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NICEM SUBMISSION

Consultation on a Draft Adult Safeguarding Policy

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Introduction

- 1.1 The Northern Ireland Council for Ethnic Minorities (NICEM) is an independent non-governmental organisation. As an umbrella organisation¹ we represent the views and interests of black and minority ethnic (BME) communities.² Our mission is to work to bring about social change through partnership and alliance building, and to achieve equality of outcome and full participation in society. Our vision is of a society in which equality and diversity are respected, valued and embraced, that is free from all forms of racism, sectarianism, discrimination and social exclusion, and where human rights are guaranteed.
- 1.2 Adults who are at risk of harm come from numerous different backgrounds and groupings; this includes BME backgrounds, with many unique issues arising in the context of victims of trafficking, hate crime and domestic abuse, and older BME people. These issues require specific consideration and actions that are tailored to address them. Individuals with multiple identities, such as BME women and BME older people, are at particular risk of harm due to the confluence of prejudices that they may face.
- 1.3 The current draft policy acknowledges the need for sufficient interaction between adult protections arrangements and the mechanisms that exist to meet the needs of particular groups, including victims of domestic abuse, trafficking and hate crime. This is an important consideration and ways in which this interaction can be fostered should be emphasised throughout the Safeguarding Policy.
- 1.4 The Safeguarding Policy should also seek to draw on relevant international human rights standards on the rights of victims, including those embodied within Directive 2012/29/EU, on the rights, support and protection of victims of crime; the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985; the International Covenant on Civil and Political Rights 1966; and the Council of Europe Convention on Action Against Trafficking in Human Beings 2005.

¹ Currently we have 27 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland. Many of these organisations operate on an entirely voluntary basis.

² In this document “Black and Minority Ethnic Communities” or “Minority Ethnic Groups” or “Ethnic Minority” has an inclusive meaning to unite all minority communities. It is a political term that refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status united together against racism.

Domestic Violence and Abuse

- 2.1 Domestic abuse is an issue that particularly affects BME communities in Northern Ireland. Over 5% of domestic abuse victims in 2013/14 had an ethnic minority background³ - a significant overrepresentation of Northern Ireland's (NI) the BME population. While this type of abuse affects both men and women, CoEDAW's 2013 Concluding Observations on the United Kingdom (UK) highlight the fact that domestic violence particularly affects BME women.⁴ Indeed, research on domestic abuse within BME communities in NI suggests that these figures likely underrepresent the actual scale of abuse, with offences being widely underreported.⁵
- 2.2 Underreporting may be partially attributed to the particular difficulties BME women face in escaping their situation. Migrant women's residency status may be dependent upon their partner/spouse, or they may be unaware of their legal entitlements in the UK. Furthermore, the legacy of a poor police response, both in NI and, if applicable, in the individual's country of origin may result in a reluctance to report offences.⁶ Indeed, CEDAW has received reports indicating a negative police attitude towards victims of domestic violence in the UK.⁷ These factors inevitably contribute to the underreporting of domestic abuse amongst BME women in NI.
- 2.3 Institutional racism also affects BME victims of domestic abuse, with some public authorities excusing abuse perpetrated by BME partners on the basis that they 'don't really know any better' or misidentifying abuse as a cultural issue.⁸

³ Police Service of Northern Ireland, 'Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14' (2014) Available at:

<http://www.psni.police.uk/domestic_abuse_incidents_and_crimes_in_northern_ireland_2004-05_to_2013-14.pdf> [Accessed 08/09/14] p.27

⁴ Isal, S., 'The Experiences of Ethnic Minority Women in Northern Ireland' (2013) Available at:

<<http://nicem.org.uk/wp-content/uploads/2014/03/EoEMWiNI-11.pdf>> [Accessed: 05/09/14],

McWilliams, M. and Priyamvada Yarnell, 'The Protection and Rights of Black and

Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland' (2013) Available at:

<<http://nicem.org.uk/wp-content/uploads/2014/03/PRBMEWEDVNI-1.pdf>> [Accessed 08/09/14] para.34

⁵ McWilliams, M. and Priyamvada Yarnell, 'The Protection and Rights of Black and

Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland' (2014) Available at:

<<http://nicem.org.uk/wp-content/uploads/2014/03/PRBMEWEDVNI-1.pdf>> [Accessed 08/09/14]

⁶ *ibid* p.9

⁷ *op cit* n 4 para.34

⁸ *op cit* n 5 p.14

- 2.4 The functioning of the benefit system also places many BME women at a greater risk of domestic abuse. Child benefits are often issued in the father's name, as the male partner often enters the country first. However, this creates a financial dependency that puts many women at risk of exploitation. This is exacerbated by the Child Benefit Agency's insistence that the father's permission is sought prior to the transfer of any benefits and thirty days be allowed for his response, even where the mother has been positively identified as a victim of domestic abuse.⁹
- 2.5 A further complication arises where the victim has no recourse to public funds due to their residency status. Such victims cannot benefit from shelters provided by Women's Aid, as they are not entitled to any public funds to cover the costs of these shelters. Priorly available Government funding for women in this position is no longer available, leaving some BME women with a choice between remaining in an abusive relationship and becoming destitute.¹⁰
- 2.6 It is evident, therefore, that BME women are at particular risk of harm in the context of domestic violence and abuse. In terms of measures to address this risk, the UN Special Rapporteur on Violence Against Women has suggested that the specific needs of BME women who have experienced violence be tackled through the establishment of specific taskforces or working groups that have representation from BME communities.¹¹
- 2.7 Furthermore, good practice in Great Britain can be drawn upon in order to produce measures to tackle domestic violence and abuse. For example, Public Health England has recently produced a toolkit for businesses that provides information on their legal obligations, the role they can play in combating domestic violence and how they can raise awareness of this issue.¹² Such a development would be of particular assistance to migrants working in NI, but who may not have a support network to turn to in order to report abuse.

⁹ *ibid* p.19

¹⁰ *ibid* pp.20-21

¹¹ Office of the High Commissioner for Human Rights, 'Special Rapporteur on violence against women finalizes country mission to the United Kingdom and Northern Ireland and calls for urgent action to address the accountability deficit and also the adverse impacts of changes in funding and services' (2014) Available at:

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&LangID=E>>

[Accessed 09/09/14] (not paginated)

¹² Toolkit available at: <http://16daysofaction.co.uk/toolkit/>

- 2.8 Additionally, England and Wales has piloted a Domestic Violence Disclosure Scheme, which allows individuals to find out from policing authorities if their partner has a history of abusive behaviour, with relevant information only being provided where the individual is deemed to be at risk.¹³ This information would be particularly useful in NI, as the risk identification checklist for referring individuals to a Multi-Agency Risk Assessment Conference (MARAC) involves asking the potentially at risk individual whether the potentially dangerous party concerned has a criminal history, particularly one involving domestic or sexual violence.¹⁴ Naturally, being aware of this information will help at risk individuals identify themselves to MARACs.
- 2.9 It is further notable that Great Britain has Independent Domestic Violence Advisors (IDVAS), whose role is to provide assistance and support to victims of domestic violence. These trained support workers focus on victims' needs and coordinate victims' services from across different agencies in order to meet these needs.¹⁵
- 2.10 As regards BME individuals particularly, research illustrates that specific targeting of BME communities is necessary to ensure that those experiencing or at risk of harm are reached. Home Office research has emphasised the need for domestic violence outreach workers to target BME women where appropriate, as a means of reaching women who are experiencing domestic violence, but who have not come forward. The importance of ensuring that publicity campaigns also target these groups is similarly highlighted.¹⁶
- 2.11 Considering the particular risk of harm faced by BME individuals in this context, it is reassuring that the draft policy envisions the role of a Designated Adult Protection Manager (DAPO) as ensuring that relevant domestic and sexual violence services are engaged where appropriate. However, it is clear that far more specific services must be considered in order to ensure that BME individuals who endure domestic violence are adequately safeguarded.

¹³ Dorset Police, 'Claire's Law – The Domestic Violence Disclosure Scheme' Available at: <<http://www.dorset.police.uk/pdf/Clare%27s%20Law%20-%20Booklet.pdf>> [Accessed 21/11/14] pp.1-2

¹⁴ Co-ordinated Action Against Domestic Abuse, 'Police Service of Northern Ireland – Toolkit for MARAC' (2012) Available at: <<http://www.caada.org.uk/marac/TOOLKIT-Police-Service-of-Northern-Ireland-Nov2012-FINAL.pdf>> [Accessed 24/11/14] p.12

¹⁵ Robinson, A., 'Independent Domestic Violence Advisors: A Process Evaluation' (2009) Available at: <www.cardiff.ac.uk/socsi/resources/idvareport.pdf> [Accessed 11/12/14] p.4

¹⁶ Marianne Hester and Nicole Westmarland, 'Tackling Domestic Violence: Effective Interventions and Approaches' (2005) Available at: <dro.dur.ac.uk/2556/1/2556.pdf> [Accessed 21/11/14] p.xiii

2.12 In order to prevent harm from taking place, an Adult Safeguarding Policy must take steps to tackle factors that contribute to the increased risk of BME individuals enduring domestic violence. This includes issues such as the establishment of financial dependency, the isolation of some migrants within NI and the inability of those with no recourse to public funds to attain shelter. Financial abuse is a particularly serious problem, with the Office of the Public Guardian in England and Wales highlighting this as the type of abuse that it most often encounters.¹⁷

2.13 NICEM recommends that the finalised Adult Safeguarding Policy address those aspects of NI's welfare system that contribute to the establishment of financial dependencies between victims and their abusers. This should include a commitment to adapt training for staff to ensure that they do not obstruct the transferring of benefits where an individual presents as a victim of domestic violence.

2.14 As an additional means to prevent harm, the Safeguarding Policy should envision measures to specifically target BME communities. This should include multi-lingual awareness raising campaigns on domestic violence and the services available for victims.

2.15 It is further recommended that the policy include a commitment to advance the delivery of an OFMDFM-led crisis fund, so that BME individuals without recourse to public funds do not have to become destitute in order to escape their abusers.

2.16 The Policy should also draw on good practice in Great Britain through the development or implementation of a toolkit for businesses to help identify potential victims and those at risk of harm, particularly in light of the significant rate of underreporting amongst BME individuals as regards these offences.

2.17 Consideration should also be given to the introduction of a Domestic Violence Disclosure Scheme, in line with that piloted in England and Wales, to allow individuals at risk of harm from their partners to become informed of this fact. This measure could also assist in appropriately identifying at risk individuals through extant mechanisms, such as MARACs.

¹⁷ Office of the Public Guardian, 'Safeguarding Policy: May 2013' (2013) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349100/OPG_safeguarding_policy.pdf> [Accessed 24/11/14] p.9

'Honour' Crime and Forced Marriage

- 3.1 Forced marriage is another issue of concern for BME individuals in NI. Whilst men and women both may be affected by forced marriage, victims are mostly women and girls aged between 13 and 30.¹⁸ This is an offence that involves a great deal of harm being visited upon the victim, with individuals frequently enduring rape, forced pregnancy, withdrawal from education and the creation of an economic dependency upon their abuser.¹⁹
- 3.2 A major factor in exposing BME individuals in NI to additional risk of harm in this context is the fact that forced marriage was not outlawed until the 14th of January 2015 under Section 16 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, in contrast to the criminalization of forced marriage in England and Wales since the enactment of Section 121 of the Anti-Social Behaviour, Crime and Policing Act 2014. As a consequence, police have, in the interim, had to rely on pursuing offenders through ancillary offences (such as rape, kidnap, forced abortion et cetera).²⁰
- 3.3 The fact that the Police Service of Northern Ireland (PSNI) recorded zero incidents of forced marriage in 2011²¹ and that NI has the lowest number of forced marriage incident detections of any UK region²², illustrates how ineffective an approach this was to tackling forced marriage in NI. Evidently, this ineffectiveness has placed some BME individuals at greater risk of harm.
- 3.4 While forced marriage has now been criminalised, this does not automatically mean that those vulnerable to this crime will be better safeguarded. Current police service procedures on tackling this issue will need to be updated and prosecutorial guidance provided by the Public Prosecution Service. An immediate and practical response must be taken to ensure that legislation is effective.

¹⁸ Police Service of Northern Ireland, 'Police Response to Forced Marriage' (2011) SP 3/2011 HQ Ref: 764155 p.7

¹⁹ *ibid*

²⁰ *ibid* p.3

²¹ Police Service of Northern Ireland, 'Freedom of Information Request: Honour Based Violence' (2012) Req. No. F-2012-02613

²² Forced Marriage Unit, 'Statistics January to December 2012' (2013) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/141823/Stats_2012.pdf> [Accessed 10/09/14]; Forced Marriage Unit, 'Statistics January to December 2013' (2014) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291855/FMU_2013_statistics.pdf> [Accessed 25/11/14]

3.5 Honour based violence (HBV) also places BME individuals in NI at risk of harm, particularly BME women. Despite HBV being a widely acknowledged issue in Great Britain (GB) – with the vast majority of Public Protection Units addressing HBV²³ and the publication of statistical data by the Crown Prosecution Service (CPS)²⁴ – NI’s treatment of this issue is lax. In contrast to GB, the prevalence of HBV in NI is difficult to gauge due to a lack of available data- the Public Prosecution Service (PPS) does not publish data on HBV equivalent to that made available in GB. Data that is publically available illustrates a significant lack of incident detections – in 2011, only a single HBV incident was recorded and no conviction was secured.²⁵ The inadequacy of these structures for tackling HBV in NI places some BME individuals at an increased risk of harm.

3.6 It is notable that the Honour Based Violence Strategy, devised in 2008 by the Association of Chief Police Officers, has not been updated since this date.²⁶ Furthermore, a review of the Strategy, due on the 30th of September 2010, has yet to emerge. Consequently, the Strategy is significantly outdated.²⁷ From the poor criminal justice outcomes for these types of offence in NI, it is evident that the Strategy’s current form is wholly inadequate.

3.7 NICEM recommends that current PSNI service procedures on forced marriage be updated as a matter of urgency in order to establish the new response to be taken to tackling this offence. The Public Prosecution Service should also be tasked with drafting prosecutorial guidance for this offence.

3.8 It is further recommended that annual data be produced on HBV charges, prosecutions and convictions, in line with that provided in GB. Data should also be published annually on the number of HBV incidents recorded by the PSNI, including incidents of the new offence of forced marriage.

3.9 Additionally, the Safeguarding Policy should commit to the development of measures to increase the detection and prosecution of HBV. This should include the immediate review and updating of the Honour Based Violence Strategy, with a view to improving the policing of these offences.

²³ Bunting, L, Hayes, D. and Clifford, G., ‘Special Measures for Vulnerable Witnesses in Northern Ireland’ (2013) Available at: <<http://www.dojni.gov.uk/special-measures-for-vulnerable-witnesses-in-northern-ireland>> [Accessed 25/11/14] p.7

²⁴ Crown Prosecution Service, ‘Violence Against Women and Girls Crime Report 2013-2014’ (2014) Available at: <http://www.cps.gov.uk/publications/docs/cps_vawg_report_2014.pdf> [Accessed 25/11/14] p.61

²⁵ op cit n 21

²⁶ Association of Chief Police Officer of England, Wales and Northern Ireland, ‘Honour Based Violence Strategy’ (2008) Available at:

<www.acpo.police.uk/documents/crime/2008/200810CRIHBV01.pdf> [Accessed 25/11/14]

²⁷ ibid p.1

Female Genital Mutilation (FGM)

- 4.1 FGM is an extremely harmful practice, with a number of side-effects, ranging from repeated bladder infections, cysts and infertility to fatal complications, such as shock, sepsis and exsanguination.²⁸ The practice of FGM is criminalised under Section 1 of the Female Genital Mutilation Act 2003, which applies in the entirety of the UK. While FGM is frequently practiced on children, those who undergo this practice will suffer complications into their adulthood. Indeed, significant complications often arise in the context of childbirth²⁹, which more frequently affect adults.
- 4.2 While National Health Service (NHS) staff members in Great Britain are required to record incidents of FGM that they encounter³⁰, this data is not gathered in NI as FGM is not accorded an OPCS, which is necessary for the classification of procedures, interventions and operations.
- 4.3 It is further notable that Westminster's Home Office and Department for Education have produced comprehensive multi-agency guidelines for the purpose of informing frontline workers, who have the responsibility of safeguarding children and adults.³¹ These guidelines apply only in England and Wales and no NI equivalent has been drafted.³²
- 4.4 It is disappointing, therefore, to observe that the draft Adult Safeguarding Policy does not mention the issue of FGM, or suggest any measures to protect individuals from this practice and its side-effects.
- 4.5 NICEM recommends that data be recorded by medical staff on the number of women they encounter who have undergone FGM, as a means of scoping this issue and preventing harm to future adults.**
- 4.6 It is also recommended that either NI-specific multi-agency guidelines be developed or extant guidelines adopted in order to inform frontline workers who may encounter individuals who have undergone FGM.**

²⁸ See: <http://www.who.int/mediacentre/factsheets/fs241/en/>

²⁹ HM Government, 'Multi-agency Practice Guidelines: Female Genital Mutilation' (2014) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/355044/MultiAgencyPracticeGuidelines.pdf [Accessed 25/11/14] p.8

³⁰ Information Standards Board for Health and Social Care, 'ISB 1610 Female Genital Mutilation Prevalence Dataset: Standard Specification' (2014) Available at: <http://www.isb.nhs.uk/documents/isb-1610/amd-01-2014/1610012014spec.pdf> [Accessed 25/11/14] p.6

³¹ *op cit* n 29

³² *ibid* p.6

Victims of Trafficking

- 5.1 Some BME individuals face harm through their status as victims of trafficking. Individuals who have been trafficked may experience harms ranging from sexual exploitation to forced labour and other criminal acts.³³
- 5.2 While it is difficult to scope the true scale of trafficking in NI, due to the inherently opaque nature of this practice and its victims, recent Government statistics show a 173% increase in the number of individuals identified as being trafficked in NI in 2013, with a total of 1746 referrals across the UK.³⁴
- 5.3 The harms that victims of trafficking face are compounded by inadequacies within the National Referral Mechanism (NRM), which often fails to appropriately identify victims. Trafficking and asylum decisions are frequently wrongfully conflated³⁵ and there is evidence to suggest that the mechanism operates in a discriminatory fashion, with women and individuals originating from African states having particularly low positive outcome rates.³⁶ Indeed, 2013 statistics illustrated that only 32% of individuals from Nigeria received a positive outcome, in comparison to 83% of individuals from Poland.³⁷
- 5.4 Indeed, the relationship between UK Visas and Immigration (previously the UK Border Agency) and the NRM has been highlighted by many Non-Government Organisations (NGOs) as a source of great injustice for those at risk of harm, with trivial discrepancies in victim accounts being used as a rationale for undermining their entire claim to victimhood.³⁸ A recent review of the NRM has recommended that the relationship between UK Visas and Immigration and the NRM be diminished on this basis.³⁹

³³ Anti-Trafficking Monitoring Group, 'All Change: Preventing Trafficking in the UK' (2012) Available at:

<http://www.antislavery.org/includes/documents/cm_docs/2012/a/atmg_all_change_prevention.pdf> [Accessed 25/11/14] p.17

³⁴ National Crime Agency, 'United Kingdom Human Trafficking Centre National Referral Mechanism Statistics 2013' (2014) Available at: <<http://www.nationalcrimeagency.gov.uk/publications/139-national-referral-mechanism-statistics-2013>> [Accessed 26/11/14] p.2

³⁵ Stepnitz, A., 'A Lie More Disastrous than the Truth: Asylum and the Identification of Trafficked Women in the UK' (2012) Available at: <http://www.antitraffickingreview.org/journals/images/documents/issue1/TheReview_article6.pdf> [Accessed 28/11/14] pp.111-112

³⁶ Anti-trafficking Monitoring Group, 'Briefing: Discrimination and in the Identification Process' (2011) Available at: <http://www.antislavery.org/includes/documents/cm_docs/2011/d/discrimination.pdf> [Accessed 26/11/14] p.1

³⁷ Home Office, 'Review of the National Referral Mechanism for Victims of Human Trafficking; (2014) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372960/Review_of_the_National_Referral_Mechanism_for_victims_of_human_trafficking.pdf> [Accessed 01/12/14] p.44

³⁸ *ibid* p.43

³⁹ *ibid* pp.45-47

- 5.5 Harms are further perpetuated by the denial of adequate services, including mental health services, to which potential victims of trafficking are entitled, prior to a final decision on their victim status. The 45-day rest period is often inadequate for victims, particularly for male victims of sexual exploitation, who have difficulty in accessing appropriate and effective counselling services during this period.⁴⁰ Such services are a legal entitlement under Article 11 of EU Directive 2011/36/EU, pursuant to Article 7 of Directive 2004/81/EC.
- 5.6 Victims' vulnerabilities are enhanced further by the fact that they are often prosecuted by the State for offences they have committed as a consequence of being trafficked⁴¹, despite the fact that Article 26 of Directive 2004/81/EC strongly encourages States to avoid prosecuting victims.
- 5.7 Prosecutorial guidance provided by the Public Prosecution Service (PPS) illustrates when the State will consider prosecuting a victim of trafficking. Factors such as whether the victim could plausibly establish a defence of duress and whether they have obtained a positive decision from the NRM are considered persuasive.⁴² However, considering the evidence of discriminatory outcomes within the NRM, the latter factor seems unreliable in determining whether an individual should face prosecution.
- 5.8 It is notable that the PPS guidance on trafficking reads more restrictively in terms of preventing prosecution than does its Crown Prosecution Service (CPS) counterpart in Great Britain. CPS guidance states that even where there is evidence of the victim being compelled that would not constitute a defence of duress, it should be taken that it is not generally in the public interest to prosecute, except where the offence is 'so serious' or where there are 'other aggravating factors'.⁴³
- 5.9 While the NRM has recently been subjected to a review and changes to the mechanism itself may be forthcoming from this process, there are several ways in which an effective adult safeguarding policy could help protect victims and potential victims of trafficking by ameliorating the difficulties they face.

⁴⁰ Munro, G. and Pritchard, C., 'Support Needs of Male Victims of Human Trafficking: Research Findings' (2013) Available at: <http://www.nrpfnetwork.org.uk/SiteCollectionDocuments/Support%20needs%20of%20male%20trafficking%20victims%20-%20FINAL.pdf> [Accessed 28/11/14] pp.18-19

⁴¹ See, for example, the case of *LM and Others v R*. [2010] EWCA Crim 2327, [2011] Crim LR 425

⁴² Public Prosecution Service for Northern Ireland (2013) Available at: <http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Policy%20for%20Prosecuting%20Cases%20of%20Human%20Trafficking.pdf> [Accessed 02/12/14] pp.20-21

⁴³ Crown Prosecution Service, 'Human Trafficking, Smuggling and Slavery' Available at: http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/#a24 [Accessed 02/12/14] (not paginated)

- 5.10 The only measure that the draft policy currently envisions as regards victims of trafficking is its commitment to ensure, through the role of DAPOs, that 'connections are made' with human trafficking procedures. There is a lack of clarity as to what 'ensur[ing]...connections' means, or by what standard actions arising from this measure will be assessed.
- 5.11 As research has noted, potential victims of trafficking have faced difficulty in attaining adequate access to services to which they are entitled, particularly counselling services, within the allotted 45-day recovery period. Consequently, there is room for the safeguarding policy to ensure that measures are taken to facilitate access to these services in a timely and efficient manner.
- 5.12 Furthermore, the prosecution of victims of trafficking is clearly an undesirable contributor to the harm that they may suffer as a consequence of their at risk status. As this area is not nationally legislated on, policy steps must be taken to mitigate insofar as is possible the harms faced by trafficking victims entering the criminal justice system. In this context, it is notable that Section 45 of the Modern Slavery Bill, which has passed the lower House in Parliament, envisions the establishment of a statutory defence for trafficking victims that have been coerced into criminal activity. As this provision would not apply in NI, it is of vital importance that immediate steps are taken to bring standards in line with those of the rest of the UK.
- 5.13 NICEM recommends that the Adult Safeguarding Policy elaborate on the role of DAPOs in the context of potential victims of trafficking, emphasising that DAPOs will ensure that potential victims have access to adequate and effective services, including mental health services, during the reflection period.**
- 5.14 Additionally, it is recommended that further clarity be provided within the Safeguarding Policy on what precise role is envisioned for DAPOs in ensuring that connections are made with human trafficking procedures, so that performance of these duties may be adequately monitored and assessed.**
- 5.15 It is further recommended that the Safeguarding Policy commit to the amendment of current PPS policy on trafficking as regards the prosecution of victims of trafficking, in order to lessen the conditions whereby prosecution is viewed as viable and thus bring this policy in line with that in the rest of the UK. This is a vital aspect of protecting at risk victims from further, State-mandated harm.**

Victims of Hate Crime

- 6.1 Also in need of both protective and preventative safeguarding are victims of racially motivated hate crime. Racist hate crime has peaked in NI in recent years, with the PSNI's most recent quarterly statistics illustrating a 56% rise in racist incidents across NI from this quarter last year.⁴⁴ However, research illustrates that the vast majority of hate crime and discriminatory treatment may go unreported, meaning that the true scale of these offences is likely much higher even than these statistics suggest.⁴⁵
- 6.2 It is particularly clear that victims of racist hate crime are in need of protection, due to the fact that victims are often repeatedly targeted. UK research has shown independent accounts of repeat victimisation, alongside statistics illustrating that a significant majority of respondents were afraid of being harassed against in the future.⁴⁶
- 6.3 Hate crime victims also require protection in an immediate sense, as racist hate offences often involve invasive damage to victims' homes, including the breaking of windows. Indeed, research suggests that property crime constitutes 42% of offences committed against victims of racist hate crime.⁴⁷ These victims require immediate as protection, in order to secure their homes and reduce their risk of further harm.
- 6.4 It is pleasing to note, therefore, that the draft strategy makes reference to the NI Housing Executive's Hate Incident Practical Action Scheme, which provides for victims' properties to be secured – made wind and watertight – following an attack.⁴⁸ It is notable, nevertheless, that this scheme is limited to damage done to residences, meaning that vehicular damage does not qualify for assistance via the scheme.
- 6.5 However, other measures must be considered in order to properly safeguard victims. Awareness-raising and preventative action is possibly the most important aspect of safeguarding hate crime victims, as this may reduce the number of offences that take place.

⁴⁴ PSNI Statistics Branch, 'Racist Incidents, Recorded Crimes and Crime Outcomes Rates by Policing Districts and Areas: April to September 2014/15 Compared with Previous Year' (2014) Available at: <http://www.psni.police.uk/quarterly_hate_motivations_summary_tables_period_ending_sep14.xls> [Accessed 02/12/14]

⁴⁵ Rogers, S. and Scullion, G., 'Voices for Change: Mapping the Views of Black and Minority Ethnic People on Integration and their Sense of Belonging in Northern Ireland' (2014) Available at: <<http://nicem.org.uk/wp-content/uploads/2014/11/VOICES-FOR-CHANGE.pdf>> [Accessed 02/12/14] p.32; University of Leicester, 'Briefing Paper 4: Racist Hate Crime' (2014) Available at: <<https://www2.le.ac.uk/departments/criminology/research/current-projects/hate-crime/documents-and-images/briefing-paper-4-racist-hate-crime-1>> [Accessed 03/12/14] p.12

⁴⁶ University of Leicester, 'Briefing Paper 4: Racist Hate Crime' (2014) Available at: <<https://www2.le.ac.uk/departments/criminology/research/current-projects/hate-crime/documents-and-images/briefing-paper-4-racist-hate-crime-1>> [Accessed 03/12/14] pp.8-9

⁴⁷ *ibid* p.8

⁴⁸ See: http://www.nihe.gov.uk/index/community/anti_social_behaviour/hate_crime/hipa.htm

6.6 While the UK Government's Hate Crime Action Plan outlines a number of preventative actions to run from 2012, these largely focus on the British context of race hate crime. For example, educational workshops aimed at preventing youths from becoming involved in racist groups or offences are projected to occur only in England.⁴⁹ Indeed, actions aimed at changing attitudes generally focus on tackling the influence of the English Defence League, which does not have as strong a presence in NI as in Great Britain.

6.7 Therefore, there is a great need for race hate crime prevention work, including educational workshops, youth work and awareness-raising campaigns, to be conducted in the specific context of hate crime in NI. This work needs to be mindful of the particular economic, social and cultural circumstances from which hate crime arises in NI – this is an area that has been belatedly developed due to the lack of attention it was afforded during the conflict.⁵⁰

6.8 It is further notable that the Cross-Government Hate Crime Programme (CGHCP) conducts much of the preventative work undertaken in the UK as regards race hate crime. The CGHCP engages in a significant amount of work that amounts to safeguarding victims and potential victims of hate crime, at both a high policy level – such as through changing data systems to better scope the issue of racist hate crime – and on the ground, such as through the running of workshops and seminars.⁵¹ However, as the CGHCP is run through the Ministry of Justice, its work is largely focused within Great Britain.

6.9 Further relevant is the draft policy's commitment to interface with other strategies that address safeguarding issues. As the upcoming Racial Equality Strategy 2014-2024 is likely to address the issue of hate crime, it would be appropriate for this strategy to receive particular mention under the section regarding hate crime.

6.10 NICEM recommends that the Safeguarding Policy commit to the development of further actions to tackle the attitudes underlying racist hate crime. This should involve cooperation with civil society and community groups to deliver workshops and educational initiatives in line with those undertaken in the rest of the UK.

6.11 It is also recommended that a coordinating body be established in order to develop and deliver Northern Ireland-specific actions to prevent the perpetuation of racist hate crime, similar to the CGHCP.

⁴⁹ HM Government, 'Challenge It, Report It, Stop It: The Government's Plan to Tackle Hate Crime' (2012) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97849/action-plan.pdf> [Accessed 08/12/14] p.14

⁵⁰ Bressey, C. and Dwyer, C., *New Geographies of Race and Racism* (2012; Ashgate, Hampshire) p.127

⁵¹ HM Government, 'Challenge It, Report It, Stop It: Delivering the Government's Hate Crime Action Plan' (2013) Available at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307624/HateCrimeActionPlanProgressReport.pdf> [Accessed 08/12/14] p.38

6.12 Additionally, the finalised strategy should seek to draw explicit links with the upcoming Racial Equality Strategy on the issue of hate crime. Commitment should be made to work in coordination with this strategy to assist in the delivery of its aims on this issue.

BME Older People

- 7.1 Numerous unique issues affect BME older people within the UK, making this a group of individuals that are at additional risk of harm. Consequently, this group requires measures to ensure that harms are prevented, insofar as possible, and that individuals are protected from the worst effects of such harm where it cannot be prevented.
- 7.2 BME older people who have English as a second language and are suffering from dementia are likely to suffer the preemptive loss of the ability to communicate in their second language.⁵² Furthermore, bilingual dementia sufferers may present with unique complexities, such as inappropriate language-mixing, which may provide additional sources of confusion as regards communication.⁵³ It is notable that dementia itself is disproportionately prevalent amongst some BME groups.⁵⁴ Communication difficulties naturally exacerbate the risk of harm for this already vulnerable group.
- 7.3 BME older people also face particular difficulties through the lack of culturally sensitive services. This can include omissions regarding food, religious and cultural practices, and language barriers.⁵⁵ These omissions can contribute to the isolation of groups that may already feel trepidation about seeking support outside of their immediate family or community.⁵⁶ As isolation is a key component of risk of harm amongst this group, the protection of BME older people may be promoted by ensuring that causes of isolation are combated as much as possible.
- 7.4 Older people from a BME background are also at risk of harm from racism within relevant institutions. This may be explicit, or more indirect, such as through the assumption from staff that the patient's family will care for them due to their ethnic background.⁵⁷

⁵² Moriarty, J., Sharif, N. and Robinson, J., 'Black and Minority Ethnic People with Dementia and their Access to Support and Services' (2011) Available at:

<<http://www.scie.org.uk/publications/briefings/files/briefing35.pdf>> [Accessed 08/12/14] p.9

⁵³ Beckett, T., 'Language and Dementia in Bilingual Settings: Evidence from Two Case Studies' (2004) Available at: <www.praesa.org.za/files/2012/07/Paper22.pdf> [Accessed 08/12/14] p.61

⁵⁴ Waite, J. et al, *Dementia Care: A Practical Manual* (2008, OUP, Oxford) p.346

⁵⁵ Age UK, 'Later Matters: Tackling Race Inequalities for BME Older People' (2010) Available at: <[http://www.ageconcernyorkshireandhumber.org.uk/uploads/files/FINALmapping%20and%20good%20practice%20guide%20\(2\).pdf](http://www.ageconcernyorkshireandhumber.org.uk/uploads/files/FINALmapping%20and%20good%20practice%20guide%20(2).pdf)> [Accessed 09/12/14] pp.8, 20 and 22

⁵⁶ *ibid* p.4

⁵⁷ *ibid* p.9

7.5 As with hate crime, a multi-faceted approach must be taken to protect BME older people and prevent harm. Measures need to address the causes of isolation, which place this group at additional risk of harm.

7.6 NICEM recommends that the finalised policy commit to the provision of bilingual care staff, in order to facilitate communication with BME older patients that have suffered aphasic loss of English language.

7.7 The policy should also commit to the development of measures to tackle the isolation of BME older people, which places them at additional risk of harm. This should include training for relevant staff, so that a culturally sensitive service can be provided. Furthermore, the Safeguarding Policy should ensure that the vulnerabilities of BME older people inform the implementation of relevant Government strategies, including the Active Ageing Strategy, the Dementia Services Strategy and the Racial Equality Strategy.

Asylum Seekers and Refugees

8.1 Asylum seekers and refugees are further BME groups that are at additional risk of harm, due to a variety of social and economic factors. One such factor, which affects both refugees/asylum Seekers and migrants generally, is lack of knowledge about the post-conflict social constructs within NI. For example, individuals may place themselves at risk by moving to unwelcoming areas prior to gaining further knowledge about the country.⁵⁸ Asylum seekers are at particular risk of being housed in problematic areas, as they have no choice over where they are to be housed.⁵⁹

8.2 Even those who attempt to avoid becoming involved in the sectarian social politics of Northern Irish society may find that it is impossible to negotiate certain decisions, such as what school to send their children to, without submitting to the perception that they favour a particular identity group.⁶⁰ Naturally, these factors place asylum seekers and refugees at additional risk of harm in the context of social conflict within NI.

⁵⁸ Malschewski, C-A., 'Integration in a Divided Society? Refugees and Asylum Seekers in Northern Ireland' (2013) Available at: <<http://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp91-integration-divided-society-northern-ireland-2013.pdf>> [Accessed 15/12/14] p.22

⁵⁹ See: <https://www.gov.uk/asylum-support/what-youll-get>

⁶⁰ op cit n 58

8.3 Asylum seekers also face additional risk of harm due to economic circumstances. Individuals seeking asylum in the UK are not entitled to work⁶¹ and receive only around £36 in order to subsist.⁶² This places individuals and families seeking asylum well below the threshold for severe poverty.⁶³ Those from multiple minority groups are at particular risk of harm, with disabled asylum seekers receiving no additional money⁶⁴, despite the costs involved in ensuring a safe standard of living for many disabled individuals.

8.4 The poor economic circumstances that are foisted upon asylum seekers places them at greater risk of various harms. It is estimated that a sixth of refugees have health needs severe enough to affect their lives⁶⁵; as has been noted above, asylum seekers receive no additional assistance to help them to live with disabling conditions prior to attaining refugee status, placing them at risk of further harm, such as through accidents resulting from poor mobility.

8.5 These enforced economic difficulties may also exacerbate the risk of harm faced by asylum seekers as a consequence of NI's social tensions. For example, the extreme limitation of asylum seekers' financial circumstances renders public transport an unrealistic fiscal prospect. Consequently, individuals seeking asylum frequently rely on walking to their destinations, sometimes at night and occasionally through dangerous areas. Combined with the fact, established above, that asylum seekers may live in areas where they are unwelcome and unsafe, this consequence of economic difficulty greatly increases asylum seekers' risk of harm.

8.6 Asylum seeking women face particular risk as a consequence of economic destitution; due to asylum seekers' ineligibility to work, some women are forced to remain in abusive relationships, engage in transactional sex – in exchange for food, shelter et cetera – or resort to prostitution in order to survive.⁶⁶ Asylum seeking women with children are particularly at risk, as they receive an inadequate financial allowance to care for their children – only £3 per week if their child is one to three years of age.⁶⁷

⁶¹ Potter, M., 'Refugees and Asylum Seekers in Northern Ireland' (2014) Available at: <<http://www.niassembly.gov.uk/Documents/RaISe/Publications/2014/ofmdfm/6314.pdf>> [Accessed 15/12/14] p.11

⁶² op cit n 59

⁶³ The Children's Society, 'A Briefing from the Children's Society Highlighting the Gap Between Asylum Support and Mainstream Benefits' (2012) Available at: <<http://www.childrenssociety.org.uk/news-views/press-release/uk-asylum-system-forces-thousands-children-live-severe-poverty>> [Accessed 15/12/14] p.7

⁶⁴ ibid p.8

⁶⁵ ibid p.12

⁶⁶ Refugee Council, 'The Experiences of Refugee Women in the UK' (2012) Available at: <http://www.refugeecouncil.org.uk/assets/0001/5837/Briefing_-_experiences_of_refugee_women_in_the_UK.pdf> [Accessed 16/12/14] p.3

⁶⁷ op cit n 59

8.7 Health is also an issue of concern for asylum seeking women who are pregnant. While asylum seekers have de jure access to health care, the reality of their overtly limited financial circumstances means that many expectant mothers miss medical appointments due to an inability to afford public transport. Indeed, asylum seekers are three times more likely to die during pregnancy and childbirth than the general population, and women with a black African minority background have a mortality rate seven times higher than that of women of white ethnicity, partially attributable to difficulties in accessing maternal healthcare.⁶⁸

8.8 It is further notable that asylum seekers face total destitution once their refugee status is approved, as they may only remain in their allocated accommodation for 28 days after this point, despite the fact that the bureaucracy of obtaining a National Insurance number in order to secure finances from other sources usually takes longer than this.⁶⁹

8.9 NICEM recommends that the Adult Safeguarding Policy commit to the implementation of a crisis fund to assist those placed at additional risk of harm as a consequence of the asylum seeking process. This should include funding allocated to assist individuals who require financial assistance due to disability.

8.10 It is further recommended that the Safeguarding Policy develop a travel allowance, in order to combat a significant source of risk of harm for asylum seekers. This should be utilised to prevent individuals from needing to travel through dangerous areas on foot and miss medical appointments due to an inability to use public transport.

8.11 Furthermore, the Safeguarding Policy should commit to the development of guidelines within the Department of Health, Social Services and Public Safety to prioritise the allocation of proximate appointment sites to asylum seeking individuals, in order to reduce the rate of missed appointments due to inaccessibility.

8.12 Additionally, the Adult Safeguarding Policy should commit to the development of guidelines, through the Northern Ireland Housing Executive, to prioritise the housing of asylum seekers in areas of minimal racial and social tension.

⁶⁸ op cit n 66 p.4

⁶⁹ Doyle, L., '28 Days Later: Experiences of New Refugees in the UK' (2014) Available at: <<http://bit.ly/RnJuJT>> [Accessed 16/12/14] pp.5-6

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