



NEW FUTURE

BETTER MENTAL WELLBEING FOR THE REFUGEES IN THEIR NEW FUTURE

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MODULE 9 - LEGAL AND ETHICAL CONSIDERATIONS



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INTRODUCTION

This module on Legal and Ethical Considerations (LEC) is designed for VET professionals working with refugees in VET-settings. It aims to equip trainers with the essential skills and knowledge about the legislation and ethical issues of supporting refugees' mental health.

Objectives

- Understand legal and ethical aspects of supporting refugees' mental health
- Understand legal and ethical responsibilities related to mental health support
- Adhere to professional standards
- Protect refugee rights

Topics:

- Legal rights of refugees
- Ethical guidelines for mental health support
- Confidentiality and privacy issues

LEGAL RIGHTS OF REFUGEES: INTERNATIONAL LEGAL FRAMEWORK:

The UN Convention relating to the Status of Refugees of 28 July 1951

The Protocol relating to the Status of Refugees, which entered into force on 4 October 1967 made the provisions of the 1951 Refugee Convention applicable to a broader range of refugee situations.

Principles:

The principle of non-refoulement, which means that refugees should not be returned to a country where their life or freedom would be threatened.

Refugees can only be expelled from a country of asylum if their presence is a serious threat to national security or public order.

There should be no discrimination in the protection offered to refugees because of their race, religion, nationality or gender.

Refugees should not be penalised for entering or being present in a country as long as they make their presence known to the authorities without delay.

Refugees are required to conform to the laws and regulations in the country of asylum.

The 1951 Refugee Convention also addresses the issues of refugees' right to documentation, access to work, public education, access to the courts, freedom of movement, freedom to practice their religion and others.

Articles 14 and 25 of the Universal Declaration of Human Rights (UDHR) emphasize the right to seek asylum and access healthcare, respectively.

International Covenant on Economic, Social and Cultural Rights (ICESCR): Article 12 recognizes the right to the highest attainable standard of physical and mental health.

LEGAL RIGHTS OF REFUGEES: EUROPEAN UNION LAW

- The Common European Asylum System sets out common standards and co-operation to ensure that asylum seekers are treated equally in an open and fair system – wherever they apply.
- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (Asylum Procedures Directive)
- Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (Reception Conditions Directive)
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (Qualification Directive)

LEGAL RIGHTS OF REFUGEES: NATIONAL LAWS

Countries may have specific legislation governing the rights and protections afforded to refugees, which often include provisions for healthcare access. Compliance with local laws is necessary, and these laws vary significantly between countries.

ETHICAL GUIDELINES FOR MENTAL HEALTH SUPPORT

- **Voluntary Participation**
- **Informed Consent**
- **Fair Access**
- **Non-discrimination**
- **Act in the Best Interest**
- **Avoid Harm**

ETHICAL GUIDELINES FOR MENTAL HEALTH SUPPORT

- **Understand Cultural Context**
- **Culturally Appropriate Care**
- **Recognize Trauma**
- **Sensitive Approach**
- **Ongoing Education**
- **Supervision and Support**
- **Build Resilience**

ETHICAL GUIDELINES FOR MENTAL HEALTH SUPPORT

- Collaborative Care
- Holistic Care
- Coordinated Efforts
- Accurate Records
- Ethical Reporting
- Raise Awareness
- Educate the Public
- Advocate for Rights

CONFIDENTIALITY AND PRIVACY ISSUES

Confidentiality and privacy issues are connected with rights, promulgated in numerous **international treaties**, such as **Universal Declaration of Human Rights and European Convention on Human Rights, European Union law, including General Data Protection Regulation (GDPR) and national legislations** about data protection and patient confidentiality.

to explain confidentiality policies in a language and manner that the refugee can understand

ensuring that refugees are aware of their rights concerning privacy and the limits of confidentiality

to obtain explicit consent for sharing any personal information, ensuring that the refugees understand the implications of their consent

to use secure systems for storing personal and health information, including physical files and electronic records, using strong password protections and encryption for digital records

CONFIDENTIALITY AND PRIVACY ISSUES

the access to personal data have to be limited to authorized personnel only

ensuring that all staff handling sensitive information are trained on confidentiality protocols

informing the refugees about how their data will be used, stored, and shared

informing about the rights to access their records, request corrections, and lodge complaints if their privacy is breached

privacy and confidentiality have cultural dimensions which have to be understood and considered

past experiences of trauma or persecution may heighten concerns about privacy and confidentiality so the service provider has to reassure refugees that their information will not be shared without their consent, except in legally mandated situations

there might be sensitive information which cannot be shared with other agencies or individuals without explicit consent from the refugee. In such cases the service providers have to be particularly cautious about sharing information that could jeopardize the refugee's safety or legal status

CONFIDENTIALITY AND PRIVACY ISSUES

- for reporting and research where it is preferable (if possible) to use anonymized data to protect individual identities
- there is certain information, such as threats of harm to self or others, child abuse, or other serious concerns for which there is a legal obligations to be reported. This exceptions to confidentiality have to be explained to refugees at the outset of care
- there might be cases in which the service provides would face ethical dilemmas regarding confidentiality. In such cases it is recommended to seek guidance from supervisors, legal advisors, or ethics committees.

CONFIDENTIALITY AND PRIVACY ISSUES

- while keeping personal records it is recommended to maintain detailed and accurate records of all interactions, ensuring that entries are factual and objective and avoiding including unnecessary personal details that could compromise privacy. The old records must be disposed of securely, following legal and organizational guidelines
- It is required to provide regular training for all staff on confidentiality and privacy issues, emphasizing the specific needs and vulnerabilities of refugee populations. The training have to reflect changes in laws and best practices.