



BY THEIR SIDE AND ON THEIR SIDE:

REVIEWING THE EVIDENCE FOR GUARDIANSHIP
FOR SEPARATED CHILDREN IN NORTHERN IRELAND

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Children and Young People's Report



NICCY

The Northern Ireland Commissioner for Children and Young People (also known as NICCY) is an organisation that tries to make sure that the Government respects children's rights. The Children's Commissioner is Patricia Lewsley-Mooney and she has a team of people who help her in her work.

The Commissioner, along with others had been worried for some time that nobody really knew how many separated children there were in Northern Ireland or how they were doing. People also worried that the rights of separated children who are here are not being met as well as they could be. The Commissioner asked us to carry out research in order for her to understand how best to help separated children and young people.

What is this report about?

This report is about how best to protect the rights of children and young people who are far away from their countries of birth, and don't have any family in Northern Ireland. They are called 'separated children'. We wanted to find out if they should have a Guardian to look after them.

There are a number of words used in this report that you may not have heard of before, these will be explained as you read through it.

What is a separated child?

- ▶ A **migrant**- this is a young person that has moved from one country to another, often because they are trying to escape from poverty and hardship.
- ▶ May have made an **asylum application**- this is how a young person asks our government if they can stay here because they are not safe in their own country.
- ▶ May be a victim of **trafficking**- this means they have been forced or tricked to come here and needs to be protected.



What is the UNCRC?

The United Nations Convention on the Rights of the Child (UNCRC 1989) is an agreement made by almost every country in the world to make sure children's rights are protected in that country. This includes children's rights to:

- ▶ Life and to be protected from harm (Article 6)
- ▶ Give their opinion and be listened to (Article 12)
- ▶ Make sure adults do what is best for them (Article 3)
- ▶ Not to be discriminated against (Article 2)

All children in Northern Ireland have all the rights listed in the UNCRC, no matter who they are or where they live. No child should be treated unfairly on any basis.

The UNCRC and separated children

The UNCRC says that refugee and asylum seeking children and young people have rights to special protection. A **refugee** is someone who has made an asylum application and been told that they can stay here because they are not safe in their own country. An **asylum seeking child or young person** is someone who has asked to stay but the government of the country is still making a decision.

Special Protection means government must:

- ▶ Make sure they are protected, respected and looked after. They should do this in ways that are fair to children and help them to feel safe and happy.
- ▶ Make sure that if they have been trafficked, hurt or abused they are given the help they need to be safe and feel secure again.

What is a Guardian?

A Guardian for separated children is an adult who is on their side and by their side as they arrive in Northern Ireland and stay here or prepare to leave.

A Guardian can help separated children make a claim for asylum, make sure they have somewhere safe to live, are well looked after and get help with their health and education. They should explain things clearly, listen to children's views, and help them to plan their future.

What separated children say about Guardians

There are many places in Europe where separated children already have Guardians. When children are asked about what it is like to have a Guardian, they say some important things, like Guardians:

- ▶ Are '*on their side*' and help them to make sense of all the new people and systems in their new country.
- ▶ Help them to better understand things like immigration, social work and foster care, education and health.
- ▶ Help to create a sense of belonging for children, show them new places, help them to meet new people and make new friends.
- ▶ Involve children in important decisions about their lives, listen to them, make sure their wishes are heard by other people, and they stand up for their safety and happiness.

The 'Core Standards of Guardianship'

Some people have made rules or 'standards' about what a Guardian should do in their work to make sure that separated children are not alone and that they are happy and safe in their new country. These rules are based on the UNCRC and on things separated children and their Guardians have said. These are known as the 'Core Standards of Guardianship' and we used them in our report.

The standards say that a Guardian should:

- ▶ Make sure that all decisions are made in the child's best interests, and will protect them and support their wellbeing;
- ▶ Make sure that children are safe and be there to help them if they have any concerns about their safety or wellbeing;
- ▶ Make sure that the **immigration process** to determine whether a young person can stay here, is fair and based on children's best interests and that there is support for children whether they stay or leave a country;
- ▶ Treat children with respect and dignity;
- ▶ Be well qualified, and know all that they need to, to help separated children. If children are not happy with their Guardian, they should be able to express this.

What we were asked to find out

Many people had been worried for quite a long time that nobody really knew how many separated children there were in Northern Ireland and how they were doing. There was also worry that for those that were here, some children's rights were not being met as well as they could have been.

NICCY asked us to find out more about this and if having a Guardian would help make the lives of separated children better. This was important because:

- ▶ We wanted to see what happens to separated children, particularly in relation to asylum and social care, and to say what could be done to make those experiences better.
- ▶ We wanted to get separated children's opinions on what having a Guardian might mean in Northern Ireland.

What we did

We looked at a lot of reports from around the world about separated children and their Guardians, to see what was being said that was important. We also looked at laws and policies in Northern Ireland to see how people wish to help separated children. A survey was designed that looked at the 'Core Standards of Guardianship' for people working with separated children in health and social services, education, law, police service, and other organisations as well as group meetings with them. Separated young people were asked about their experiences and views too.

What we found by looking at reports, laws and policies?

- ▶ Between 2009 and 2012 there were very few separated children in Northern Ireland who applied for asylum – 17 out of a total of 7062 asylum-seeking children in the UK.
- ▶ The number of separated children is still not known exactly, although the Government has now set up a better way of counting this.
- ▶ Separated children should get support in Northern Ireland, just like any other child in need. The welfare laws in Northern Ireland apply to them just like any other child.
- ▶ Separated children have particular needs for good legal advice, for help if they have been hurt or abused, for people to understand the cultures they come from and for special protection if they are trafficked.
- ▶ Some services are working together to make sure children, including separated children, are listened to, and given information about their rights.

What adults working for children said

Most people said that most of the time, people working with separated children in Northern Ireland met the '*Core Standards of Guardianship*' in their day to day work through a number of different professionals or organisations, rather than one stand alone separate service of Guardianship.

They said that actions are taken in the 'best interest' of separated children, including taking children's views into account and building relationships of trust. They felt that an independent service of Guardianship for separated children in Northern Ireland was not needed.

They also said that they were good at protecting separated children, although some worried that there was a gap between what people said and what they did, so that separated children were not as well looked after as some people thought.

Many felt that they were good at listening to children and being advocates for them if needed, though some were worried that this was not as good as it could be. An advocate is someone who is trained to help young people be listened to.

There were different views about social workers and other adults being good enough at making sure separated children get all the help they need from different services. A social worker is a person who is asked by the Government to look after these young people to make sure they have everything they need to keep safe and well looked after. Some thought having a Guardian would be better and others thought that those already doing it should carry on and get more training so they could do it better.



A lot of people worried that they were not good at thinking about separated children's futures, especially if their future meant leaving Northern Ireland. People did not all agree that a Guardian was needed to do this, and some people thought that social workers should be better trained and supported to do this work.

Some felt they had enough time to spend with separated children, but others worried that they were always under time pressure and this meant they were not available for separated children as much as they needed to be.

They wanted specialist training, in order to feel that they were able to work with separated children.

What separated young people said

Four young people shared their experiences about how they were getting on in Northern Ireland and about Guardianship. They said that professionals involved in their lives already worked like Guardians:

1. **Court guardians ad litem** - people asked by a judge to help young people to make a decision on where they should live. This includes making sure the young person's views are listened to.
2. **VOYPIC** - an organisation that helps young people who don't live at home.
3. **Social workers, Foster Carers** - families that look after young people - and **key workers** - people that help young people that don't live at home.

"My social worker has seen me from the beginning, maybe 2 or 3 times a week and then after a wee while it went down with time when I settled. The social worker did exactly the same (as a Guardian). They were all about my health and trying to get me into education and they did nearly all that really. Getting me to the doctors and everything. So I would say they are a Guardian really."

They said they trusted their social workers and foster carers, and this helped them to trust other adults.

They were unsure about having another worker in their lives, but they wanted better training for those that were there already.

"The social worker cannot do anything (about immigration or asylum claims). No one can help you with your stay... No one explains the asylum process and that would be helpful."

They wanted a Guardian if this made their life simpler, and if the Guardian had legal powers to make sure that whatever was done, was done with their best interests in mind.

"Statutory footing would be good for challenging immigration, if they refuse immigration. This would make young people feel more comfortable if young people knew there could be a separate service that could legally challenge the decision of the Home Office."



Recommendations

After listening to everybody, and reading their views, we made recommendations about what to do now, and what may need to be done in the future in Northern Ireland.

For now:

1. The numbers of separated children in Northern Ireland are very low so we don't think that at the moment a new Guardianship Service is the best way forward.
2. There should be special training for adults who work with separated children including training on immigration laws, children's rights, child protection, child therapy and welfare, and helping them to make friends and community contacts that help to keep them happy and safe.
3. Government needs to better understand how many separated children there are in Northern Ireland; including building a picture of where separate children come from and what happens in their futures.
4. Government should make sure the '*Core Standards of Guardianship*' are always met for separated children. More facts need to be gathered about this, not just people's views.
5. It would be better to ask people who children trust to help them to share their views and ideas about what works or could work better to protect their rights.

In the future, if numbers grow, then an independent Guardianship Service should be considered. This could be done by:

- ▶ Having adults who are told by the court to be Guardians for children who come into care, to also be Guardians for separated children, so that they can say in court, what each separated child needs and wants.

or

- ▶ Asking those who are advocates for children already in Northern Ireland to develop specialist Guardians who are good advocates for separated children.

or

- ▶ Having dedicated social workers who have specialist training and knowledge to have a Guardian role and help separated children.

What NICCY will do now?

NICCY will talk to Government and other organisations that work with children and young people about this report and what it recommends Government should do.

NICCY will check if the recommendations have been carried out so separated children's rights are protected, and if it becomes easier for separated children to get the help they need.





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This report was written for NICCY by Researchers from the University of Bedfordshire.

You can find a more detailed report about this research, as well as more about NICCY's work, by contacting NICCY:

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