

# Refugee children in the UK

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## Abstract

Across the globe, persecution, conflict, and famine drive people from their homes. In 2014 59.5 million people were forcibly displaced, of whom more than half were children. Of those people, 38.2 million had been displaced within their country of nationality, whilst 21.3 million had crossed borders to seek refuge. In the summer of 2015, forced migration gained particular prominence in the world's media, as large numbers of migrants made the journey to Europe, and the member states of the European Union dramatized the complexities of the laws and treaties relating to migration into and within the EU.

Each year a proportion of the world's displaced and dispossessed people seek refuge in the UK. For the year ending June 2015, 25,771 main applicants sought asylum in the UK, and 8% of these (2168) were children seeking asylum alone. The top three countries from which people sought asylum in the UK were Eritrea, Pakistan and Syria. Paediatricians will encounter refugee and asylum seeking children in a variety of situations. This review describes the rights and realities of refugee children, and suggests ways in which paediatricians can support them.

**Keywords** asylum seeker; child; global child health; medical ethics; refugees; safeguarding

## Who is a refugee?

Throughout history, people have crossed international frontiers to seek refuge from persecution, wherever those frontiers have existed. Before 1951, there was no international treaty that prescribed what protection should be offered to refugees. After the Second World War, national representatives at the League of Nations met to discuss what steps should be taken to regularize the status of millions of people who had fled violence and persecution in central Europe. The result of those discussions was the Convention Relating to the Status of Refugees (Refugee Convention), to which 148 countries are signatories. The convention was initially retrospective, applying only to people who had moved before 1951, but in 1967 the convention was updated by a protocol which removed any time restrictions (Box 1).

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## The Convention Relating to the Status of Refugees

The Convention Relating to the Status of Refugees defines a refugee as a person who: 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'

## Box 1

It is important to distinguish between the terms 'asylum-seeker', 'refugee' and 'migrant'. These terms have tended to be used interchangeably, causing confusion and blurring the specificity of rights accorded to each status. An asylum-seeker is a person who is seeking protection from persecution in another country, but the status of whose claim has yet to be determined. A refugee is someone whose claim has been settled and who has been granted refugee status in a second country, whilst a migrant is defined by the UN as "a person who moves to a country other than his or her usual residence for a period of at least a year".

Most refugees seek protection in the Majority World, and the largest group of refugees in the world at present is that created by the war in Syria. Figures published by the UNHCR (updated September 2015) place 2,072,290 Syrian refugees in Turkey, and 1,078,338 Syrian refugees in Lebanon. By contrast, 2204 applications for asylum were made by Syrian refugees in the UK by year end June 2015.

## Claiming asylum in the UK

A child may claim asylum in the UK on their own, or as part of a family unit. After an initial interview, the claimant will wait to be allocated a time for a substantive interview. Families with children who arrive in the south-east of the country will be dispersed to other regions whilst they are waiting. At the substantive interview, the child or the head of the household will be asked to explain their reasons for seeking asylum.

Following this interview there will be a period during which the case officer at the Home Office considers his decision, which may be lengthy. Children and families will usually be provided with accommodation, also some are occasionally detained. During this time, asylum seekers are not allowed to work, and are provided with a small stipend (see Box 2). The Home Office may decide to grant the family or the child's application, in which case the applicant will be granted refugee status, as well as leave to remain in the UK for 5 years, after which time their case will be reassessed. An adult applicant also has the right to bring immediate family members to the UK to live with him.

Alternatively, the Home Office may decide to refuse the application. In this case the child or family may be asked to leave the country, or be detained and forcibly removed. When an application for asylum has been refused, the applicant may still be granted leave to remain under a different statute. If it is judged that, whilst the applicant does not qualify for refugee status,

### Financial support granted to asylum seekers in 2015

Allowance for asylum seekers to cover food, clothing, transport, toiletries and other expenses: £36.95 per person, per week. Pregnant mothers are paid £3 extra per week, and mothers of children under 1 year old are paid £5 extra per week.

#### Box 2

nevertheless he would face a 'real risk of serious harm' he were to return to his country of origin, he may be granted Humanitarian Protection (HP) under part 11 of the immigration rules, which is also valid for 5 years, but does not confer the right of family reunion. If it is judged that the individual does not qualify for HP, but it can be demonstrated that his human rights would be infringed if he were to be returned to his country of origin, he may be granted leave to remain under the Human Rights Act. The applicant may also decide to appeal against the refusal. To the year ending June 2015, there were 13,034 appeals against initial refusals of which 30% were allowed (Figure 1).

### The rights of refugee children

The rights of refugee children are protected by the same national laws and international treaties that protect those of citizen children. Domestic laws relating to children were brought together in one piece of primary legislation as The Children Act in 1989, which has been regularly updated since then. The UN Convention on the Rights of the Child (UNCRC), which has been ratified by every country in the world apart from the USA, and which

was ratified by the UK in 1991, commits the British government to the progressive realization of the rights of children. The Convention for the Protection of Human Rights and Fundamental Freedoms, commonly referred to as the European Convention on Human Rights (ECHR), which was incorporated into British law by the Human Rights Act (1998), legally recognizes certain basic rights of children (and adults). All children including refugees, asylum seekers, or undocumented migrants, are subject to the same safeguarding processes and procedures as citizen children. All children have the right to protection, regardless of immigration status.

Upholding the rights of children and families who have not been granted asylum, and who have reached the end of the appeals process, may present difficult problems for paediatricians working in the NHS. The BMA has published guidance for doctors specific to access to healthcare for asylum seekers and refused asylum seekers. Home Office support, which is provided whilst the family is going through the asylum process, will usually be stopped. Where families lack the resources to provide children with the basic necessities of life, such as food, heating, or adequate clothing to protect against the cold, the children may be assessed by social care as being 'children in need' under section 17 of The Children Act. If a family has 'no recourse to public funds', however, social services may not have a duty to provide support to the family, unless it can be demonstrated that they face destitution, as this would constitute a breach of their human rights under the HRA. Families are likely to need specialist advice and support when navigating these processes. Families may not wish to make themselves known to social services, for fear of bringing attention to their case, and possibly hastening detention and forced removal from the country. This can lead to the incongruous situation of children being cold, hungry, and malnourished in one of the richest countries in the world.

The detention of refugee children also presents difficulties for professionals working with this group. Article 37 of the UNCRC states that 'No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time'. The United Nations High Commissioner for Refugees (UNHCR) has also published guidelines on the detention of asylum seekers, which emphasize that the detention of asylum seekers 'is an exceptional measure, and can only be justified for a legitimate purpose', and that it should only be resorted to when 'it is determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose'. The guidelines also offer a reminder that children 'should in principle not be detained at all', and that 'the extreme vulnerability of a child takes precedence over the status of an "illegal alien"'.

The number of children in detention within the UK has dropped significantly since 2010. During 2014 however, 128 children entered detention at some point. Where a child is threatened with detention, and it is possible that his rights could be infringed, doctors may wish to make a referral to an organization such as the Refugee Council or Bail for Immigration Detainees. Doctors may also help to support asylum seekers in

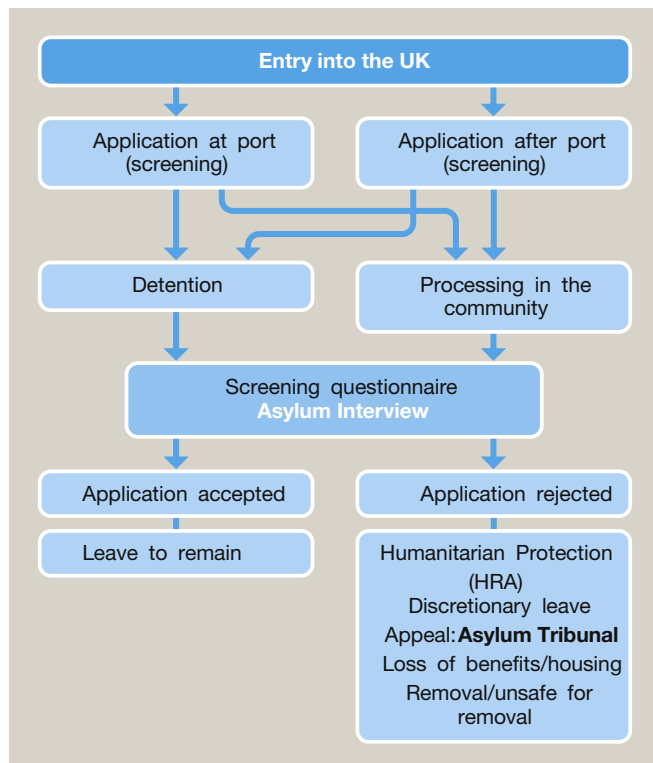


Figure 1 UK asylum pathway.

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