

An evaluation of the Scottish Guardianship Service



The work of Guardians within asylum determination and National Referral Mechanism processes

Hannah Stott and Ravi KS Kohli
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Asylum Appeal: If an application for asylum has been refused by the Home Office, it is likely that this decision could be challenged at an independent First-tier Tribunal. If a person claiming asylum does not agree with the decision of the First-tier Tribunal they would be able to appeal to the Upper Tribunal, but this can only happen on the grounds that the Tribunal made an 'error of law'.

Appeal Rights Exhausted: A person whose request for asylum or immigration was refused, and all allowed appeals have been made, without them being successful.

Child Criminal Exploitation (CCE): Child Criminal exploitation is a type of exploitation where children and young people are moved/transported and forced to commit crimes. This could include drug running, cannabis cultivation, shoplifting and different forms of robbery for example.

Fresh claim: When a person is Appeal Rights Exhausted they may have the opportunity to provide new evidence (further submissions) to the Home Office. Based on this information, the Home Office will then decide whether there are grounds for a fresh claim.

Humanitarian Protection: A form of international protection given to a person who does not qualify for Refugee Status; however, still requires protection owing to a serious risk of life or endangerment if they were to return to their home country.

Human Trafficking and Exploitation (Scotland) Act 2015: An Act of the Scottish Parliament to make provision about human trafficking, slavery, servitude and forced or compulsory labour. This includes support and provisions for people exploited through modern slavery and provisions to reduce related offences. In the Scottish context, although forms of modern slavery are referred to in the Act, the preferred terminology to describe these offences is human trafficking and exploitation.

Child Trafficking: The movement of a child, with the intent to exploit them. There are different types of exploitation which include sexual, criminal and labour exploitation, domestic servitude and organ harvesting.

Initial asylum claim: This is the first part of the asylum process. A person could claim asylum if they have left their country and are seeking protection from persecution and serious human rights violations in another country. Whilst the Home Office is making a decision on this claim, the person would be an asylum seeker.

Refugee Status: A form of international protection given to a person who has been able to evidence a well-founded fear of persecution in their country of origin, due to race, religion, nationality, membership of a particular social group or political opinion.

Single Competent Authority: A Home Office department responsible for making decisions through the National Referral Mechanism as to whether a person is potentially or confirmed to have been exploited through human trafficking or other forms of exploitation.

The National Referral Mechanism: The United Kingdom's mechanism for identifying and supporting children and adults who have potentially or confirmed to be exploited through human trafficking or other forms of exploitation. First Responders make referrals into the NRM and come from a range of chosen public authorities and non-governmental organisations.

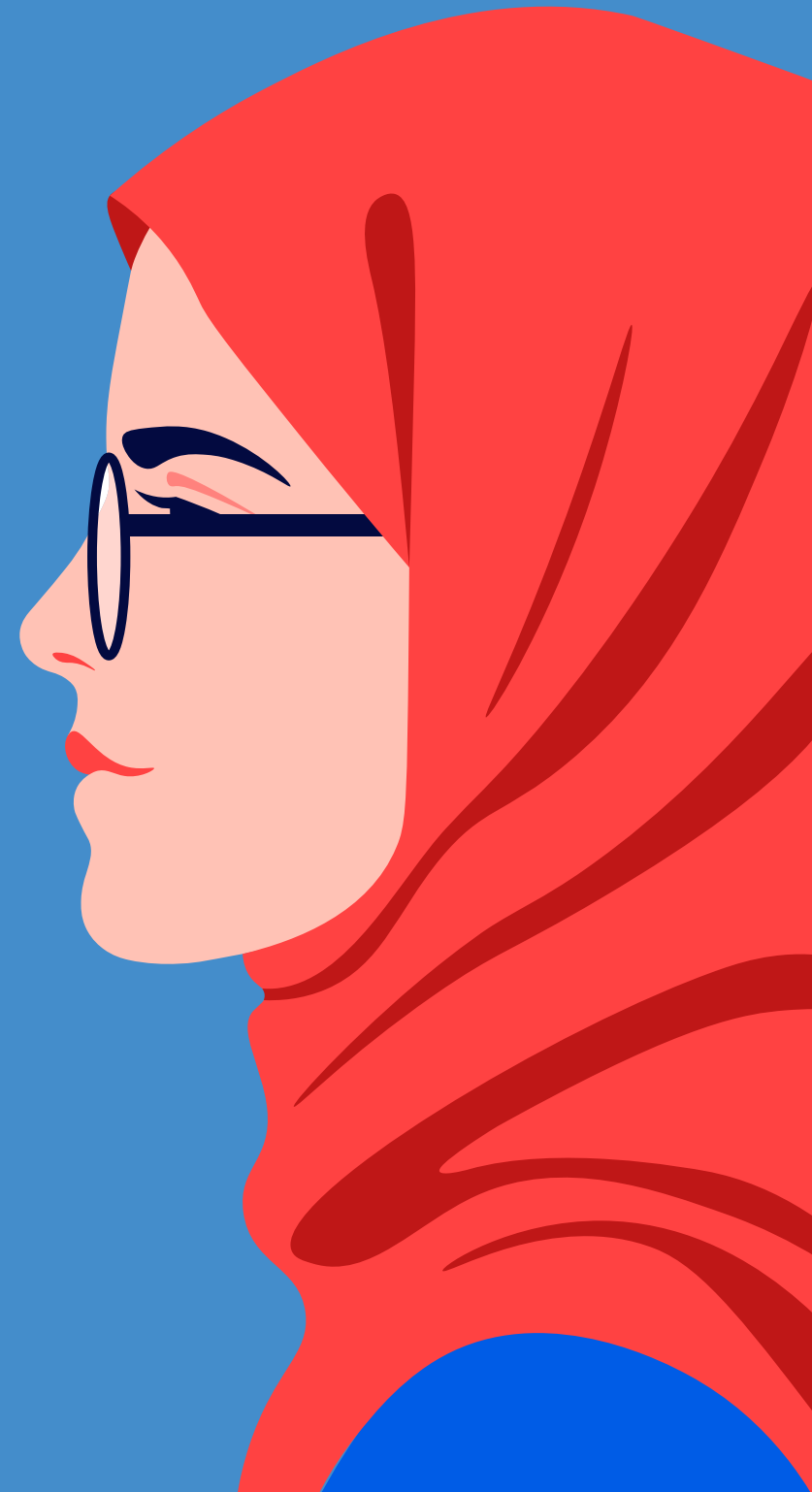
Unaccompanied asylum-seeking young person: A young person who has fled their country of origin without the care or protection of their legal guardian and is claiming asylum in their own right.



Terminology

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1

Background

Background

Since 2010 the Scottish Guardianship Service has supported unaccompanied asylum-seeking young people arriving in Scotland. Many have been exploited through human trafficking, experiencing many forms of duress prior to fleeing, during their journeys and on arrival in the United Kingdom.

The Scottish Guardianship Service assists them to orientate and navigate their way to new life in Scotland. The welfare, immigration and criminal justice systems that the young people are likely to encounter are complex and difficult for them to understand. In addition, young people exploited through trafficking have another process in which they must steer – the National Referral Mechanism (NRM). Children and adults who have potentially been trafficked and exploited in other ways should be referred by First Responders into the NRM, which is the mechanism in all UK countries for identifying and supporting people who have been exploited in this way. Independent Child Trafficking Guardians are designed to be ‘sense makers’ for these young people, and to act as advocates on their behalf. In addition, Guardians are there to offer emotional support and help young people to make informed decisions about their futures.

An evaluation of the Scottish Guardianship Service undertaken during its pilot phase in 2013 clearly evidenced the importance of Guardianship.¹ Broadly speaking, Guardianship features including independence, keeping young people visible and safe, building relationships of trust, providing orientation

and navigation, advocacy and timely intervention, have all shown to make a positive difference to the lives of unaccompanied young people. Guardians also provided clarity, coherence and continuity for young people and professionals alike.

The value of Guardianship has now been formally recognised. Under Section 11 of the Human Trafficking and Exploitation (Scotland) Act, passed by Scottish Parliament in 2015, Guardianship has been placed into law. This means ministers now have a duty to provide a Guardian for every eligible child and that public authorities, such as social care and law enforcement, have a duty to refer eligible children to the Service.

Since 2010, the Scottish Guardianship Service has supported over 750 young people, with 44 nationalities, speaking 46 different languages. This diversity has been a constant since 2010, with the top five countries of origin for the year 2020-2021 being Vietnam, Iran, Iraq, Syria and Yemen. In total, indicators of human trafficking and exploitation, have been present for almost sixty percent of young people referred to the Service and almost all have sought international protection through making an asylum application.²

The work of the Guardians is therefore embedded in the domains of asylum, trafficking and exploitation, including the NRM. As such, the Service considered it important to further examine the roles and tasks of Guardians within these specific areas of work, particularly where improvements could be made. The evaluation is the product of this consideration.



750
Young People




44
Nationalities



46
Languages

1. Crawley, H, and Kohli, RKS (2013) <https://www.scottishrefugeecouncil.org.uk/wp-content/uploads/2019/10/She-endures-with-me-Final-evaluation-of-the-Scottish-Guardianship-Service-Pilot-PDF.pdf>

2. At the time of writing the service has supported 893 young people and numbers have been increasing at pace since the national transfer scheme was mandated.



Aims and Methods

2



Aims

The evaluation aimed to examine the following:

- The roles and tasks of Guardians in relation to the asylum determination and NRM processes
- The value of Guardians at asylum appeal stage, both to gather further evidence relevant to an appeal and to ensure that correct procedures are followed by all parties
- The role Guardians play in relation to further submissions when young people/young adults become Appeal Rights Exhausted
- The impact of Guardians on the work of immigration lawyers in Scotland
- The roles and tasks that stand out as most impactful in relation to the asylum determination and NRM processes
- Recommendations for improvement of the Service and for other stakeholders

Although the evaluation was not initially designed to focus on the impact of Covid-19 on the work of the Service, we considered that the unparalleled nature of the pandemic was worthy of exploration and comment.

An additional section in the report has been dedicated to this.



Methods

The following methods were used to gather data:

Gathering and analysing information

We collated information from relevant legislation and case studies provided by the Service which highlighted the roles and tasks of Guardians within the asylum determination and NRM processes.

Case file analysis of young peoples' files

With consent from young people and support from the Service we analysed the case files of 8 young people who had been allocated a Guardian.

We developed a criterion for sampling the case files and a framework for analysis. The analysis focused on the roles and tasks of Guardians in relation to the asylum determination and NRM processes.

Individual interviews with Guardians

We undertook individual semi-structured interviews with 10 Guardians, nominated by the Service. We developed an interview schedule, focusing on the evaluation questions as outlined. The interviews took place via Zoom.

Individual interviews with immigration lawyers

We undertook semi-structured interviews with 5 immigration lawyers, nominated by the Service. We developed an interview schedule, focusing on the evaluation questions outlined. The interviews took place via Zoom or phone.

Data analysis

We developed a coding framework to help with data analysis. Nvivo 12 software supported thematic coding and analysis, from which subsequent patterns and themes emerged.³ The coding framework is provided in Appendix A.

Limitations

This brief evaluation was focussed on obtaining two perspectives; considering the work of Guardians from 'inside out' and immigration lawyers from 'outside in'. Given the limitations of time and scope we were not asked to interview other stakeholders including those from social care, law enforcement and the Home Office, or young people supported by the Service. The intention is to use the findings from this evaluation as a building block to gather additional views in future, should time and resource allow.

A purposive sampling approach was adopted, with the Service identifying potential internal and external respondents. This left room for selection bias and error. To limit this, we designed sampling criteria to be followed by the Service when inviting respondents to take part and carefully configured interview schedules which enabled a range of views and opinions to be gathered.

Evaluation Ethics

An Ethics Proposal was developed and implemented to safeguard the information and views of participants in line with Data Protection laws and to ensure the evaluation maintained the highest ethical standards throughout and beyond the lifetime of the project. The evaluation was submitted to, and signed off by, the Board of the Scottish Guardianship Service prior to the data gathering stage.

3. Nvivo is a qualitative data analysis application that allows collection, organisation and analysis of visual unstructured or semi-structured data.



3

Key Findings

The roles and tasks of Guardians in the asylum determination process

Interviews as well as the case file analysis, highlighted a broad and interconnected range of roles and tasks for Guardians in supporting young people through the asylum determination process. In this section we explore these across three stages: the initial asylum claim, at the appeal stage and when further submissions were made as part of a fresh claim.

3.1: The initial asylum claim

Navigating and orienting young people

At point of referral into the Service, Guardians appeared to swiftly orientate young people within their new surroundings. They also focussed on building trust. Workshops by Guardians for young people provided relevant asylum claim based information. This included a focus on international and national immigration legislation, all aspects of the asylum process and expectations of young people within the process – what information would be gathered about them and for what purpose. Additional to this, Guardians explored the roles and responsibilities of the many professionals within young peoples' networks. Lawyers' and Guardians' testimonies confirmed that Guardians took a bespoke approach to shaping such information to fit the understanding and capacity of each young person. Through such approaches, Guardians appeared to illuminate the roles and responsibilities of each professional in the formal network that surrounded each young person. They spent time explaining components of the asylum process including potential outcomes. Figure 1 illustrates the frequency of contact Guardians had with young people and other stakeholders,

where the focus was the asylum determination and/or NRM processes. In general, this demonstrates a higher number of interactions within the first twelve months after a young person was allocated a Guardian, increasing again from twenty-four months onwards for young people appealing the initial decision or making a fresh claim.

Guardians were a constant part of preparing young people for appointments with their immigration lawyers and being present at welfare and substantive interviews with the Home Office. Guardians and immigration lawyers identified how this enabled many young people to build trust and more easily and quickly share information relevant to their claim. This constancy enabled Guardians to re-visit, reflect and re-enforce information given to, and shared by young people, both during and outside formal meetings. Generally, this increased young people's understanding of the asylum process and capacities to engage with it. Although the processes were enduringly difficult for many young people, Guardian and lawyer joint interventions helped them develop a clear account of their experiences and work through any anomalies or mis-matched information.

Guardians read back Home Office decisions to young people, enabling them to understand the implications of these, and possible next steps. Guardians emphasised the time-consuming nature of this work but acknowledged the importance of helping young people understand each aspect of a decision and provide emotional support as needed. This was particularly the case when an asylum claim was refused, leading young people to feel they had not been believed.

“But this is reality, it’s [Guardianship] advocacy, it’s friendship in a way as well. And it’s guidance, information sharing, it’s almost teaching slightly, in a way. And yeah, it’s just a very, very complex role.”
(Guardian)

“So, I think as a solicitor it’s really helpful to have a guardian working actively with a young person to make sure that what I’ve said is understood, and that they’re feeding back to me if something doesn’t appear to have been understood particularly well. So, it can be really helpful for that reason.”
(Immigration Lawyer)

Figure 1
Frequency of contact between Guardians,
young people and other stakeholders

	Frequency of contacts over time					Asylum claim outcomes		
	0 – 6 months	6 – 12 months	12 – 18 months	18 – 24 months	24 months +	Initial Asylum Claim	Asylum Appeal	Fresh Claim
YP01	6	7	2	3	3	Refugee Status	-	-
YP02	16	7	4	4	26	Refused	Humanitarian Protection	-
YP03	17	6	10	2	16	Refused	Refugee Status	-
YP04	22	1	6	3	48	Refused	Refused	Refugee Status
YP05	5	16	7	1	1	Refused	Humanitarian Protection	-
YP06	15	3	9	6	10	Refugee Status	-	-
YP07	29	25	15	8	0	Refugee Status	-	-
YP08	17	7	6	18	78	Refused	Refused	Decision pending

Navigating and orienting other professionals

Guardians supported professionals, such as social workers and lawyers with limited immigration experience, to understand the asylum process, its impacts on young people and ways in which they could support. There were times when Guardians unpicked incorrect or mis-guided information given to young people about the asylum process, such as over-promising on the outcome of an asylum claim. This was reported by Guardians as being confusing for young people and time-consuming for them.

“I also think professionals who don’t know much about the process might have some fear about getting it right or not understanding, and I hope that we could help them to understand.”
(Guardian)

Guardians spoke of instances when young people sought their own legal representation and sometimes they chose lawyers with limited experience of immigration casework. At these times, Guardians used their OISC qualification to navigate lawyers through the process.⁴ Guardians also provided advice and guidance to lawyers with limited experience of asylum claims, particularly where trafficking was presented as part of a young person’s claim, heightening their understanding of the NRM process and its implications on the asylum application.

Guardians and immigration lawyers equally emphasised that the Service played a key role in improving Home Office practice, certainly with respect to interviewing young people. Both acknowledged welfare and substantive interviews were more ‘child-friendly’ than in previous years.

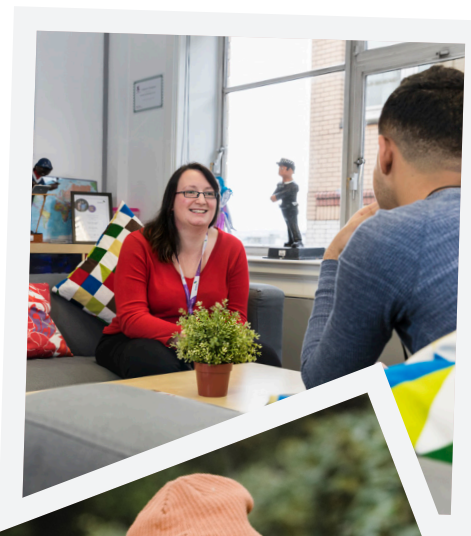
Immigration case workers showing empathy to young people, taking regular breaks and asking fewer questions were examples given by Guardians and lawyers in highlighting such practice. This was further supported by some Home Office interviews now taking place in the offices of the Guardianship Service.

“Generally, if I was to compare nowadays to 2015, it’s better, the [Home Office] staff are better. There are minors trained case owners who are quite good, some of them are not, but some, most of them are good and they’re very nice. I think that’s the result of endeavours made by Guardianship and others to bring about that change.”
(Immigration Lawyer)

Developing teamwork and building trust

Guardians considered that there was greater availability of well-trained immigration lawyers in Scotland, compared to when the Service first established. Immigration lawyers verified the Service had collaborative working relationships with a number of law firms across the country. Guardians made sure they referred young people to the most experienced, child-friendly and trusted of them. This enabled Guardians and young people to feel more confident in the process and hopeful for outcomes for asylum claims that they desired.

Some lawyers described using the offices of the Guardianship Service to meet with young people and their Guardians. This more familiar and less formal space was thought by immigration lawyers and Guardians to enable young people to feel at increased ease during appointments.



4. The Office of the Immigration Services Commissioner (OISC) regulates immigration advisers; ensuring they are fit, competent and act in the best interests of the people they are representing. The Scottish Guardianship Service expects all Guardians to attain the OISC qualification at level 2 within 2 years of their appointment.

Immigration lawyers acknowledged young people and their Guardians generally ‘came as a pair’. Guardians and immigration lawyers confirmed young people often appeared to build trust with their lawyer, because they trusted their Guardian. This enabled accelerated relationship building between young people and their immigration lawyers, making it easier for the lawyers to gather information relevant to the asylum claim.

“By the time it comes to me meeting with the young person, the young person’s already more comfortable because they’ve got their Guardian in the appointment who they know, and it’s not just a case of meeting this stranger who’s a lawyer and this interpreter they don’t know. So, they come into appointments feeling a bit more comfortable. It then makes it easier for me to build a rapport with the young person when they’re already a bit more at ease. So that’s really helpful.”

(Immigration Lawyer)

Organising

Guardians were key in supporting young peoples’ access to immigration lawyers and facilitating appointments with them. Guardians and immigration lawyers acknowledged the significant amount of time required to organise, encourage and physically and emotionally support young people to attend appointments. Guardians routinely text or phoned young people and/or their caregivers the day before and morning of appointments, to remind them to attend. Guardians organised and facilitated travel to and from appointments, and often picked young people up and took them home afterwards as needed. Where possible, Guardians advocated the wishes of young people regarding the day, time and frequency of appointments. This fostered a sense of choice and control and minimised the impact on other activities undertaken by young people, such as education.

“Sometimes you can feel like a PA [Personal Assistant] for the young person. And I think young people are sometimes hard to get hold of, like arranging the appointments, getting them to the appointments, just to help that go a bit smoother, it’s not glamorous, but it makes it happen, I think.”

(Guardian)

“It [Guardian support] just oils the wheels. And with vulnerable clients and things like that, I cannot honestly understate the amount of work sometimes that goes into getting young people to appointments. There’s a lot of time spent, especially with young people who are having difficulties engaging in things.”

(Guardian)

Gathering facts relevant to the asylum claim: Guardians assisted young people to specify facts in relation to their asylum claim. They also explained what information would be gathered and why, the types of questions that might be asked, and the events that were relevant to their claims. Guardians also enabled young people to talk in ways that felt tolerable and safe for them. If not said during lawyer appointments, this sometimes involved young people writing things down, texting individual episodes or small manageable parts of stories to their Guardians.

Guardians and immigration lawyers said that they helped young people tell ‘their stories’, and spent considerable time working on chronologies and potential credibility matters to ensure information remained coherent. They recognised the often-lengthy task of getting to ‘the story’ and the time and commitment needed to build trust. This work was viewed as vitally important by both sets of respondents in securing international protection for young people. Guardians said they needed more time and space in undertaking this essential and often complex aspect of their role.



“During the legal appointments sometimes we’re just going in circles, and there’s been times where I’ve suggested that we pause the legal appointment and the young person goes away and does some work with the Guardian instead. The Guardian’s then done more work about credibility and how the asylum claim is assessed, and then sometimes done a bit of statement work with them as well. Not writing the statement but going through how things are said to me and then contradictory things that are said. So that really helps.”

(Immigration Lawyer)

Guardians regularly wrote letters or statements of support to immigration lawyers, to be utilised as evidence in young peoples’ asylum claims. These were often requested by immigration lawyers who sometimes provided a statement outline for Guardians to follow.

“We can write supporting letters, we can do loads to support that process but it’s a much more equal relationship; the lawyers know to, they’ll come to us to seek support.”

(Guardian)

Guardians and immigration lawyers acknowledged Guardians as well-placed to provide this form of information, given their connection to young people and the frequency, duration and continuity of support they provided. Guardians expressed the importance of keeping regular and thorough case notes. These were crucial to providing factual accounts of young peoples’ experiences in their countries’ of origin and during their journeys, impacts of these experiences and continued risks where relevant. Guardians confirmed the time-consuming nature of this task but recognised the importance of it and demonstrated a commitment to pulling together accurate and thorough statements.

“With the Guardian’s help it’s usually quite easy to gather all the evidence to show, okay, they’re doing well but only because they have the Guardian, the social worker, the supported accommodation, all this behind them to enable them to do well.”

(Immigration Lawyer)

Guardians liaised with social workers to gather information relevant to the asylum claim and contacted other services where needed, for example specialist mental health services. Guardians then provided a synthesised map of young people’s usage of these services as part of the asylum claim. Guardians also tested the relevance of Country of Origin information as a backdrop to individual asylum claims, working with immigration lawyers to specify its relevance when making a case for international protection.

Guardians spoke about decision-making processes in Scotland becoming ‘much better’ in the last three years with more young people being granted international protection than previously. Some respondents believed this was due to evidence gathering that was thorough from the outset.

In addition, Guardians commented how, over time, their credibility with public authorities, including the Home Office and immigration judicial system had grown, resulting in evidence provided by them being seen as aiding decision-making more than in previous years.

Providing information relevant to the asylum claim

Guardians, with consent from young people, said they regularly shared relevant information about young people with other professionals. They were mindful how misinformation or not sharing information significantly impacted the outcome of asylum claims, particularly where this led to credibility questions being raised by the Home Office. To this end, Guardians advocated for professionals to work together to share factually accurate information in secure ways.



Advocacy

While Guardians were familiar with the needs for advocacy within many fields of engagement by the Service, within the asylum determination process, they often advocated to adjust the pace and tempo of Home Office interventions, slowing down or speeding up the process in ways that allowed young people to retain their composure. Recognising the significant toll substantive interviews took on some young people, Guardians and immigration lawyers advocated together for asylum decisions to be made without an interview. Both commented on the hours of work that went into providing a statement to the Home Office. They advocated against the practice of some Home Office case workers asking young people the same information repeatedly in order to reach a decision. Guardians said this advocacy had varying degrees of success, with the Home Office agreeing to make decisions on the statement occasionally but not at other times. Guardians and immigration lawyers remained unclear of the reasons for this variability.

The Age Assessment process, although not directly linked to the domain of immigration, was reported as having a significant effect on the asylum determination process, particularly decision-making timescales. Guardians and immigration lawyers acknowledged a reduction in Age Assessments over recent years but were aware of assessments sometimes going ahead without reasonable evidence to suggest somebody was significantly over the age of eighteen years. In such instances, Guardians advocated for assessments not to take place. Where Age Assessments did happen, Guardians advocated for their timeliness to minimise the risk of potential young people being placed in adult environments for any longer than needed.

Providing emotional support to young people: Guardians provided emotional support by remaining available and visible to young people, developing a sense of companionship throughout the duration of the asylum process and beyond.

“Trying to really show that you care about them and you care about what they’re going through, and kind of being with them step-by-step, as they go through that.”

(Guardian)

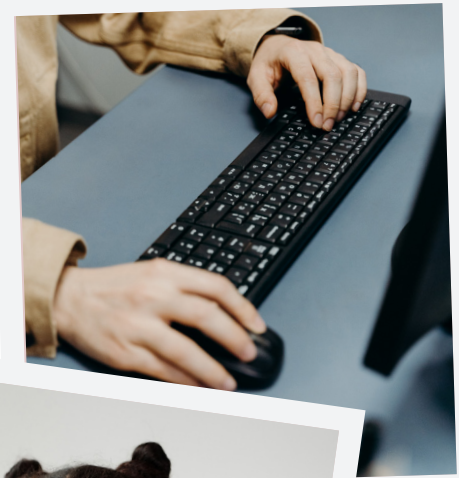
Guardians worked with young people to develop ‘emotional safety plans’. This helped young people identify potential trauma triggers and the support they would need if they became upset during immigration appointments or Home Office interviews. Guardians ensured breaks and refreshments were provided to young people during appointments with immigration lawyers and the Home Office. Time was made available to de-brief with young people after appointments, providing space for them to manage difficult feelings before moving to the next part of their day. Guardians took them for a coffee and a piece of cake or they went for a walk in the park as ways to support this transition.

Guardians, alongside immigration lawyers, pressed pause on the asylum process when young people were not ready to take part in it, often when a young person’s mental health was suffering. Guardians knew this was not always welcomed by young people who wanted the process to continue. In such instances, Guardians worked to reassure young people that slowing the process down would have no detrimental effect on them.

The case file analysis showed Home Office decisions about young peoples’ asylum claims, took between seven months to over six years to conclude, including cases that involved appeals and further submissions. Guardians and immigration lawyers spoke about the negative impact slow decision-making had on the declining mental health of some young people. Guardians appeared to endure the wait with them:

“A big part of the role is being alongside young people in the waiting times, because that’s something that young people really struggle with is the long waits that are built into the process.”

(Guardian)



They also found ways to fill the void, seeing the young people as layered and multiple in terms of who they were. Being ‘more than an asylum seeker’ led Guardians to link young people to other projects within the Service.⁵

“We don’t want it all to be about the asylum process. The way I see it is that I don’t want the young person’s life to all be about the asylum process, I want them to have as many other things and as many other parts of them recognised so that they’re not an asylum seeker and that’s their only identity and that’s the only way that they’re viewed. So, it’s nice when it’s wide ranging, I think, I think that’s what I would like it to be for my young people.”

(Guardian)

Guardians advocated for decisions to be made more expeditiously and kept in regular contact with immigration lawyers for any updates which were then passed to young people.

“But, it’s actually like keeping them updated and informed constantly because young people just, you know one week of not knowing about something that they’ve asked about is a lifetime to them.”

(Guardian)

Immigration lawyers reflected on their work with young people who did not have a Guardian and the increased challenges for them in navigating the asylum determination process. Overall, Guardians presence throughout the initial stage of the asylum process was thought by Guardians and immigration lawyers to ‘hold’ young people and bring an element of emotional safety to them as well as a sense of order to the process itself.

Guardians did not only work with young people where the Home Office said ‘yes’, leading to a grant of international protection. Guardians also worked with

the ‘no’ and continued to aid young people through asylum appeals and fresh claims where international protection had not been afforded.

3.2: Appealing an asylum decision

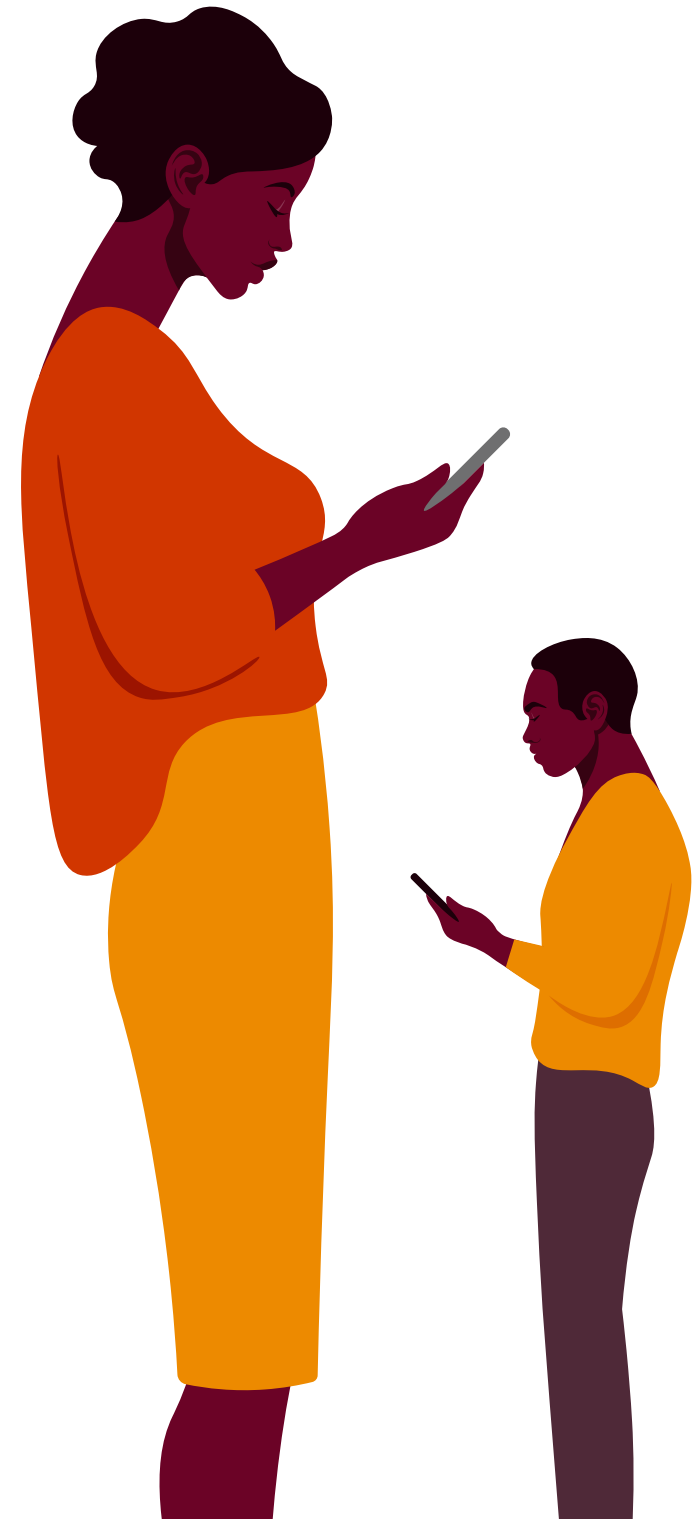
Although Guardians and immigration lawyers acknowledged a general reduction in immigration appeals, owing to an increase in grants of Refugee Status or Humanitarian Protection at the initial claim stage, they both recognised the importance of Guardianship when appeals did happen. Figure 1 evidences a sharp increase in frequency of contact with young people by Guardians where an appeal had been lodged – the focus of these interactions to navigate young people through this part of the process. Guardians and immigration lawyers said the roles and tasks of Guardians during an appeal were almost identical to those undertaken for the initial claim. There were however some additions to these roles and tasks with respect to evidence and procedure, as the following highlights.

Gathering and providing facts relevant to the appeal

Guardians, alongside immigration lawyers, continued to look for facts to support appeals. This involved scrutinising information in the latest Country of Origin reports, opinions from medical professionals where relevant, and support letters from the communities in which young people lived. Guardians wrote in depth statements focusing on new evidence and additional support provided to young people since the initial claim.

“She [Guardian] played a huge role gathering evidence or helping with evidence. She provided a really detailed letter of support all about her involvement with the young person, and how they found the legal process in general.”

(Immigration Lawyer)



5. The Allies programme enables young people to learn coping strategies to help them manage symptoms of trauma, anxiety, stress and tension. The Befriending Service links volunteers with young people to help mitigate the loneliness, isolation and unfamiliarity experienced when young people arrive in Scotland.

On occasions, Guardians acted as witnesses at appeal hearings, providing factual accounts of the support offered, their view of the young peoples' circumstances, impacts if returned to their country of origin and current risks to them. Guardians felt this brought young people to life within the court space, helping judges to better understand them and their vulnerabilities. When not acting as a witness, Guardians were present with young people, silently supporting from the side-line.

“I would say, at the appeal stage, on a few occasions, the judge has commented on the needs or the vulnerabilities of the young person based on the comments of the Guardian, or the observations of a Guardian. And that’s maybe helped the judge to understand a young person’s vulnerabilities or impacted on the type of decision that they’ve made in the case.”
(Guardian)

Supporting procedure

Guardians were alert to the short timeframe given by the Home Office to lodge an appeal after a negative initial decision was made and their role in prompting immigration lawyers to do so within the allocated timescales.

Guardians assisted young people to understand what would happen at the appeal and took young people to the court beforehand to familiarise them with the environment. Where this was not possible, Guardians completed a virtual walk-through, drawing pictures and diagrams to help young people understand what would happen at their hearing. Orienting young people like this was viewed by Guardians and immigration lawyers as essential in reducing anxieties.

“It seems so small but it’s actually so important, because they’ll meet the Guardian before and they’ll walk along with them. The Guardian will offer to take them to the tribunal before, show them about. That kind of stuff is priceless, because it hopefully would remove some of the anxiety about going through the process.”

(Immigration Lawyer)

Guardians and immigration lawyers said that Guardians had only a limited role in ensuring appeal procedures were followed during the hearings. This task largely fell to lawyers and barristers. Sometimes Guardians advocated for young peoples' cases to be heard first so as to reduce the time they were waiting in the court. Generally, Guardians said that procedures within the court arena were mostly well followed. Guardians with experience of appeals, noted being recognised by court officials, who were fairly familiar with the Service and its remits. Where this was not the case, Guardians felt able to advocate for their continued presence in the courtroom, in the interests of the young people being supported.

Once appeal decisions had been given, Guardians spent time reading through them with young people, to ensure correct procedures had been followed. Where this was not the case, Guardians raised their concerns with immigration lawyers to take forward.



Yohanes's Guardian worked with him on his statement outside of appointments with his immigration lawyer. Over time, Yohanes and his Guardian developed a relationship of deep trust. Yohanes's Guardian came to know him well, including other professionals in his network. The Guardian therefore understood Yohanes's needs and the support he was receiving.

Yohanes's initial asylum claim was not granted. The refusal letter centred on a poor understanding of Yohanes and his particular vulnerabilities, including an assertion that he was in contact with his family in his country of origin. The Guardian read through the refusal letter with Yohanes ensuring he fully understood the reasons for refusal and was able to participate as much as possible in constructing an appeal against the initial decision.

The Guardian continued to assist Yohanes by helping him understand the appeal proceedings, the role of the judge, his lawyer and the Home Office representative. The Guardian visited the court room with Yohanes ahead of the hearing to make the experience more predictable and tolerable. The Guardian was a witness at the appeal, providing written and oral evidence about the support that he had provided to Yohanes. This evidence enabled the judge to understand Yohanes and his life in a rounded way. The judge referred to the Guardian as a "persuasive witness". The Guardians' evidence was cited by the judge multiple times in the decision, as it enabled the judge to find, contrary to the Home Office's refusal letter, that Yohanes had significant vulnerabilities and was not in touch with his family in his country of origin.

Yohanes was subsequently granted Humanitarian Protection.

Yohanes



3.3: Making further submissions to support a fresh claim

The majority of Guardians interviewed had limited experience of assisting young people who had become Appeal Rights Exhausted as most had either been granted international protection at the initial or appeal stages. Guardians and immigration lawyers acknowledged most of the young adults who were now Appeal Rights Exhausted had likely submitted their initial claim a number of years ago when they were under eighteen years old. They had not therefore benefitted from the increase in grants of Refugee Status or Humanitarian Protection made by the Home Office in the past few years.

For this group of young adults, waiting in limbo had become an enduring feature of their lives. Guardians and immigration lawyers noted that many of them had disengaged from the asylum process through disillusion and exhaustion. The case file analysis highlighted two instances where further submissions leading to fresh claims had been made. One young person had been granted Refugee Status over six years after submitting their initial claim, and after five years in the process, the second young person was still waiting.

Guardians observed how many of the young adults continued to come to them when needing some form of assistance and then retreated into the shadows. Guardians and the Service appeared to hold the light, remaining constant, always available when the time was right for support to be accepted again.

“So, I think that continuity throughout that lengthy process for the young person was super-super important.”

(Immigration Lawyer)

Guardians continued to offer practical assistance and provided links to mental health and befriending projects run by the Service. They offered legal assistance by encouraging attendance at lawyer appointments and supported transitions to new lawyers where needed. Guardians prompted lawyers to reduce drift in cases and continued to work on building new evidence. They were alert to changes in individual circumstances, as well as wider political landscapes which could provide new information relevant to the fresh claim.

“The couple that I’ve had it’s been that kind of situation where Guardianship’s been the one that’s been encouraging them to come to legal appointments and encouraging them to actually get a lawyer and to try and get status. Because at that stage they’re just not wanting to get status anymore. They’re [Guardians] usually helpful with that.”

(Immigration Lawyer)

Guardians commitment and persistence was evident. Young adults in this situation had endured years of uncertainty. By not giving up, Guardians helped them cope with this and encouraged them to keep going to the very end.

“I know one of the Guardians, she has a girl who I think has been here for seven years and only just got her status after appeal, after appeal, after appeal.”

(Guardian)



Masoud was referred to the Scottish Guardianship Service in 2011 after a long journey from Afghanistan to the UK. He had spent time in the adult asylum system before immigration officers raised concerns that he may be under 18 years and referred him to children's social care. He has a disability and is very self-conscious interacting with peers and professionals. He had two Guardians, both supporting him through the asylum process, preparing him at each stage, attending appointments with immigration lawyers, his substantive interview and appeal hearing. Masoud was refused international protection, as was extremely common for applicants from Afghanistan around that time.

Masoud was in supported accommodation through most of his asylum claim and was enabled to attend the local GP for health appointments by residential staff. Not long before his appeal hearing, Masoud was moved into independent accommodation and after the refusal of his asylum claim his health needs escalated and his Guardian aided him with this. Masoud experienced physical symptoms but medical tests could not establish a cause. There were disagreements between Masoud and his GP around the nature of his symptoms which affected the way they worked together. Masoud's Guardian maintained communications between Masoud and his GP.

After 4.5 years, Masoud was allocated a new Guardian who continued to focus on his health concerns and build trust with his GP. Three referrals were made to different counselling services before he got the intervention he needed. Masoud's Guardian went to some of these sessions with him.

The Guardian referred Masoud to another immigration lawyer and updated about the extensive support provided in relation to his health. The medical evidence was added to the further submissions to the Home Office, highlighting Masoud's vulnerabilities, which he felt difficult to articulate. His Guardian provided more evidence, found an expert witness and travelled to Liverpool to submit further submissions. Masoud's further submissions were refused, which he appealed. His Guardians acted as a witness at the appeal.

Masoud was granted refugee status, 6.5 years after he was first referred to the Service. Masoud stays in touch with his Guardian who has provided emotional encouragement and referrals for legal assistance in relation to the current crisis in Afghanistan.

A stylized illustration of a man's profile, facing right. He has short, dark hair and is wearing a red garment. The background is a solid magenta color. The name 'Masoud' is written in large, white, bold letters at the bottom right of the illustration.

Masoud

4

Key Findings

Key Findings

The roles and tasks of Guardians in the National Referral Mechanism (NRM)

Interviews and data from the case file analysis, highlighted the roles and tasks of Guardians in the NRM process. Broadly speaking, the roles and tasks largely mirrored those undertaken within the asylum determination process. However, the ways in which Guardians and young people interacted with the NRM was somewhat different.

Roles and tasks

Navigating and orienting young people

Guardians and immigration lawyers confirmed that Guardians helped young people develop an understanding of trafficking and the different types of exploitation. Guardians acknowledged that young people were often not able to identify themselves as trafficked and by exploring these things together, were more able to make sense of their experiences and continued risks where these persisted. Guardians enabled young people to recognise risks and develop plans to reduce them where possible. However, Guardians acknowledged that working with young people who remained in exploitation was particularly challenging. They said that not fully knowing what was happening to young people reduced their and other professionals capacities to keep them safe.

“I think that I see my role is around just helping to keep young people as safe as I can. I can’t control the external factors. I can’t undo, unfortunately, the poverty and the political system that exacerbates people being trafficked and moved, I have no control over that.”

(Guardian)

Guardians and immigration lawyers considered that the NRM process was far more complex than the asylum determination process. They commented on the NRMs remoteness to young people, particularly as First Responders were able to make referrals without first seeking young peoples’ informed consent. Young people were often not privy to information shared with NRM decision-makers at the Single Competent Authority (SCA), therefore unable to monitor its accuracy, leading to potential problems of credibility within the NRM and asylum determination processes.

Guardians and immigration lawyers reported young people often attending joint investigative interviews in which police officers and social care staff gathered information linked to the trafficking situation. Guardians and immigration lawyers knew how distressing these interviews could be for young people. The interviews sometimes took place prior to a referral into the Guardianship Service so Guardians were not always present or able to support and navigate young people through this part of the process. Where Guardians were present, they explained the purpose of the joint investigative interview to young people including the responsibilities of police.



Guardians acknowledged the challenge for young people who were involved with the police in other ways such as when the police encountered a young person who had been forced to cultivate cannabis for example. Guardians commented that in such instances, it would not be uncommon for the police to refer a young person both to the NRM as a young person who had potentially experienced Child Criminal Exploitation (CCE), as well as charge them for the crime of cultivating cannabis. This tended to reduce levels of trust between the police and the young people involved.

Some Guardians spent time explaining and regularly repeating information about the NRM to young people to help increase their understanding of it. Guardians who felt less confident in the benefits of the NRM seemed to spend less time describing it. It appeared these Guardians wanted to protect young people, owing to young people having little direct involvement in the process or abilities to impact potential outcomes.

“I think I only really touch on it [the NRM] briefly because I find that the NRM process, it’s a process that doesn’t really involve the young person. It’s a very, very removed process.”

(Guardian)

“Sometimes young people that are in it [the NRM] and haven’t been informed by police or social work or anybody, because they don’t have to consent there’s almost this like, ‘They don’t need to consent so we just won’t talk to them about it.’ So, they find themselves in a process getting decisions before they even know that they’re in it.”

(Guardian)

Guardians spent time teaching young people how the asylum determination and NRM processes intersected. Guardians acknowledged this was complicated to

explain and difficult for young people to understand owing to the different standards of proof required within each process. Guardians explained that decisions made with respect to international protection and trafficking often appeared illogical. For example, a young person could be recognised as trafficked, a higher standard of proof than the asylum determination process, and not be granted international protection or the opposite way around. Where NRM decisions were negative, this left young people feeling disbelieved and bewildered.

Guardians and immigration lawyers commented on the long timescales within which NRM decisions were often made – over many months and years in some instances. Where the Home Office waited on the outcome of an NRM decision before making a decision relating to international protection, young people remained in extended limbo. Timescales on a grant of international protection were often far longer for young people who had been trafficked over young people who did not have trafficking as part of their asylum claim. Guardians and immigration lawyers reported the Home Office beginning to make decisions on international protection with or without an NRM decision. Although Guardians and immigration lawyers commented positively on this, it raised further questions about the relevance of the NRM for young people.

“I think because of the overlap of the NRM and the asylum process, they’re supposed to be separate but we know at points it’s a shared statement that’s used for both, and one outcome can impact the other.”

(Guardian)

6. The Service has become increasingly alert to young people who have experienced or are at risk of experiencing Child Criminal Exploitation (CCSE). The Service will continue to monitor this situation and explore the roles of Guardians to provide interventions for young people experiencing this form of exploitation.



Navigating and orienting other professionals

The Scottish Guardianship Service is not a First Responder Organisation; therefore, Guardians are not able to refer young people into the NRM. In light of this, Guardians worked with First Responder Organisations, predominantly children's social care, to raise awareness of the NRM where this was limited, and advocate for referrals to be made to the NRM where these had not already been completed. Trafficking concerns were not always obvious at point of referral into the Service. However, Guardians remained watchful of potential indicators and helped other professionals, particularly social workers, to see them when they emerged and then swiftly act to protect and safeguard.

“As a Guardian you’ve just kind of got a heightened observation all the time about how a young person seems to be doing, how they are, and do they seem stressed. Who’s in their lives? Is there any ongoing involvement in work? Basically, constantly just looking out for indicators of whether there’s any ongoing kind of signs of trafficking or re-trafficking.”
(Guardian)

Gathering and providing facts relevant to the NRM: Through their interactions with young people, Guardians gathered information and evidence, and wrote and sent statements, to the SCA to support NRM decision making. Guardians regularly updated the SCA, via their lawyers, with new information that came to light and linked with children's social care to ensure they remained well-informed. Guardians had greater involvement in the NRM when social workers acted as First Responders rather than the police, with whom they had minimal contact. Guardians noted that in those instances where social workers were not the First Responder, they sometimes struggled to get a copy of the NRM, because children's social care were also not in receipt of it. In these instances, Guardians tried other avenues to obtain a copy, including direct contact with the SCA or police.

Guardians and immigration lawyers shared their concern about the content of Age Assessments and joint investigative interviews being shared with the Home Office and SCA by social workers and police officers. They acknowledged how information from the asylum claim was sometimes shared with the SCA and how important it therefore was for all the details around trafficking to be in the asylum statement. They thought that too much information could make the decision process fragile or idiosyncratic – for example, different assessments, interviews and statements that contained overlaps or gaps in information could raise lack of credibility, particularly when seemingly inaccurate or conflicting information was used. Guardians therefore advocated the importance of professionals working together to provide information that was factually accurate, straightforward and consistent.

Submitting reconsideration requests

When Guardians did not agree with decisions made by the SCA, in collaboration with social workers and immigration lawyers, they submitted reconsideration requests. The requests prompted the SCA to re-look at the information provided or at new information made available to them and to reconsider their initial decisions. As the Service are not First Responders, Guardians reported the SCA not being welcome of reconsiderations from them at first. The Service asked for permission from the SCA to submit reconsideration requests, highlighting their proximity to young people and their circumstances. Subsequently, the SCA agreed to Guardians submitting reconsiderations, and all respondents noted an increase in positive NRM decisions being made on the basis of reconsideration requests submitted by the Guardianship Service.



Adil was subjected to commercial sexual exploitation in a tourist district in his country of origin. He was then trafficked to the UK for the purpose of sexual exploitation.

Adil's social worker believed Adil had been exploited but had doubts about some parts of Adil's story, particularly the exploitation he experienced on route through Europe. Adil's social worker had less experience than his Guardian in working alongside young people who had been trafficked. His social worker wondered whether he was obliged to share his doubts with the Home Office and did not understand the negative impact this could have on Adil's asylum claim and NRM decision. As the social worker's concerns could not be substantiated by any form of evidence, Adil's Guardian recommended that it was not in Adil's interests for them to be discussed.

Adil is gay and his sexuality formed part of the reasons behind his request for international protection. His Guardian explored the possibility of referring him to various LGBT+ groups to develop his friendship network. Adil's social worker was not in agreement, believing Adil to be too early in his recovery to begin to explore his sexual identity. At the time, questions about sexuality featured heavily in Home Office interviews, with young people having to provide evidence to prove their sexuality. His Guardian was therefore concerned that not engaging in LGBT+ groups would negatively impact decision making with respect to Adil.

In light of this, Adil's Guardian provided a statement outlining the support she had provided to him. She offered context around the reasons Adil had not been referred to any LGBT+ groups.

Adil was subsequently recognised as a survivor of trafficking within the NRM and granted Refugee Status.

Adil





5

Key Findings

Key Findings

Impacts of Guardians on the work of immigration lawyers

Guardians knowledge and expertise

Some immigration lawyers observed the ways Guardians' understanding of unaccompanied young people had allowed their own practices to be increasingly child-friendly over time:

- Facilitating appointments in the Guardianship offices
- Working at the young peoples' pace - not rushing the statement process
- Taking breaks during appointments
- Recognising emotional queues and being attuned to what remained unspoken, as well as what was said
- Simplifying technical language to make it accessible to young people
- Re-visiting and repeating information
- Leaving space for young people to de-brief with Guardians at the end of appointments

"They're [Guardians] very good at reminding us to take breaks and just checking in with the client that they're engaged and understanding what's going on."

(Immigration Lawyer)

"So, I think generally kind of making lawyers much more informed or a bit more child-friendly has been I guess influenced by Guardianship as a whole, from what I understand."

(Guardian)

Immigration lawyers agreed that Guardians in-depth knowledge of the young people they supported was hugely beneficial to them. Guardians kept lawyers up to date with relevant biographical information, including any changing circumstances for young people; supported lawyers to navigate difficult conversations with young people and to understand what services and professionals they were linked into. Guardians were able to highlight aspects of young peoples' stories that could be relevant to the asylum or NRM processes and to bring focus to potential credibility issues, helping lawyers work these through with young people.

Immigration lawyers were positive about Guardians knowledge of the asylum and NRM processes and considered that this allowed them to work together as a team, particularly during the evidence gathering and statement writing phases.



Supporting the work and workloads of immigration lawyers

Immigration lawyers were very appreciative of Guardians' support to young people within the asylum determination and NRM processes. They observed that Guardians supported the work and the workloads of lawyers in the following ways:

- Facilitating appointments between immigration lawyers and young people - reducing the number of missed appointments
- Gathering evidence from a range of professionals known to young people
- Supporting young people to develop their statement and work through potential credibility issues
- Supporting young people to focus on immigration and NRM processes and manage other aspects of young peoples' lives such as housing, education and social care issues outside of the appointments
- Preparing young people for welfare, substantive and joint investigative interviews and appeals
- Delivering and reading through decisions with young people

Essentially, immigration lawyers felt Guardians smoothed out the asylum determination and NRM processes, meaning lawyers could be more efficient and effective in their work. By undertaking aspects of the work immigration lawyers were not funded to do, Guardians supported immigration lawyers to manage their workloads enabling them to focus on the case, rather than other aspects of young peoples' lives.

“So, Guardians definitely are helpful in making sure that the statement work gets done, that the asylum process is followed and engaged with. So that’s definitely a huge impact.”

(Immigration Lawyer)

Guardians supported immigration lawyers to focus on questions of what?, how? and when?, while Guardians held onto the who? – the wellbeing and welfare of the young people.

Providing emotional support to young people

Immigration lawyers said they felt reassured that Guardians provided high standards of professional care for young people. Although they also acknowledged young peoples' welfare was at the forefront of their own minds, knowing Guardians were available to focus on wellbeing meant lawyers were able to fully concentrate on their role in preparing the legal case.

“It helps me to keep things focused on a young person’s welfare as well and make sure we are checking in with a young person. It’s something I really make an effort to do anyway but I think having the Guardian there specifically to carry out that role helps keep things focused on the young person, making sure they’re okay because quite often it is really traumatic things we’re talking about.”

(Immigration Lawyer)

“There’s a level of comfort that you have when you have a Guardian working with the client. You know that if you’ve had a tough meeting, the Guardians are going to be there to make sure that the young person is okay.”

(Immigration Lawyer)





6

Key Findings

The roles and tasks that made the biggest difference

Guardians and immigration lawyers confirmed that all aspects of Guardianship as considered in this evaluation, were beneficial for young people within the asylum determination and NRM processes. In particular they agreed on 'four Guardianship functions' that generated the most impact on young people.

As illustrated in the diagram below these were:

1. Navigating and orientating young people
2. Gathering and providing information for stakeholders
3. Developing statements with young people for immigration lawyers, and
4. Providing emotional support for young people.

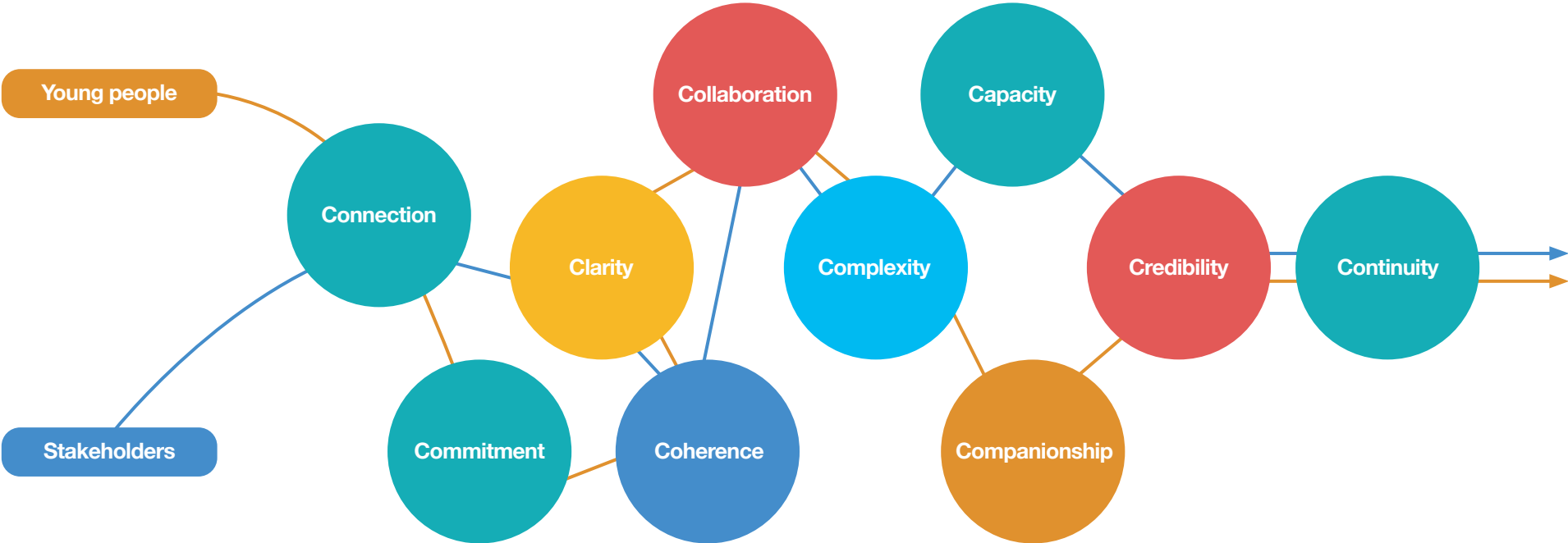
These four functions contained different facets of work that we have called the **10 C's**. The respondents showed that young people benefitted by the Guardians' abilities to **connect** and **commit** to them and the work. From here, Guardians developed **clarity** and **coherence** for all stakeholders about the territories they were in. By **collaborating** with young people and other professions, Guardians navigated **complexity** while providing **companionship** for young people. **Credibility** featured in two ways for Guardians; enabling young people to give accounts of their experiences that then served as credible evidence for stakeholders, including decision-makers. Immigration lawyers said that Guardians increased their **capacity** to spend more time on the legal aspects of the work, by undertaking other tasks that were contextually important but not what lawyers were paid to do. Finally, Guardians provided **continuity** for young people and stakeholders, being available to them until asylum and NRM decisions ended.



Figure 2
The four functions and
the 10 C's of Guardianship

Navigating and orienting young people

Developing statements with young people for immigration lawyers



Gathering and providing information to stakeholders

Providing emotional support for young people

7

Key Findings

Key Findings

The work of Guardians in the Covid-19 pandemic

In March 2020, the Covid-19 pandemic swept across the world. For residents of Scotland, this meant long periods of lockdown in March 2020 and January 2021, interspersed with the lifting of restrictions for some, and local lockdowns delaying the relaxation of restrictions in certain areas for others.

During this time, the Scottish Guardianship Service was required to adapt its Service delivery, particularly the ways in which it reached out to young people.

Providing practical support

As the Guardianship offices were forced to close, the Service ensured Guardians had access to chairs and workstations to set up an office space within their homes.

Guardians swiftly moved their work on-line, using platforms such as Zoom, Teams and WhatsApp to stay in touch with young people and link in with professional networks. As many young people had no access to computers, mobile phones, Wi-Fi or sufficient data packages to support virtual interactions, Guardians advocated to children's social care to provide technology to ensure young people were not digitally excluded and isolated. In addition, the Service reached out to technology companies and curated a range of equipment, including mobile phones, tablets and laptops, which Guardians then distributed to young people. This ensured Guardians support to young people continued and appointments with immigration lawyers, maintained pace.

“Some young people had no access to Wi-Fi, so [were] unable to do video calls. Then some young people [did not have] phones which actually worked. Guardianship were really helpful in those cases with pushing social work to actually get Wi-Fi in place for young people.”

(Immigration Lawyer)

Guardians adapted the content of their workshops, developing Power Point Presentations and using digital white boards to convey information and teach young people about the asylum and NRM processes.

Guardians continued to organise, remind and support young people to attend appointments with immigration lawyers, linking with care givers to coordinate them. Appointments became more flexible as no travel was required, making it easier to fit them around young people's other commitments, such as education.

Providing emotional support

In a Covid-19 context, Guardians and immigration lawyers were very aware of the negative impact of isolation on the mental health of many young people. Guardians saw greater decline of young peoples' mental health with some expressing suicidal thoughts. This was exacerbated for young people waiting on welfare or substantive interviews or decisions on their asylum claims, as Home Office appointments and decision-making slowed significantly during this time. Despite these delays, Guardians and immigration lawyers pressed on, ensuring appointments with young people continued, preparing young people for interviews and decisions which would come when the Home Office opened up again.



Where interviews did happen, Guardians reported the challenge in offering emotional support to young people on-line and not being able to as effectively comfort them if upset.

The time taken to complete Age Assessments was significantly impacted during the pandemic and had a knock-on effect for other decision-making processes. During this time, young people treated as aged over eighteen who were disputing their assessment were placed in adult environments while the disputes were unresolved. Welfare and substantive interviews were stalled further whilst waiting for Age Assessments to take place.

“The biggest problem I’ve had which I’m sure the Guardians share is the delays that the social workers are having with age assessments.”
(Immigration Lawyer)

To support young people through the wait, Guardians increased the frequency of contact, making additional welfare calls and referrals to mental health services as needed. For young people living in more remote parts of Scotland, moving to virtual contact was potentially beneficial as Guardians were able to increase contact with them during this time.

“I’ve got young people located in Aberdeen and Stranraer, and it would take a whole day to go and visit that young person. But doing things digitally means I can keep in contact with them maybe more often than I would have previously.”
(Guardian)

In the absence of being able to take young people for a coffee or a stroll in the park after appointments with immigration lawyers, Guardians found other ways to de-brief, including asking lawyers to finish online appointments 10 minutes early. This provided time for

Guardians to continue the call, answer any questions and try out some ‘grounding’ exercises to relax young people before ending the sessions. Guardians linked with care givers, particularly where young people were living in residential settings, to request additional contact with young people before and after appointments with their immigration lawyers.

Guardians acknowledged building relationships of trust with some young people became more difficult, particularly if they had been referred to the Service during the pandemic and had never met their Guardian face-to-face. The Service participation groups stopped in their usual form and were brought on-line. Although continuing the groups was viewed positively by Guardians, some acknowledged the impact this had on trust building as Guardians and young people were not seeing each other in the informal environment which face-to-face participation sessions had previously promoted.

“But I think as we’ve come out of it one of the things that I’ve really noticed is relationships and how not great they are. Some of them are positive relationships definitely and I think young people really value guardians. But I think the loss of actual human connection makes a big massive difference.”
(Guardian)

Guardians spoke about not being able to read young peoples’ body language on screen and often young people turning off their cameras completely, which challenged relationship building and knowing how young people were feeling and what support to offer.



Supporting the workloads of Guardians

Generally, for most Guardians, referrals of newly arrived young people remained low during the pandemic. As movement largely ceased, young people were less able to travel. Movement linked to trafficking and other forms of exploitation appeared to reduce, making young people less visible to public authorities, not necessarily less at risk. Workloads however, remained high, owing to increased online contacts with young people.

As Guardians worked from home, some felt pressure to fill their diaries with appointments, leaving little time to complete other tasks or take moments to reflect. Some Guardians were left feeling overwhelmed. They said that working from home, managing challenging situations within their personal space was sometimes difficult as they were unable to disconnect from the feelings this left them with. Not having travel time between appointments or at the beginning and end of the day impacted some Guardians abilities to separate work and personal time.

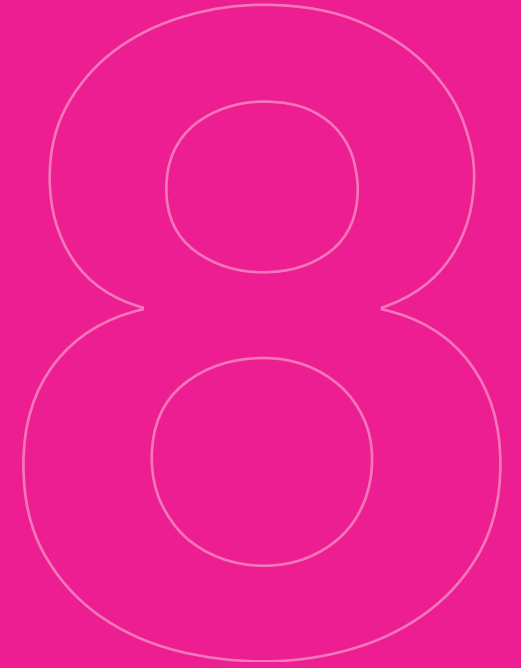
“And I’m trying to think if there’s any other impacts. I think maybe an impact on our wellbeing in that you feel the pressure to schedule appointments back to back. That’s what the lawyers are doing, if you can fit it in then you should do it. Whereas before we were different kind of time pressure, running between appointments across the city. And a lot of us, we work from our bedrooms or our homes, so that’s been quite hard, as it has been for everyone.”
(Guardian)

Service improvements

Immigration lawyers viewed Guardians and the wider Service as adapting well to the Covid -19 pandemic. Lawyers acknowledged the efforts made by Guardians to allow young people to attend appointments with them. They also saw the Service increasing socially distanced activities as soon as they were permitted. This brought some normality back to the lives of young people and the work of the Guardians.

Guardians and immigration lawyers were assured the Service did its very best during the pandemic to meet the needs of young people. Although they spoke of the challenges faced, Guardians and immigration lawyers were confident the Service could not have done any more, within the parameters given, to meet the needs of young people.





Improvements

Improvements for the Service and other stakeholders

Overall, the Scottish Guardianship Service continues to provide solid evidence of its importance in relation to the asylum determination and NRM processes. The report thus far has systematically addressed where the evidence lies, citing effective practices to illuminate the impact of the Service on the lives of young people, as well as immigration lawyers.

We acknowledge the report appearing as an endorsement of the Service despite attempts made to encourage respondents to consider improvements for the Service and other stakeholders. With respect to the Service, the positive narrative largely held true. However, the story of effectiveness would not be complete without addressing the ways further improvements could be made within asylum and NRM processes, as well as the Service where these were commented upon. These are addressed below:

Decision-making in the asylum determination and NRM processes

Guardians and immigration lawyers highlighted the extensive work that went into providing statements to the Home Office and questioned why young people had to be interviewed to explain themselves again. They understood the rationale for Home Office case workers meeting young people, for example, to complete a language analysis test, but were of the view that these interactions should remain brief. They said that the Home Office occasionally made decisions without substantive interviews, but this was not common practice. Guardians and immigration lawyers advocated for young people not to be interviewed and decisions to be made on the statement alone.

“Because the reality is that pretty much all my young people’s statements, they’re incredibly long, they’re 10 to 20 pages long. They’ve gone through everything and I don’t always understand why we need to have an interview to ask these questions because they’ve already answered these questions”.
(Guardian)

Guardians and immigration lawyers unanimously agreed the asylum determination and NRM processes were far too complicated and decisions took too long. Young people were often required to repeat their stories over and over, increasing anxieties, compounding memories of distress, and hindering their attempts to move on with their lives. Guardians and lawyers remained concerned about poor quality information in NRM referrals that resulted in unfavourable outcomes while increasing the potential for credibility to be questioned. The ways in which the asylum and NRM processes interacted generally meant delays in decisions being made. Guardians and immigration lawyers said timescales should be reduced.

“Being in limbo is difficult because you lack that sense of permanence so you can’t really begin to recover from whatever you’ve experienced.”
(Immigration Lawyer)

“The timescales definitely need to be improved, for anyone in the process, but minors in particular, because the waiting impacts on their mental health and contributes to the trauma that they’ve experienced. I think timescales for minors really needs to improve.”
(Guardian)



Guardians and lawyers reported inconsistency in decision-making within asylum determination and NRM processes. Some questioned the fairness of decisions being made by people who did not know the young people, and in NRM cases, had never met the young person who was the focus of their decision.

Where Guardians and lawyers felt confident in the quality of information being put forward to the Home Office, particularly that which related to the asylum determination process, they advocated for decisions to be made without seeing young people. In the case of the NRM, both sets of respondents were much less confident in the quality of information being submitted to the SCA and therefore decisions being made which relied on this only and not on talking with a young person. Regarding the NRM, some Guardians were therefore interested in the outcomes of the NRM devolved decision-making model in Glasgow, which sees NRM decisions now sitting within local authority safeguarding structures.⁷ Guardians and immigration lawyers advocated for greater consistency and transparency in decision-making processes as young people who had very similar experiences and reasons for claiming asylum or being referred into the NRM were being afforded different decisions.

The Scottish Guardianship Service Managing workloads

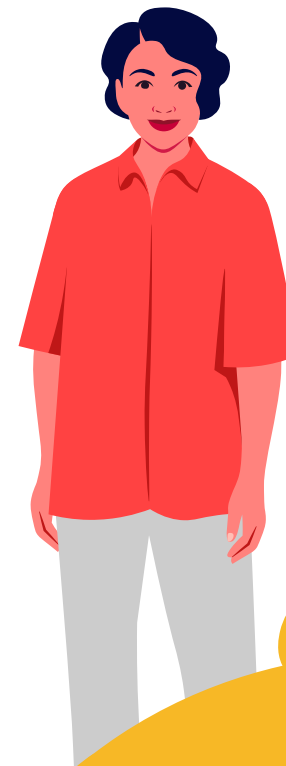
Guardians reported the number of young people they worked with as remaining high, even with the addition of new Guardians to the team. Generally, Guardians were allocated between twenty to thirty young people at any one time. This meant Guardians focused their work on the most pressing of matters - the asylum determination and NRM processes. Some Guardians spoke of wanting more time to concentrate on other topics with young people, such as building safe networks, employment rights, education, care leaver entitlements and housing advice.

Most Guardians felt working with fifteen young people would support them to achieve this and increase their abilities to work in greater depth and bespoke ways with each of the young people allocated to them.

“I think smaller caseloads could help you do more bits of work outside of the asylum process that could help future outcomes, potentially. Not asylum outcomes, but life outcomes.”
(Guardian)

Immigration lawyers recognised Guardians as busy people and saw them to be over-stretched at times. Although support from Guardians was welcomed by the lawyers, some wondered whether Guardians were needed at every appointment, particularly when young people were engaging well with the process and confident about stating their stories on their own. Immigration lawyers were not critical of this support but made this suggestion as a way for Guardians to increase capacity.

“You do get the impression that they’re [Guardians] as stretched as I am in some ways in terms of we work with this group of people who you are not just a lawyer, you’re not just a Guardian, you’ve got to be a lot more than that if you want to try and help them.”
(Immigration Lawyer)



7. The Pilot Programme forms part of a wider Transformation Programme of activity to identify sustainable longer-term options for the NRM. The Pilot Programme will test whether making decisions within existing local authority safeguarding structures is a more appropriate model for making trafficking & exploitation decisions about children.

Guardians explained their high caseloads meant they often had little time to transition young people from the Service as they moved into adulthood. Some Guardians spoke of not knowing how many young people they were supporting owing to transitions not happening. Having an open-door policy meant many young adults were not formally transitioned from the Service and intermittently returned for support when needed. In light of limited adult provisions, Guardians felt increased responsibility to hold onto young people into adulthood. This was particularly the case, where asylum and NRM decisions had not yet been made and where young peoples' networks were small.

“Because I think, sometimes, we don’t close cases because we’re busy with other things, and then a young person gets back in touch with us, and I’m like, ‘Oh, I thought I’d finished work with them, but they’ve now approached me for help with this.’”
(Guardian)

Developing more or less structure

Some Guardians acknowledged their role as difficult to define owing to the breadth and depth of support provided to young people. Guardians acknowledged similarities in their role to that of social workers and wanting to better understand when to take on a task or push it back to children’s social care to do. Clearer parameters were therefore requested by Guardians, to help frame their work and expectations of them. Guardians felt this would increase consistency of support and outcomes for young people referred into the Service.

In contrast to this, other Guardians requested less structure so they could continue to develop flexible support plans to meet the individual needs of each young person. They acknowledged the importance of developing tools to support their work, including visual aids to explain the asylum determination and immigration processes, power point presentations and topic specific worksheets to go through with young people. Although these were welcomed, Guardians were cautious about this leading to tick-box interventions and advocated for the freedom and space to ensure the Service remained bespoke in meeting the needs of individual young people.





Recommendations

Recommendations

Guardians' workloads

Interviews with Guardians suggested the workload of Guardians appeared to become more evenly distributed as new Guardians were recruited to the Service. The size of workloads were dependent on a number of variables, including the number of young people allocated to a Guardian, the complexity of their circumstances and their location. All these variables consumed time. Particularly in relation to travel time, while online access during Covid-19 restrictions was time saving, travel time will increase once Guardians begin to see young people face to face again. Overall, workloads appeared to remain high, inducing time poverty, pressure of work and thereby stress.

Interviews with respondents and the case file analysis suggests that workloads were further impacted by long drawn out asylum and NRM decision-making processes which led to Guardians' intervening in the lives of young people more frequently and for longer than may have been needed had swifter decisions been made.

We would suggest that if the workload balances remain unsustainable, then the stability of the Service (including continuity in post for Guardians) may be jeopardised. In order to ensure a stable workforce, workloads need to be shaped to allow Guardians to make time and take time for young people. The right number of Guardians are therefore required to meet the increasing demands placed on the Service through higher volumes of new referrals.

The Service should continue to consider even distributions of workload for Guardians to enable the depth and breadth of work required of them.

The Service should consider how to influence relevant authorities to speed up asylum determination and NRM processes where needed, thus ensuring young people are not negatively impacted by long drawn-out decision-making processes.

Letting go of young people

The Guardianship Service is a more liquid Service than other public services. By this we mean that Guardians flowed between the gaps of other services and joined them up to create coherence for young people and service providers. Where gaps persisted that were detrimental to young people, it appeared difficult for Guardians to let young people go. This was particularly the case when young people moved into adulthood. Guardians managed this by linking young people into the befriending and mental health projects run by the Service. This sustained young people on the edge of the transition into adulthood, freeing up Guardians to start working with newly allocated young people. Some young adults, did however, intermittently return for advice and guidance, challenging Guardians' workloads and abilities to manage these well.

To further support workload management, the Service should continue to consider the best ways of transition planning. In doing so the Service should consider how to safely reduce the number of young people/young adults with whom the Service has infrequent and irregular contacts.



Gathering evidence and managing procedure

Guardians and immigration lawyers observed that the number of asylum appeals had lessened over the past three years. Their joint view was that the high quality of work in the initial stages of an asylum claim carried out by Guardians and immigration lawyers, particularly with respect to evidence gathering, resulted in more grants of Refugee Status and Humanitarian Protection being given.

Interviews with respondents and the case file analysis shows that where appeals did happen, processes were often slow. Whilst Guardians worked well to explain procedures to young people, they were not able to influence the speed within which appeals took place. Guardians' good work with respect to gathering evidence and managing procedure could be better supported by systems that work more effectively in speeding up the process.

The Service should consider how to influence relevant authorities to speed up the tempo of the asylum appeal stage, thus ensuring young people are not negatively impacted by long drawn-out decision-making processes.

Young people who are Appeal Rights Exhausted

This evaluation confirms that Guardians worked effectively with young people/young adults who were Appeal Rights Exhausted. We therefore have no specific recommendations for improvement to this work. Guardians provide a distinctive and important contribution during this stage of the asylum determination process and therefore should consolidate and promote their capacity to endure with young people/young adults until a final decision has been reached.

Roles and tasks that made the biggest difference

The evaluation shows the impact of Guardians within the asylum determination and NRM processes. The four areas of greatest impact and the 10 C's of Guardianship specified in the report provide evidence that the roles and tasks of Guardians make a positive difference to young people and immigration lawyers.

Whilst the evaluation focused on the asylum determination and NRM processes, we note that Guardians also remained committed to the social, educational and welfare aspects of young peoples' lives through sustaining wellbeing and building safe networks.

The ambition of the Service is to work in depth and breadth across a number of spheres beyond asylum and the NRM. However, there is a risk for the Service that the more engagement Guardians have across multiple domains of work, the harder it is for them to dwell deeply within these domains. The Service therefore needs to consider how to balance breadth with depth of engagement that allows its ambitions to be realised.



A yellow folder icon with a tab on the top right, containing the word "Appendices" in white text. It is positioned in the upper left quadrant of the image.

Appendices

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Appendix A

Coding Framework

THEME	ROLES AND TASKS OF GUARDIANS IN THE ASYLUM DETERMINATION PROCESS			
Sub-themes	Explaining asylum process	Explaining roles of different professionals	Referring to lawyers	Referring to support services
	Organising lawyer appointments	Facilitating young people getting to lawyer appointments	Attending lawyer appointments with young people	De-briefing with young people after lawyer appointments
	Developing timelines and chronologies	Life Story Work	Gathering evidence and facts	Writing support letters
	Preparing young people for Welfare and Substantive Interviews	Attending Welfare and Substantive Interviews with young people	Reading back decisions to young people	Finding new lawyers
	Preparing young people for Appeal	Writing support letters for Appeal	Orienting young people around the Appeal court	Attending the Appeal with young people
	Acting as a witness at an Appeal	Gathering evidence and facts to support further submissions	Supporting with fresh claims	Sharing information with professionals
	Challenging lawyers' practice	Providing emotional support to young people		
THEME	ROLES AND TASKS OF GUARDIANS WITHIN THE ASYLUM DETERMINATION PROCESS – MOST IMPACT			
Sub-themes	Explaining asylum process	Providing emotional support to young people	Providing consistent support to young people	Gathering evidence and facts
	Providing advocacy			

THEME	ROLES AND TASKS OF GUARDIANS IN THE NRM PROCESS			
Sub-themes	Explaining trafficking and exploitation to young people and identifying indicators of trafficking	Explaining the NRM process to young people	Supporting professionals to understand the NRM	Advocating for NRM referrals to be made by First Responders
	Preparing young people for joint investigative interviews	Attending joint investigative interviews with young people	Gathering information and advocating for professionals to share new information with the SCA	Explaining NRM decisions to young people
	Submitting reconsideration requests			
THEME	ROLES AND TASKS OF GUARDIANS IN THE NRM PROCESS – MOST IMPACT			
Sub-themes	Explaining trafficking and exploitation to young people and identifying indicators of trafficking	Explaining the NRM process to young people	Gathering evidence and facts and sharing them with other professionals and the SCA	Raising awareness of the NRM to other professionals
THEME	IMPACT OF GUARDIANS’ WORK ON THE WORK OF IMMIGRATION LAWYERS IN SCOTLAND			
Sub-themes	Changing ways lawyers work with young people	Increasing lawyers knowledge of trafficking and other forms of exploitation	Supporting lawyers to manage their resources	Supporting lawyers to understand young people through Guardians’ knowledge of them
	Providing reassurance to lawyers that young people will be supported practically and emotionally			

THEME	THE WORK OF GUARDIANS DURING THE COVID-19 PANDEMIC			
Sub-themes	Service adaptations	Impacts on Guardians	Impacts on young people	Service improvements
THEME	AGE ASSESSMENT			
Sub-themes	Impacts on the asylum process		Impacts on young people	
THEME	ASYLUM DETERMINATION PROCESS – IMPROVEMENTS			
Sub-themes	Swifter decision-making	Trauma-informed practice	Decisions made without a Substantive Interview	Shorter Substantive Interviews
	Consistency in decision-making			
THEME	NRM PROCESS – IMPROVEMENTS			
Sub-themes	Swifter decision-making	Consistency in decision-making	Devolved decision-making to local authorities	NRM to enable support to be offered to young people
THEME	GUARDIANSHIP SERVICE – IMPROVEMENTS			
Sub-themes	Caseloads and capacity	Develop a process to manage transitions of young people from the Service	Develop more structure around the work of Guardians	Develop less structure around the work of Guardians
THEME	CHALLENGES, CONFLICTS AND COMPLEXITY			
THEME	GUARDIANSHIP – WAYS OF WORKING			
Sub-themes	Child-friendly	Trauma-informed	Relationship-based	Participatory
	Rights-based	Person-centred		



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