



Migration and disability

Introduction to Migration
Guidance booklet #15



Migration Yorkshire
supporting local migration services



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Who is this guidance for?

Migration and disability is part of the *Introduction to Migration* series from the Integration up North project. The series provides a basic guide to migration for people working in public sector organisations: local authorities (including health services), police, fire and rescue services, probation services, Jobcentre Plus, Trades Unions and others. It should also be useful for those working in the voluntary and community sector.

The guidance aims to improve the knowledge and understanding of migration among service providers, so that they can shape their service to support the integration of new arrivals to the benefit of both the newly-arrived migrants and the wider local community. Throughout the guidance there are examples from practice across the northern region, and experiences of new arrivals in these areas. While the focus is migration to the north of England, it should be useable in other areas.

This is intended to be an easy-to-use reference document. It does not provide legal advice or a detailed guide to immigration law and policy. In such a fast-changing context, information can quickly become out of date. All information should be checked with an expert or the Home Office if in doubt. We have highlighted other sources of information and guidance where it exists, for further reading and future reference.

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Introduction: why *Migration and disability*?

This guidance booklet is intended to clarify the circumstances, rights and support for migrants with a disability, or migrants whose child has a disability. It attempts to identify some of the multiple or combined difficulties migrants with disabilities face. It is an introductory document but deliberately grounded in real-life stories from third country migrants who have recently come to live in Yorkshire and Humber. Their stories are told throughout the document.

Third country nationals

Migrants come to live in the UK from different places and for different purposes. Those who come from outside the EU are known as non-EU nationals or 'third country nationals'. This booklet is mainly concerned with third country nationals who are not asylum seekers or refugees and who have arrived in the UK during the last ten years.

Migrants usually come to the UK to work, study or join family here. Most third country nationals require a visa to come to the UK that reflects their reason for being in the UK.¹ However, some people's migrant status changes whilst they are in the UK.

People with disabilities

There is a lot of information available about disability more generally that we do not replicate here. For reference we have included an explanation of disability in *Figure i*.

Figure i: A definition of disability

Within law, a person is disabled if:

- a) they have a physical or mental impairment, and*
- b) the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.*

This includes people with:

- *physical impairments*
- *sensory impairments (i.e. visual and hearing impairment)*
- *mental health issues*
- *learning difficulties*
- *long standing health conditions (i.e. Cancer, HIV, multiple sclerosis, diabetes and epilepsy)*

Source: Leeds City Council (2014)²

An important distinction can be made between impairment and disability:

- *Impairment* results from an injury, illness or congenital condition that causes or is likely to cause a loss or difference of physiological or psychological function.
- *A disability* is the loss or limitation of opportunities to take part in society on an equal level with others due to social and environmental barriers.

¹ More detailed information about immigration status and formal channels for applying to come to the UK is available in Integration up North (2014) *Understanding immigration status*. Introduction to Migration series, Guidance booklet #3. www.migrationyorkshire.org.uk/integrationupnorth

² Leeds City Council (2014) *Equality, Diversity, Cohesion and Integration Impact Assessment Guidance*

In summary then, impairments create difference in mental, physical and sensory functions while disability is created by the way society creates barriers to people with impairments taking a full part in the social world. Examples of barriers include:

- Negative cultural representations
- Inflexible organisational policies, procedures and practices
- Segregated social provision
- Inaccessible information formats
- Inaccessible building and product design.³

This way of understanding disability is known as the 'social model' of disability:

*'Under the social model, disability is caused by the society in which we live and is not the 'fault' of an individual disabled person, or the inevitable consequence of their limitations. Disability is the product of the physical, organisational and attitudinal barriers present within society, which lead to discrimination. The removal of discrimination requires a change of approach and thinking in the way in which society is organised.'*⁴

A further consideration to this understanding of disability is that migrants may come from countries that do not share this perspective. Within this booklet we give some examples of different cultural attitudes to disability.

Legal responsibilities around migration and disability

There are a number of relevant but overlapping laws and policies relating to migration and disability of which public bodies should be aware.

The Equality Duty is a duty on public bodies and others carrying out public functions to embed equality considerations into their day to day work. There are a range of different equality characteristics that need to be considered by public services under the Equality Act 2010, and they include both disability and race. Race here includes colour or nationality (including citizenship and ethnic or national origin).

Another key context is the UN Convention on the Rights of Persons with Disabilities. Article 3 of this Convention emphasises:

- Respect for the inherent dignity, individual autonomy ... and independence of persons
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of person with disabilities as part of diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities and respect for the rights of children with disabilities to preserve their identities.

³ Centre for Disability Studies, Leeds University

⁴ Open University, *Understanding and Awareness, the social model*

The position of migrants with disabilities is complicated because there are ways in which immigration legislation such as the Immigration Act 2014 and other immigration rules may contradict other legislation such as the Equality Act 2010, the Children Act 1989 and two UN Conventions (on the Rights of the Child and the Rights of People with Disabilities). There may be tensions inherent within the Immigration Act itself, between the policy applied under the No Recourse to Public Funds and the requirement to integrate. These are underlined by the findings of a study⁵ which found that immigration rules more broadly are complex and poorly understood and that the 'No Recourse to Public Funds' rule may negatively affect integration.

Decisions being challenged in the courts seek to clarify areas which might appear to be contradictory, but mean that this is an ever-changing area. These tensions will be resolved through the lengthy process of the courts, so it is important to remember to review legal decisions. Garden Court Chambers for example have a website with case decisions.⁶

All these factors are accentuated with respect to migrants facing issues about disability where their own cultural background may also make accessing services or benefits more complicated but it is also clear from this study that this area is hugely under-researched.

Figure ii provides an example of how these complexities may play out. Fatima is a mother with impairments in a migrant family who held different immigration statuses at different times. She and her children were eventually granted leave to remain in the UK due to a combination of her physical and emotional difficulties plus the 'best interests' of her children under the UN Convention on the Rights of the Child, Article 3(1). This is an example of the tension which has to be managed when two different pieces of legislation – which may be in conflict - have to be considered as relevant to the same case. This booklet is intended as guidance through a complex system which is continuing to change.

Figure ii: A complex story of impairment and immigration status - Fatima's story

Fatima arrived in the UK on a visitor visa with her doctor husband from Pakistan. They were accompanied by a daughter who came on a short-term student visa and two teenage sons who were part of the visitor visa application.

The daughter was enrolled in a language college and the father then left to return to Pakistan, abandoning Fatima and her two sons. It transpired that the language college was not properly registered and the daughter then had no valid visa. She became a 'visa overstayer' and was living with an older man who was a refused asylum-seeker.

Fatima was destitute and was advised to claim asylum. She and the boys were sent to live in a northern town where she was referred to a small refugee mental health project. She was confused, emotionally vulnerable and unable to care for herself or the boys very well. She also suffered from incontinence, which, it transpired was the result of marital rape on many occasions. Once her history was explained to the GP she was referred to the NHS for help.

Fatima was eventually granted asylum. It was found that her boys could not return with her to a refuge in Pakistan as they would not be admitted, but were at the same time not old enough to be self-supporting.

⁵ Economic and Social Research Council (ESRC) (2013) *Immigrants and access to public services*. Evidence briefing. www.esrc.ac.uk/news-and-events/publications/evidence-briefings/immigrants-and-access-to-public-services.aspx

⁶ See www.gardencourtchambers.co.uk

Migration and disability in combination

Key message 1: Migrants with a disability are likely to face multiple difficulties when accessing services in the UK and integrating into the community.

Finally, it is worth highlighting the fact that migrants with disabilities are likely to experience multiple disadvantage or what has been called 'multiple jeopardy'. They face not only the difficulties of being a new migrant with all the accompanying barriers to accessing services and settling in (many of which we know about and are covered in the guidance series so far) - they also have difficulties associated with having an impairment.

Further, it might not simply be a question of two sets of difficulties arising, but of how they combine or intersect. What is it like to be both a new migrant and a person with a disability at the same time? Does it create new difficulties? *Figure iii* gives one example of a recent migrant to Yorkshire who experiences multiple disadvantage. Not only does she have various impairments, she migrated in old age and has no recourse to public funds. For Mrs Bibi, this means her family incurs medical expenses overseas, but it is not known how her healthcare will be provided when she is no longer able to travel.

Figure iii: Experiencing multiple disadvantage – Mrs Bibi's story

Mrs Bibi is 81 years old. Her son lives in Leeds and Mrs Bibi came from Pakistan to join him and his family here. She has indefinite leave to remain (ILR) in the UK but with no recourse to public funds. Mrs Bibi has limited mobility and is partially sighted. She is mobile around the home but has a wheelchair for longer trips outside the house. She has hearing aids and general age related issues like arthritis.

Her daughter died five years ago in Pakistan leaving four children. Mrs Bibi travels between two countries, spending her time with her son in Leeds and her daughter's children back in Pakistan. Because of her problems with her eyesight she finds that she can access the hospitals in Pakistan more easily when she visits. Because she is travelling, if she is referred to hospital by a GP in the UK, the appointment often takes time to come, by which time she is abroad again.

'I am very old and it would be nice if I could settle in one country but I have close family in both countries. I came here this time to see my son as he has had an eye operation. ... I can't claim benefits as I am not here long enough, I don't have a pension and do feel vulnerable ... I was told about pension credit but it would only be useful if I lived in the UK permanently. I can't do that as I have to keep an eye on my grandchildren in Pakistan.'

Mrs Bibi has some money left by her husband and some rent from land he left. Her son pays for her including for her medical care in Pakistan. She reflects: *'I wish I had a pension, I would feel more confident and independent but there is nothing I can do now.'*

Source: IUN Volunteer project

The substantive element of this booklet discusses access to entitlements and services by migrants with disabilities. It explores approaches to working with this group, including communication and the issues around culture and disability. Advice around multi-agency working completes the booklet, giving examples of practice to inspire others.

Rights and entitlements of migrants with disabilities

Key message 2: Services supporting migrants with a disability should consult and take professional advice regarding their rights and entitlements. This is an increasingly complicated area both in relation to rights and in terms of gaining access to help.

People with disabilities need access to health care, assistance to maximise their independence, appropriate housing and a protected income through work or benefits. Understanding rights and entitlements is a key area for anyone with a disability, someone acting as a carer, or indeed for anyone trying to access support for someone with a disability.

Throughout the debate on immigration there is a policy tension between restricting access to services and encouraging integration. A recent study about the impact of restrictions on migrant integration⁷ suggests that there is increasing conditionality of access to services (i.e. more and more tests have to be met to qualify for certain benefits) and increasing complexity in the rules. Unfortunately the study also found that service providers struggle to interpret the immigration-related eligibility rules and if unsure they will tend to refuse access.

The welfare system is complicated particularly for migrants and it can be difficult to understand what support an individual is entitled to. This complexity may lead to incorrect decisions and incorrect restrictions being placed on migrants with disabilities and their families. Unfamiliarity with the details of these entitlements for different groups is not only an issue for the individual migrant but also for host communities as well, and it is often easier to react emotionally than from a position based on factual knowledge.⁸ The general rights and entitlements of migrants are detailed in *Migrant rights and entitlements*, guidance booklet #4.⁹

Access to public funds

Key message 3: Most third country migrants on temporary leave in the UK will not be entitled to public funds such as Disabled Living Allowance and Severe Disability Allowance.

The different ways in which people enter the UK will affect their entitlement to accessing benefits or public housing. As a general rule, third country nationals who only have temporary permission to be in the UK (usually a time-limited visa) do not have access to public funds as they (or their family members) are expected to be able to support themselves in the UK. Until they have permission to stay permanently (known as 'indefinite leave to remain' or ILR) there is a rule of 'no recourse to public funds'. This can be very difficult for many migrants.

⁷ C Oliver (2013) *The Impact of Restrictions and Entitlements on the Integration of Family Migrants*. COMPAS: Oxford. www.compas.ox.ac.uk/research/welfare/impacim/

⁸ With this in mind, Northern Welcome has recently published some fact sheets about migration see www.nrcentre.org.uk

⁹ Integration up North (2014) *Migrant rights and entitlements*. Introduction to Migration series, Guidance booklet #4. www.migrationyorkshire.org.uk/integrationupnorth See in particular the *Appendix: Reference tables on migrant entitlements*.

Benefits considered to be public funds include Severe Disability Allowance, Carers Allowance and Disabled Living Allowance (see *Migrant rights and entitlements*¹⁰ for more on public funds). However, some benefits including the income-related Employment and Support Allowance (formerly Incapacity Benefit) are not regarded as public funds because they are based on contributions paid by claimants. This means in practice a migrant has to work in the UK long enough to pay in sufficient national insurance contributions to be able to make such a claim, so new arrivals would not be in this position for several years.

This is the general rule and there are always exceptions. A migrant with another form of leave to remain such as Humanitarian Protection, Discretionary Leave or Refugee Status may have rights to claim disability benefits.

Amran's story in *Figure iv* shows how even someone with indefinite leave to remain (ILR) in the UK – and therefore access to public funds – can struggle to navigate this complex system, and the subsequent impact on her ability to care and provide for her children.

Figure iv: Delays in access to disability benefits – Amran's story

Amran is a single parent from Somalia. She arrived with Indefinite Leave to Remain (ILR) in the UK to live in South Yorkshire. Her children are aged five and eight years. The younger child has cerebral palsy, is visually impaired and has epilepsy. She is at a school for children with special needs.

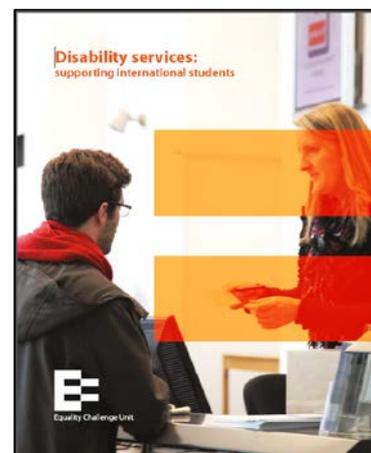
In Amran's case the system for receiving benefits related to a disability usually required that she would have had to wait for six months to receive Disability Living Allowance. However, the rules have recently changed so that she has to wait for two years instead.

Amran has been required to attend college for English language classes in order to qualify for Job Seekers Allowance but her attendance is sporadic because of the health of her child. She has been told that she may not be able to continue with her course. She is currently claiming Employment Support Allowance because of stress. Her case is being appealed in the High Court in respect of the waiting time to be able to claim Disability Living Allowance.

Access to education

All migrants who are legally living or working in the UK have access to education for their children. Access to adult education is more complex. Generally a third country migrant would pay overseas student fees for education.

Universities, like other public services, have a duty not to treat students with disabilities unfavourably under the Equality Act. This includes for example, refusing admission on the grounds of disability and making extra support and equipment available. However, international students are often unaware of the support offered by their institution's disability service. A leaflet suggesting ways that institutions can support international students with disabilities is available from the Equality Challenge Unit (see picture, right).¹¹



¹⁰ Integration up North (2014) *Migrant rights and entitlements*. Reference as above.

¹¹ Equality Challenge Unit (2013) *Disability services: supporting international students* www.ecu.ac.uk/publications/disability-services-international-students/

Access to health care

In the past access to the NHS was based on 'ordinary residence' in the UK. The 2014 Immigration Act 2014 has made changes to migrant entitlements to healthcare and since April 2015 most third country nationals¹² are required to pay the Immigration Health Surcharge (at £200 per year of leave granted) when they apply to come to the UK.

Access to health care for migrants has been a longstanding area that is complex for both service users and professionals to understand. This can lead to unnecessary withholding of medical treatment, as outlined in the case study in *Figure v*, with a subsequent impact on mental health for example.

Figure v: The impact of healthcare restrictions on mental health – Zeinab's story

Zeinab is from Sudan and came to the UK as a refugee (under the UNHCR Gateway Protection Programme) with her husband to live in a large northern city. She had lost her two year-old daughter in the conflict in Darfur and had not become pregnant again. She had also been raped.

She was told that she would need to provide £4500 to have initial exploratory examinations. She became very depressed as this was impossible for the couple, and it had a serious impact on her mental health.

The practice had not consulted the overseas visitors' team within the hospital to check her entitlement. Once her circumstances and history were explained to the GP by a third sector agency in which she had confided her painful history, Zeinab was given excellent care with access to complex surgery and her mental health improved.

Key message 4: The immigration rules are very complicated and it is important to seek professional independent advice when trying to interpret them. You should not try to give immigration advice unless you are a registered immigration advisor.

Only those people who are accredited at Level One at least, by the Office of the Immigration Services Commissioner (OISC) are allowed by law to give advice on immigration matters, so make sure you are consulting someone with this qualification.

¹² Exempt groups include visitors, Tier 2 workers, asylum seekers, victims of trafficking and domestic violence, nationals from Australia or New Zealand. Being exempt does not necessarily lead to free NHS care. Visitors and short term students will be charged 150% of the cost of their treatment, so need medical insurance before they arrive. Others will be entitled to free NHS treatment on a different basis e.g. Australians and New Zealanders are covered by reciprocal agreements with the UK, EEA and Swiss nationals and their family members and vulnerable groups including looked after children, asylum and humanitarian protection applicants and victims of human trafficking are entitled to free treatment under The National Health Service (Charges to Overseas Visitors) Regulations.

Working with migrants who have a disability

The UK approach to disability

The government approach to disability is reflected in a recent Department of Health consultation document for people with learning disabilities, autism and mental health conditions.¹³ Their proposals are essentially fourfold:

- *'People in charge ... not as passive patients or "prisoners" of a system'*
- *'Inclusion and independence in the community'*
- *'The right care in the right place'*
- *'Very clear accountability and responsibility throughout the system ... there can be no excuses ... for people falling through the gaps between services.'*

The Department of Health's checklist for the principles of Adult Safeguarding¹⁴ cover:

<i>'Empowerment</i>	<i>Presumption of person led decisions and informed consent.</i>
<i>Protection</i>	<i>Support and representation for those in greatest need.</i>
<i>Prevention</i>	<i>It is better to take action before harm occurs.</i>
<i>Proportionality</i>	<i>Proportionate and least intrusive response appropriate to the risk presented.</i>
<i>Partnership</i>	<i>Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.</i>
<i>Accountability</i>	<i>Accountability and transparency in delivering safeguarding.'</i>

These aims broadly reflect current professional thinking in the UK about services for people with a disability, including those with a mental health condition. For the past few decades, disability groups have campaigned for services which maximise the independence of people with disabilities. However, maximising independence means maximising support through assessments, equipment, enabling. Any limitations on making provision in this way have therefore the potential to be disabling.

Existing research and practice

Key message 5: When working with migrants with disabilities it is best to assume a very low or no level of understanding or experience of services, or of the benefit system. They may also need a holistic model of care.

There is a good deal of research on the general theme of barriers to accessing services, partly due to campaigning by people with disabilities themselves. However, research into the circumstances of migrants with a disability is very limited especially where it relates to third country migrants. This is partly due to three important reasons:

¹³ Department of Health (2015) *No voice unheard, no right ignored – a consultation for people with learning disabilities, autism and mental health conditions*. Consultation Paper 6 March 2015

www.gov.uk/government/consultations/strengthening-rights-for-people-with-learning-disabilities

¹⁴ Department of Health (2011) *Statement of Government Policy on Adult Safeguarding*. 16 May 2011

www.gov.uk/government/publications/adult-safeguarding-statement-of-government-policy

- This target group is relatively small and will be generally difficult to locate and access
- Few organisations might regard their situation as falling within their remit.
- New migrants may not have the experience of a culture where services are available; provision of services may be a new concept to some communities. Many will be unfamiliar with a system of state benefits and support in their own countries, and many will assume they cannot receive support or do not wish to claim. Raniya's story in *Figure vi* is one example.

Figure vi: Raniya's story of hearing loss

Raniya came to the UK from Kashmir to join her husband. She is illiterate and found adjusting to life in the UK more difficult than she had imagined. She observed: *'I wish I'd known how difficult it is here without an education. In Pakistan I never felt it, you could get by without noticing. No one judges you and you are not a burden on anyone. I really feel it here, even though they are all very supportive and helpful.'*

She has a hearing problem in one ear but has never mentioned it to a doctor in the UK or in Pakistan. *'My family already do more than enough for me and I don't want to burden them with extra things for me to do for me. I don't feel that it is a major problem for me at the moment so i will leave it. I am worried that what if my other ear gets bad then I will be completely deaf. I will try to get it sorted out when the children are a bit older'*.

Source: IUN Volunteer project

The 'Deaf Third Country Nationals Integration Project' outlined in *Figure vii* is one example of practice that gives an insight into the nature of the support that might be needed by third country nationals with a disability. An evaluation report involving 14 service users provides some evidence of its effectiveness.

Figure vii: The Deaf Third Country Nationals Integration Project

The Deaf Integration Project aimed to provide legal advice on immigration, employment advice and training, an advocacy service, sign language training and social events. It was based in London and ran between 2007 and 2009. It was delivered by The Royal Association for Deaf People.

Several service users had suffered extreme isolation in their home country, with no social contact beyond the immediate family and no sign language. For those who took up the project it helped:

- To access work
- To improve the social life of a few
- To learn sign language
- To understand what other services they could access.

In those terms the project was successful in engaging with some of the people who need significant support to engage more fully with life in the UK.

Staff members interviewed for the study were taken aback by the range of requests for help from deaf migrants. They found themselves having to help with problems, or find information beyond what they were usually asked. That seemed to arise from the confusion of some of the deaf migrants when living in this new culture and also from their sense of isolation.

The evaluation recommended that future projects should consider employing staff with a common culture or language with the service users.

Source: Parr et al (2010)¹⁵

As staff in the Deaf Integration Project found, it is not uncommon when working with migrants and refugees find oneself working beyond the boundaries of what a service normally provides because trust has been built up between the migrant and the worker and the worker comes to be seen as 'the person who can help'. The roles and boundaries of agencies are unfamiliar to migrants and take time to understand, so that questions may be asked about benefits, problems with school, language classes, where to buy an unusual ingredient, and so on. Bhugra¹⁶ quotes examples of this holistic model of care.

Someone with a disability might face more barriers to integration, find access to services more difficult and agencies might experience a greater range of requests and advice. It is usually not possible to resolve every difficulty but more realistic to draw on networks of people and places who might be able to solve a problem. It is not uncommon for parents of children with disabilities to say that they have to fight for help for their children, similarly migrants with disabilities may need advocates to help them access what they need in order to maximise their independence.

¹⁵ S Parr et al (2010) *An Evaluation of the Deaf Third Country Nationals Integration Project*. Centre for Regional Economic and Social Research (CRESR), Sheffield Hallam University www.shu.ac.uk/research/cresr/evaluation-deaf-third-country-nationals-integration-project-pdf-398-kb

¹⁶ D Bhugra, T Craig and K Bhui (eds.) (2010) *The Mental Health of Refugees and Asylum Seekers*. Oxford University Press: Oxford.

Communication and trust

Key message 6: A migrant's situation is often complex, particularly where disability is involved: this usually requires the involvement of more than one agency and it is imperative that they work together effectively in the interests of the migrant.

Migrants, especially with increasing barriers to support, may be anxious that questions are directed at them, however innocent, might be something to do with the Home Office which is seen as the agency responsible for policing and security. They may come from countries where there have been threats from government, or they are just so unfamiliar with the idea of professional services that they take time to understand how services work and what may be offered. There is the added dimension of whether they are entitled to access services of course but even if they may do so, they may not grasp how the system works.

It may be that they have built a trusting relationship with a professional from another statutory agency or from a third sector agency. Building trust between a migrant and a professional takes time and that is often a scarce resource. Multi-agency, holistic working is often the key to engaging with migrants. There is, on occasion, also mistrust between statutory agencies and third sector agencies but this must be set aside in the interests of the migrant. The migrant should also be asked who they would like to be present at a meeting, if anyone. There is a delicate tension between a third sector agency and a statutory body, which often seems to reflect a situation where the third sector agency is seen as acting as advocate for the migrant and the statutory body as holding the power of resources. When it works well as a relationship, it is fruitful and creative, and it is this model of multi-agency work which offers the best outcome. An example is outlined in *Figure viii*.

Figure viii: Gloria's story of learning difficulties and multi-agency practice

Gloria came with her parents to the UK from Africa at the age of fifteen with Indefinite Leave to Remain (ILR) in the UK. She has learning difficulties and was given a place at a school for children with special needs. It became apparent that she was going down to a local park after school and playing on the swings. She was being made fun of but was also being approached sexually. She did not seem to be anxious about these approaches.

Gloria's case was referred to the disabilities team in social services. In discussion with her parents it was clear that she had been sexually abused by people outside the family because she was regarded as an object of fun in her home country. In order to safeguard her, her parents were encouraged to speak about her history. The school was involved in the safeguarding process as they would be central to her development in the UK. Community cohesion police were supportive in making the park a safer place and her parents were helped to try to get her to understand what was unsafe. The parents were also confused about what authority they had in the UK. Friends had told them that the child had to decide in this country and they could not expect her to do as they asked. They attended parenting classes after a lot of preparation to build their confidence. Eventually the school and the parents worked closely together to help to protect Gloria.

The use of interpreters

The Equality Act 2010 highlights the need to provide equality of access to public services. This requires paying attention to such factors as language. When there is an interpreter involved, trust needs to be developed on a three way basis: the interpreter needs to be able to speak the same dialect as the client and be trusted by both the client and any workers involved. The situation is of course, more complex still when someone with hearing loss has no sign language (which may be the case if they come from a rural area or for socio-economic reasons had no access to learning sign language), and a four-way interpreted session may be needed.

There are three golden rules in working with migrant families with an interpreter:

1. Never use a child as an interpreter, other than to check a day/time or something of little significance.
2. Do all you can not to use an adult family member as an interpreter for a significant conversation.
3. Check that the interpreter understands the importance of confidentiality and can explain that to the client.

Further guidelines are suggested in *Figure ix*.

Figure ix: Guidelines for using interpreters

Do:	Do not:
<ul style="list-style-type: none">• Be clear about the client's language, dialect and country of origin before making a booking.• Brief the interpreter before the session.• Consider the issue of the interpreter's gender.• Explain how you work and the expected outcome of the session.• Let the interpreter know if you will be using any technical terms.• Allow the interpreter to introduce themselves.• Arrange the seating so that everyone can see one another.• Speak directly to the client.• Actively listen to both.• Keep eye contact, if culturally appropriate, with the client not the interpreter• Be aware of cultural issues you do not understand. Ask for clarification or ask the interpreter later.• Ask for clarification if there is a misunderstanding.• Allow time for debriefing at the end.	<ul style="list-style-type: none">• Use complicated language and jargon if you do not need to.• Refer to the client in the third person.• Speak in unmanageable chunks.• Leave the interpreter and the client alone in the room.• Expect the interpreter to be a 'general assistant' or to look after the client.• Do not interrupt, even if you know some of the language.

Remember that in some cities the number of interpreters is fewer and the migrant may have encountered the interpreter in all kinds of settings. This can give, without breaching confidentiality about content, some constructive information about the client (for example,

whether they had seen a lawyer or their GP recently) but it may also require you to be very careful about the boundaries of confidentiality. You are both working together in the best interests of the client. There is a considerable literature about the use of interpreters, including in work relating to some disabilities.¹⁷

Drawing together this section, Figure x provides a suggested outline of good practice in working directly with migrants who have a disability. This can be used as a basis for looking at existing practice in a team, or when designing a service to meet the needs of this client group.

Figure x: A good practice model

Remember that you may not be the only agency who has talked to the family. Try to work with an effective multi agency model, while taking into account your own confidentiality policies. That will minimise the confusion the family might experience and also the extent to which they have to repeat painful memories.

Assessment

- *Before the meeting, ask what language they speak and in what language they would like to speak with you. Ask if they need to do that through an interpreter and have they any requests in relation to an interpreter that you can meet.*
- *Do they understand what you do and why you are meeting with them?*
- *Don't ask everything in the first meeting. Build up a picture as a way of building trust. In many countries, the idea of talking with a professional/stranger is not a familiar one.*

Personal factors

- *Where do they come from?*
- *Who was in the family there and what was family life like?*
- *What kind of education did they have?*
- *What brought them to the UK?*
- *What was the process of coming like? e.g. visa delays etc*
- *Where are they living and what is their life like now?*
- *Who is in the family now?*

Environmental Factors

- *What was the process like to come to the UK?*
- *Find out if there are any problems with their status.*
- *Have they got a faith and do they practice it?*
- *If they have children, are they satisfied with the school/nursery?*
- *Do they have friends/relatives in the same city?*
- *Do they know about any local organisations/groups who might encourage integration?*

Disability

- *How is their/their children's health?*
- *Are they registered with a GP?*
- *Is there anything they are worried about and if so what is it?*
- *How difficult was it in their own country to find help? Why?*
- *How helpful/supportive were their family?*
- *Did anyone help them with their or their child's disability before they came to the UK?*
- *What help do they get here?*
- *Do they see a doctor or anyone else who helps them?*
- *Is there anything they might access which would support them better?*

¹⁷ H Raval and R Tribe (eds.) (2003) *Working with Interpreters in Mental Health* for example is a collection of papers discussing good practice in the use of interpreters.

Culture and disability

Key message 7: An awareness of pre-migration conditions (including attitudes to disability), migration journeys and the post-migration environment (which impact on identity) are important aspects of working with migrants who have a disability.

An important aspect of working with migrants is to be aware of and respond to their cultural norms. This is a large area of study, but it is important to try to highlight some of the cultural issues which arise when there is a meeting between a service provider and a migrant with a disability.

Bhugra has written extensively on the theme of mental health and cultural differences. He suggests that *'the process of migration, sense of dislocation and alienation must contribute to the stress on individuals and their families ... it can be argued that the individual has to be particularly healthy in order to jump through all the hoops of immigration that are put in their way.'*¹⁸ In the present circumstances, more than ten years later, this point remains salient.

Distress, particularly psychological distress, needs to be understood in the context of culture. Bhugra quotes a study of Punjabi women who were certain that depression was not a medical condition: they sought help from spiritual sources as do very many migrants. They felt that depression was part of life's ups and downs and not something they would discuss with a doctor - and indeed saw seeking help as stigmatising. This requires a great deal of cultural sensitivity amongst professionals.

Bhugra also describes areas where people and cultures encounter one another and which mark out differences. These include: language, religion, entertainment, food, shopping habits, cognitive styles, behavioural patterns and attitudes.

The point is that migration and awareness of cultural differences will change the construction of identity for new arrivals. Increasingly individualism has dominated cultural changes in the UK. Gloria's story earlier highlighted how her parents misunderstood cultural attitudes in the UK about children rights. In contrast, many migrants come from cultures which are mainly collective, where the family and the village/town are part of the person's identity. One woman from Rwanda who was a refugee and is now settled in the UK with a small child alone, remarked that in the past she could never remember being alone. She had always been with a group of cousins or sisters, and she found herself totally alone in the UK. She had to reconstruct a new sense of herself without the sense of belonging which her family had given her.

Someone who arrives with a disability will bring with them their internal experience of how they were treated in their developing years by the community they grew up in, which would include expectations about healthcare and aspirations. A migrant with a disability faces all those daunting challenges of re-evaluating their sense of themselves as a migrant, as well as dealing with the difference which the world imposes on them as a person with a disability.

¹⁸ D Bhugra (2004) 'Migration, distress and cultural identity'. *British Medical Bulletin*, Vol. 69(1), pp.129-141
<http://bmb.oxfordjournals.org/content/69/1/129.abstract>

They may also bring with them some deep-rooted beliefs about disability which some will have questioned within themselves, but which other co-migrants may still hold onto.

Key message 8: People working with migrants around the area of disability need a sense of cultural norms to understand and respond to the migrants' attitudes and practices.

The attitudes of people from different cultures towards disability are shaped by faith, history and family experience. Difference can be threatening if it is not understood.¹⁹ For example, among some Somali communities, people with albinism can be regarded as having an evil spirit. The media recently reported cases of people with albinism being killed by witchdoctors in Tanzania where that belief is also quite prevalent.²⁰

Figure xi provides a local example of how cultural interpretations of disability can negatively impact upon migrant families in the UK, causing marriage strain and families to live apart in these cases. Manchester-based AFRUCA provides some accessible resources on this subject that can help practitioners understand the issues involved and the situation in the UK.²¹

¹⁹ We should not forget that the UK and other western countries have culturally-influenced attitudes to disability with a not too distant history that includes forced sterilisation of people with mental health issues for example. See G Craig et al (2012) *Understanding 'race' and ethnicity: Theory, history, policy, practice*. The Policy Press: Bristol.

²⁰ 'Tanzania albinos: 32 witchdoctors held in anti-murder drive', *BBC News* 06.03.2015 www.bbc.co.uk/news/world-africa-31773509 'Albinism in Tanzania: slow progress in combatting violence and discrimination', *The Guardian* 13.05.2015 www.theguardian.com/global-development-professionals-network/2015/may/13/albinism-in-tanzania-slow-progress-in-combatting-violence-and-discrimination

²¹ See for example, AFRUCA (2013) *Tackling child abuse linked to faith or belief* www.afruca.org/wp-content/uploads/2013/07/EJC-3-4-Faith-based-abuse.pdf

Figure xi: Cultural interpretations of disability – Mariam and Buki’s family stories

Mariam came to the UK from Nigeria. Her two daughters were aged 5 and 7. The younger daughter was born with a hearing problem and needed a cochlear implant.

Mariam’s husband was employed by an oil company in Nigeria which agreed to pay for surgery for their daughter in the UK as the treatment was not available in Nigeria. Mariam had a visa which enabled her to remain in the UK because of her child’s needs for medical treatment.

Problems arose following the surgery because after this type of implant there is a need for regular medical review, for which the company had not anticipated and would not pay.

Mariam is living in a northern town in the UK with the girls, while her husband is paying for their living expenses from his wages in Nigeria. The company could not transfer the husband to the British branch of the company, which would then have entitled the family to work and live in the UK.

The child receives a review through the NHS and attends a primary school with a unit attached for deaf children. However, the circumstances are placing a strain on the marriage and the husband’s family in Nigeria are blaming Mariam for the disability – a not uncommon cultural response - and suggesting he leave her.

There is currently no resolution to this problem.

Buki also comes from Nigeria and came with her husband on his student visa. She has a degree in English from Nigeria and had three sons all under six.

The eldest has severe hearing loss and because of his first few years without any help, he has behavioural difficulties which his school are helping to address.

The marriage broke down but she did not want to go back to Nigeria as she said that her husband’s family claim that the disability is due to witchcraft.

Buki claimed asylum and had to move to another town in spite of requests from the child’s school that he remain there.

Three years on, Buki is still living on asylum support and unable to take any paid employment. It is not certain whether the child’s best interests are being taken into account so that she has not been deported, but she is under stress because she does not know whether she is going to be allowed to remain.

If her child were to return to Nigeria there are few facilities for him to have the opportunity to realise his potential and make something of his life.

Figure xii presents varied professional insights that demonstrate how other cultures vary in their attitudes to disability, and which may present serious challenges to professionals working in this territory in the UK.

Figure xii: Professionals' expertise in cultural attitudes to disability

Congo

'There is a deep and embedded discourse in our community in relation to mentally and physically disabled people, including children. They are in most cases, associated to witchcraft and suffer from social exclusion in different ways. I do not say all of them, but in the majority of cases. This is why having a holistic approach to exploring the environment, life/culture/family, prior to their departure from the Democratic Republic of the Congo, is essential when assessing their issues.'

- Refugee Therapeutic worker Baobab. London

Nigeria

'People with disabilities face many challenges in Nigeria. They are often stigmatised by people around them, who bully them rather than encourage them. They can be condemned, even by their parents because they may be a social and financial burden to their family. Some parents hide their children away from their communities, because of the shame they feel it brings to them. It is not a good experience in Nigeria for a child with a disability and the government does not support or encourage people with disabilities. Nigerians traditionally do not believe that someone with a disability can prosper, instead of seeing it as a child to be proud of they may abandon them or fail to support them. Things are beginning to change but it is not easy.'

- Nigerian professional, Huddersfield

Somalia

'Traditionally in Somalia, the clan groups were nomads, and many people still live in this way. You have to be tough to keep up with the clan. A child with a disability would be seen as a burden, slow everyone down. They accept how it is because they view it as pre-ordination, part of their destiny. They would not damage the child, or kill it because that would be worse, maybe they take them to an orphanage or ask a family member to care for the child.'

- MAAN Mental Health Project Sheffield

In an assessment of a problem presented by any migrant, the pre-migration experience, the migratory and the post-migration experience need to be understood in order to understand the vulnerability factors which face the person.

Sources of help

Key message 9: Before setting out to advise migrants, make sure you are aware of your own local resources and particularly those which might have expertise in the field of disability.

Migrants seek support from a range of places. Many come from cultures where there is little, if any, provision for state agency support. Some third sector agencies specialise in advocacy and advice and they will refer people to statutory agencies where necessary. Some cities have networks of small agencies which work in the migration/refugee sector and will cross-refer where necessary to agencies with greater levels of expertise in particular cases. The role of third sector agencies in building up a core of expertise in particular areas of work has been crucial in the field of migration.

It is not the same in all cities but many have a network of agencies which have experience of working with migrants. An example is Hull which has been a dispersal city for asylum seekers since 2001, and accepts UNHCR Gateway refugees, in addition to having a University which accepts significant numbers of foreign students.

- Northern Welcome (formerly the Northern Refugee Centre) has a base there in the form of Asylum Seekers and Refugees of Kingston upon Hull project (ARKH) which has an advice service and a women's project.
- Haven Project has worked intensively in a therapeutic way with refugee and migrant families since 2002 and is part of the Goodwin Development Trust.
- Open Doors through the Methodist Church runs a weekly drop-in with a number of services available.
- Red Cross operates a Family Tracing service and advice service.
- The Hull City of Sanctuary group has a welcome project for new migrants.
- Humber Community Advice Service has an advice and advocacy service.
- HANA (Humber All-Nations Alliance) is a generalist community development project working with minority ethnic groups including migrants.
- Freedom from Torture (formerly the Medical Foundation) co-ordinates bi-monthly agency meetings of psychologists and therapists.
- Skills for Communities run an employment-related project for migrants.
- The Refugee Council Hull project manages the Gateway programme.
- Hull City Council has a welfare rights service which migrants can access. The Council co-ordinates a multi-agency meeting and involves the Community Cohesion police.

Within that network, there is a huge amount of expertise, although there is no dedicated project working in the field of disability for migrants.

There are also agencies which operate nationally which can be a source of information and advice either by phone or on their websites. The better known of these include the following outlined in *Figure xiii*.

Figure xiii: Sources of support and advice

- Centre for Emotion and Law (work on trauma and disclosure) www.csel.org.uk
- Citizens Advice Bureau www.citizensadvice.org.uk
- Coram Children's Legal Project www.childrenslegalcentre.com
- Disability Rights www.disabilityrightsuk.org
- ECPAT (for trafficked children and victims of slavery) www.ecpat.org.uk
- Kalyaan (supports domestic workers) www.kalayaan.org.uk
- Migrant Rights Network www.migrantsrights.org.uk
- Refugee Council www.refugeecouncil.org.uk

It is worth repeating that only those people who are accredited at Level one at least, by the OISC (Office of the Immigration Services Commissioner) are allowed by law to give advice on immigration matters, so make sure you are consulting someone with this qualification.

Further reading

The following reading list is a guide to further information related to the topic of migration and disability, beyond those sources already highlighted in the guidance material as footnotes.

Aspinall P. (2014) 'Inclusion practice', *Inclusion Health*, Canterbury: University of Kent

(No stated author) (2009) *Supporting disabled refugees and asylum seekers. Opportunities for new approaches*. Conference report. November 2009.

Cook, J., Dwyer, P. and Waite, L. (2008) *New Migrant Communities in Leeds*, Leeds: Leeds University.

Coram (2013) *Growing up in a Hostile Environment*, London: Coram Childrens Legal Centre, November.

Craig, G. (2015) *Migration and integration: a local and experiential perspective*, Birmingham: IRIS Working Paper No 7.

Global Exchange (2014) *What works in social-economic integration?*, Global Exchange Briefing (at www.globalexchange.org)

Home Office (2012) *Policy Equality Statement*, London: Home Office.

Home Office (2015) *Immigration Health Charge*, London: Home Office, March.

House of Commons (2014) *NHS Charges for Overseas Visitors*, London: House of Commons Library, October.

Lewis, H., Craig, G., Wilkinson, M. and Adamson, S. (2009) *Refugees, asylum-seekers and migrants in Yorkshire and Humber*, Leeds: Migration Yorkshire.

Government Statistics (2014) *Migrant journey* Fourth report, February (at www.gov.uk/government/statistics)

Migrant Rights Network (2014) *Immigration Act 2014: what next for migrant's access to NHS care*, London: Migrant Rights Network, May.

Migrants Rights Network (2015) *New Immigration rules*, London: Migrants Rights Network.. March.

NRPF (2015) *Legal report*, London: NRPF Network, January.

Wrexham Council (2014) *Recent UK residents. Can I claim.?*, Wrexham: Wrexham Council.

Yeo, C. (2014) 'Court of Appeal Guidance on the best interests of migrant children' *Free Movement* July



Migration and disability

Summary of key messages

- 1: Migrants with a disability are likely to face multiple difficulties when accessing services in the UK and integrating into the community.**
- 2: Services supporting migrants with a disability should consult and take professional advice regarding their rights and entitlements. This is an increasingly complicated area both in relation to rights and in terms of gaining access to help.**
- 3: Most third country migrants on temporary leave in the UK will not be entitled to public funds such as Disabled Living Allowance and Severe Disability Allowance.**
- 4: The immigration rules are very complicated and it is important to seek professional independent advice when trying to interpret them. You should not try to give immigration advice unless you are a registered immigration advisor.**
- 5: When working with migrants with disabilities it is best to assume a very low or no level of understanding or experience of services, or of the benefit system. They may also need a holistic model of care.**
- 6: A migrant's situation is often complex, particularly where disability is involved: this usually requires the involvement of more than one agency and it is imperative that they work together effectively in the interests of the migrant.**
- 7: An awareness of pre-migration conditions (including attitudes to disability), migration journeys and the post-migration environment (which impact on identity) are important aspects of working with migrants who have a disability.**
- 8: People working with migrants around the area of disability need a sense of cultural norms to understand and respond to the migrants' attitudes and practices.**
- 9: Before setting out to advise migrants, make sure you are aware of your own local resources and particularly those which might have expertise in the field of disability.**