



Black and Minority Ethnic
Women's Network

**Black and Minority Ethnic Women's
Network**

SUBMISSION

DHSSPS

**Consultation on Draft Proposed Human
Trafficking and Exploitation (Criminal
Justice and Support for Victims)
(Independent Guardian) Regulations
(Northern Ireland)**

November 2015

Introduction

- 1.1 The Black and Minority Ethnic Women's Network (BMEWN) is a women-led organisation that advocates for change on issues affecting black and minority ethnic (BME) women in Northern Ireland (NI). The aim of the network is to develop the capacity of ethnic minority women so that they can support and assist their communities in accessing services, furthering their human rights and developing sustainable community-based leadership.
- 1.2 Human trafficking is one of the most serious issues affecting NI today, with the geopolitical position of NI making it a desirable operating location for traffickers.¹ Furthermore, human trafficking is an issue that disproportionately impacts upon BME girls, with the majority of children trafficked into the UK in 2014 being girls, 80% of whom were trafficked from outside the UK.²
- 1.3 Therefore, the BMEWN welcomes the opportunity to comment on the draft regulations on independent guardians, which will establish a system of support for unaccompanied children who have been trafficked into the UK.

Q. Do you agree that, in order to be eligible for appointment as an IG, a person should have to be registered as a social worker in the principal part of the register maintained by the Northern Ireland Social Care Council?

- 2.1 The BMEWN agrees that social work experience should be a requirement for appointment as an IG for a number of reasons. Firstly, because shortcomings identified within the guardian system in Scotland were traced back to a lack of social work experience on the part of Scottish Guardians.^{3 4}
- 2.2 Secondly, international discourse on guardians for unaccompanied children notes the importance of experience in the field of childcare, so that guardians may ensure that the child's interests are protected. This standard is noted under General Comment No. 6 of the UN Committee on the Rights of the Child.
- 2.3 Thus, requiring that IGs have social work experience follows both national and international guidance in ensuring that unaccompanied children are properly safeguarded.

¹ Martynowicz, A. et al, 'The Nature and Extent of Human Trafficking in Northern Ireland: A Scoping Study' (2009), p.33

² National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2014' (2015), pp.7-9

³ Crawley, H. and Kohli, R.K.S., "'She Endures With Me': An Evaluation of the Scottish Guardianship Service Pilot' (2013), p.31

⁴ Crawley, H. and Kohli, R.K.S., 'First Annual Evaluation Report of the Work of the Scottish Guardianship Service Pilot' (2011), p.37

Q. Do you agree that, in order to be eligible for appointment as an IG, a person should have a minimum of five years' post qualifying social work experience with children and families, including direct work with children, court related experience and inter-agency working?

3.1 For the reasons discussed above, the BMEWN agrees that IGs should have five years' experience in social work, including direct work with children, court-related experience and experience of inter-agency working.

Q. Is there any other training which you consider should be specified as a requirement to be eligible for appointment as an IG? If so, please advise and give your reasons.

4.1 While it is important for IGs to have experience working with children, it should be noted that working as a guardian will require working with children from a range of different backgrounds (in 2014 alone, trafficked children originated from 63 different countries⁵).

4.2 Consequently, IGs should have some measure of training or experience with working with children from different ethnic backgrounds. It is notable that UN Alternative Care Guidelines state that guardians of unaccompanied children should have 'an understanding of any special and cultural needs of the children to be entrusted to them'.⁶

4.3 The BMEWN recommends that the IG Regulations require guardians to have undergone cultural competence training, so that they have an understanding of any special/cultural needs of the children they will work with.

Q. Are there any other qualifications which you consider should be specified as a requirement to be eligible for appointment as an IG? If so, please advise and give your reasons.

5.1 The BMEWN acknowledges the Department's decision to provide training to appointees and ensure that they are OISC registered after their appointment, rather than requiring that they be registered prior to appointment. This is a practical response to requiring social work experience, as the number of OISC registered individuals with 5 years' social work experience would be narrow.

5.2 However, the centrality of knowledge of the asylum and immigration processes to the IG role is such that it should still be acknowledged within the text of the regulations.

⁵ op cit n 2

⁶ UN General Assembly, 'Guidelines for the Alternative Care of Children' (2010) A/RES/64/142, para.103

5.3 Asylum and National Referral Mechanism (NRM) decisions are inextricably linked, with crossovers occurring in the information used to make decisions, the officials making decisions and the outcomes of decisions.⁷ Sometimes this involves the wrongful conflation of immigration tests with NRM tests.⁸

5.4 Not only may the relationship between these processes result in the erroneous application of measures by decision-makers, but it also means that children are at risk of making poor decisions in what is a complex system. An ill-informed failure to identify as being trafficked or to make the correct application can be damaging to their interests.^{9 10}

5.5 Consequently, it is important that IGs are knowledgeable on asylum and immigration law and policy, so that they may identify erroneous decision-making and prevent adverse decisions being made by their wards.

5.6 The BMEWN recommends that a Regulation 3a be added to the regulations, reading:

‘To retain the post of Independent Guardian, a person shall become a qualified person as defined in Section 84(2)(a) of the Immigration and Asylum Act 1999(3) who is regulated at level 2 in accordance with arrangements made for registration by the Office of the Immigration Services Commissioner under Section 85 of, and Schedule 6 to, that Act, within the time period prescribed within the job description.’

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⁷ Cherti, M. et al, ‘The UK’s Response to Human Trafficking: Fit for Purpose?’ (2012), p.14

⁸ Stepnitz, A., ‘A Lie More Disastrous Than the Truth: Asylum and the Identification of Trafficked Women in the UK’ (2012) 1 Antri-trafficking Review 104, 111-112

⁹ Home Office, ‘Review of the National Referral Mechanism for Victims of Human Trafficking’ (2014), p.67

¹⁰ House of Commons Home Affairs Committee, ‘The Trade in Human Beings: Human Trafficking in the UK, Sixth Report of Session 2008-09, Vol 2: Oral and Written Evidence’ (2009), p.114