**Barnardo’s Northern Ireland Consultation Response**

**Proposed Changes in the Law to Tackle Human Trafficking**

**Introduction**

Barnardo’s NI is the largest children’s charity in Northern Ireland. We work with more than 8,000 children, young people and families in more than sixty services and in sixty schools. Our services range from family support to work with looked after children, asylum-seeking children and families, and children and young people who are in need of support across a wide range of services. These include a sexual exploitation service which also works with children who go missing from their accommodation within the care system. We can also provide specialist therapeutic support for children trafficked from abroad for sexual exploitation. Barnardo’s NI work collaboratively to ensure the rights and needs of children in the immigration system are promoted, respected and met in accordance with the relevant domestic and international standards.

The trafficking of children is child abuse and therefore a serious child protection issue. Our work on the ground, at both policy and practice level, provides us with a clear overview of many of the issues currently impacting upon trafficked children. Alongside NSPCC, Health and Social Care Trusts/local authorities, the UK Borders Agency (UKBA), the police and SOCA, Barnardo’s are designated ‘First Responders’ and can refer a child who claims to have been trafficked, or whom they believe may have been trafficked, into the National Referral Mechanism (NRM). We welcome this consultation paper on proposed changes in the law to tackle human trafficking and would like to take this

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1 To date Barnardo’s NI Safe Choices service has not received any referrals for children trafficked into Northern Ireland from abroad for sexual exploitation.
opportunity to highlight a few areas of particular relevance to children and young people.

**Child trafficking in Northern Ireland**

It is important the Bill and consultation paper recognise the presence in Northern Ireland of two distinct forms of human child trafficking, both of which have been highlighted in recent research conducted by Barnardo’s NI:

- **Children trafficked into Northern Ireland from abroad**: in partnership with NSPCC, we carried out a scoping study of separated children and child trafficking in Northern Ireland\(^2\). Overall, the study reported low numbers of separated and trafficked children, with one case officially confirmed as a victim of trafficking. The study found evidence about child trafficking for the purpose of sexual exploitation and forced labour was largely anecdotal. While there were indicators suggesting child trafficking in a few cases, these had not been confirmed due to age disputes, young people’s reluctance to discuss their background, and going missing from care within a very short period of time.

It is important however to note that the threshold\(^3\) required in establishing a case of child trafficking remains high, so the full scope of the problem may be under-represented in official statistics. There can be a culture of disbelief and lack of awareness amongst practitioners and the wider public, so it is also important to recognise that child trafficking can be a hidden problem and difficult to identify. Several agencies in our scoping work suggested that police, immigration officials and social workers need greater awareness training so that they ask the right questions and consider information from a child centred perspective. In the year from February 2011, the NSPCC Child Trafficking Advice Centre (CTAC) service received 77 requests for information and/or advice from Northern Ireland across a range of referring agencies, so child trafficking is evidently an issue of some concern for professionals working directly with children.

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\(^3\) The Council of Europe Convention on trafficking has a two stage process for identifying victims of trafficking in which the ‘reasonable grounds’ test acts as an initial filter to a fuller more ‘conclusive grounds’ decision (UKHTC).
Although we can provide the necessary service, Barnardo’s NI has not received any referrals to date for children trafficked into Northern Ireland from abroad for sexual exploitation, or who are at risk of going missing from care and being sexually exploited; however we do have experience of working with child victims of ‘internal’ human trafficking, i.e. the organised movement of local children for the purpose of child sexual exploitation.

• ‘Internal’ trafficking was highlighted as an issue of concern in Barnardo’s NI research ‘Not a world away’\textsuperscript{4} about child sexual exploitation in Northern Ireland. It was stated in a NI Assembly Debate in December 2011 that the 'Not a world away' report and other research indicates sexual exploitation can take many forms, including the trafficking of children and young people for the purpose of exploitation, “The perpetrators use all sorts of means: they manipulate and coerce young people; they intimidate and bully them; and they groom them without any sense of care, respect or empathy for their young victims”.

In addition to the research findings, Barnardo’s NI recently initiated seven referrals of local children through the PSNI to the National Referral Mechanism, all of which have been positively identified as being trafficked. We remain unclear if this Bill relates to the ‘internal’ trafficking of people as well as international trafficking when it refers to ‘human trafficking’. ‘Internal’ trafficking is only referenced on page 5 of the consultation document.

**Part One (Clauses 1-6)**

**Clause 1(2) - Consent:** Any child who is transported for the purpose of exploitation is unable to consent to their own exploitation, regardless of their level of understanding or their willingness to comply. Barnardo’s NI therefore welcomes the inclusion in Clause 1(2) that consent to any action related to human trafficking is irrelevant where the victim was a child when the trafficking took place. Consideration should also be given to including vulnerable young people up to the age of 21 who are looked after / who are disabled. Children and young people with disabilities are at much greater risk of abuse than children who are not disabled\textsuperscript{5}; and as reported in the ‘Not

\textsuperscript{4} Beckett, H (2011) *Not a world away: The sexual exploitation of children and young people in Northern Ireland*. Barnardo’s NI.

a world away’ research, which also highlighted the problem of ‘internal’ trafficking, sexual exploitation is an issue of concern for looked after children, particularly girls.

Clause 2 - Aggravating factors: Barnardo’s NI agrees with the proposed list of aggravating factors that must be taken into account when sentencing a criminal convicted of human trafficking, particularly where the victim is a child. However, it is of concern that cases can be difficult to get to court in the first place, and where it is taken to PPS it can be at least eighteen months before a case is heard.

Clause 3 - Definitions of exploitation: Barnardo’s NI agrees with the proposed expansion to the definitions of exploitation set out in the Asylum and Immigration Act 2004.

Clause 4 - Paying for sexual services of a prostitute: The term ‘prostitution’ has associations with free agency; it therefore runs counter to the meaning of children being trafficked for sexual exploitation and can be misleading. Barnardo's NI recommends that the term should not be used for children and young people under 18 and that this is clearly specified.

Clause 5 - Protecting the victim from prosecution: As acknowledged in the Bill, children cannot give their consent to any action related to trafficking. We therefore agree with the proposal that children should get an exemption for crimes committed as a direct consequence of trafficking. Barnardo’s again recommends consideration is given to exemptions for vulnerable young people up to the age of 21 who are looked after / who are disabled.

We are concerned that statutory agencies do not always recognise situations of exploitation as potential trafficking cases and instead may identify a young trafficked person as a criminal, rather than a victim of crime. Practitioners have had direct experience of this through Barnardo's trafficking services in England, for example, suspected child victims who had been found in a brothel or cannabis factory or having been forced into petty street crimes such as ATM theft and pickpocketing. In our view young people found in certain circumstances (i.e. cannabis factories, brothels etc) should be treated by the statutory authorities first and foremost as a trafficking victim. The location in which young people are discovered is in itself an indicator of

Lancet. Published online July 2012. http://dx/doi.org/10.1016/S0140-6736(12)60692-8
trafficking that should trigger concerns about the situation of the child or young person rather than identifying them as the perpetrator of a crime.

There is also a general lack of awareness about child trafficking and its indicators amongst practitioners who are coming into contact with potential victims on a daily basis. In order to help identify and effectively protect trafficked children, including victims of ‘internal’ trafficking, Barnardo’s NI recommends that appropriate training and guidance is made available across the range of frontline statutory and other agencies coming into contact with children. Social workers should be trained in the completion of trafficking assessments, trafficking matrix, age assessments and completion of NRMs.

Part 2: (Clauses 7-11)

Clause 8 - Requirements for assistance and support: Cases where young people have been trafficked present particular difficulties and challenges. Many of these young people will be viewed, at best, as reluctant witnesses. Many will struggle to see that what has happened to them as an offence, given the grooming techniques frequently employed by the perpetrators. Our experience of working with sexually exploited young people shows that it is often only a number of months or years down the line, once they are extricated from the abusive situation, that a young person can see the abusive intent behind their experiences.

Barnardo’s NI therefore welcomes the proposal that assistance and support for a victim must not be conditional on a victim's willingness to act as a witness. We also suggest emphasis is made on assistance and support being provided at the earliest possible opportunity. As above, Barnardo’s NI again recommends that appropriate training and guidance is made available across frontline agencies in order to help identify and effectively protect trafficked children, including victims of ‘internal’ trafficking.

Clause 11 - Legal advocate for a child: In addition to the need for protection, the complexity of trafficked children’s circumstances sets them apart as a distinct group in requiring a range of social and health services. These include legal representation, specialist foster carers offering placements to trafficked children, support to overcome trauma, mental health services, and treatment for physical and sexual maltreatment. However, while it may be useful to explore the potential
for an independent advocate system to provide a link with the various agencies involved, the numbers of separated/trafficked children from abroad are relatively small in Northern Ireland and it may be possible to work within existing frameworks to ensure all affected children receive the full spectrum of services. This would require greater coordination and joined-up working between all the various agencies; indeed our study did highlight a lack of connectedness across current provision.

A legislative approach may prove to be the best way forward; however at this stage Barnardo’s NI recommends more scoping is undertaken to ascertain the nature of the issue on a local level and gauge whether an additional guardian/advocate is required outside current child protection provisions.

**Conclusion**

Although the incidence of trafficked children in Northern Ireland is small, it is important to recognise this can be a hidden problem and difficult to identify. Barnardo’s NI welcomes any strengthening of legislation in relation to the crime of trafficking which affords greater protection to victims. It is important that legislation on human trafficking includes child victims of ‘internal’ trafficking, as well as children trafficked from abroad.

If you would like any further information, please contact:

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