

**Proposed Amendments to the Human
Trafficking and Exploitation (Criminal Justice
and Support for Victims) (Independent Guardian)
Regulations (Northern Ireland) 2016**

CONSULTATION ANALYSIS REPORT



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

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Chapter One: Introduction

On 27 October 2022, the Department of Health (the Department) launched a 12-week consultation on proposals to amend the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (Northern Ireland) 2016 (the 2016 Regulations). Authorisation for the consultation and the proposed policy change was received from the then Minister of Health, Robin Swann MLA.

1.1 Overview of the Proposals

The Department consulted on removing the current requirement for potential Independent Guardians (IGs) to be social workers with at least five years' post-qualifying experience. It was proposed instead that the only legislative requirement would be for potential applicants to be qualified social workers who had satisfactorily completed their assessed year in employment (AYE). This would afford the service provider and its commissioner the freedom to set the required experience rather than having this prescribed in law.

Additionally, the Department asked consultees what professions they considered appropriate for additional roles within the Independent Guardian Service (IGS). It is not proposed to amend or introduce legislation in relation to this.

1.2 Consultation Process

The consultation ran from 27 October 2022 to 19 January 2023 on Citizen Space, an online civic engagement platform, as well as through traditional methods. Respondents were able to submit views directly via this website, or to download documentation and submit by post or email instead.

Statutory, independent, voluntary and community sector organisations and political representatives were notified of the consultation launch with instructions on how to submit their views.

A summary of the proposal and a series of questions relating to same was developed (a summary of the questions is available at Annex A: Summary of Consultation Questions¹). Respondents were advised of the Department's recommendations in relation to amending the legislation. Attention was also drawn to alternative approaches. Respondents were asked a series of questions relating to the proposal.

A child-friendly version of the consultation document was available for download via the Citizen Space website². A child-friendly version of this analysis report will also be made available.

In total, there were five responses to the consultation, predominantly from the statutory sector. There was also one response from the community/voluntary sector.

This report summarises the responses to the consultation and sets out the Department's responses to same, as well as our plans for next steps.

Minister Nesbitt and the wider Department would like to take this opportunity to thank all respondents to this consultation exercise.

¹ The full and original document is available at <https://consultations2.nidirect.gov.uk/doh-1/igs-regs-amendments>.

² This is also available at the above link.

Chapter Two: Analysis and Response

In total, five organisations responded to the consultation. No responses from private individuals were received.

The organisations, their type, and methods of response are detailed in the table below.

Organisation	Sector	Method
Equality Commission (ECNI)	Statutory	Email
Mental Health Champion (MHC)	Statutory	Email
Northern Health and Social Care Trust (NHSCT)	Statutory	Citizen Space
NI Commissioner for Children and Young People (NICCY)	Statutory	Citizen Space
Voice of Young People in Care (VOYPIC) ³	Community/Voluntary	Email

Analysis revealed that responses to the consultation were broadly positive, with support for the proposal. Some additional comments and suggestions were, however, received.

This report will explore the responses and provide a Departmental response to same. For ease of reference, it will follow the format of the original consultation document.

³ VOYPIC engaged children and young people eligible to use the IGS directly for this consultation. As such, their consultation response is a composite report of the participating young people's views.

2.1 Summary of Proposals

The Department proposed amending Regulation 3(b) to remove the requirement that IGs be qualified social workers with at least five years' post-qualifying experience. We proposed amending the Regulation to require that potential IGs are social workers who have successfully completed their AYE.

The retention of the social work qualification was proposed pursuant to a review of the IGS in 2021, undertaken by the Centre for Effective Services (CES). All stakeholders taking part in the review felt that IGs should be social workers. The same evaluation did, however, advocate for a reduction in the required post-qualifying period.

It is not necessarily intended that social workers recently successfully exiting their AYE will be eligible to apply for a position as an IG; rather, it is intended that the power to set how much additional experience they require is set in recruitment materials and/or the service specification agreed between the IGS commissioner, the Strategic Planning and Performance Group (SPPG) of the Department and the IGS service provider.

Specifically, we consulted upon amending Regulation 3 from:

To be eligible for appointment as an independent guardian, a person shall—

- (a) be registered as a social worker in the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the 2001 Act; and
- (b) have a minimum of five years' post qualifying social work experience with children and families, including direct work with children, court related experience and inter-agency working.

to:

To be eligible for appointment as an independent guardian, a person shall—

- (a) be registered as a social worker in the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the 2001 Act; and
- (b) have completed their post-qualification period of assessed employment.

We also asked respondents for their views on which professions would be appropriate for appointment to possible future additional roles (i.e. non-IG) within the IGS. However, we do not propose that any developments in this regard are reflected in the legislation.

2.2 Analysis of Responses

Question 1: Removal of the Five-Year Post-Qualifying Period

Respondents' Views

No respondents registered opposition to the removal of the five-year post-qualifying period. The suggestion was welcomed by all respondents other than the NIEC, who did not indicate a specific position.

Departmental Response

The Department notes that no respondents object to the removal of the five-year post-qualifying criterion.

Question 2: Proposed Wording of Regulation 3

Respondents' Views

Most respondents did not fully agree with the wording proposed by the Department.

The NHSCT felt that a statutory post-qualifying minimum should be retained; it was suggested that this was set at three years. This was the only objection of this nature.

NICCY, the MHC and VOYPIC all commented that the position of IG be opened to professions outside of social work and that this should be reflected accordingly in Regulation 3. In particular, young people that VOYPIC spoke to commented that the interpersonal attributes of post-holders – such as friendliness, warmth and trustworthiness – were more important than their professional background and qualification.

The NIEC did not indicate a position on the proposed wording (other than that any amendments to the 2016 Regulations be compliant with Article 2 of the Northern Ireland Protocol and the EU Anti-Trafficking Directive; please see ‘Question 4: Any Other Comments’ below).

Departmental Response

The Department notes the broad consensus amongst respondents that the role of IG should be opened up to professions beyond social work. In particular, we would wish to thank the young people who spoke to VOYPIC and offered their views that a person’s attributes and skills are more important than their professional background.

We are however mindful of the results of the evaluation of the IGS by the CES in 2021. The clear preference expressed by stakeholders participating in this wide-ranging review was that the role of IG remain within the domain of social work. We would also note that other types of professional guardians – primarily Independent Court Guardians – are social workers by background, and it would be preferable to maintain some parity across the profession.

We consider that the characteristics suggested to be most important by the young people who spoke to VOYPIC should be core attributes of social work practitioners. Social work training and development (through, for instance, the supervision process) are designed to foster and enhance such values, behaviours and traits. The Regulations strictly provide for meaningful and regular supervision.

Consequently, we propose proceeding as per the plan laid out in the consultation document – i.e. we intend to retain Regulation 3(a) and amend 3(b) as outlined at 2.1 above.

We would like to assure respondents that we agree that a diversified workforce can be highly beneficial. As such, we are committed to working with SPPG and the IGS service provider to identify additional (non-IG) roles that would be open to wider professions in order to bring about a greater skills mix. The CES review supported this position that IG roles specifically remained within the remit of social work, but that other roles were created. (see Question 3: Professions Appropriate for Additional Roles Within the IGS’).

We note also one respondent’s opinion that having completed an AYE alone is not sufficient for an individual to practice as an IG. We would stress that all that is being proposed is that this is set as a *statutory* minimum; it is expected that SPPG and the service provider, through their service specification, would set a period of post-qualifying experience. The service provider could further set this in their recruitment materials.

Question 3: Professions Appropriate for Additional Roles Within the IGS

Respondents’ Views

As noted above, three respondents were of the view that other professions should be eligible for appointment to IG roles, as well as additional ones that may arise within the IGS.

In answering this question specifically, the MHC suggested that youth work was a discipline that could have particular relevance. VOYPIC agreed, and also suggested that teaching and law could be appropriate.

The NHSCT felt that IGS roles should be restricted to social workers.

Departmental Response

We note the NHSCT's objection, but would point out that the introduction of additional, multi-disciplinary roles would be in line with the CES review, the recently completed review of children's social care services in Northern Ireland (led by Professor Ray Jones) and indeed the views of other respondents. It is also more in line with established IG practice elsewhere, such as that of the Scottish Guardianship Service (although diverse backgrounds apply to IG positions, as well as further roles, in that example).

The Department is of the view that a diversified skills mix in non-IG roles strikes a balance between maintaining social work as a key profession within the IGS and honouring both previous recommendations and the views of some consultation responses.

Indeed, the Department welcomes and acknowledges other respondents' suggestions of appropriate professional backgrounds for additional roles within the IGS. This information will of course be shared with the commissioner and service provider for consideration in the development of such roles.

Question 4: Any Other Comments

Respondents' Views

The MHC drew attention to the fact that many (potential) service users of the IGS may have experienced trauma. As such, the importance of a trauma-informed approach to working with them was highlighted.

NIEC drew attention to the 2016 Regulations' need to be compliant with Article 2 of the Northern Ireland Protocol and the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (2011/36/EU). It was pointed out that the Department had not make specific reference to Article 2 in the equality impact screening document that accompanied the consultation document.

Departmental Response

The Department acknowledges that reference should have been made to Article 2 of the Northern Ireland Protocol in its Equality Impact Screening document and apologises for this omission. The screening document identified no significant differential impacts on the rights of individuals and groups; any minor impacts that may occur are likely to be positive. We have further considered this in the context of Article 2 and the position remains the same.

The proposed amendments do not affect the IGS' and legislation's compliance with the EU Anti-Trafficking Directive (2011/36/EU). We would also note that, per recruitment materials for IGs, prospective guardians are required to have knowledge of this Directive in order to be eligible for appointment. They are also expected to have completed, or be willing to complete, Office of Immigration Services (OISC) training (or equivalent).

We acknowledge and fully accept the importance of a trauma-informed approach to working with potentially vulnerable children and young people, and it is accepted that those in this cohort may have experienced significant trauma and/or have particular vulnerabilities. We would therefore like to assure respondents that prospective staff are expected to be trained in, or be willing to be trained in, working with trauma. Again, this is outlined in the recruitment materials for the role of IG.

Chapter Three: Next Steps

The next stage of the process to amend the 2016 IGS Regulations will be to draft and make a Statutory Rule (SR). The SR is a legal instrument that will amend the 2016 Regulations.

The IGS commissioner and current service provider will be advised as soon as the SR has been made.

The Department wishes to sincerely thank respondents to the consultation, especially the young people that took part, whose views were most welcome and have been very helpful.

Annex A: Summary of Consultation Questions

1. Do you agree that the requirement that Independent Guardians (IGs) have five years' post-qualifying social work experience is removed from Regulation 3 of the 2016 Regulations? If you answered 'no', please explain your answer.
2. Are you content with the wording of the proposed amendment to Regulation 3(b)? If you are not content, please explain your reasons.
3. A recommendation of the CES evaluation was that the potential for a skills mix within the IGS was explored. Please use the space below to comment on which professions/skill sets you feel would be appropriate for any such additional roles.
4. Please add any further comments you may have regarding what qualifications and/or experiences, if any, you think should be statutorily required to work as an IG.