

The Inclusion of Migrants with Precarious Status in Essential Services



LOCAL RESPONSES TO MIGRANTS WITH PRECARIOUS STATUS: FRAMES, STRATEGIES AND EVOLVING PRACTICES IN EUROPE (LOREMI)

Ten policy recommendations from the LoReMi project

October 2022



In collaboration with:



Summary of recommendations

- Clarify rules on access to services
- Refrain from unnecessary data collection and install 'firewalls'
- Provide access to legal advice, information and orientation
- Ensure low-threshold access to essential services
- Build long-term collaborations with external service providers
- Prioritise inclusive approaches on gender-based violence
- Capture lessons on good practice from responses to the COVID-19 pandemic
- Promote communication and coordination within city councils
- Develop a council-wide vision and strategy to deliver it
- Use existing policy levers at national and European levels

The exclusion of any section of local residents from access to public services poses a challenge for local authorities across Europe. It undermines their capacity to deliver on key policy objectives including reducing street homelessness, protection of public health, crime prevention and child protection, as well as their responsibilities as duty bearers under international and European human rights law.

This policy brief draws lessons on policy and practice from a comparative research project, *Local Responses to Precarious Migrants: Frames, Strategies and Evolving Practices in Europe (LoReMi)*. It analysed the approaches taken in three European cities, Cardiff (UK), Frankfurt am Main (Germany) and Vienna (Austria) towards one such section of their local population, residents with a precarious status. It sets out recommendations for local, regional, national and European authorities.

Migrants with a precarious status are individuals who lack regular immigration or residence status or, having a conditional or temporary status, are vulnerable to the loss of that status. They are therefore deprived of, or run the risk of losing, their basic social rights and access to services. This group includes EU-citizens who are at risk of losing their residence status in another EU country due to lack of economic self-sufficiency, and EU citizens living in the UK without settled or pre-settled status.

Migrants living in Europe with a precarious status are often excluded, as a matter of national law and policy, from many public services. In order to ensure good outcomes for all local residents, some municipalities have taken steps to ensure that the basic service needs of these individuals are met, whether by inclusion within municipal services or through funding services provided by non-governmental organisations (NGOs).¹

The LoReMi project was carried out in 2021–2022. It included interviews, stakeholder roundtables in each city and discussion of the project findings and their implications at an international conference in September 2022 in cooperation with the *City Initiative on Migrants with Irregular Status in Europe (C-MISE)*.² Funded within the framework of the EU Horizon 2020 programme, through JPI Urban Europe ('The knowledge hub for urban transitions'), the aim of the project was to map, assess and enhance local strategies to address the exclusion from essential services of this group of local residents.

1 See C-MISE Guidance for Municipalities for examples across the full range of municipal services: <https://cmise.web.ox.ac.uk/files/cmise-migrants-irregular-status-europe-guidance-municipalities.pdf> archived at <https://perma.cc/6XR3-K7A4>

2 We would like to thank our interview partners, those who have contributed to these discussions, and those who provided very helpful comments on drafts of this policy brief.

Despite significant differences between the cities studied, similar issues arose. This brief addresses the local challenges raised by the exclusion of migrants with a precarious status; identifies measures that can be taken by municipalities to address them and reforms needed at regional, national and European levels. It further identifies the contributions that NGOs can make to address shortcomings. Further detail on the challenges municipalities face, on current practices and on the case for these recommendations can be found in the project reports on Cardiff, Frankfurt and Vienna and in the subsequent comparative report, found here: <https://www.compas.ox.ac.uk/project/loremi/>.

1. Clarify rules on access to public services

The laws and regulations governing migrants' access to public services are complex. Entitlements differ for each immigration or residence status. This poses significant challenges for service providers, and for migrants, unsure if access can and should be permitted. As a result, migrants avoid or find themselves turned away from services to which they are in fact entitled, with negative consequences. Staff of the service-providing organisations, lacking sufficient information on the rules, rely on their discretion to include or exclude.

National governments (or, where appropriate, regional or – failing that – local authorities) should audit and clarify current entitlements and access rules in relation to each service. This information, regularly updated, should be available to service providers and be the subject of staff training. NGO service providers and advice agencies should equally have this guidance so that they can signpost individuals to public services where appropriate. Migrants should have access to clear, understandable and multilingual information on which services they can access, relative to their status.

2. Refrain from unnecessary data collection and install 'firewalls'

Where there is an entitlement to use a service, individuals can nevertheless be deterred by fear of detection, detention and deportation. For some parents, this is combined with fear that their destitution will lead to their children being taken into local authority care.

Municipal authorities should overcome this barrier by clarifying if there are any circumstances in which they have a statutory duty to transfer information on a service user to the immigration authorities. A review can be conducted of each service to establish whether information on immigration or residence status is collected (as Zurich City Council has recently done).³

In a majority of European countries, there is no statutory duty to inform the immigration authorities about service users. Service providers should refrain from collecting information on immigration status unless that information is needed by the local authority itself. In that case, a 'firewall' can be put in

place to prevent sharing of the data, ensuring staff are clear on that confidentiality. Municipalities can also make clear the rare circumstances in which children can be removed from their parents. Beyond internal communication, local authorities need to provide assurance to migrants and the NGOs that advise them on which services can, as a result, safely be accessed. This will ensure that, where the law intends access, that aim is not undermined.⁴

3. Provide access to legal advice, information and orientation

Legal advice is pivotal in the prevention of precarious status. Limited access to advice is a clear factor in the loss of regular status ('lapsed regularity') and in prolonging irregularity due to incorrect applications and missed deadlines. Access to wider information and advice ('social counselling') can help further to clarify entitlements, signpost individuals to services available to them, and support them with applications. Despite its great importance, both legal advice and social counselling frequently lack adequate and stable public funding. NGOs, the main providers, provide it with short-term, insecure and fragmented project funds.

A problem-solving approach requires that all tiers of authority take steps to promote ready access to independent legal advice, in particular. Funding requirements for advice services should be inclusive of people regardless of status and reflect the need to take account of migrants' varied and complex situations.

4. Ensure low-threshold access to essential services

There is a strong case for ensuring that all residents have access to essential services such as healthcare, education, housing and language courses. European municipalities have spelt out the economic, social, legal and administrative efficiency arguments why this is the case.⁵ To achieve municipal policy goals and avoid the negative consequences of exclusion, national policies and municipal practices need to ensure a low threshold for access. This means addressing the structural barriers that marginalised groups can experience, such as digital exclusion. Not all service users can use on-line forms of access. Multilingual staff or use of interpreters can also be essential.

As a minimum, municipalities should ensure that, where the law requires or permits, migrants are given access to the services to which they are entitled by law and which meet their needs. Where, further, local authorities have discretion to provide a local service regardless of immigration status, inclusion will contribute to meeting their social policy goals and human rights commitments.

Wherever possible, access to services should be through mainstream channels. Alternatively, services can be targeted

³ See section 4.2, Access to Municipal Services (p16) in https://www.stadt-zuerich.ch/content/dam/stzh/prd/Deutsch/Stadtentwicklung/Publikationen_und_Broschueren/Integrationsfoerderung/themen_a-z/Sans%20Papiers/Report_Zurich-City-Card_E.pdf archived at <https://perma.cc/9KD8-P2KJ>

⁴ For further policy recommendations on this issue see: <https://rm.coe.int/ecri-general-policy-recommendation-no-16-on-safeguarding-irregularly-p/16808b5b0b> archived at <https://perma.cc/K6J5-5V6N>

⁵ See section 1.3 of C-MISE Guidance for Municipalities on the full range of reasons cities have given for their need to provide a level of services regardless of immigration and residence status: <https://cmise.web.ox.ac.uk/files/cmise-migrants-irregular-status-europe-guidance-municipalitiespdf> archived at <https://perma.cc/J4YZ-3YXH>

at residents experiencing social exclusion, including migrants. That is, services should be inclusive by default, targeted when necessary.⁶ Examples are given in the LoReMi city reports. For persons with special needs, such as those with mental health issues⁷ or young care leavers,⁸ it is of particular importance to have access to specialised support.

Where inclusion in municipal services is not possible, funding can be provided to NGOs to provide services regardless of status. This should be with the aim of signposting individuals into mainstream services whenever possible to avoid the creation of a parallel welfare system.⁹

5. Build long term collaborations with external service providers

NGOs, including migrant-run organisations, are essential actors in providing and facilitating low-threshold access to services. They have greater access to, and capacity to build trust with, precarious migrants; they often have particular expertise on issues relating to this group, and may find it easier to provide services anonymously. Collaboration with NGOs is therefore key in delivering an inclusive local approach (while respecting that some NGOs may prefer to remain financially independent and prioritise an advocacy role). Employers, trades unions, private and social landlords are also potential partners in a holistic approach to inclusion. Existing cooperation is nevertheless often ad hoc rather than based on a long-term strategy, and working relationships dependent on a few committed individuals.

To ensure effective responses, there is a need to establish long-term working relationships which remain consistent regardless of staff turnover. There is a range of good practice examples, such as the long-term partnership between Frankfurt's Health Department and the NGO Maisha to provide healthcare, or in the provision of "opportunity houses" in Vienna, on which to build (see city reports).

6. Prioritise inclusive approaches on gender-based violence

Women with a precarious migration status often work or find accommodation in private households where they are especially prone to exploitation, abuse and violence. Those who are pregnant or have young children are particularly at risk.¹⁰ Alternative accommodation options are necessary to prevent this. Local authorities also need to ensure that victims of domestic violence can access women's shelters, for instance by decoupling the financing of this accommodation from migration status or social benefit entitlements. Protection also

requires sufficient funding of gender sensitive counselling and support, where necessary with female interpreters. To ensure effective protection against violence, in accordance with the Istanbul Convention (Art 4), all victims of violence need to be able to obtain protection regardless of status.¹¹

7. Capture lessons on good practice from responses to the COVID-19 pandemic

The COVID pandemic highlighted the particular vulnerability of marginalised groups, including those with precarious status. The need to ensure that everyone had access to testing and treatment for COVID led national governments to facilitate the access of individuals to this care without fear that their details would be transferred to immigration authorities. The need to avoid street homelessness during this period led municipalities to implement inclusive accommodation programmes, in some cases coupled with access to legal advice. Further measures included provision of home schooling IT equipment regardless of status.

All tiers of authority should ensure that the gains from these measures, which extend well beyond public health protection, are maintained in the long term. National policy and local practice changes should be mainstreamed and funding made available to ensure sustainability.

8. Promote communication and coordination within city councils

A lack of communication and coordination between staff working with this group of residents increases access barriers. Municipalities need to strengthen communication across relevant departments, potentially through multidisciplinary teams. One department should be allocated a leadership role: the public health department, or the department responsible for cohesion or inclusion, could be appropriate options, taking into account their authority in relation to other departments, funding constraints and duties of confidentiality.

The lead department should convene key partners regularly, maintain communication and coordination and ensure consistency in approach through embedding decisions in corporate and departmental action plans and staff training. Sharing knowledge across the authority will increase capacity to provide reliable information and services. Sufficient resources, including staff time, would prevent an unsustainable over-reliance on a small group of committed staff. A key goal should be to build trust between front-line workers, service users, and the NGOs that advise them.

6 See also Framework to Support Local Authorities and Communities to Build Inclusive Cities: https://www.compas.ox.ac.uk/wp-content/uploads/Inclusive_cities_framework_FINAL_web.pdf archived at <https://perma.cc/2NW5-GFW3>

7 For further policy recommendations on mental health see: https://picum.org/wp-content/uploads/2022/02/Insecure-residence-status-mental-health-and-resilience_EN.pdf archived at <https://perma.cc/L5EX-85ZD>

8 For further policy recommendations on young adults: https://picum.org/wp-content/uploads/2022/04/Turning-18-and-undocumented_Executive-summary_EN-1.pdf archived at <https://perma.cc/3ARL-86UU>

9 For discussion on this relationship see Spencer, S. & Delvino, N. (2018). 'Cooperation between government and civil society in the management of migration: Trends, opportunities and challenges in Europe and North America'. Background paper for the Autumn Academy 2018. Oxford: COMPAS. Archived at <https://perma.cc/J8W5-E5CY>

10 <https://www.ohchr.org/en/press-releases/2019/10/widespread-violence-and-mistreatment-women-childbirth-are-human-rights> archived at <https://perma.cc/T4B3-TFBF>

11 <https://rm.coe.int/168008482e> archived at <https://perma.cc/S9C3-6BBB>

9. Develop a council-wide vision and strategy to deliver it

Precarious migrants are often at the margins of society and invisible to elected representatives and senior policy makers. Yet these residents face complex and intersecting problems that cut across the differing responsibilities of council departments. Each council needs clarity on its goals for this group and to develop a council-wide strategy that allocates responsibility to deliver it.

The sensitivity of this topic can deter open discussion and favour discreet, low visibility provision. An important step towards comprehensive change is to raise awareness about the presence of these residents, their contributions to society as workers, neighbours and members of the local community and their particular needs. Evidence about the residents concerned, their social and economic role, the barriers they face to accessing services and the consequences of their exclusion, is necessary to bring the issues into the open and frame the necessary debate. Research, providing anonymised data, should be commissioned to provide this evidence, to build confidence to raise awareness and assist in planning appropriate service provision. Further, municipalities should engage with those living with a precarious status to hear the voice of lived experience in order to ensure that their services are appropriate.

Awareness should lead to dialogue on policy objectives. Cities such as Utrecht and Barcelona have a holistic and proportional strategy towards inclusion of migrants with precarious status, moving beyond the ad hoc provision of basic services. This approach helps to ensure a consistent approach towards this target group across municipal departments and achieves better outcomes. A key step is to embed the agreed approach in departmental action plans and within cross-municipality priorities such as ending child poverty, addressing domestic violence and homelessness.

Municipalities that can demonstrate good outcomes (such as Cardiff's success in provision of accommodation combined with legal advice during the Covid-19 pandemic), or show that they are prevented from achieving good results by restrictive national policy frameworks, can advocate for reforms which would facilitate their approach. National as well as

transnational municipal networks may help to raise awareness, share expertise, build confidence and add authority to the case for reforms in law, policy and funding restrictions, at national and European level.¹²

10. Use existing policy levers at national and European level

It will be clear that access to basic services and protection of fundamental rights irrespective of legal status cannot be achieved solely at the local level. A sustainable solution requires reforms in regional legislative and policy frameworks, in those countries with regional authorities, and at national and European levels.

At national level in Europe, access is already provided to some services regardless of status, such as (in most cases) education for children and healthcare for communicable diseases and emergencies. Permitting greater access would facilitate a proportional response to these migrants' needs at the local level. Where access is permitted, removing any requirement to inform the immigration authorities and encouraging the adoption of effective firewalls that prevent disclosures, would increase take up of services. Facilitating pathways for migrants to regularise their status would reduce the number of residents with a precarious status, as the Portuguese government did in its response to the COVID-19 pandemic.

At European level, there are also immediate steps that could be taken. The Council of Europe could draw local authorities' attention to ECRI's guidance on firewalls¹³ and to the relevance of the Istanbul Convention for protection of victims of domestic violence regardless of migration and residence status. EU policy likewise could encourage good practice, as in its legal and policy framework on protection of victims, and on funding to prevent child poverty for all children, as foreseen in the Child Guarantee.¹⁴ Funding of migrant related municipal services should always be inclusive, so that municipalities can take the steps they see as necessary according to the situation on the ground and address the needs of their residents regardless of status. The European Commission could introduce or support a platform for shared learning and the development of constructive approaches that improve access to services for these most vulnerable residents.

12 Many European cities are part of the *City Initiative on Migrants with Irregular Status in Europe (C-MISE)*, which provides access to information and guidance, and platforms to discuss challenges and policy and practice solutions. See: <https://www.compas.ox.ac.uk/project/city-initiative-on-irregular-migrants-in-europe-c-mise/>, archived at: <https://perma.cc/GK7U-AAT6>

13 See footnote 4

14 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021H1004&aid=1624453987845> archived at <https://perma.cc/UH98-W42L>

The LoReMi study was carried out by three research teams working closely together over the 18 months of the project: In Austria, **Professor Dr. Simon Güntner** and **Adrienne Homberger**, at the Faculty of Architecture and Planning, Centre for Sociology, Technische Universität in Vienna; in Germany, **Professor Dr. Ilker Ataç** and **Dr. Maren Kirchhoff**, at the Department of Social Work, Fulda University of Applied Sciences; and in the UK, **Dr. Sarah Spencer**, **Dr. Marie Mallet-Garcia** and **Dr. Zach Bastick**, at the Centre on Migration, Policy and Society, University of Oxford.

For further information and the project reports, please visit the LoReMi website at <https://www.compas.ox.ac.uk/project/loremi/>

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www.compas.ox.ac.uk/project/loremi/