

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Independent Child Trafficking Guardian	
Minister	Clare Haughey, Minister for Children and Young People	
Lead official	Tom McNamara, Deputy Director, Children's Rights, Protection and Justice Division	
Officials involved in the EQIA	name	team
	Robert Scott Caroline Lauder	Child Protection Unit, Scottish Government
Directorate: Division: Team	Children and Families Directorate: Children's Rights, Protection and Justice Division: Child Protection Unit	
Is this new policy or revision to an existing policy?	This is a new policy.	

1. Screening

1.1 Policy Aim

The aim of the Independent Child Trafficking Guardian (ICTG) policy is to provide support to children and young people who arrive in Scotland unaccompanied and who will have undergone an arduous migration journey alone. Although these children will receive looked after status and receive local authority support, they face many wider challenges and additional support is therefore required. This can include going through the trafficking process and in many cases, the asylum process as well. They also face further barriers such as breaks in their education, adapting to a new country, and learning a new language.

Implementation of ICTGs will fulfil the duty set out under Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015, through the development of an Independent Child Trafficking Guardian service, with a focus on prevention of re-trafficking.

A [public consultation](#) was carried out in 2019 in relation to the launch of ICTGs. An [analysis report](#) following up from the consultation was published on 11 May 2020. Of the 19 organisations and 18 Individuals who responded a

majority were in agreement with the proposed functions of the new role – reflecting a desire to see the service launched.

The desired outcome is that every child or young person that needs support from an ICTG will be appointed one.

The [National Outcomes](#) which this policy contributes to are, that people:

- grow up loved, safe and respected so that they realise their full potential
- respect, protect and fulfil human rights and live free from discrimination

1.2 Who will it affect?

The ICTG service will appoint an Independent Child Trafficking Guardian (Guardian for short) to support children who may have been a victim of, or may be vulnerable to becoming a victim of, human trafficking, that have no parental guardian in the UK.

Recognising that these children and young people are vulnerable, Guardians will provide assistance and support in navigating the complex welfare, care, immigration, asylum, and trafficking systems, often in a foreign language. The Guardian can represent young people in engaging with the various authorities and speak on the child's behalf to avoid the need for them to re-live their experiences through constant re-telling of their story to different authorities.

Generally ICTGs will provide support to young people under the age of 18. However there are some circumstances where a young person will still be eligible to receive support from an ICTG after the age of 18. For instance if a young person was still waiting for a decision from the Home Office on their trafficking or asylum case when they turn 18, then support would continue until their case is resolved. ICTGs will have discretion to use their professional judgement to decide when support should continue for a young person over the age of 18. The ICTG regulations do however specify that support will not continue past the age of 26 in line with other continuing care and aftercare provisions applicable to formerly looked after children under the Children (Scotland) Act 1995.

1.3 What might prevent the desired outcomes being achieved?

Increased demand – the number of unaccompanied asylum seeking children arriving in Scotland has been increasing in the past year. The number of referrals to the existing non-statutory service that ICTGs will replace has risen from 102 in 2020 to 156 in 2021 to 343 in 2022. This is in part due to Scotland taking more children through the Home Office's National Transfer Scheme.

Changing policy landscape – although support provided to unaccompanied asylum seeking children in Scotland is a devolved matter, nationality and immigration, including the UK asylum system, is a reserved matter. This means that the wider policy landscape that ICTGs operate within is outside

the control of the Scottish Government. Changes to this wider policy landscape may make it more difficult for ICTGs to provide support to eligible children.

1.4 Initial assessment – is an EQIA required?

The policy will impact on unaccompanied asylum seeking children, a cohort often with protected characteristics such as race and religion. It is therefore considered necessary to conduct an EQIA.

Stage 1: Framing

Results of framing exercise

Existing evidence

Scottish Guardianship Service (SGS)

ICTGs will be replacing an existing non-statutory service SGS that is part funded by the Scottish Government. SGS, which was established in 2010, has gathered a wealth of expertise and skill in understanding the needs of unaccompanied asylum seeking children, and supporting social workers in the provision of that support. As part of Scottish Government's grant management of SGS we receive regular data regarding the children they are supporting, including a breakdown on some protected characteristics. SGS are also able to respond to bespoke data requests.

Convention of Scottish Local Authorities (COSLA)

COSLA collect quarterly data on UASC in Scotland¹. There is no requirement for local authorities ("LAs") to provide this data. Submission of returns is on a voluntarily basis and is not ratified against any other data, so it is unlikely to represent a full picture. COSLA are able to break their data down by age and country of origin, although a number of local authorities do not provide data on the latter.

Responsibilities and partnerships

ICTGs should work closely with other professionals when supporting a child or young person. The ICTGs role would be to draw together a network around each young person, with the aim of building close and productive relationships with other professionals. This would include social workers, lawyers and health care professionals. It is the intention that the functions of the ICTG must be such that they complement, rather than conflict or compete with, existing statutory roles. They should focus on where they can add value in supporting these eligible children and address any gaps in support which are needed to meet their specific needs. Establishment of ICTGs will formalise the relationship between Guardians and Social Workers, establishing clear roles and responsibilities for ICTGs, which is sometimes not the case with the existing non-statutory service.

Scale of children needing support from ICTGs

Data provided to us by SGS in December 2022 showed that they had 692 active cases where they are supporting young people. This is a good indicator of the scale of children needing support, however the number is likely to be higher as the number of UASC presenting in Scotland continues to increase. This is driven in large part by the decision by the UK Government to mandate

¹ This data is confidential and should only be shared with prior agreement from COSLA.

the National Transfer Scheme rota². It is hard to estimate the additional number of UASC arriving in Scotland, however NTS referred 200 young people to SGS in 2022 making up 58% of their overall referrals.

Potential Impacts

A fundamental aspect of the role of the ICTG is to support and advocate for young people through the UK's asylum determination procedure who may have been trafficked. Claims for asylum are based on the conditions for qualification for [refugee status](#) within the meaning of Art. 1(A) of the Geneva Refugee Convention. That is the existence of a causal link between the reasons for or fear of persecution, namely race, religion, nationality, political opinion or membership of a particular social group (PSG), and the acts of persecution or the absence of protection against such acts. PSG acts can cover claims based on sexual orientation, gender reassignment and other groups. Thus, as a whole the intervention of the ICTG is advancing equality of opportunity for young people with intersecting protected characteristics.

We would expect positive impacts on the following two protected characteristics in particular:

- **Age** – a major element of the ICTG role is explaining to young people not just what is happening but why, and what this could mean for their lives in Scotland. This would include explaining their rights as a child such as:
 - their rights as a looked-after child in Scotland;
 - those under human rights law relevant to them such as the UN Convention on the Rights of the Child;
 - for some young people, their rights to criminal injuries compensation due to experiences of trafficking and exploitation
- **Race** – young people can often feel isolated and alone when they first arrive in Scotland. We would expect ICTGs, alongside social workers and key workers, to play a role in enabling young people to meet with others with whom they can build positive social connections.

It is also worth noting that historically the majority of UASC in Scotland have been boys and as resulted they would be more impacted by the ICTG policy than girls.

Extent/Level of EQIA required

² National Transfer Scheme (NTS) – the NTS is an arrangement put in place by the Home Office to transfer the care of UASC between local authorities. NTS aims to ensure that the responsibility for supporting these children does not fall disproportionately to a small number of local authorities situated as entry points into the UK (such as Kent and Hillingdon) and that 'there is a more even distribution of caring responsibilities across the country'. The scheme was originally voluntary however the Home Office made a decision in November 2021 to make the scheme mandatory.

Since we would expect the ICTG policy to impact on at least four protected characteristics we believe a full EQIA is required.

Further evidence gathering and external engagement

We will engage with SGS and COSLA to get the most recent and relevant data that they can provide.

How do we facilitate children and families views?

In September 2020 SGS ran three focus groups on behalf of Scottish Government with young people they were supporting at the time. The aim of these focus groups was to hear young people's experiences of having a Guardian in order to inform the development of the ICTG service. The discussions confirmed the valuable role that Guardians play in these young people's lives. Some common themes included:

- Guardians are extremely helpful when the young people first arrive in the country to help them understand the laws and complex asylum system;
- Guardians are enormously valuable in legal appointments as they make the young person feel more comfortable and confident as they have someone by their side that they have trust and faith in to get the best outcome for their case;
- Guardians make themselves available to the young people to talk about anything that is worrying them.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic³	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	Average age at point of referral to SGS is 16.	SGS	Limited/inconsistent data on breakdown of ages of UASC in Scotland. This policy (ICTG implementation) will improve the evidence base as more robust data will be gathered once the service is in place.
DISABILITY	SGS does not routinely record data across all conditions that could potentially constitute a disability and have highlighted some difficulties in doing so.	SGS	There is a data gap regarding UASC with disabilities. Consideration will be given to how this gap could be closed when ICTGs are implemented.
SEX	The breakdown of those supported by SGS is 8% young women, 92% young men.	SGS	
PREGNANCY AND MATERNITY	Less than 4% of young women supported by SGS have been pregnant while they have been supported through the service.	SGS	
GENDER REASSIGNMENT	SGS are unaware of any young people discussing gender reassignment with their Guardians.	SGS	
SEXUAL ORIENTATION	A minority of young people that have been supported by SGS	SGS	

³ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>have disclosed an LGBT identity as part of their asylum claim.</p> <p>Home Office experimental statistics⁴ on claims on the basis of sexual orientation (LGB only) show that between 2015-2020 the annual percentage of 3% - 7% made on the basis of sexual orientation.</p>	Home Office	
RACE	<p>SGS have recorded 31 nationalities amongst the young people they support. Top countries in 2022 (343 referrals) were:</p> <ul style="list-style-type: none"> • Afghan – 20% • Iran – 19% • Sudan – 18% • Vietnam – 10% • Eritrea – 6% 	SGS	
RELIGION OR BELIEF	<p>SGS have recorded 6 different religions in the young people they support. The most common are Muslim and Catholic.</p>	SGS	
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of	n/a		

⁴ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-june-2021/asylum-claims-on-the-basis-of-sexual-orientation-2020>

Protected Characteristics document for details)			
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Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			<p>ICTGs will provide support to all UASC in Scotland. Part of this support will include explaining their rights as a child such as:</p> <ul style="list-style-type: none"> • their rights as a looked-after child in Scotland; • their rights under human rights law relevant to them such as the UN Convention on the Rights of the Child; • for some young people, their rights to criminal injuries compensation due to experiences of trafficking and exploitation
Advancing equality of opportunity	X			<p>Understanding and exercising their rights as a child will have a positive impact on eliminating unlawful discrimination, harassment and victimisation, and on advancing equality of opportunity.</p>
Promoting good relations among and between different age groups			X	<p>Although this may be a by-product of ICTGs, it is not one of the aims.</p>

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			SGS do have some recorded cases where a young person they have supported has a learning disability. SGS have explained however that there are particular difficulties in the assessment of learning difficulties for this group as the diagnostic tests are not transferrable to the populations we support. Despite this, some assessments are possible and supportive measures can be put in place and Guardians have played a key role in advocating such assessments and appropriate support being provided. We would expect this to continue once ICTGs are established.
Advancing equality of opportunity	X			<p>Trauma amongst those that SGS has supported is unsurprisingly common. The ICTG can represent young people in engaging with the various authorities and speak on the child's behalf to avoid the need for them to re-live their experiences through constant re-telling of their story to different authorities.</p> <p>Mental health disorders are also common, although research on prevalence in UASC varies significantly. Recent research conducted in Wales⁵ found that among young refugees settling in European countries up to one third are thought to be affected by a mental health disorder, with prevalence ranging from 19-53% for PTSD, 10-33% for depression and 9-32% anxiety disorders. These levels are higher than for the general population of children and adolescents, where 2.6% experience any kind of depressive disorder, and 6.5% any kind of anxiety</p>

⁵ <https://www.wmsmp.org.uk/wp-content/uploads/ACEs-in-Child-Refugee-and-Asylum-Seekers-Report-English-final.pdf>

					disorder. ICTGs will proactively support those who have mental health disorders.
Promoting good relations among and between disabled and non-disabled people			X		Although this may be a by-product of ICTGs, it is not one of the aims.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			SGS currently support young people (including male and female survivors of Sexual and Gender-Based Violence) to navigate services and processes including health services, legal representation, interpretation and the asylum process in a way that is trauma & gender sensitive. Examples include empowering young people to articulate gender preferences for professionals they encounter across all of the aspects of their lives. We would expect this to continue under ICTGs.
Advancing equality of opportunity	X			
Promoting good relations between men and women			X	This is not something that we expect ICTGs to actively impact.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There are instances where SGS have supported young people that have been pregnant. Studies have found that asylum seeking women together with newly arrived migrant and refugee women are 'disproportionately
Advancing equality of opportunity	X			

Promoting good relations	X				affected by health and social problems, placing them at greater health risk'. ⁶ '[A]sylum seekers have been identified as an especially vulnerable group in relation to maternity care and pregnancy outcomes.' ⁷ We would expect ICTGs to have a positive impact when supporting this group of people.
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Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	We are unaware of any cases where UASC in Scotland have proposed to undergo, are undergoing, or who have undergone a process for the purpose of reassigning their sex.
Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			A minority of young people that have been supported by SGS have disclosed an LGBT identity as part of their asylum claim, however this is an area where the trusting relationships developed between young people and their Guardians is really advantageous. An LGBT identity can be particularly difficult for young people to disclose, many still carry shame imposed upon them by regimes they have had to flee and many have had to conceal this enroute to the UK. The interview questions posed by Home Office
Advancing equality of opportunity	X			
Promoting good relations	X			

⁶ [Women & Children First 3.indd \(scottishrefugeecouncil.org.uk\)](#)

⁷ Chris Campbell, Sarah Zadik and Jenny McGill, Glasgow & Renfrewshire Asylum Seeker, Refugee Antenatal and Postnatal Support – Needs Analysis, 18 October 2011, p. 3

					decision makers can be intrusive and embarrassing in SGS's opinion and the conversations that young people have with their Guardian can form crucial evidence in the asylum claim (albeit the young person may not realise it at the time). We would expect this crucial support to continue with ICTGs.
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Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			One of the main aims of ICTGs is to ensure that UASC are not unlawfully discriminated against. ICTGs will provide assistance and support in navigating young people through the complex welfare, care, immigration, asylum, and trafficking systems, often in a foreign language .
Advancing equality of opportunity	X			
Promoting good race relations	X			UASC can often feel isolated and alone when they first arrive in Scotland. We would expect Guardians, alongside social workers and key workers, to play a role in enabling young people to meet with others with whom they can build positive social connections.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			SGS have informed us that although Guardians are not heavily involved in directly supporting young people to exercise religious freedoms they do support other professionals to understand religious needs and prompt them to meet the young person's religious and cultural
Advancing equality of opportunity	X			

Promoting good relations	X				needs such as residential workers understanding a halal diet, the need for a prayer mat and encouraging residential workers to facilitate travel for worship. We would expect this to continue under ICTGs.
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Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership ⁸	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination				N/A

⁸ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	No negative impacts have been identified.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ⁹ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

No changes to the implementation of ICTGs were considered necessary following the equality impact assessment as there is no evidence to suggest that there will be a negative impact on any individual with a protected characteristic. However, we will continue to work with our delivery partners and key stakeholders to ensure that we collectively undertake full and ongoing consideration of relevant equalities issues.

Monitoring and Review

Although there were no issues identified in the EQIA, the Scottish Government will nevertheless monitor how the policy is affecting those with protected characteristics through the following:

- Annual Reports – the appointed service provider shall submit annual reports to the Scottish Government’s designated contact(s).

⁹ See EQIA – Setting the Scene for further information on the legislation.

- Monitoring Reports – the appointed service provider shall submit quarterly monitoring report which shall include statistical information on the service and emerging trends.

The appointed service provider shall also provide information on an ad hoc basis as requested by the Scottish Government.

As noted in section 2, implementation of ICTGs also presents an opportunity to plug some existing data gaps around UASC in Scotland.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for **Independent Child Trafficking Guardians** and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Tom McNamara

Position: Deputy Director, DCAF: Children's Rights, Protection and Justice Division

Authorisation date: xx/xx/2023