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NICEM SUBMISSION

Consultation on 'Leaving Prostitution: A Strategy for Help and Support'

**DHSSPS
September 2015**

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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 Under Section 19 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act 2015, the Department for Health, Social Services and Public Safety (DHSSPS) is required to produce a strategy to support and assist those who wish to leave prostitution. Research indicates that nearly half of those involved in prostitution in Northern Ireland (NI) are non-UK/Irish nationals, which makes the efficacy of this strategy of particular relevance to BME communities living in NI.³
- 1.3 Consequently, NICEM welcomes the opportunity to consult on this Strategy. This response considers issues relating to the scope of the document, the accessibility/adequacy of services for BME communities and the governance arrangements for the Strategy.

Q1. Do you agree with the scope of the Strategy as detailed in Section 2(b)?

- 2.1 Perhaps the main limitation as regards the scope of the proposed Strategy is the suggestion that victims of trafficking for the purpose of sexual exploitation be excluded from its remit.
- 2.2 While it is implied within the consultation document that this is to avoid duplicating tailored service provision already available as part of the National Referral Mechanism (NRM), there are a number of drawbacks to this approach.

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.

³ Huschke, S. et al, ‘Research into Prostitution in Northern Ireland’ (2014), p.44

- 2.3 Firstly, the services provided under the NRM are dependent upon referrals receiving a positive reasonable grounds decision. While the proportion of individuals who receive a negative initial decision is low in NI (8.1% in 2014)⁴, a significant barrier to gaining support is presented by trafficking victims' fear of approaching the NRM at all.
- 2.4 Victims are reluctant to engage with the NRM for a number of reasons, including a fear of reprisals from their abusers, of punishment elicited by law enforcement authorities and of deportation by the Home Office, which operates the mechanism.^{5 6}
- 2.5 Unfortunately, these fears are frequently well-founded. Even if the NRM does identify an individual as a victim of trafficking, there is no guarantee that they may remain in the country unless they cooperate with authorities in their investigations. Even if they do so, their ability to secure leave to remain for longer than one year is uncertain.⁷
- 2.6 Furthermore, it is well-established that victims of trafficking who are returned to their country of origin from the UK face reprisals and re-trafficking.⁸ Indeed, they are at an even greater risk of such experiences where they have assisted UK authorities in investigating and prosecuting their traffickers, which is a requirement of gaining temporary leave to remain.⁹
- 2.7 Additionally, the fear that trafficking victims hold of being punished by law enforcement authorities seems justified when one considers that victims continue to be prosecuted for offences committed whilst being trafficked.¹⁰

⁴ National Crime Agency, 'Human Trafficking: National Referral Mechanism Statistics – January to March 2014' (2014) p.52; National Crime Agency, 'Human Trafficking: National Referral Mechanism Statistics – April to June 2014' (2014) p.52; National Crime Agency, 'Human Trafficking: National Referral Mechanism Statistics – July to September 2014' (2015) p.51; National Crime Agency, 'Human Trafficking: National Referral Mechanism Statistics – October to December 2014' (2015) p.55

⁵ Home Office, 'Review of the National Referral Mechanism for Victims of Human Trafficking' (2014) p.20

⁶ Home Office, 'Victims of Modern Slavery – Frontline Staff Guidance' (2015) p.18

⁷ See: <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>

⁸ See, for example: *Re S (Care: Jurisdiction)* (2008) [2008] EWHC 3013 (Fam); (2009) 2 FLR 550, or *The Secretary of State for the Home Department and Miss Gladys Eyagbon + Two Dependants* (2013) AA/04702/2012

⁹ House of Commons Home Affairs Committee, 'The Trade in Human Beings: Human Trafficking in the UK – Sixth Report of Session 2008-09, Volume II' (2009), p.171

¹⁰ The Anti-Trafficking Monitoring Group, 'In the Dock: Examining the UK's Criminal Justice Response to Trafficking' (2013), p.94

- 2.8 When these realities are taken alongside evidence suggesting a bias in how conclusive grounds decisions are made by Home Office officials¹¹, it is clear why many victims of trafficking feel that they cannot approach the NRM in order to access support. Having an alternative form of support that does not require engaging with the Home Office could therefore be useful in accessing these victims.
- 2.9 Secondly, the adequacy of the NRM as a mechanism for helping victims to exit prostitution is questionable. As noted above, victims of trafficking, including victims who have been trafficked for prostitution, face the risk of being re trafficked upon their return, by the Home Office, to their country of origin.
- 2.10 This can be a consequence of many factors, such as the Home Office returning victims to families to were complicit in their being trafficked or the failure to protect victims from the gangs that trafficked them.¹² However, re trafficking can be a particular risk for those forced to work in prostitution.
- 2.11 For example, one case saw a woman returned to her home village wearing the same clothes she had been wearing while being forced to work as a prostitute. This immediately identified her as having worked in prostitution and the resulting stigmatisation resulted in her returning to the UK to work in prostitution, in order to avoid causing problems for her family.¹³
- 2.12 Consequently, it does not seem reasonable to argue that the NRM operates as an effective mechanism for helping individuals to exit prostitution. Removing an individual from the UK neither guarantees that they will avoid prostitution in their country of origin, nor that they will not be returned to prostitution in the UK itself.
- 2.13 Thirdly, failing to include victims of trafficking within the remit of the Strategy appears to conflict with the spirit of the legislation that compels the Strategy's development.
- 2.14 It is clear that the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 was made to provide further support for victims of exploitation, including human trafficking. This is outlined in the introductory text of the legislation itself.

¹¹ The Anti-Trafficking Monitoring Group, 'Hidden in Plain Sight – Three Years On: Updated Analysis of UK Measures to Protect Trafficked Persons' (2013), pp.25-26

¹² Dresdner, L. and Peterson, L.S., *(Re)Interpretations: The Shapes of Justice in Women's Experience* (2009, Cambridge Scholars Publishing), p.286

¹³ *ibid*

2.15 While Section 19 of the Act does not require that victims of trafficking be included within the remit of the Strategy, neither does it require the exclusion of trafficking victims. Indeed, the references made to non-conditionality and consent, under Section 19(3)(a) and (b), refer to issues that lie at the heart of discourse on victims of trafficking.

2.16 Ultimately, it makes little sense to expressly exclude victims of trafficking from a system that does not involve the fear of interacting with the Home Office, or the potential for reprisal and re-trafficking.

2.17 NICEM recommends that the scope of the Strategy include victims of trafficking.

Q2. Do you agree with the main barriers to exiting prostitution as described in Section 5 of the Strategy?

3.1 NICEM notes with approval that the Strategy refers to additional barriers facing BME groups and refugees, including the language barrier, fears concerning immigration status, lack of knowledge of health/social care entitlements, financial pressure and fear of the police and violence.

3.2 However, there are some additions and elaborations that could be made to the barriers identified within the Strategy. Firstly, concerning housing, it is acknowledged within the consultation document that people may become vulnerable to pimps or abusive partners where they rely on them to avoid homelessness.

3.3 It should be noted that some BME people are, in a number of ways, particularly vulnerable to this type of situation. BME women who have no recourse to public funds are presented with an 'impossible situation' if their relationships become abusive, as leaving their abuser will render them destitute.¹⁴

3.4 Furthermore, the introduction of a duty on landlords to check the immigration status of their tenants – under Section 22 of the Immigration Act 2014 – will likely result in increased difficulty for all BME individuals in obtaining tenancies.

3.5 Independent research emergent from the pilots of this provision has illustrated that 42% of landlords are less likely to consider renting to someone without a British passport and over a quarter are reluctant to rent to people with 'foreign accents or names'.¹⁵ Naturally, this will increase the vulnerability of BME people to exploitation and abuse.

¹⁴ McWilliams, M. and Yarnell, P., 'The Protection and Rights of Black and Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland' (2013), p.20

¹⁵ Grant, S. and Peel, C., "'No Passport Equals No Home': An Independent Evaluation of the "Right to Rent" Scheme' (2015), p.11

- 3.6 The inability of many EEA and non-EEA migrants to obtain Housing Benefit following the introduction of new restrictions – as discussed further below - also presents an additional barrier to obtaining housing for many.
- 3.7 Secondly, it is noted that the consultation document raises financial difficulties as a barrier to exiting prostitution. It is relevant that BME groups in NI face disproportionately poor economic outcomes, as this makes finance a particularly significant barrier to exit for these groups.
- 3.8 The average unemployment rate amongst BME groups in NI is over 20% higher than that of the majority population, with economic activity actively declining amongst particular communities.¹⁶
- 3.9 Low employment rates and low levels of economic activity are exacerbated by the prevalence of low rates of pay amongst those who are employed, due to the areas of work in which migrant workers tend to be employed and the prevalence of exploitative practices directed against vulnerable migrant workers.¹⁷
- 3.10 Thus, financial difficulties may present a particular barrier to exit for BME individuals involved in prostitution in NI, as a consequence of the disproportionate prevalence of these difficulties amongst BME groups in NI.
- 3.11 Thirdly, the consultation document raises lack of qualifications as both a contributor to entering prostitution and a significant barrier to leaving it. It is notable, then, that BME individuals in NI face particular difficulties in the area of qualifications.
- 3.12 Some BME groups face poor educational outcomes at first instance in NI. In 2014, 5.8% of BME pupils left school with no formal qualifications of any kind, as compared to only 0.7% of the majority pupil population. Indeed, BME pupils ranked lower than their peers in every outcome indicator for compulsory education in 2013/14.¹⁸
- 3.13 Furthermore, BME individuals that migrate into the UK have difficulties in gaining recognition for qualifications that they have received overseas. Indeed, research has highlighted that the lack of recognition given to overseas qualifications is one of the primary employment concerns of migrants in NI.¹⁹

¹⁶ Irwin, J. et al, 'The Economic and Social Mobility of Ethnic Minority Communities in Northern Ireland' (2014), pp.18 and 29

¹⁷ Wallace, A. et al, 'Poverty and Ethnicity in Northern Ireland: An Evidence Review' (2013), p.25

¹⁸ Department of Education, 'Qualifications and Destinations of Northern Ireland School Leavers 2013/14' (2015), p.17

¹⁹ Rogers, S. and Scullion, G., 'Mapping the Views of Black and Minority Ethnic People on Integration and Their Sense of Belonging in Northern Ireland' (2014), p.39

3.14 Ultimately, it is clear that some of the barriers highlighted within the Strategy could be uniquely obstructive for BME individuals living in NI. The difficulties presented by these barriers may be factor in why BME individuals are so overrepresented within prostitution in NI.²⁰

3.15 NICEM recommends that the finalised Strategy acknowledge the effects of current inequalities in presenting additional barriers to BME individuals in exiting prostitution.

Q3. In Section 6 of the Strategy, do you agree that the key existing services available for those wanting to exit prostitution have been identified?

4.1 NICEM does not wish to add any further existing services, although would emphasise the need for additional measures to be taken to improve these services, add new services where needed and tackle barriers to accessing these services, as discussed below.

Q4. Do you agree with the proposal to deliver the Programme of Assistance and Support (PAS) as described in Section 7?

5.1 There are a number of shortcomings in the consultation document's proposals for delivering the PAS, largely due to the failure to address the limitations of current service provisions and identify the specific barriers to accessibility facing BME groups living in NI.

Limitations of current services

5.2 Concerning the limitations of current service provisions, there are a number of shortcomings with current healthcare provision that may be relevant. As noted within the consultation document, mental health issues may present as a barrier to exiting prostitution.

5.3 Research shows that mental health issues are particularly prevalent amongst BME communities in NI, with Polish migrants experiencing high levels of depression, addiction and suicide, with factors such as social isolation, lingual difficulties and the cultural differences between the UK and Poland contributing to the development and exacerbation of these mental health difficulties.²¹

5.4 These concerns also affect BME communities more generally in NI, with additional factors such as poor housing, not being registered with a GP, poverty and Post Traumatic Stress Disorder (in the case of asylum seekers) particularly impacting on many BME individuals' mental health.²²

²⁰ op cit n 3

²¹ Kouvonen, A., Bell, J. and Donnelly, M., "'We Asked for Workers, But Human Beings Came'" Mental Health and Well-Being of Polish Migrants in Northern Ireland' (2014), pp.3-6

²² Health and Social Care in Northern Ireland, 'Ethnic Minorities Mental Health Toolkit: A Guide for

- 5.5 However, there is little in the way of tailored mental health provision available for ethnic minorities living in NI. While the Health and Social Care Trust has published basic guidelines on how mental health practitioners can deliver a culturally sensitive service, it remains that there is a dearth of bilingual, culturally sensitive practitioners in NI.^{23 24}
- 5.6 Indeed, the lack of cultural or religious sensitivity in medical practice goes beyond mental health practice. The DHSSPS has highlighted insensitivities throughout medical services, with instances of Muslims being refused access to prepare the body of a deceased person, lack of provision for prayer/religious observances, lack of appropriate meals in hospitals (such as Halal or Kosher food) and obstacles to obtaining circumcision.²⁵
- 5.7 These shortcomings in health service provision may limit the usefulness of extant services for individuals trying to exit prostitution, considering both the significance of mental health as a barrier to leaving prostitution and the high proportion of BME individuals working in prostitution in NI.
- 5.8 Further problematic is the fact that healthcare services are not available to individuals who are not ordinarily resident in the UK, except in particular circumstances outlined in the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015.
- 5.9 Again, this has the potential to qualify the usefulness of extant services for those seeking to exit prostitution, considering that nearly half of those working in prostitution in NI are not UK or Irish nationals.²⁶
- 5.10 Further concerning the limitations of currently available services, the consultation document's reliance upon benefits uptake as a means of addressing financial difficulty is questionable, as many individuals may not be eligible for social security under the current system.
- 5.11 Following the commencement of Regulation 2 of the Jobseeker's Allowance (Habitual Residence) (Amendment) Regulations (Northern Ireland) 2013, EEA citizens must live in the UK for 3 months in order to be eligible for Jobseeker's Allowance (JSA).
- 5.12 Additionally, Paragraph 3 of Schedule 1 of the Immigration (European Economic Area) (Amendment) (No.2) Regulations 2013 restricts EEA citizens who have lived in the UK for less than a year and have become involuntarily unemployed from claiming JSA for longer than 6 months.

Practitioners' (2014), p.8

²³ ibid

²⁴ op cit n 17 p.47

²⁵ Department of Health, Social Services and Public Safety, 'Draft Equality Action Plan for the Department of Health, Social Services and Public Safety' (2011), p.36

²⁶ op cit n 3

- 5.13 Those who have lived in the UK for longer than a year may only claim JSA for longer than 6 months where they can provide 'compelling evidence' that they have a genuine chance of being engaged in employment.
- 5.14 Furthermore, under Regulation 4 of the Child Benefit (General) and the Tax Credits (Residence) (Amendment) Regulations 2014, EEA citizens who are seeking employment are ineligible for child benefit until they have been living in the UK for 3 months.
- 5.15 Regulation 6 of the same Regulations prevents EEA citizens from claiming child tax credits unless they have been living in the UK for 3 months prior to the claim.
- 5.16 Housing Benefit is also of limited access to EEA citizens, with Regulation 2 of the Housing Benefit (Habitual Residence) Amendment Regulations 2014 disallowing those in receipt of JSA from claiming Housing Benefit.
- 5.17 Non-EEA migrants generally have even more restricted access to social security, where they have no recourse to public funds as a condition of their visa. This means that they have no access to social security, including JSA, income support, child tax credit, universal credit, child benefit, housing benefit and other allowances.²⁷
- 5.18 Thus, it is difficult to see how signposting non-UK nationals involved in prostitution to extant social security benefits will assist these individuals in exiting prostitution. Again, nearly half of those working in prostitution in NI are not UK or Irish nationals, so it is vitally important to consider how financial barriers may be overcome for these individuals.
- 5.19 The consultation document also refers to services available to help overcome housing as a barrier to exiting prostitution. As noted above, BME individuals living in NI may face additional barriers to obtaining housing, due to immigration and social security restrictions.
- 5.20 Consequently, it is important to consider how issues of housing may be addressed for those working in prostitution that are not eligible for housing assistance under the current system.
- 5.21 Reference is also made in the consultation document to overcoming the barrier of unemployment via DEL's Employment Service. However, as noted above, BME individuals face particular employment obstacles, such as a lack of recognition given to overseas qualifications.
- 5.22 Poor English language skills also act as a barrier to employment, which itself is partially consequent from the failure of extant educational services to recognise English language as an essential skill in NI, which in turn limits the availability of affordable classes.²⁸

²⁷ See: <https://www.gov.uk/government/publications/public-funds--2/public-funds>

²⁸ op cit n 19 p.16

5.23 Ultimately, it is foreseeable that a simple reliance on extant systems will not provide the assistance necessary for some individuals to overcome the barrier that unemployment presents to exiting prostitution.

Accessibility of current services

5.24 There are a number of factors that limit the accessibility of extant services for BME individuals living in NI. Firstly, some individuals may not be entitled to claim public funds or may not satisfy the ordinary residence test required to access healthcare, or fall under the permissible exceptions for visitors under the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2015. Consequently, social security and health services may not be available to these persons under current provision.

5.25 Secondly, the language barrier can impede access to particular services, such as healthcare, social security or employment. This includes access to information about these services.²⁹

5.26 Thirdly, a dearth of appropriate advice services has limited the accessibility of social security for many migrants, with the complexity of the social security system and its persistent state of flux proving difficult for claimants to follow, with instances of BME families facing significant financial hardship as a consequence of erroneous decisions regarding benefits.³⁰

5.27 Fourthly, it should be noted that services for individuals who are experiencing domestic and sexual violence – referred to in the consultation document – are not available to those who do not have recourse to public funds. For example, Women's Aid cannot offer shelter to women with NRPF, as these spaces are Government funded.³¹ As a result, these women cannot access refuge services.

5.28 Evidently, there are extreme limitations to current services both in terms of their quality and their accessibility, which limit their value to BME individuals that wish to exit prostitution. The consultation document's claim that 'the barriers to exiting prostitution are addressed through...existing services' seems questionable in this context.

5.29 Consequently, the PAS will need to ensure that current service provision is improved in order to meet the needs of those wishing to exit prostitution and that barriers to the accessibility of service provision are overcome.

²⁹ Gibbs, J., 'Financial Inclusion Amongst New Migrants in Northern Ireland' (2010), p.4

³⁰ Migrant Centre NI, 'The Welfare System and Black and Minority Ethnic Communities in Northern Ireland' (2014), pp.11 and 19-22

³¹ op cit n 14 p.20

5.30 NICEM recommends that the Governance Group be tasked with reviewing the utility of current service provision, with a view to identifying shortcomings in current provision and barriers to accessibility for those wishing to exit prostitution. Departments responsible for delivering services should then cooperate in order to improve service provision in line with identified shortcomings and barriers.

Q5. Are the proposals on future governance for the Strategy and the PAS, as described in Section 8, appropriate?

6.1 While NICEM broadly agrees with the Department's proposals concerning governance arrangements, it is emphasised that there should be a role for voluntary and community organisations on task-and-finish groups, as suggested within the consultation document.

6.2 Voluntary and community organisations have strong relationships with their communities, an awareness of particular needs and a trusting relationship with service users, which makes them a valuable source of information on what actions need to be taken and what will be effective.³²

6.3 NICEM recommends that the finalised Strategy guarantee relevant community and voluntary sector representation on task-and-finish groups.

For further enquiries about this submission, please contact the following:

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³² Macmillan, R., 'The Third Sector Delivering Public Services: An Evidence Review' (2010), p.13