

Report

**FOCUS ON
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EXPLOITATION**

“I kept waiting and waiting”: The realities of asylum seekers’ restricted right to work in the UK

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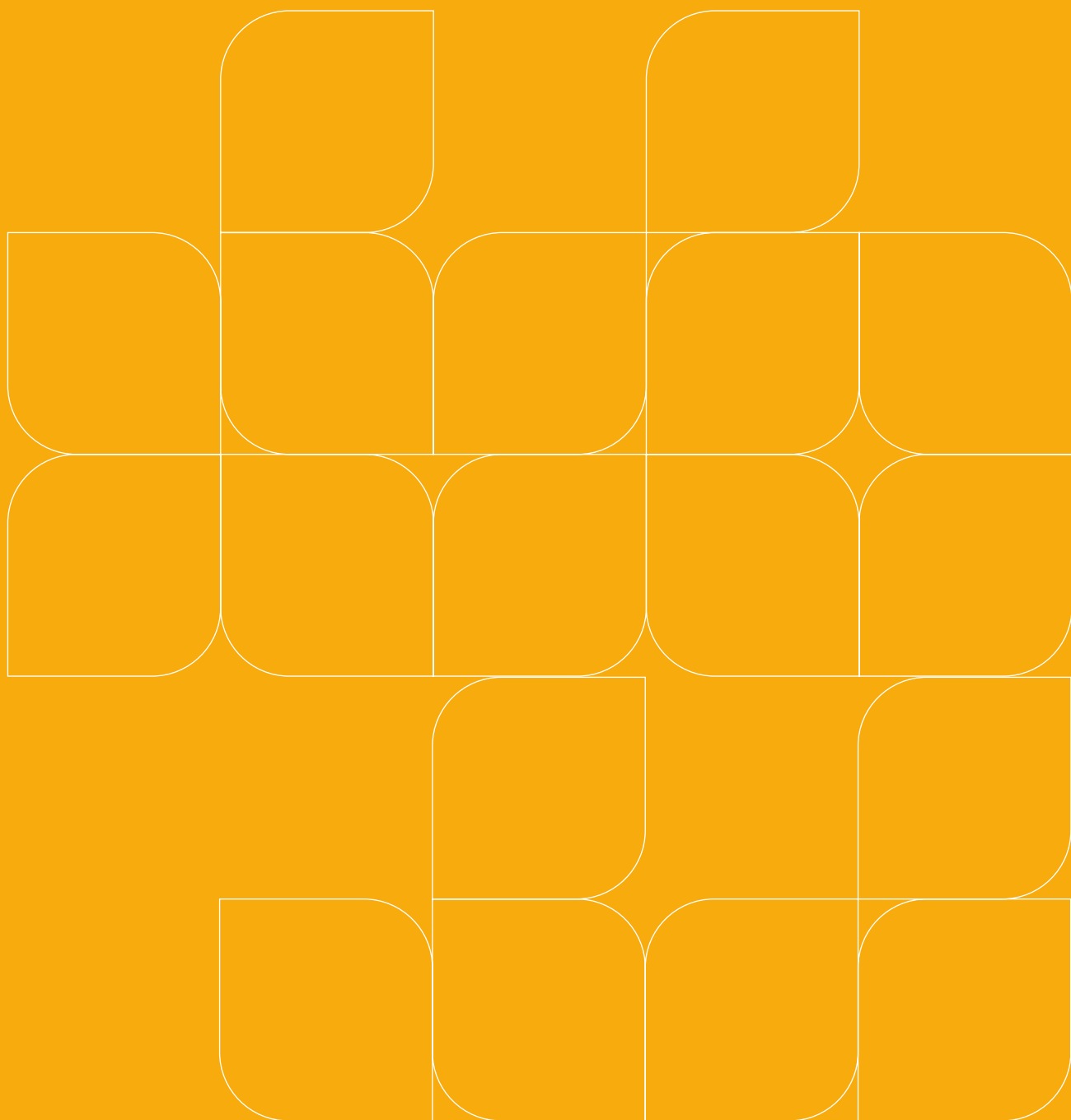
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**“Yes, I did apply for
permission to work because
I had to survive.”**

Amy, asylum seeker 2019-present



1. Introduction

1.1 Introduction & Background

Asylum seekers¹ have no right to work in the UK unless they have been granted permission to work by the Home Office (*Immigration Rules* pt. 11B (paras. 360-360E)). The exception to this rule is where someone claiming asylum has an existing right to work based on a different visa which was valid when they applied for asylum (*Immigration Act 1971*, sec. 3C). They are allowed to work under the same conditions as that visa until their asylum application is determined.

The current Immigration Rules do not provide a specific timeframe for a decision to be made on applications for asylum (*Immigration Rules*, pt. 11B (para 357A)). Most decisions take more than 6 months, as evidenced by Home Office figures. As of 30 June 2024, 64% of asylum applications have been pending initial decision for more than 6 months (Home Office, 2024d, tbl. Asy_D03). While awaiting a decision on an asylum application, people can access asylum support. This includes somewhere to live and £7.03 per day to cover food, travel and all other living costs (*The Asylum Support (Amendment) Regulations 2023*). Those living in hotels that provide meals, receive just £8.86 per week to cover essentials (Home Office, 2024a).

Under the Immigration Rules, an asylum seeker, whose claim has been outstanding for more than 12 months, through no fault of their own, may apply to the Home Secretary for permission to work. Those that have had an asylum application refused can also apply if they have sent the Home Office further submissions of asylum-based pieces of evidence which are more than 12 months old, and the applicant was not responsible for any delay in the decision on their application. Those granted permission to work are restricted to jobs on the Immigration Salary List (formerly the Shortage Occupation List) published by the Home Office and are not allowed to be self-employed.² The permission to work is not extended to dependents. If their asylum claim is granted, they are given unrestricted access to the UK labour market. Conversely, the permission to work will end if their asylum claim is denied and all appeals are exhausted, after which they are expected to depart from the UK or face removal by the Home Office.

1 We have used the term 'asylum seeker' in this report to refer to a person seeking asylum, as the participants in this study referred to themselves as 'asylum seekers'.

2 On 4 April 2024, the Shortage Occupation List was renamed as the Immigration Salary List. Research participants were interviewed prior to this date, thus, used the term 'Shortage Occupation List' or 'SOL'.

Difficulties in receiving the right to work and accessing employment in practice, combined with limited asylum support, means that individuals are left in a state of limbo while awaiting their asylum application, leaving them dependent and unable to provide for themselves and their families. Having limited access to work and support for such a prolonged period of time can push people into seeking employment irregularly, in order to support themselves, despite not having the legal right to work, putting them at significant risk of exploitation.

In 2022: 19,231 applications for permission to work were submitted, 15,706 of which were granted (UK Visas & Immigration, 2023). The Home Office refused to provide data for the year 2023, stating that the Home Office does 'not capture the level of information required to address the points raised in your [Freedom of Information] request' and the cost of extracting this information would exceed the appropriate limit specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (UK Visas & Immigration, 2024a).

There is no publicly available data on how many asylum seekers granted the right to work were effectively able to find a job on the SOL/ISL.

Current literature on asylum seekers' right to work in the UK focus on the economic and social impacts of lifting work restrictions, the effect of these restrictions on asylum seekers' wellbeing and mental health, the increase of risk of exploitation of asylum seekers, and asylum policy discussions, including discrediting the "pull factor" argument of government (Waite, 2017; Refugee Action, 2020; British Red Cross and UNHCR, 2022; Aleynikova and Mosley, 2023; Thomas, 2023). There is limited literature on the experience of asylum seekers navigating the asylum system to gain access to work.

2. Methodology

This briefing makes an important contribution to the body of literature on this understudied area by focusing on the experience of asylum seekers who have gone through the process of applying for permission to work, as well as drawing on the expertise of asylum support organisations. Through this approach, we seek to identify the challenges and barriers to access to work that those we interviewed faced, and how these link to risk of exploitation. The emerging themes can be categorised under two sections: (1) experiences during application for permission to work and (2) experiences after a grant of permission to work. This briefing is based on nine semi-structured interviews with asylum seekers, eight of whom have experience applying for permission to work, three who had also been through the National Referral Mechanism system. In addition, three interviews with caseworkers from asylum support organisations were conducted. The analysis is supplemented and informed by a review of policy documents, publications by asylum support organisations and research centres, news articles, and government reports.

Purposeful sampling was used to select interview participants that had direct experience of going through the UK's asylum system. The interviews took place between November and December 2023, in English. All interview participants were women between 20 and 60 years of age, comprising six different nationalities.³ In February and March 2024, FLEX conducted three interviews with migrant and asylum support organisation caseworkers who have experience assisting asylum seekers through the process of applying for permission to work. A focus group was held in March 2024 where initial findings were discussed with seven interviewees.

This report does not aim to represent the experiences of all asylum seekers. Nevertheless, we recognise its value in contributing to this under-researched area. By engaging directly with those who have endured or are navigating the UK's asylum system, we gain a stronger understanding of how systems of exploitation work in practice for those affected.

The recommendations included in this briefing are based on the thematic findings presented below. These have also been informed by FLEX's ongoing research, policy, and advocacy work around labour exploitation, as well as previous publications by asylum support organisations (Lift The Ban, 2020; Refugee Action, 2020; ATLEU, 2022).

³ FLEX is not including detailed demographics of interview participants to maintain anonymity.

3. Findings

FLEX interviewed asylum seekers about their experience of accessing work within the asylum system. They were asked about how they applied for permission to work, the challenges they experienced throughout this process, and the barriers they faced in finding work once granted permission to work in the UK.

3.1 Challenges faced during application for permission to work

3.1.1 Lack of information on right to work

When asked if they were aware that they could apply for permission to work when they first applied for asylum, the majority of the interview participants responded they were not made aware, at the point of application, that they had the option to do so.⁴ They claim that this information was not disclosed to them by the Home Office at any point during their asylum application and that they only became aware of it through fellow asylum seekers, communities, or charitable organisations.

“I think the first barrier is actually knowing that you can work. Because like I said, I was in accommodation provided by [charity], and a lot of people in the house didn’t know that they had the right to work after waiting for a year. I didn’t know either [...] I didn’t know that I could apply. It was [...] through my friend, she studied to be a lawyer as well, so she was like, ‘no, you should apply. You can do it on your own.’ And yes, she helped me out, and I was able to do that [...] So, the first thing is actually knowing that you can apply for right to work because a lot of people don’t know, and that information is not forthcoming from the Home Office.”

Kelly, mother of one, asylum seeker 2015-present.

“There was my friend. He kind of put me through the whole process because he was an asylum seeker and so it was more like he was just guiding me through the whole process. At that time, I wouldn’t have known [about the permission to work]. Maybe I would have found out much later, but not immediately.”

Amy, asylum seeker 2019-present.

⁴ The question pertains to any point after filing their initial asylum claim.

“No, not at all. I was not at all aware of the process when I was going through it. Not knowing the process and not knowing what to expect was really triggering for me.”

Rose, refugee, asylum seeker 2021-2023.

The only available online resource from the Home Office for guidance on applying for permission to work is a guide specifically written for UK Visas & Immigration caseworkers entitled ‘Permission to work: caseworker guidance’. Migrant and asylum support charity caseworkers confirm that this is the same guidance they use to assist asylum seekers to apply for permission to work.

3.1.2 Difficulty in accessing legal aid and immigration advice

Access to immigration advice is crucial for asylum seekers, especially in the face of a complex and obscure asylum system. Without specialist legal guidance, asylum seekers may struggle to navigate the process of obtaining permission to work or understand their rights and options.

Immigration advice is defined by the Immigration and Asylum Act 1999 as advice relating to a particular individual given in connection with one or more of the following matters:

- 1.** A claim for asylum
- 2.** An application for an electronic travel authorisation
- 3.** An application for entry clearance or leave to remain in the UK
- 4.** An application for an immigration employment document
- 5.** Unlawful entry into the UK
- 6.** Nationality and citizenship under UK laws
- 7.** Removal or deportation from the UK
- 8.** Bail applications and appeals against deportation.

Asylum seekers we spoke with sought to access legal and immigration advice from:

1. Legal aid funded immigration lawyers

Legal aid funded immigration lawyers are funded by the government through the Legal Aid Agency. Legal aid is a funding scheme in which the government covers the legal costs of those who meet financial eligibility requirements. Legal aid funded lawyers are paid by the government for their services.

2. Private immigration lawyers acting on a pro bono basis (volunteering, rather than charging for their time)

Immigration lawyers acting on a pro bono basis offer their services for free to those who cannot afford to pay for legal representation and cannot get legal aid or other sources of funding. They often work through law firms that provide pro bono services.

3. Charitably funded immigration advisers

Charities and other community organisations also offer free immigration advice services. These organisations must be registered with the Office of the Immigration Services Commissioner (OISC). Charity workers who give immigration advice must also be registered with the OISC (Office of the Immigration Services Commissioner, 2022). Lawyers and members of designated professional bodies may give immigration advice without registering with the OISC (Immigration and Asylum Act 1999, secs 86 and 86A).

It is a criminal offence to give immigration advice without being registered with the OISC (Office of the Immigration Services Commissioner, 2022; Quiller-Doust, 2023).

Legal Aid Crisis

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced reductions in large areas of law from the scope of legal aid. While asylum cases remain eligible for legal aid, people are struggling to access free immigration advice. Since the LASPO Act was implemented in 2013, there has been a significant decrease in legal aid firms and law centres doing legal aid work (The Law Society, 2024a). The situation has created large legal advice deserts throughout the country (The Law Society, 2024b). It is further exacerbated by the unsustainable legal aid funding structure, with legal aid fees so low they are preventing lawyers from providing representation for those eligible for legal aid.

3.1.2.1 Accessing legal aid

Eligibility for legal aid is subject to a means test. This means that eligibility is reliant on applicants' income, savings, or assets being below the threshold figures (the means test) (Legal Aid Agency, 2024). The thresholds have not been adjusted for inflation since 2009, rendering legal aid inaccessible even for families residing below the poverty threshold (The Law Society, 2024c). Asylum seekers receiving asylum support under sections 4 or 95 of the Immigration and Asylum Act 1999 are automatically eligible for legal aid on asylum matters. This support is also means tested which means that a change in an asylum seekers' circumstance, such as being employed, may affect their eligibility for asylum support and result in losing their eligibility for legal aid.

The combination of the legal aid crisis and strict means testing for legal aid eligibility creates significant barriers for individuals seeking access to legal aid. One asylum seeker shared that the process was incredibly challenging, leading them to abandon their search for legal aid. Unfortunately, this is not an isolated case, and has been an ongoing problem within the larger immigration and modern slavery sector (Refugee Action, 2020; ATLEU, 2022).

“The whole system is gone. There’s really no system whatsoever, because there’s no spaces. The budget is down [...] I actually gave up calling lawyers a few months ago, because I called around for a few weeks trying to get legal aid lawyers and all of them are like, ‘Oh, we don’t have capacity. We don’t have capacity. We don’t have capacity.’ So, I gave up doing that.”

Kelly, mother of one, asylum seeker 2015-present.

“You can imagine you have no right to work, and you are waiting for more than one year. And you’re struggling in all of this process. You feel stressed and have anxiety issues. You are going through trauma and everything, and you have no source of income. And the legal representative, unlike a legal aid, says you should pay for them to send your application.”

Rose, refugee, asylum seeker 2021-2023.

Asylum seekers who had access to legal representation funded by legal aid reported difficulties in communicating with solicitors and experiencing inconsistent response times. Some expressed feeling overlooked or undervalued by their legal aid solicitors in comparison to paying clients.

“They took so long to make my application, and they’re not listening to me, they don’t seem to hear me. Sometimes, your solicitor won’t reply to your messages, and they don’t take your calls. Recently, I called my solicitor. He did not pick up my call.”

Rose, refugee, asylum seeker 2021-2023.

One asylum seeker stated that changing legal aid solicitors is not a viable option because it will only duplicate and prolong the process.

“So, it’s a very long process when you change your solicitor. You have to tell your story to your new solicitor, and you start everything again. And after 6 months, your new solicitor doesn’t reply to you, then what are you going to do?”

Rose, refugee, asylum seeker 2021-2023.

The caseworkers who were interviewed observed that the degree of legal advice given to their clients regarding their right to work varied significantly. They explained that some clients received a detailed explanation of the process of applying for work permission and the limitations that come with it, while others were only briefly informed about the option to apply after 12 months or not informed about it at all. According to caseworkers, the quality of legal

advice largely depends on the individual capacities and disposition of the legal aid provider or solicitor.

“Some will take on work in terms of actually applying for work permission where the criteria is met. Some don’t, and they say you can apply for it yourself. And it’s very much the same on the advice as well, some will give advice in passing, some will not mention it at all. It sort of depends on who your solicitor is.”

Migrant caseworker, Asylum support organisation.

“To get [permission to work] from the Home Office is straightforward. Except if you’re a family and you’re the main applicant, you will get it; if you’re the wife, you won’t get it. If you’re the kids, you won’t get it. It’s just one person per family. And sometimes even the lawyers are not aware of that, which is super strange, but anyway. So sometimes they get rejected because of that.”

Outreach support worker, Asylum support organisation.

3.1.2.2 Accessing charitably funded immigration advice

Since legal aid cuts were implemented in 2013, there has been a significant decrease in legal aid firms and an increase in the demand for charities to provide immigration advice. Charities have struggled to cope with the increased demand due to its limited resources.

According to an asylum support organisation caseworker, cases involving applications for permission to work require significant resources for providing guidance both prior to and during the application process. This then takes away from resources aimed at addressing immediate concerns, such as assisting with situations of homelessness or destitution.

“[W]ith the legal advice from a legal rep not being there, if a charity does step in, it does feel like it takes an additional resource and capacity load to actually fill the gaps or supplement where legal advice would have been given in and around that.”

Migrant caseworker, Asylum support organisation.

Asylum support organisation caseworkers highlighted the issue of whether those who take on the work of advising and submitting the applications for permission to work possess the necessary level of accreditation within the regulatory framework, especially in light of the high voluntary sector staff turnover and retraining.

All immigration advisers must be registered with the Office of the Immigration Services Commissioner (OISC). The OISC regulates the provision of immigration advice and services throughout the UK. It is responsible for admitting immigration advisers into its regulatory scheme and ensures they are fit and competent to provide immigration advice.

Currently, OISC registration fees are waived for non-fee charging organisations, which includes asylum support charities. However, there is a proposal to introduce OISC registration fees for charities that is under consultation as of time of writing (Home Office, 2024b). If this proposal is accepted and implemented, this will have a detrimental impact on strained charities and their capacity to offer immigration advice.

3.1.3 Misinformation

One caseworker stressed that the lack of information, difficulty in accessing legal advice, and lack of consistency in advice-giving can make people seeking asylum more dependent on information that is passed informally between people that may not always be accurate or reflective of the rules on right to work. Support organisation caseworkers have noticed increased anxiety and fear amongst asylum seekers about applying for permission to work, which they consider to be in part due to misinformed implications to their asylum claims and asylum support.

“When I said to people that, ‘Oh, I’m gonna apply for work, my work permit.’ Do you know what they told me? They’re like, ‘No, no, don’t, because your kids will be stressed. They will forget your kids because you’re paying tax. You are working [...] You will stay as an asylum seeker more than 3, 4 years.”

WA, asylum seeker 2021-2023.

“Lack of clarity and lack of answers, in terms of, ‘Well, if my support does get terminated, what do I do after that? What are the thresholds? What kinds of jobs, what kind of pay should I be looking for?’ This lack of clarity ends up becoming a deterrent to people, they actually find that maybe it’s not worthwhile to spend six months waiting for a decision, just to then be, ‘What do I do with this work permission?’ What we have very commonly is people will apply, have work permission, and not use it.”

Migrant caseworker, Asylum support organisation.

The UK asylum system and the National Referral Mechanism (NRM) system often intersect with respect to people seeking asylum who are also victims of modern slavery. Some of the asylum seeker interviewees who had also gone through the NRM system reported receiving incorrect information from their NRM support workers with respect to right to work as asylum seekers. The interviewees mentioned that there appeared to be a lack of coordination and knowledge between the NRM and asylum systems, which gave rise to challenges in acquiring correct information.

“[NRM] support workers also do not have experience of asylum and don’t know how to support people that want to work. I remember, I had to teach my support worker how to apply for permission to work for others in the safe house.”

Kelly, mother of one, asylum seeker 2015-present.

“I didn’t know I had the option to apply for permission to work. While under NRM, they didn’t tell me, ‘You can apply for work’ even after one-and-a-half years since my asylum application [...] Every time when I ask something to my [NRM] support worker, she says to me, ‘I don’t know. Let me check with my manager. Let me check with someone.’ Most of the time, they’re giving me information that was not accurate.”

Rose, refugee, asylum seeker 2021-2023.

3.1.4 Communication issues with the Home Office

The current system is designed in a way that requires asylum seekers to contact the Home Office to apply for permission to work. All applications for permission to work from asylum seekers must be sent to the Home Office Asylum Casework Teams via post or email (UK Visas & Immigration, 2024c). Interview participants stressed that it was difficult for them to communicate with the Home Office due to several reasons, discussed below.

3.1.4.1 Fear of communicating with the Home Office

According to interviewees, writing to the Home Office is a daunting task for an asylum seeker. Their lack of knowledge of the processes and fear of being removed from the UK exacerbates the situation, creating a massive power imbalance between the parties.

“I would say for a lot of people, approaching the Home Office on your own is a scary prospect. Because they’ve made themselves unapproachable over the years with the fact that they’re very rigid, and a lot of the things that you do try to tell them, they don’t listen. I’ve learnt it from my own case.”

Kelly, mother of one, asylum seeker 2015-present.

“You know, when you are an asylum seeker, you are always scared of Home Office. You don’t want to contact them, you don’t want to [...] anyway, it’s always [that] you keep your distance.”

WA, asylum seeker 2021-2023.

3.1.4.2 Lack of clarity and inconsistent application of rules

At the time of data collection, UKVI caseworker guidance required applicants to include ‘a statement setting out the request for permission to work’ as part of their application. The guidance did not provide any other information on what needed to be included in the statement. It did not require the application to include a justification for the request for permission to work. However, this was reported to be required by UKVI from one of the asylum seekers we interviewed.

“I tried to apply [...] I asked my solicitor to [...] ask for right to work in 2019, [be]cause I needed it for an internship, and that was refused. They said something about [how it] didn’t justify the reason why I need to work.”

Kelly, mother of one, asylum seeker 2015-present.

The UKVI caseworker guidance stated that the application for permission to work must include the ‘contact details for the applicant and their legal representative (if they have one)’. The guidance phrasing indicated that it is not necessary for the applicant to have a legal representative when submitting the application. However, one of the interviewees stated that when they applied for permission to work, they were instructed by the Home Office to contact them through their solicitor.

“So, the first time when I tried to apply [for permission to work], they replied to me, saying that it’s not fully one year, because it was like 11 months. So, they told me I can apply after one year. Then, after one year I applied again, and they told me I have to contact them through my solicitor.”

WA, asylum seeker 2021-2023.

On 9 October 2024, the UKVI caseworker guidance was updated with a requirement for applicants applying for permission to work to complete a Permission to Work form (PTW1) and send it to the Home Office via post or email (UK Visas & Immigration, 2024g). This form includes a section where applicants can include supporting evidence for their application. Guidance for this evidence states that “you must provide any relevant supporting evidence such as previous permission to stay or outstanding appeal and any proof to mitigate any delay you may have caused to the consideration of your claim including any serious illness or medical issue, and other relevant documents” (UK Visas & Immigration, 2024d). However, the guidance does not provide further information on which types of documentation should be submitted, which may result in confusion for applicants.

3.1.4.3 No system for status updates

Asylum seekers and caseworkers mentioned that the Home Office does not provide status updates on applications for permission to work. As per caseworkers, the letter granting permission to work is normally the sole correspondence they receive from the Home Office following the submission of the application for permission to work, apart from the generic auto-responder email reply. Applicants could be waiting for extended periods of time (see section 3.1.4.4) without receiving updates from the Home Office.

“They don’t update you about your application. Every time I emailed them, they didn’t answer. I kept waiting and waiting and I chased the Home Office. Every month I emailed, could you please update me about my application. And then, after one or two months, they send one email saying, ‘We receive your emails.’

And you are in a waiting list. So, you should wait.' They don't reply or update you on their own. Every time, you need to chase up with them."

Rose, refugee, asylum seeker 2021-2023.

"I contacted my solicitor, and he's like, 'Okay, I will apply it for you.' Then I followed up with him. He told me he applied, and he is waiting for a response. Then nothing is coming [...] So, I just let it go [stopped following up]."

WA, asylum seeker 2021-2023.

"In terms of timescales, I did find that it varied, I'm not sure whether that is linked to maybe mode of arrival or other factors, but I know that, on average, we were seeing four to six months before you get your first response [to the application for permission to work], or any response, really."

Migrant caseworker, Asylum support organisation.

3.1.4.4 Extended waiting period

Extended waiting periods experienced by asylum seekers while waiting for permission to work can have devastating effects on people's mental and emotional well-being. The combination of a 12-month waiting period before asylum seekers can apply for permission to work, along with further waiting periods for a grant of permission to work, subjects them to prolonged uncertainty, vulnerability, and insecurity. One interview participant who waited for more than one year and six months for their permission to work admitted that this prolonged waiting period of being unable to work led to severe anxiety.

"Throughout this process, I was so stressed and many times I had panic attacks because you can't do anything. You're waiting for a very long time and that is really challenging. Waiting. And you chase with your solicitor and say to them, I need to work, I need the right to work because I need to manage not only my finances, but also my mental health, I need to do something and move on from my traumatic past."

Rose, refugee, asylum seeker 2021-2023.

According to the UKVI caseworker guidance, 'requests must be dealt with as soon as possible and without unnecessary delay.' The guidance does not specify a timeframe within which decisions must be made on applications for permission to work.

Asylum seekers interviewed for this research reported waiting 5.5 months on average for a decision granting an application for permission to work.⁵

⁵ FLEX submitted a Freedom of Information request for data on the length of time it takes for applications for permission to work to be granted or refused. The request was unsuccessful.

Caseworker interviews provided similar waiting periods for grants of permission to work, normally received within 3 to 6 months after application.

Waiting periods for asylum seekers whose initial applications for permission to work were refused differ slightly. According to two interviewees, refusals to their initial applications for permission to work were communicated to them within 3 to 6 weeks. Subsequent applications for permission to work were reported to be granted within 1 to 2 months (Kelly, mother of one, asylum seeker 2015-present; WA, asylum seeker 2021-2023). Thus, the total waiting period for initially refused applications for permission to work from asylum seekers we interviewed took around 3 months on average. This estimate does not include the period of time in between refusal and subsequent application.

Table 1. Waiting periods following a submission for application for permission to work for 6 interview participants.

No. of Applications for PTW	PTW Refusal Decision Time	PTW Grant Decision Time	Date PTW Granted	Receipt of Updated ARC
1	N/A	5 months	Not given	3 months
1	N/A	4-6 months	2016	Unspecified
1	N/A	6 months	2022	0-2 weeks
1	N/A	6 months plus	2023	2-4 weeks
2	6 weeks	1 month	2020	1 week
2	3 weeks	2 month	2023	1-2 months

PTW: Permission to work; ARC: Application Registration Card.

3.2 Barriers faced after grant of permission to work

3.2.1 Proving right to work

Proof of right to work in the UK is essential for asylum seekers to access employment. According to the UKVI caseworker guidance, the letter notifying the applicant of the grant and conditions of their permission to work (form ASL.4264) serves as proof of their right to work. Interview participants did not seem to be aware of this policy as they did not mention it nor raised issues about the policy. Instead, they regarded the Application Registration Card (ARC), a card issued by the Home Office to individuals containing information about their asylum claim, identity, nationality, age, and right to work, as their primary document for these matters (Home Office, 2024c).

3.2.1.1 Delay in receiving updated ARC

According to the UKVI caseworker guidance, caseworkers are responsible for updating the Application Registration Cards of the applicants to reflect the

change in circumstance – that they are now allowed to work. Home Office guidance on the ARC states that an applicant should expect to receive a new or updated ARC within 5 days of being given the right to work (Home Office, 2024c). Interview participants reported receiving their updated ARC within 1 week to 3 months after obtaining permission to work (see Table 1 in section 3.1.4.4). Based on caseworker interviews, this can range from a couple of weeks to several months.

“It’s very hit and miss, I’ve got no averages. We’ve seen some [updated ARC cards] within a couple of weeks and some taking several months of chasing up. This has probably been the area in which there has been no consistent timeframe at all, at least with the applications that I’ve seen and worked on.”

Migrant caseworker, Asylum support organisation.

Given that the ARC issuance system requires manual updating by a UKVI caseworker when there is a change of circumstance, i.e., grant of permission to work, there is room for human error. This is explicitly acknowledged by the Home Office in their staff guidance on producing ARC for asylum claimants, where they state that one of the reasons why an ARC might not have been issued is because ‘it was not requested, which could be for reasons of either human error or a technical issue’ (UK Visas & Immigration, 2024b).

“I emailed on [a friend’s] behalf. I said, ‘Okay, she was given right to work, but they never sent the ARC card.’ So, the person that replied back from the Home Office said that they apologise that their system is set up to automatically send a new ARC card [only] when [the] old one is expiring, so they didn’t update it when she had right to work, so she had to manually request for it.”

Kelly, mother of one, asylum seeker 2015-present.

Delays in the issuance of updated ARC can have a detrimental effect on asylum seekers looking to be employed. It compounds the already lengthy wait to access employment in the UK (see discussion on extended waiting period). One caseworker noted that it also delays an asylum seeker’s application for a National Insurance number, which requires the presentation of the updated ARC.

A related concern with respect to the ARC is that it comes with a standardised 2-year expiry date.⁶ One of the caseworkers interviewed raised the possibility of employers misinterpreting the information on the ARC and mistakenly assuming that the ARC-holder can only work until the ARC’s validity ends. In reality, the validity of a permission to work may vary depending on the determination of their asylum claim.

3.2.1.2 No share code access for employers

The majority of non-UK citizens residing in the UK can prove their immigration

⁶ Prior to 2017, the ARC did not include an expiry date.

status and right to work through the use of a 'share code', which is a digital code accessed through UKVI's online portal.

Share codes, however, are inaccessible to ARC-holders. UKVI rules require employers planning to employ ARC-holders to instead use the Home Office's Employer Checking Service (ECS) (UK Visas & Immigration and Immigration Enforcement, 2024).

“[A] lot of the labour market is structured very much based on the standard documents that a lot of employers ask for or expect. And we've found that it's quite tricky to explain to them why someone may not have this particular document that they're looking for, and there's often a lot of back and forth on that, finding work in itself.”

Migrant caseworker, Asylum support organisation.

One of the asylum seekers interviewed relayed that they had no knowledge of share codes until it was asked of them by a prospective employer. According to them, there was no guidance given in the letter granting permission to work about being unable to access share codes and how to prove their right to work to employers. This caused them considerable stress because they could not prove their right to work to their prospective employer who was likewise unaware of how to check right to work through the ECS.

“[B]ecause even if they give people right to work, as asylum seekers, right? Even to get that share code [...] How it's stressing people. Share code, share code, share code. No, you are asylum seeker, you don't have, you can't have a share code. But the employer is asking for share code. So, employer has no clue. The asylum seeker has no clue. Instead, they're banging their heads together, but nothing is happening because they both don't really understand what [...] In the Home Office letter, it didn't say anything like, so if you are looking for like this, this is what you need to do. Here is your share code. I wish there was that information. I couldn't find it, but the employer will insist it to say no, we need the share code.”

Anabanda, asylum seeker 2015-2022.

Further challenges may be experienced by asylum seekers due to the ongoing digitalisation of the immigration system by the Home Office. Physical documentation, such as Biometric Residence Permits (BRPs), are being phased out by the end of 2024 for nearly all visa holders and replaced by a digital document (an e-visa). It is unclear if ARCs are also part of this shift to a digital-only system, as they are not listed on GOV.UK guidance on types of physical proof being replaced (UK Visas & Immigration, 2024e). Current literature suggests that some groups, for example those that have lower levels of digital literacy, may be disadvantaged by the shift to a digital system, due to difficulties in accessing their digital status. This may lead to issues such as difficulties in people proving their right to work and right to rent (Tomlinson, Maxwell and Welsh, 2022; Jablonowski, 2023).

3.2.1.3 Employers' lack of awareness

Interviews with caseworkers and asylum seekers reveal that some employers lack awareness and knowledge of the rules surrounding the right to work of asylum seekers. Specifically, they are unaware that asylum seekers can be granted the right to work, with certain restrictions in place. Employers may lack knowledge on how to verify their right to work because, as previously mentioned, asylum seekers are unable to access share codes. There is also a perceived unwillingness to employ asylum seekers due to the uncertainty of their immigration status. The majority of interview participants do not believe that the government is doing anything to improve this situation.

“There are a lot of things around the work permit that employers are not aware of, why asylum seekers have work permits and what they can do with it [...] There’s a lack of will, they really don’t want people to get those jobs. [They’re] like, ‘I’m sorry, I’m going to get the other guy, who has got zero [complications]. Has got all the papers. I can’t be bothered, it’s just too much.”

Outreach support worker, Asylum support organisation.

“But employers are not willing to, that’s the problem. Most of the employers actually will not do that [use the ECS], they want to be provided with all the documents that they will need. And the Home Office made it very difficult on the part of the employer. If they employ someone who has no document, they will be fined with a hefty penalty. That’s why they’re very, very careful about this.”

Employment Support Officer, Migrant support organisation.

3.2.2 Shortage Occupation List & Immigration Salary List restrictions

“Your life is not going to be easy when you get the permission to work. When I got the permission to work, it wasn’t like I could get any job [...] Just the shortage occupation jobs.”

Rose, refugee, asylum seeker 2021-2023.

Asylum seekers granted permission to work on or before 3 April 2024 are restricted to working in jobs on the Shortage Occupation List (SOL) published by the Home Office. Asylum seekers granted permission to work on or after 4 April 2024 are restricted to working in jobs on the Immigration Salary List (ISL) published by the Home Office (UK Visas & Immigration and Immigration Enforcement, 2024).

What is the Immigration Salary List?

The Immigration Salary List (ISL) replaced the Shortage Occupation List (SOL) on 4 April 2024. Like the SOL, the ISL is a list of occupations facing a shortage of suitable labour in the UK. The list includes occupations that the Migration Advisory Committee (MAC), an expert independent panel that advises the Government on immigration policy, deems sensible to be filled by immigration (Migration Advisory Committee, 2023).

The ISL primarily functions under the Skilled Worker Visa route, allowing UK-based employers to recruit skilled migrants on salary below the general threshold. The current list has been significantly reduced by the government to limit the number of foreign workers and decrease immigration to the UK.

Some examples of the occupations listed on the ISL include, but are not limited, to the following:

- Chemical Scientists
- Laboratory Technicians
- Pharmaceutical Technicians
- Graphic and Multimedia Designers
- Dancers and choreographers
- Care workers and home carers

Care work was first added to the SOL in February 2022.

The letter granting permission to work states that the individual is allowed to work in the UK but may only work in jobs that are on the SOL/ISL. According to caseworker interviews, this is the first time the SOL/ISL is mentioned in any Home Office communication to the asylum seeker. Consequently, if the asylum seeker has not been adequately informed or advised about the limitations of a work permit beforehand, the SOL/ISL restriction could come as a total surprise to them.

“And sometimes the lawyers will help them to get the permit to work, so you expect the lawyers to explain to them this shortage list, you can’t do any types of jobs. They don’t explain to them and they’re still like, ‘Can I do the cleaner job?’ and that type of thing.”

Outreach support worker, Asylum support organisation.

Caseworkers warn that given the barriers in accessing legal advice and information on the right to work, asylum seekers, especially those who do not speak English as their first language, may mistakenly believe that they can accept cash-in-hand jobs based on this permission alone.

“One of our biggest concerns is the modern-day slavery aspect of it and the forced labour aspect of it and the exploitation. In terms of, again, that misinformation [...] because of [...] again, not having robust legal advice around it. We will see an increasing need for permission to work requests that have been advised to be taken on, with a realisation that not a lot will meet that shortage occupation threshold. And even if they do get it, a lot of it will be the work that realistically is taken on is a lot of car washes, laundromats, takeaways, that kind of thing.”

Migrant caseworker, Asylum support organisation.

All interview participants stressed that the SOL/ISL restrictions make it extremely difficult for asylum seekers to find employment. They said that the primary challenge lies in meeting the technical requirements for the jobs listed in the SOL/ISL.

“But people are being forced into care work because that’s the only, you know, route that doesn’t require, you know, a lot of education. They’re asking for doctors, scientists, physicists. And I’m like [...] nobody, there’s a lot of people who don’t actually have that qualification to be able to meet the requirement of the shortage occupation list. So, the requirement is very, very, very hard to navigate.”

Kelly, mother of one, asylum seeker 2015-present.

In addition, asylum seekers must look for a viable job around the area where they are located, normally outside of London. This would often require travelling to a different town or city, which asylum seekers claim they don’t have the means to do so.

“But you can’t search in your area for jobs on the shortage occupation list, looking for those jobs is very difficult. I can’t travel because I have no driving license. Asylum seekers have no right to drive. You can’t apply for DVLA, and you have no option but to take the bus. But you can’t go every day on a bus from one city to another city. It’s very difficult.”

Rose, refugee, asylum seeker 2021-2023.

Moreover, even if they had the necessary technical qualifications, asylum seekers with permission to work are still at a disadvantage since they are unable to gain work experience in the UK, having no right to work previously.

“I was quite fortunate I studied biomedical science, which is part of the shortage occupational list. But just graduating doesn’t make me a biomedical scientist. I still have to [build my] portfolio which I’m not able [...] I wasn’t able to do that because of my status.”

Kelly, mother of one, asylum seeker 2015-present.

One of the asylum seekers interviewed for this project stated that prior to the addition of care work to the SOL, the restrictively technical list discouraged them from applying for any jobs. They said they welcome the addition of care work to the SOL and its inclusion in the ISL because it gives a real option for those who do not have the technical skills required for the other jobs on the list.

“I didn’t apply because there was no job I could do on the shortage occupation list. I told my lawyer there was no point applying if I can’t get a job.”

Veronica, mother of 4, asylum seeker 2013-2019.

The ability to work in the care sector does not, however, remove the barriers asylum seekers face in accessing work in the UK. Some of the interview participants stressed that care work is not suitable for everyone, especially individuals who are single parents because care work hours could be long and far between, and for those who have physical or medical conditions arising from their trauma because care work can be physically demanding.

“No, I haven’t actually applied for any work. Just one care agency called me apparently, the week after I got it. I told them I have got permission to work now, but because of my back pain, so I have to find a job that won’t affect my back.”

Ginger May, trafficking victim, asylum seeker 2020-present.

“So, a lot of people are being forced into, let’s say, you just have to take care work. And for a lot of people, it’s not like care work is beneath them. It’s just that care work is not for everyone.”

Kelly, mother of one, asylum seeker 2015-present.

“Not everyone wants to work with old people, it’s hard, it’s really hard. It’s a cultural thing. It’s not for everyone. And working with people with disabilities, the same, it’s not easy as a job. So, the options they have are quite limited. And I know as a care assistant, you can maybe find a job. Again, maybe they don’t want someone with zero experience doing that kind of job. Because the NHS jobs, there’s a lot of responsibility there.”

Outreach support worker, Asylum support organisation.

A related challenge in accessing care work is completing a Disclosure and Barring Service (DBS) check (in England and Wales) because asylum seekers often do not have enough proof of identity required by the DBS checking system.

“I know a guy who managed to find work with the NHS and it was a bit of a challenge to get the DBS check done because he didn’t have enough IDs. They did manage in the end. But if those jobs are on the shortage list and asylum seekers are already disadvantaged because they don’t have enough IDs, it’s not good.”

Outreach support worker, Asylum support organisation.

Support organisation caseworkers reported that they have seen very low numbers of asylum seekers with permission to work who are successful in securing a job on the SOL/ISL.

One caseworker revealed that only 5 out of the estimated 80 asylum seekers they assisted in applying for permission to work were able to secure a job on the SOL.

Caseworkers noted that asylum seekers who are successful in securing a job on the SOL/ISL tend to be those with higher command of the English language who are able to advocate for themselves and have a better understanding of working structures and labour rights in the UK. They claim that a large number of asylum seekers with permission to work end up not using it at all.

Table 2. Experience of 6 asylum seekers after their applications for permission to work were granted.

Found work on the SOL	Work Sector	Level of Education
Yes	Biomedical Science	University Degree (UK)
Yes	unspecified	Unknown
No	Banking	Unknown
No	International Relations	University Degree (COO)
No	Public Health & Education	Master's Degree (UK)
No	Information Technology	Unknown

Notes: SOL: shortage occupation list; COO: country of origin

3.2.3 Accommodation & relocation

The unpredictable nature of asylum accommodation presents significant challenges for asylum seekers to secure and maintain employment. This is because their housing situation can change abruptly, causing them to relocate without proper notice.

“As an asylum seeker, I could easily be moved anywhere in the country without a notice. Again, for an employer, it’s not great. So yeah. I just kept on looking for work.”

Kelly, mother of one, asylum seeker 2015-present.

Asylum seekers shared that when they were relocated by the Home Office, they were only provided up to 24 hours’ notice. They were only told that they were being relocated, by the driver, en route to the destination. According to one interviewee, their driver revealed that asylum seekers are not informed about where they are being transferred ahead of the journey to ensure they comply with the relocation.

“They will not tell you where you are going. They will give you a paper in the morning. And the next day the car will come and pick you up. So, only the driver will tell you where you are going. Before that, you don’t know where you are going. And I ask them why. And they say people are changing their mind. It’s too far or something.”

WA, asylum seeker 2021-2023.

The housing of asylum seekers is determined by the Home Office, leaving them with little control over where they will live. This lack of choice adversely affects asylum seekers who are placed in areas where there are limited job vacancies that are included in the SOL/ISL.

“It is a real struggle when you search for shortage occupations jobs. You need to go to a different city, different place. If you are on asylum housing, you can’t change your location because it’s up to the Home Office. They give you the accommodations, so you can’t change it to your choice of city.”

Rose, refugee, asylum seeker 2021-2023.

A few of the interviewees mentioned that being relocated, often to a different city, not only makes it more difficult to find a job, but also disconnects them from the community they have built and depend on for financial support, asylum advice, and job vacancy leads.

“Why am [I] here? Nobody knows me [...] They will look at me like I’m a thief and since I’m black, it takes time for someone to get used to you and to trust you [...] So, where I’m coming from, they know me, they trust me. They’re feeling sorry for me. And [where I came from] somebody I don’t know paid for my one-month bus pass.”

Ginger May, trafficking victim, asylum seeker 2020-present.

Where an asylum seeker is successful in securing employment, the ability to hold their own tenancies increases the chances of them retaining employment, as it provides stability and removes the risk of relocation. However, they face the challenge of passing the right to rent checks mandated by the Immigration Act 2014.⁷ Asylum seekers living in England do not have the automatic right to rent as they do not have leave to remain in the UK, although they may be treated as having the right to rent if they are given permission to do so by the Home Office (Immigration Act 2014, sec. 21(3)). It is unclear whether there is a procedure to apply for permission to rent, but Immigration Order 2014 specifically mentions asylum-seekers as a category of people who would be granted permission to rent as long as they have not exhausted their appeals rights (The Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order, 2014, sec. 4(b)(i)(bb)). A caseworker warned that the lack of clarity and transparency around these rules may push

⁷ Currently, the law is only in force in England. There is no need to prove the right to rent in Wales, Scotland, and Northern Ireland.

asylum seekers into accepting sub-standard accommodation or exploitative tenancy agreements.

“But even if you are working, right, the fact that you have an ARC card is a problem. Because right now, once you want to, you want to rent, you have to get a share code, right? You can’t get a share code with an ARC card.”

Kelly, mother of one, asylum seeker 2015-present.

3.2.4 Asylum support eligibility

Section 95 of the Immigration and Asylum Act 1999 enables the Secretary of State to provide support for asylum seekers who appear to be destitute or likely to be destitute within 14 days. It provides that a person is destitute if they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met) or have adequate accommodation or the means of obtaining it but cannot meet their other essential living needs. A change in circumstance, such as being employed, may affect asylum support or result in its withdrawal (Asylum Support Regulations (2000), Regulation 15). As mentioned previously, this will also affect legal aid eligibility.

Caseworkers stated that there is no clear guidance on income thresholds and timelines on when withdrawal of accommodation and/or subsistence support will be triggered. The lack of clear guidance on when asylum support will be withdrawn after employment deters individuals from applying for work and requesting for permission to work in the first place.

“You can’t work and be on NASS (National Asylum Support Service) accommodation at the same time because the premise of NASS accommodation is that you are destitute. If you are working, that means that you cannot have accommodation. So, people are having to choose between having accommodation and working. So, other people that applied that I helped to apply for right to work, honestly, I had to tell her not to look for work. Because if she starts working, she’s not going to be eligible for any accommodation support, and also she might not be able to be eligible for legal aid anymore. So, it’s a catch 22 [...] So, I advise people not to do it. Don’t start work unless you’re actually settled, because it’s just going to create more problems for you than you need.”

Kelly, mother of one, asylum seeker 2015-present.

3.2.5 Stigmatisation

“Sometimes, when you present your ARC or you mention that ‘I’m an asylum seeker,’ they all look at you. When you say you are living in a hotel, they think, ‘Oh, she is the one who is getting our tax money.’”

Ginger May, trafficking victim, asylum seeker 2020-present.

The ongoing stigmatisation of asylum seekers is another barrier to accessing work. According to interviews, despite having the right to work, employers are reluctant to employ asylum seekers due to the complexity of their status and the lack of knowledge and clarity on the rules governing their employment. One of the asylum seekers interviewed experienced a job offer being dropped upon disclosing their immigration status to the employer. Conversely, there are employers who may be prepared to take advantage of them, fully aware of the limitations of their status.

“They asked for documentation. So, I had the ARC card. It shows that I have a right to work. So, as soon as I showed them the ARC card, I can see their facial expression change, and I never heard anything back from them again, even though they were ready to hire me before I gave them my documents.”

Kelly, mother of one, asylum seeker 2015-present.

“But people still stigmatise – ‘I’m an asylum seeker’ – they say ‘what happens after you’re refused.’ I know of people who, they just cling with the same agent, for example, because they’re thinking ‘if we leave, we’ll not get a job,’ even if that agency is not giving them payment, even if they’re paying them too little [...] they are asylum seekers with right to work, they’re just doing it.”

Anabanda, asylum seeker 2015-2022.

An asylum seeker interviewee added that stigmatisation of asylum seekers is prevalent not only in the employment sector, but also in the housing sector.

“It’s not just about the work alone. Even to be able to get my accommodation, it was a struggle. I actually nearly lost the house because trying to find someone that will rent to you with the ARC card is a struggle. It’s a big struggle. Most conventional agents ask for so many things that asylum seekers can’t provide.”

Kelly, mother of one, asylum seeker 2015-present.

4. Conclusion and recommendations

“I know so many people who have the work permit [permission to work] and are not using it.”

Outreach support worker, Asylum support organisation.

The path for asylum seekers to access work is narrow and obstructed. While the government provides the concession of a ‘permission to work’, the process to acquire this and the restrictions around it can lock asylum seekers out of the UK labour market.

Our research findings and analysis revealed 10 major challenges asylum seekers need to hurdle before accessing work:

1. Lack of information on right to work
2. Difficulty in accessing legal aid and immigration advice
3. Misinformation
4. Communication issues with the Home Office
5. Extended waiting periods
6. Proving right to work
7. SOL & ISL restrictions
8. Accommodation & relocation
9. Asylum support eligibility
10. Stigmatisation

These barriers create a hostile and disincentivising environment for asylum seekers to pursue lawful employment, which leave them in a state of limbo with no right to work, unable to use their skills and constrain them to survive on asylum support. This may force them to be employed in the informal economy, putting them at higher risk of labour exploitation and abuse (Åhlberg and Granada, 2022; Boelman et al., 2023).

To address the barriers and risks posed to people seeking asylum in the UK by the policies highlighted in this briefing, the Government should take the following steps:

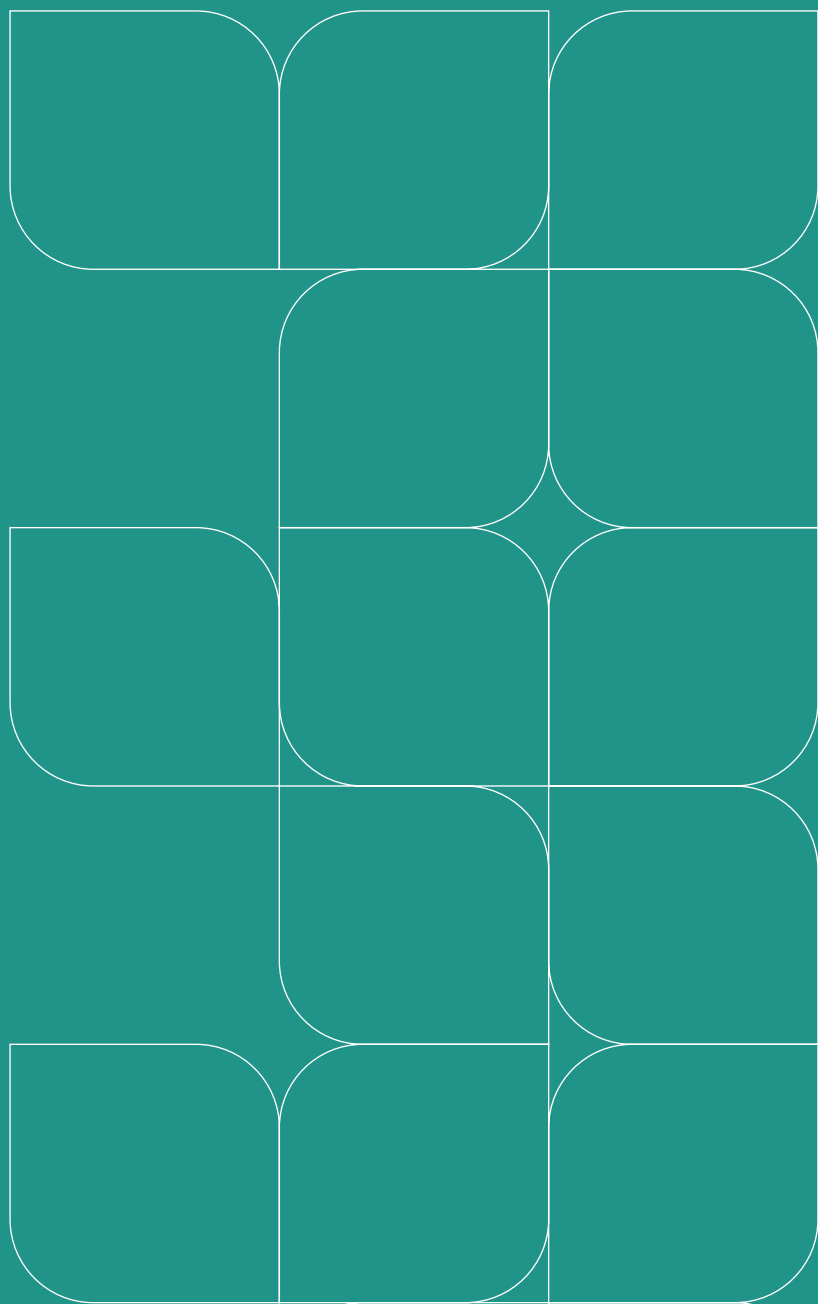
- The Government should give asylum seekers and their adult dependants the automatic right to work after six months of waiting on their asylum

application and with no limits to the jobs they can access.

- The Government should ensure that people receive information about their rights, including their right to work, as soon as they apply for asylum. Information should be given in a language that they understand and must include practical information on procedures, timelines and implications of their right to work.
- The Government should conduct a comprehensive review of the current legal aid provision, address the gaps created by LASPO and ensure appropriate allocation of resources. All people seeking asylum should be able to access non-means tested, free, specialist, quality legal advice and representation.
- The Government should ensure that people seeking asylum are protected from labour exploitation by having access to secure reporting despite their immigration status. There needs to be a clear separation between the roles of Labour Market Enforcement and Immigration Enforcement with secure reporting pathways and increased resourcing for proactive monitoring and inspection of compliance with employment law.
- The Government should ensure that there are safe and legal routes to seek safety in the UK so that individuals in need of protection are able to do so, without having to undergo long, perilous and costly journeys to access safety, and that their claims are promptly dealt with, without unnecessary delays.

“I would actually like there to be a fair, humane system that treats people like human beings and not a reference number or somebody that comes to leech off the country.”

Kelly, mother of one, asylum seeker 2015-present.



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