

# Final Business and Regulatory Impact Assessment

## Independent Child Trafficking Guardian Service

### Purpose and intended effect

#### Background

The aim of the Independent Child Trafficking Guardian (ICTG) service is to provide assistance, support and representation to children and young people who are, or may be, a victim of the offence of human trafficking, or who are vulnerable to becoming a victim of human trafficking. The service will provide support to children and young people who arrive in Scotland unaccompanied by someone who has parental responsibilities and rights in respect of them (or for whom no one in the UK has parental responsibilities and rights) and who will often 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 UK trafficking process, via the [National Referral Mechanism](#), 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.

ICTGs will be replacing an existing non-statutory service provided by the Scottish Guardianship 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.

#### Objective

Launching the ICTG service will fulfil the duty set out under Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015, through the development of a service to provide assistance, support and representation, including the prevention of re-trafficking. ICTGs will work closely with other professionals when supporting a child or young person. ICTG's role will be to draw together a network around each young person, with the aim of building close and productive relationships with other professionals. This will 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. ICTGs will 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. These functions will be described in more detail within non-statutory guidance to be published.

### **Rationale for Government intervention**

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

### **Consultation**

Consultation to seek views on the appointment, role and functions of the ICTG and wider operational issues opened on 26 August 2019 and closed on 17 November 2019. Analysis of the 40 responses received has been carefully considered by the Scottish Government. Regular meetings have been held between the Scottish Government and the Scottish Guardianship Service, including discussions on provision of the ICTG.

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.

The Scottish Government issued a Request for Information in December 2020, on Public Contracts Scotland. Two responses were received, and the information was considered in the development of the Invitation to Tender for the statutory ICTG service.

### **Options**

#### **Option 1 – Implement Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015**

ICTGs will fulfil the duty set out under Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015, and implementation will take place through the development of an Independent Child Trafficking Guardian service.

**Option 2 – Do nothing**

Failure to implement the service equates to failure to carry out provisions of Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015, as envisaged when the Scottish Parliament approved this legislation. The existing non-statutory service (Scottish Guardianship Service) would continue to run, funded by the Scottish Government.

**Benefits – Option 1**

Putting the ICTG service on a statutory footing would make it a requirement in law for all children and young people who are eligible to receive support from a Guardian to be appointed one as soon as reasonably possible. It would also formalise the relationship between Guardians and the other professionals that would be supporting a young person, such as Social Workers. This would establish clear roles and responsibilities for the Guardians allowing them to focus on the areas where they can add value.

**Benefits – Option 2**

None. The non-statutory service would continue to run as it does now, however without the benefits that would be gained from Option 1.

**Costs – Option 1**

All costs will be met by the Scottish Government in terms of this statutory service. The anticipated cost of the service from 1 April 2023 to 31 March 2026 is £2,969,883 exclusive of VAT.

In the event of extraordinary circumstances out with the control of the Scottish Government causing an increase in numbers of UASC and accompanying increased need for the ICTG service, service costs may be reviewed at the request of either party.

**Costs – Option 2**

Costs would also fall on Scottish Government and are likely to be similar to the costs for Option 1.

**Regulatory and EU Alignment Impacts****Intra-UK Trade**

Establishment of the ICTG service, which aims to provide assistance, support and representation to children and young people arriving in Scotland unaccompanied, should have no impact on intra-UK trade.

**International Trade**

Establishment of the ICTG service should have no impact on international trade and investment.

**EU alignment**

Establishment of the ICTG service should have no impact on the Scottish government's policy to maintain alignment with the EU.

**Scottish Firms Impact Test**

Establishment of the ICTG service, which aims to improve the provision of support to children and young people who arrive in Scotland unaccompanied, should have no impact on Scottish firms.

**Competition Assessment**

Establishment of the ICTG service, which aims to improve practice and processes for unaccompanied children arriving in Scotland, should have no impact on the competitiveness of Scottish companies within the UK, in Europe or the rest of the world.

**Consumer Assessment**

The revised Guidance aims to improve the provision of support for children who arrive in Scotland unaccompanied so will not have a negative impact on consumers.

**Test run of business forms**

No new forms are being introduced as a result of the implantation of the service.

**Digital Impact Test**

The service implementation will not have any direct digital impact. It focusses on improving the provision of support for children who arrive in Scotland unaccompanied, and does not make provision related to either off-line or on-line businesses and is not concerned with regulating commercial activity.

**Legal Aid Impact Test**

The revised Guidance is not creating new rights or responsibilities. It is focussed on improving the provision of support for children who arrive in Scotland unaccompanied, so should have no impact on the legal aid fund.

**Enforcement, sanctions and monitoring**

The appointed service provider will have in place, or will develop, appropriate management and delivery mechanisms to meet the service requirements.

**Performance Measures and Reporting**

1. Contract Management

- Initial post-contract award meeting and a quarterly contract review meeting to consider performance of the contract against the service specification and the General Conditions of contract.
2. Annual Reports
    - The appointed service provider shall submit annual reports to the Scottish Government's designated contact(s).
  3. Monitoring Reports
    - The appointed service provider shall submit a quarterly monitoring report which shall include: statistical information on the service, the demand for the service, and emerging trends.
  4. The appointed service provider shall also provide information on an ad hoc basis as requested by the Scottish Government.

### **Implementation and delivery plan**

While the legislation subsists the service will be provided on a statutory basis. The Scottish Government have appointed a service provider through a public procurement exercise.

#### **Contract Period**

The contract start date shall be 1 April 2023 and will last for a period of 3 years, ending no later than 31 March 2026. There will be an option to extend annually for a maximum of two years up to 31 March 2028. Any extension will be subject to satisfactory performance during the initial Contract Period and shall be at the sole discretion of the Scottish Ministers.

#### **Transition Plan**

1. As part of the process to procure the ICTG Service Provider, prospective providers were required to submit a Transition Plan detailing how they will transition the service over from the existing non-statutory service during the Transition Period.
2. The Transition Period is the time from contract start date to 30 April 2023, to allow handover from the current non-statutory provider, the Scottish Guardianship Service.
3. The Transition Plan must set out how the individuals in the Service Provider management roles will be involved in delivery of the Plan.
4. The Transition Plan must include clearly identified stages, milestones and quality gateways and a proposal for reporting to the Scottish Government Contract Manager on progress against these.

5. The Service Provider must explain how they propose to project manage the Transition Plan, illustrating practical project stages with important end of stage events set out with quality assurance review and approval processes described
6. The Transition Plan must set out clearly the interdependencies and sequencing of activities so that the impact of missing any milestone is clear.
7. The Transition Plan must set out how the Service Provider shall engage with the Scottish Government Contract Manager and the existing support provider(s) during the Transition period to put in place a governance protocol covering, in particular: data handling processes, liaison and reporting as between parties, information sharing as between parties.

This document is an initial assessment of the impact of ICTGs as a statutory service in Scotland. The Scottish Government will continue to review and update this document where required during the implementation process.

### **Post-implementation Review**

A review of whether the legislation is still fit for purpose will take place once the contract for the ICTG service provider is coming to an end alongside preparations to run a tender for a new contract.

### **Summary and recommendation**

It is recommended that the statutory ICTG service is implemented in Scotland as it aims to improve the provision of support to children and young people who arrive in Scotland unaccompanied who are, or may be, a victim of the offence of human trafficking, or who are vulnerable to becoming a victim of human trafficking.

### **Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: CLARE HAUGHEY**

**Ms Haughey**

Minister for Children and Young People

**Date: 24th January 2023**

**Scottish Government Contact point:**

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