



Barnardo's

Consultation Response to the Home Office New Plan for Immigration

May 2021

About Barnardo's

Barnardo's is the UK's largest national children's charity. In 2019/20 we supported 358,800 children, young people, parents and carers through more than 800 services and partnerships. Our goal is to achieve better outcomes for more children. To achieve this, we work with partners to build stronger families, safer childhoods and positive futures.

Barnardo's welcomes the opportunity to comment on the Home Office's New Plan for Immigration. Our comments are informed by our service delivery experience throughout the UK, supporting children who have been trafficked, separated and unaccompanied children, refugee and newcomer families, and family reunion.

In England and Wales, the Barnardo's National Counter Trafficking Service (NCTS), funded by the Home Office, delivers the Independent Child Trafficking Guardianship Service, which is underpinned by the Modern Slavery Act 2015, Section 48. Since 2014, the service has worked with over 1,000 children who have been identified as trafficked or at risk of trafficking, many of whom are also separated and unaccompanied children seeking asylum. This service is currently expanding into 11 new sites, and as a result will cover two thirds of local authorities in England and Wales.

In Northern Ireland, we have delivered the Independent Guardian Service since April 2018. We have provided Guardians for 121 separated and unaccompanied children, including some who were victims of suspected human trafficking. Since December 2015, we have delivered the Northern Ireland Refugee Support Service (NIRSS) in collaboration with other local voluntary organisations, as part of the Syrian Vulnerable Persons Resettlement Scheme. NIRSS provides intensive support to refugees placed in Northern Ireland, supporting families and children to cope with both past trauma and integration into Northern Ireland.

The Barnardo's Family Reunion and Integration Service (FRIS) works in partnership with the British Red Cross and Queen Margaret University. FRIS opened in 2018 to support reunited refugee families integrate into their new communities in Glasgow and Birmingham, and to gain an evidence-based understanding of what works well. Barnardo's FRIS supports a family's integration by focusing on the children in the family, considering them as individuals with their own specific needs.

1. General comments

1.1. Barnardo's welcomes the following proposals in the plan:

- A commitment to increase "safe and legal routes" for asylum seekers including increased support for refugee resettlement programmes and refugee community sponsorship.
- Increased funding for refugee integration that will focus on progress to employment as well as wellbeing, language and social bonds.
- Expanding the eligibility criteria for refugee family reunion by raising the age from 18 to 21 for unmarried dependent children to join both parents who are refugees in the UK (however, in practice, the 'both parents' requirement may be a high bar for eligibility).
- Granting leave to remain to survivors of human trafficking.
- Granting Indefinite Leave to Remain to persons who arrive through refugee resettlement.
- Recognition of the importance of quality immigration advice early in the asylum process.

1.2. Barnardo's is concerned that the proposals in the New Plan for Immigration have not considered the best interests of asylum-seeking and refugee children and the proposals do not outline how they will be applied to children and families. We are concerned that without amendment, these proposals risk placing vulnerable children and families at greater risk of exploitation and harm and could have a detrimental impact on community cohesion.

1.3. In Northern Ireland the proposals specifically affect the Human Trafficking and Exploitation (Northern Ireland) Act 2015 and the Modern Slavery Strategy for Northern Ireland (NI) which provide for the Independent Guardian Service. In Wales, the proposals impact on the All Wales National Protection Procedures, Wales Modern Slavery Strategy and Migration Strategy which provide for the Independent Child Trafficking Guardianship Service. We believe these services provide vital support for vulnerable children.

1.4. We believe that any changes to the system should not result in a reduction in support for children, families and adults arriving to the UK via 'irregular' routes and who still need the help, protection, and support of the UK. The term 'illegal' is repeatedly applied throughout the New Plan to anyone seeking asylum, which risks conflating the illegal activities of traffickers and smugglers, with the individual actions of asylum seekers desperate enough to risk dangerous journeys, including children.

- 1.5. Given the challenges that many asylum seekers, including children and young people, face in leaving their home when it is no longer safe to remain, **Barnardo's recommends that the Home Office adopts the terminology used by the United Nations Human Rights Council of 'irregular travel' rather than 'illegal travel'**. This reflects the realities that many asylum seeking children and families face in trying to leave a country in the midst of a violent conflict, or threats to their safety or family, when the routes and means to 'safely and legally' travel to seek asylum are limited, if not non-existent.
- 1.6. Barnardo's is concerned that with the emphasis on how people arrive into the UK and legality, children and families arriving via 'irregular' routes could be pushed further underground, thereby making them more vulnerable to exploitation and harm.

2. Chapter 2: Protecting those Fleeing Persecution, Oppression and Tyranny

- 2.1. Through our delivery of the Syrian Vulnerable Persons Resettlement Scheme (SVPRS) in Northern Ireland, we have seen how community acceptance and attitude can play a significant role in successful integration. Our report, '[A New Life for Me: Integration Experiences of Syrian Refugee Children and their Families](#)' outlines some of the challenges that refugee children and young people face when resettling in Northern Ireland. The findings highlight many positive experiences of resettlement, but also the multiple challenges faced by refugee children and their families as they adapt to a life in a new culture and society.
- 2.2. We would welcome the Home Office's consideration of the report's recommendations, specifically:
 - Children should be a particular focus when considering integration. All integration strategies and support services should be discussed and designed to reflect the role, challenges and needs of refugee children, and the impact of these on integration outcomes of the entire family.
 - Programmes for students and teachers that promote whole-school understanding and positive attitudes towards cultural diversity and equality are imperative for fostering a welcoming and inclusive environment for refugee children.
 - There is a need for prolonged and intensive language support for adult refugees, with potential benefits for the individual and also children in the family.
 - Integration is a two-way process: Local communities must be encouraged and supported to better understand the nature and trauma of seeking asylum and resettlement in another country, and understand the benefits, responsibility

and pride the UK should have in offering this sanctuary to some of the most vulnerable children and families in the world.

- 2.3. The successes and lessons learned from schemes such as SVPRS should inform and shape new proposals, not be used as a means of invalidating the claims of people who arrive through other routes.

3. Chapter 4: Disrupting Criminal Networks and Reforming the Asylum System

Inadmissible Claims and Removal

- 3.1. Dividing refugee children into 'deserving' or 'genuine', and those who are 'illegal', risks creating misinformation and confusion. We are deeply worried that these proposals may fuel hostility towards perceived 'illegal' children and families. The recent hate attack¹ in Northern Ireland on a Syrian family with young children is a stark reminder of the real-life implications of creating such an environment.
- 3.2. Furthermore, Barnardo's is concerned that proposals regarding inadmissibility criteria do not make any reference to how they will be applied to children. As with all decisions concerning children, their best interests should be a key consideration. However, it is not clear from the proposals that consideration has been given to the potential implications on children. In particular, Barnardo's is concerned that the unaccompanied and separated children we support through the Independent Guardian Service may be penalised under these proposals depending on the countries they passed through before arriving in the UK or their route of entry. These children are some of the most vulnerable and traumatised children in our society and they need our support, rather than being turned away.
- 3.3. From our experience delivering the National Counter Trafficking Service (NCTS), we are concerned that the proposals may distinguish between asylum claimants based on their means of arriving to the UK, essentially creating a two-tier system. We are concerned that this focus on how an asylum seeker arrives, will disadvantage trafficked children and result in them being classed as inadmissible claimants, granted temporary status and subjected to a lower tier of support. Most trafficked children do not arrive to the UK via resettlement and will not have had contact with agencies that facilitate these schemes, such as UNHCR. These measures would strongly disadvantage children who have been trafficked and could lead to poorer, less secure outcomes for them.
- 3.4. All trafficked children who Barnardo's NCTS have supported from overseas have been transported via irregular routes by agents and traffickers. Some children trafficked to the UK are unaware of the countries they pass through and children do not exercise autonomy over this journey. This proposal also risks overlooking

¹ <https://www.belfasttelegraph.co.uk/news/northern-ireland/home-of-syrian-family-attacked-in-newry-hate-crime-40327450.html>

the unique and dangerous circumstances for child victims of trafficking who may be profoundly unsafe in other countries where there are networks, family or communities that may have been involved in their exploitation.

3.5. We are also concerned that the New Plan may penalise survivors of child criminal exploitation who face imprisonment of over a year². We are concerned that many young people are not effectively identified as victims and do not receive appropriate support in order to challenge prosecutions. In some instances, young people have been identified and sentenced as perpetrators of trafficking, rather than being recognised and supported as victims.

3.6. *Barnardo's recommends that, in line with the Refugee Convention, the Home Office does not differentiate refugee children and families based on their routes of entry to the UK. In addition, these proposals must assess the implications for children and how the best interests of the child will be served.*

Reception Centres and Accommodation

3.7. The Home Office's guidance³ on refugee integration highlights the importance of contact between refugees and host communities. Policies of exclusion can foster misinformation, fear and animosity within the community. Confinement is particularly difficult for victims/survivors of modern slavery, and levels of self-harm and suicide are higher in immigration detention than in the prison system.

3.8. Moreover, Barnardo's is concerned that the proposed reception centres could have the effect of cutting off children and families from the local community, and may risk impacting on their education and development. For example, the proposals do not detail how children would access services and education while living in a reception centre.

3.9. *Barnardo's recommends that children and families arriving in the UK be housed in safe accommodation which has been designed to meet the needs of family life and provides a welcoming environment for children and young people.*

Temporary Protection Status

3.10. We are concerned that 'temporary protection' status risks causing uncertainty and even destitution. It may cause practical difficulties for families and individuals,

² Under the UK Borders Act (2007), the Home Secretary can make a Deportation Order against a "foreign criminal" who has been convicted of an offence and sentenced to 12 months imprisonment or more.

³ [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and Non-Statutory Guidance for Scotland and Northern Ireland, March 2021](#)

including obtaining secure employment, finance (e.g. a mortgage) or developing social bonds.

3.11. Specifically, it is not clear what children will be entitled to – including whether they will be able to access statutory services, including education. Schools may be hesitant to enrol a child who has significant support needs but may only be in the UK for 30 months. The system must ensure children do not miss out on education as a result of their status.

3.12. *Barnardo's recommends that the Government ensures a child's immigration status does not affect their access to education and other vital services.*

Assessing Age Appropriately

3.13. This proposal emphasises the risks if an adult were to be treated as a child, stating “we cannot take lightly the very serious safeguarding risks if people over 18 are treated as children”. However, we must also address the risks of children being treated as adults. From our experience delivering Independent Guardian Services around the UK, we are clear that age assessments must be approached with the default assumption that children are to be treated as such unless evidence demonstrates otherwise. To treat a child as an adult would deprive them of the developmental support and structure that they need, including access to education and care. This would raise serious child protection concerns. Given the vulnerabilities of asylum seeking and refugee children, the additional trauma that could be caused if a child were to be treated as an adult is substantial and severe. It is crucial that these assessments are child-centred, trauma-informed and based in evidence and best practice.

3.14. Age assessments are a sensitive matter and a complex process. We believe it is crucial that age assessments are conducted by skilled Social Workers, whose practice is trauma-informed and child-centred, rooted in child protection. The existing legal process relating to age assessment is based on common law and has developed to reflect the complex, nuanced issues of a process which has profound, long-term implications for children and young people.

3.15. This proposal would undermine the work of qualified Social Workers, who would be superseded by the proposed ‘National Age Assessment Board’. The New Plan does not specify who would sit on such a board, and where it would be based. In Northern Ireland, the NAAB would bypass accountability structures, such as the NI Commissioner for Children and Young People and risks a lesser standard of protection for these vulnerable children.

3.16. Furthermore, these proposals do not take into account the role of the Independent Guardians. Northern Ireland was the first jurisdiction in UK and Ireland to develop a statutory system of independent guardianship for all separated children. The

Human Trafficking and Exploitation Act (NI) 2015 provides for Guardians to be consulted on, and to have input in, all decisions relating to the child, which includes in relation to age assessments.

3.17. Given the complexities of the age assessment process, Barnardo's is concerned about the proposal to create a 'fast-track statutory appeal'. These cases are complex and concern vulnerable children who have experienced significant trauma. A fast-track appeals process is not suitable for such a sensitive, multifaceted matter.

3.18. The following case study is from one of our Guardian Services:

A 16 year old Vietnamese boy was subjected to an age assessment based solely upon his appearance. The initial age assessment came back as over 18 and was challenged. The second came back saying he was over 25 but had not taken into account the views of many professionals who had been supporting him over the 10 months it took to complete. On this basis, the child's support was immediately stopped, and he was given a number to call for adult accommodation, despite having limited English. Luckily, the professional network surrounding him arranged accommodation for him, although this was at NASS adult accommodation, a long way from his peer support network. The child was accommodated in an adult accommodation project where he had to share a room and bunk beds with an adult male. This left him feeling very unsafe and scared, further compounding the trauma he had already experienced. A legal challenge was made to the Local Authority who eventually agreed to accept him as a child. However, by this time he had spent a number of weeks in adult accommodation, isolated from his peers, which had a significant impact on his emotional wellbeing.

3.19. Barnardo's recommends that age assessments are conducted by Social Workers, local to the young person.

4. Chapter 5: Streamlining Asylum Claims and Appeals

'One-stop' Process

4.1. The children and families who seek asylum in the UK have often experienced significant traumatic events in their life, for example, violent conflict in their home country, gender-based violence or persecution because of sexual orientation. This is particularly the case for children. The Home Office's trafficking guidance⁴ acknowledges that 'a key symptom of post-traumatic stress is avoidance of trauma triggers' (i.e., disclosure) and that 'because of these symptoms, a person may be unable to fully explain their experience until they have achieved a minimum level

⁴ [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and Non-Statutory Guidance for Scotland and Northern Ireland, March 2021](#)

of psychological stability'. The proposed 'one-stop' process which requires full details and disclosure is contrary to existing guidance referenced above.

- 4.2. The disclosure of sensitive and harrowing information requires trusted relationships to be built between children and support organisations, including legal representatives. Barnardo's is concerned that the new proposals do not allow for such a relationship to be established and instead will require children and families to disclose highly personal and sensitive information before they are ready or even able to do so. Through our Independent Guardian Service, Barnardo's NI has supported 121 young people, some of whom have been the victims of torture and violence before arriving in the UK. Any specialist trauma/torture services must also provide specialist support to children.
- 4.3. Furthermore, in Northern Ireland there are no specialist services for victims of trauma or torture akin to the Helen Bamber Foundation (London), Freedom from Torture (GB) or Spirasi (Dublin). Without specialist treatment, it is inevitable that it will take longer for victims and survivors in Northern Ireland to make full disclosure. Thus, the lack of specialist trauma/torture services in Northern Ireland makes the 'one stop' proposal particularly unworkable in this jurisdiction.
- 4.4. ***Barnardo's recommends that the 'one-stop' assessment should not be introduced and that specialist trauma/torture services, with specific specialism in children, are developed across the UK.***

Expedited Appeals

- 4.5. Barnardo's is concerned that the 'fast-track' appeals process does not allow enough time for a case to be put together which clearly articulates and represents the children, families and adults concerned. Cases concerning asylum seekers and refugees are highly complex and sensitive by nature, and therefore require additional time to compile.
- 4.6. Furthermore, according to the figures provided at the start of this New Plan, nearly half of the cases which went to appeal were judged to be valid. An expedited appeals process may have resulted in more of these legitimate claims to be unjustly rejected due to a weak or incomplete case being presented as a result of time pressure.

4.7. The following case study is from our National Counter Trafficking Service:

NCTS was supporting a 17 year old boy from Afghanistan and there were concerns that he was being exploited. He had gone missing from care for a number of months. Upon his return, professionals tried to engage with him but were unable to make progress due to the child presenting as being highly traumatised. It took over 6 months to eventually get a CAMHS assessment and educational psychologist assessment to help professionals understand the difficulties that the child was facing. The initial presentation of this child could have been mis-labelled as "aggressive" by someone who did not have a good understanding of trafficking and exploitation. The CAMHS diagnosis noted that he found questions about himself to be triggering with regards to re-traumatisation. In a 'one-stop' process it would be highly likely that this child would not have disclosed everything at the first session given the significant past trauma, and he could easily have been dismissed as uncooperative.

4.8. *Barnardo's recommends that an appeals process is not concentrated primarily on timescales, and instead focuses on getting a fair and just result for children and families.*

Expert Evidence for Court Proceedings

4.9. Given the breadth and complexity of asylum cases, Barnardo's would raise concerns that a single panel of experts will not be able to provide reliable, expert evidence on the specifics of every unique case. From our experience supporting asylum-seeking and refugee children and families, we know that these cases are highly complex and nuanced. The proposals do not include key details on how this expert panel will be constituted and function. Further information is needed on how experts are appointed, for example, their independence from Home Office decision making processes, verification of their experience and identification of training needs.

4.10. If such a panel were constituted, all pre-approved experts must undergo training on the impact of trauma, regardless of their area of speciality. Furthermore, any experts working on cases involving children, including within a family unit, must receive training on child-centred practices.

4.11. Additionally, it is important that asylum seekers based in devolved nations are not placed at a disadvantage with regards to accessing experts, should the panel be located primarily in England. If this proposal is adopted, there must be provision and resource to ensure that individuals and their carers can travel to meet with the experts.

4.12. *Barnardo's recommends that all experts undergo training in trauma-informed and child-centred practice. Additionally, experts must be*

accessible to asylum seekers and refugees in their local area, rather than centralised in one location.

5. Chapter 6: Supporting Victims of Modern Slavery

Training for First Responders

- 5.1. We welcome the commitment to training of First Responders, however we are concerned that the proposals focus on assessing credibility of victims, rather than providing support. The community and voluntary sector delivers many of the services supporting victims of modern slavery and human trafficking, and therefore has significant delivery experience and insight. In particular, Barnardo's NI has experience delivering the Independent Guardian Service for unaccompanied and separated minors, many of whom are victims of suspected human trafficking. Barnardo's National Counter Trafficking Service has significant experience delivering child trafficking awareness training and has trained over 2,000 professionals in the UK.
- 5.2. Training for First Responders should be trauma-informed and include specific guidance on working with children, particularly children who have experienced trauma, and examine the balance between getting the best evidence versus re-traumatising children. Often, existing training is targeted at adult provision and the unique vulnerabilities of children are lost. In Northern Ireland, Child Sexual Exploitation (CSE) protocol training is already in place when supporting children in other areas of work; this could be used as a basis for guidelines when working with children who are victims of modern slavery and human trafficking.
- 5.3. ***Barnardo's recommends that the Home Office consults and engages with organisations who are already working in this area when designing and rolling out training to First Responders. This training should be trauma-informed and include guidance on working with children.***

Public Order Grounds Exemption; A new Reasonable Grounds Test and Credibility

- 5.4. Throughout this chapter, the emphasis is placed on the misuse of the National Referral Mechanism (NRM), rather than focusing on the majority of people that the mechanism serves to protect. The identification and protection of children who are victims of human trafficking in the UK is not an immigration process. Further, the identification, protection and prevention of modern slavery requires a range of efforts across criminal justice with children requiring specialist social services, health and legal support.
- 5.5. Barnardo's is concerned that these proposals seek to reposition the NRM as a means of identifying individuals for removal, rather than the identification of vulnerable children who have been exploited and are in need of support and protection. Furthermore, we have concerns that should the emphasis of the NRM remain on removals, children who are victims may be discouraged from disclosing

that they have been trafficked due to a lack of knowledge and information and for fear of being removed from the UK. This practice would only strengthen the hold of criminal enterprises and actors.

5.6. *Barnardo's recommends that the focus of the NRM should remain on identifying, protecting and supporting children who are victims of human trafficking.*

6. Chapter 9: Enforcing Removals including Foreign National Offenders (FNOs)

Removal of Failed Asylum Seekers

6.1. From our experience delivering the Barnardo's National Counter Trafficking Service, we have supported children and families who have been subject to forced removals. We believe the New Plan could penalise survivors of child trafficking who may disclose their experiences 'late' due to trauma, coercion tactics of traffickers and inappropriate initial support. This is a particular concern when criminal exploitation is a factor. This proposal could see young people who have been the victims of crime deported from the UK, rather than being supported and protected as a victim of human trafficking.

6.2. *Barnardo's recommends that this proposal is not progressed.*

Conclusion

Barnardo's welcomes the opportunity to respond to this consultation. We are concerned that without amendment, the proposals in the 'New Plan for Immigration' could result in children and families who are fleeing persecution not receiving the support and protection they need to rebuild their lives, or even being turned away. Some of these proposals could drive human trafficking and exploitation further underground, resulting in those children and families becoming even more vulnerable to abuse. We believe that all children deserve the best start in life, and the opportunity to grow up in safety, and the system should reflect this.

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