EXPLANATORY MEMORANDUM TO

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) (Amendment) Regulations (Northern Ireland) 2025

S.R. 2025 No. 83

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under sections 21(5) and 27(1) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of these Regulations is to amend Regulation 3(b) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (Northern Ireland) 2016 (2016 No. 410). These Regulations update the statutory minimum qualifications necessary to be appointed as an Independent Guardian.

3. Background

3.1. The Independent Guardian Service supports children and young people who are trafficked/potentially trafficked and/or who arrive unaccompanied in Northern Ireland. It was required under The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (Northern Ireland) 2016 that Independent Guardians were social workers of at least five years' standing. These Regulations seek to remove the requirement of five years' experience from legislation and afford the Service and/or its commissioner the flexibility to set appropriate post-qualifying experience.

4. Consultation

4.1. A consultation on the proposed amendments ran between 27 October 2022 and 19 January 2023. Five responses were received, none of which registered any objection to the removal of the five-year post-qualifying period from the 2016 Regulations. However, four of the five respondents were not content with the proposed wording of Regulation 3(b). Some respondents queried the rationale to limit the role of Independent Guardian to the social work profession. However, we are mindful that participants in a review of the Independent Guardian Service in 2021 were of the view that Guardians should be social workers. This review also recommended the creation of additional roles in the Service that would open to a range of other professions; this recommendation formed part of the consultation process. One respondent felt that a statutory post-qualifying minimum should be retained; it was suggested that this was set at three years. We are

mindful that the proposal will remove the statutory requirement of post-qualifying experience. The Commissioner, through its service specification with the service provider, and/or the service provider through its recruitment materials, can set a post-qualifying period for potential Independent Guardians as required.

5. Equality Impact

5.1. An Equality Impact screening did not identify any negative impacts on any group protected under Section 75 of the Northern Ireland Act 1998. Any potential impacts identified are likely to be minor but positive. It was therefore concluded that a full Equality Impact Assessment is not required.

6. Regulatory Impact

6.1. There are no impacts to business, other than potential minor impacts on social enterprises (included as part of the community/voluntary sector for the purposes of the assessment). If there is any such impact at all, it is considered to be insignificant and minor, both financially and in terms of other costs. Due to the relatively low regulatory impact of the policy, a more detailed Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. Screening has determined that the Regulations are in compliance with section 24, Article 2 of the Northern Ireland Protocol, and other relevant human rights obligations.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.