare sector
- 90% would be willing to work as a care assistant / nursing auxiliary
- 47 asylum seekers provided their contact details to be notified about developments relating to access to work in this sector (as did 39 refugees).

The Department of Health and/or other agencies should now develop an employability programme for asylum seekers wishing to work in the care sector. This programme might include:

- Sector-specific English language skills
- Job training
- Support with job applications / CV writing
- Assistance with Access NI process, etc.

The Belfast City Council Employment Academies may provide a useful model.

### b) Pathways for highly-skilled refugees in health care

A related but standalone issue is the need for a specific programme in Northern Ireland to help refugees who are highly skilled healthcare professionals to re-enter their profession. The Law Centre's experience is that this group tends to relocate from Northern Ireland to Britain once they are awarded refugee status in order to re-establish their careers. This is a missed opportunity for Northern Ireland, especially at a time of acute pressure in the health system.

The British Medical Association identified almost 300 consultant vacancies across Northern Ireland's five health trusts in 2021.<sup>22</sup> This summer, the Royal College of Nursing in Northern Ireland warned that current plans to grow the workforce are insufficient to address the severe shortage of nursing staff in Northern Ireland.<sup>23</sup> This last month there have been many media reports of Northern Ireland's deepening healthcare crisis and understaffed hospitals.<sup>24</sup>

<sup>22</sup> [Health service: Northern Ireland 'short of almost 300 consultants' - BBC News 10 February 2022](#)

<sup>23</sup> [Workforce action plan for Northern Ireland branded 'not enough' | Nursing Times 17 June 2022](#)

<sup>24</sup> For example: [Northern Irish healthcare in crisis amid political deadlock | Northern Ireland | The Guardian](#); [Calls for urgent health summit over Northern Ireland hospitals crisis - The Irish News](#); [Northern Ireland health trust bosses fear winter as hospital capacity hits 111% | UTV | ITV News](#)

The Law Centre / UNISON survey identified the following medical professionals who are refugees and therefore have **an unlimited right to work**.

- 11 doctors
- 7 nurses
- 3 consultants / specialists
- 2 pharmacists
- 2 surgeons
- 1 paramedic
- 1 dentist

A striking finding is that of these healthcare professionals, only one quarter (27%) are currently working according to their qualifications; most are working at levels far below their skill set.

There are no government-funded initiatives in Northern Ireland to assist refugee healthcare professionals to enter the workforce. Any initiatives are coordinated by the voluntary and community sector.

For almost 10 years, UNISON has been running free IELTS and Occupational English Test (OET) English classes, which are the English language tests required for healthcare professionals. The UNISON classes are attended by UNISON migrant work members planning to join the Nursing & Midwifery Council register and by asylum seekers and refugees who need to pass the English tests as a first step to requalifying. All the attendees have a health and social care background and professions include surgeons, doctors, physiotherapists, dentists, nurses, etc. Approximately 50 asylum seeker doctors have attended UNISON English courses over the years. UNISON observes that the vast majority have since left Northern Ireland to settle in cities in GB, where they have joined specific employability programmes offering pathways to practice.

UNISON notes that while that a number of community organisations provide free basic English classes, it is virtually impossible for asylum seekers and refugees to get free support to reach the necessary level of English required to progress with their healthcare careers (a minimum Grade 7 in IELTS or OET equivalent). Accordingly, the UNISON classes are extremely valued by refugee healthcare professionals.

In developing a planned response to harness this medical expertise within the asylum/refugee community, there are many established projects that TEQ and the Department of Health could learn from. In addition to increasing employment prospects for refugees and helping to address Northern Ireland's health sector skills shortages, such programmes make good financial sense. It is estimated that the total cost of training a refugee doctor to work in the NHS is just 12% of the cost of training a new doctor for one year.<sup>25</sup>

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<sup>25</sup> [Building Bridges Programme for Refugee Health Professionals in London - Refugee Council](#)

The Welsh Government-funded Wales Asylum Seeking and Refugee Doctors (WARD) Group, has been supporting refugee doctors to have their existing medical qualifications recognised and find employment in the NHS for 15 years. This scheme is estimated to have saved taxpayers at least £25 million over that time and has empowered refugees to use their skills to ‘give back’ to Wales, saving countless lives in the process.<sup>26</sup>

The Building Bridges programme<sup>27</sup> is an NHS funded partnership for Refugee Health Professionals living in London. It assists refugee doctors to re-qualify to UK standards and secure employment appropriate to their professional qualifications. The programme helps refugee doctors to: prepare for the relevant exams e.g. Occupational English Test, PLAB Part 1 and 2 exams; obtain professional registration with the General Medical Council; find employment through the Clinical Apprenticeship Scheme or other routes.

### The Law Centre recommends:

TEO and the Departments of Health and Economy work together to develop:

1. An employability programme for people seeking to asylum who wish to work as care assistants / nursing auxiliaries;
2. Specific programmes to support highly skilled healthcare professionals to requalify and enter the Northern Ireland workforce. Such programmes would be aimed at people seeking asylum and refugees in NI.

These programmes should be reflected in the (forthcoming) Refugee Integration Strategy.

## Conclusion

The changes to the Shortage Occupation List creates a real opportunity for asylum seekers wishing to work. There is an opportunity now to make a tangible difference to asylum seekers living in Northern Ireland while also addressing some of the current skills shortages within the health and social care sector.

For further information, please contact the Migration Justice Project at Law Centre NI

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This paper was first submitted to TEO in December 2022 and was amended in April 2023 to include a section on driving licences.

<sup>26</sup> Welsh Government, ‘Nation of Sanctuary – Refugee & Asylum Seeker Plan’, January 2019, p.6.

<sup>27</sup> [Building Bridges Programme for Refugee Health Professionals in London - Refugee Council; Help for refugee doctors \(bma.org.uk\)](#)