



HM Government

# The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage

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# PART ONE - CONTEXT

## Chapter 1 - Background

There is a clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice of whether or not to accept the arrangement still remains with the prospective spouses. However, in forced marriage, one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, financial, sexual and emotional pressure. In the cases of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced.

All Chief Executives, Directors and Senior Managers providing services to victims of forced marriage and honour-based violence need to be aware of the “one chance” rule. That is, their staff may only have one chance to speak to a potential victim and thus their staff may only have one chance to save a life. This means that all professionals working within statutory agencies need to be aware of their responsibilities and obligations when they come across forced marriage cases. If the victim is allowed to walk out of the door without support being offered, that one chance might be wasted.

The UK Government regards forced marriage as an abuse of human rights and a form of domestic abuse, and where it affects children and young people, child abuse. It is a criminal offence.

It can happen to both women and men, although many of the reported cases involve young women and girls aged between 16 and 25. There is no “typical” victim of forced marriage. Some may be over or under 18 years of age, some may have a disability, some may have young children and some may also be spouses from overseas.

To address the increasing scale and extent of forced marriage, the UK Government established the Forced Marriage Unit (FMU) in 2005. The FMU is a joint Home Office and Foreign and Commonwealth Office Unit – the role of the FMU is to provide direct assistance, through information and support, to victims, as well as undertaking a full and comprehensive programme of outreach activity, raising awareness and providing advice to professionals and communities.

This approach aims to ensure that people working with victims are fully informed of how to approach these cases. The FMU, in collaboration with a number of partners across government and other agencies, has also revised existing practice guidelines to reflect the new forced marriage offence, for police officers, health professionals, children and adult social workers, and education professionals.

In 2013, the Forced Marriage Unit (FMU) received calls in relation to a possible or actual forced marriage in over 1300 cases, involving 74 different countries. A number of other cases also come to the attention of the police, children and adult social care services, health, education and voluntary organisations.

While majority of cases reported to the FMU to date have involved South Asian countries, this is in part reflective of the largely established South Asian diaspora in the UK. So we need to remain extremely mindful that forced marriage is not solely a South Asian

problem, as there have been numerous cases in recent years involving many other countries across the Middle East, Europe, Africa and North America to name but a few.

Despite the recorded numbers, forced marriage still remains a hidden practice, as many more cases remain unreported. However, with the ever-increasing levels of support now being made available, along with wider awareness-raising on how this support can be accessed, it is anticipated that there will be an increase in the number of reported cases.

A number of forced marriages do take place here in the UK without any form of overseas element, while a large number of others may involve a prospective partner brought into the UK from overseas or a British national being taken abroad for that purpose.

Forced marriage of any person, regardless of gender, age, disability, ethnic origin or sexual orientation, is unacceptable. Consequently, effective handling of forced marriage and related cases should form part of existing child and adult protection structures, policies and procedures.

Experience has clearly identified that it usually falls to more than one specific agency to meet all of the needs of an individual, or indeed a wide group of individuals affected by forced marriage. As a result, the aim of this guidance document is to not only clearly set out why a multi-agency response is critical, but to also re-emphasise how important multi-agency co-operation and closer working is, as part of the overall approach to provide support to, and protect victims of, this abhorrent practice.

# Chapter 2 - The status and purpose of this document

Part Two of this guidance is issued as statutory guidance under section 63Q(1) of the Forced Marriage (Civil Protection) Act 2007 (2007 c.20). Section 63Q of the Act states:

1. The Secretary of State may from time to time prepare and publish guidance to such descriptions of person as the Secretary of State considers appropriate about –
  - a. The effect of this Part or any provision of this Part; or
  - b. Other matters relating to forced marriages.
2. A person exercising public functions to whom guidance is given under this section must have regard to it in the exercise of those functions.
3. Nothing in this section permits the Secretary of State to give guidance to any court or tribunal

As statutory guidance issued under section 63Q of the Act, a person exercising public functions to whom the guidance is given must have regard to it in the exercise of those functions. This means that a person to whom the guidance is given must take the guidance into account and, if they decide to depart from it, have clear reasons for doing so.

All Chief Executives, Directors and Senior Managers should ensure that they strongly recommend to their staff to consult the multi-agency practice guidelines that have now been revised to reflect the new forced marriage offences.

Forced marriage is a crime – it is a form of child/ adult/ domestic abuse and has to be treated as such; ignoring the needs of victims should never be an option. Forced marriage affects people from many communities and cultures, so cases should always be addressed using all of your existing structures, policies and procedures designed to safeguard children, adults with support needs and victims of domestic abuse.

Existing strategic bodies also need to ensure that their member agencies work effectively, using agreed policies and procedures to address this issue. This includes Local Government Associations, Local Authorities, Local Councils, Community Safety Partnerships, Local Strategic Partnerships, Local Safeguarding Children and Adults Boards, Children's Trusts, Multi-agency Risk Assessment Conferences, Learning Disability Partnership Boards, Local Criminal Justice Boards, Local Family Justice Councils and Multi-Agency Adult Protection Management Committees.

## **Audience**

This multi-agency statutory guidance is given to all persons and bodies in England and Wales who exercise public functions in relation to safeguarding and promoting the welfare of children as listed in section 11(1) or section 28(1) of the Children Act 2004. Such persons and bodies include local authorities, police authorities and chief officers of police and youth offending teams. This guidance is also given to the Children and Family Court Advisory and Support Service (established under section 11 of the Criminal Justice and Courts Services Act 2000) and Local Safeguarding Children Boards (established under section 13 or section 31 of the Children Act 2004).

This guidance is also given to all persons and bodies in England and Wales exercise public functions to protect adults with support needs from abuse. Examples of these bodies may include but are not limited to police authorities and chief officers of police, and NHS Trusts. Also key elements of local authorities and/or district councils, in particular adult social care services, strategic health authorities, primary care trusts, local health boards.

This guidance is also given to any third party who is exercising public functions on behalf of a person or body mentioned above.

## **Purpose**

This guidance is targeted at Chief Executives, directors and senior managers of persons and bodies mentioned above, or of third parties exercising public functions on behalf of those persons or bodies. It outlines their responsibilities concerning developing and maintaining local procedures and practice arrangements to enable their front line professionals to handle cases of forced marriage effectively. It sets out how cases of forced marriage should be responded to using existing frameworks for safeguarding children with or without learning disabilities, and to protect all adults with or without learning disabilities, from the range of abuses associated with forced marriage.

The multi-agency statutory guidance differs to the multi-agency practice guidelines in that it clearly sets out the responsibilities of all the Chief Executives, Directors and Senior Managers within those agencies involved with handling cases of forced marriage. It also covers issues such as staff training, developing inter-agency policies and procedures, raising awareness and developing prevention programmes through outreach work.

This document is not intended to be used by frontline professionals as practice guidelines. All frontline professionals handling cases of forced marriage are strongly recommended to consult the multi-agency practice guidelines that have also been revised to reflect the new offences.

## **Aims**

This document sets out the duties and responsibilities of agencies with the aim of protecting children, young people and adults facing forced marriage. It does not attempt to replicate existing guidance but should form part of all the existing child and adult protection structures, policies and procedures.

The document highlights specific arrangements that may inadvertently place a victim at risk of harm. These include failure to share information appropriately between agencies, the danger of involving families, breaches of confidentiality and all forms of family counselling, mediation, arbitration and reconciliation.

## **Definitions**

For the purpose of this guidance, the following definitions are used:

### **Adult**

'Adult' is defined as a person aged 18 years or over.

### **Child, children and young people**

As defined in the Children Acts 1989 and 2004, child means a person who has not reached their 18<sup>th</sup> birthday. This includes young people aged 16 and 17 who are living independently; their status and entitlement to services and protection under the Children Act 1989 is not altered by the fact that they are living independently.



## **Child in need**

Children who are defined as being “in need” under s.17 Children Act 1989, are those whose vulnerability is such that they are unlikely to reach or maintain a satisfactory level of health or development, or their health or development will be significantly impaired, without the provision of services (s.17 (10) Children Act 1989), plus those who are disabled. Local authorities have a duty to safeguard and promote the welfare of children in need.

## **Domestic violence and abuse**

The cross-government definition of domestic violence and abuse is: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been intimate partners or family members, regardless of gender or sexuality. The abuse can encompass, but is not limited to:

- psychological;
- physical;
- sexual;
- financial;.
- emotional;.

## **Forced marriage**

A forced marriage is a marriage in which one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, financial, sexual and emotional pressure. In the cases of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced.

## **Honour-based violence**

The terms “honour crime” or “honour-based violence” or “izzat” embrace a variety of crimes of violence (mainly but not exclusively against women), including assault, imprisonment and murder where the person is being punished by their family or their community. They are being punished for actually, or allegedly, undermining what the family or community believes to be the correct code of behaviour.

In transgressing this correct code of behaviour, the person shows that they have not been properly controlled to conform by their family and this is to the “shame” or “dishonour” of the family. It can be distinguished from other forms of abuse, as it is often committed with some degree of approval and/or collusion from family and/ community members. Victims will have multiple perpetrators not only in the UK; HBV can be a trigger for a forced marriage.

## **Learning Disability**

The term “learning disability” refers to following:

- Impaired intelligence: a significantly reduced ability to understand complex information or learn new skills, or
- Impaired social functioning: a reduced ability to cope independently, or
- Long lasting: a condition which started before adulthood (18 years of age) and has a lasting effect.<sup>1</sup>

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<sup>1</sup> [www.gov.uk/government/publications/valuing-people-a-new-strategy-for-learning-disability-for-the-21st-century](http://www.gov.uk/government/publications/valuing-people-a-new-strategy-for-learning-disability-for-the-21st-century)

A learning disability is a permanent impairment and not to be confused with mental illness, which can vary or be temporary, although people with learning disabilities can also experience mental illness. However, people with learning disabilities are not one homogenous group. Having a learning disability impacts upon people in a range of different ways and each person should be treated as an individual. Conversely, it is also incorrect to assume those with capacity will be less vulnerable to forced marriage.

### **Relevant Third Party**

Section 4A of the Family Law Act 1996 provides for three types of applicant who may apply for a forced marriage protection order. They are the person who is to be protected by the order, a relevant third party or any other person with the permission of the court. A “relevant third party” means a person specified by order of the Lord Chancellor who may apply on behalf of a victim without the leave of the court. Currently, this only extends to local authorities.

# Chapter 3 - Understanding the issues around forced marriage

## Forced Marriage and Arranged Marriage

There is a clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice of whether or not to accept the arrangement still remains with the prospective spouses. However, in forced marriage, one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, financial, sexual and emotional pressure. In the cases of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced.

The provision of consent is essential within all marriages – only the spouses themselves will know if their consent is provided freely.

## Capacity to consent to marriage

If a person does not consent or lacks capacity to consent to a marriage, that marriage must be viewed as a forced marriage whatever the reason for the marriage taking place. Capacity to consent can be assessed and tested but is time and decision-specific.

## The Mental Capacity Act 2005

The Mental Capacity Act 2005 aims to empower people to make decisions about their own lives where possible and protects those who lack capacity. It provides a statutory framework both for people who lack capacity to make decisions for themselves and for those who have capacity and want to make preparations for a time when they may lack capacity in the future. It sets out who can take decisions, in which situations, and how they should go about this.

The Mental Capacity Act Code of Practice<sup>2</sup> provides more detailed guidance.

## KEY PRINCIPLES

- If families have to resort to violence or coercion alluded to above to make someone marry, that person's consent has not been given freely and it is therefore considered a forced marriage.
- Where a person lacks the capacity to consent, an offence is also capable of being committed by any conduct carried out with the purpose of causing the victim to marry, whether or not it amounts to violence threats or any other form of coercion.

## Motives prompting forced marriage

Perpetrators who force their children or other family members into marriage often justify their behaviour as protecting their children, building stronger families and preserving 'so-called' cultural or religious beliefs. When challenged on this practice, they often do not see anything wrong in their approach. The act of forcing another person into marriage cannot be justified

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<sup>2</sup> Department for Constitutional Affairs (2007) Mental Capacity Act 2005, Code of Practice, TSO.

on religious grounds; every major faith condemns it and crucially, freely given consent is a prerequisite of all religions.

Often perpetrators are convinced that they are upholding the cultural traditions of their home country, when in fact these practices and values may have in fact changed. There are also others who are placed under significant pressure from their extended family to ensure their children or other family members are married. In some instances, an agreement may have even been made about marriage when a child is in its infancy.

Many young people will then be living through their entire childhoods with the expectation that they will marry someone of their parents or other family members choosing. What needs to be communicated to all of those at risk is that forced marriage is a **CRIME** and that they have a fundamental human right to be able to choose their future spouse.

Some of the key motives that have been identified are:

- Controlling unwanted sexuality (including perceived promiscuity, or being lesbian, gay, bisexual or transgender) - particularly the behaviour and sexuality of women.
- Controlling unwanted behaviour, for example, alcohol and drug use, wearing make-up or behaving in, what is perceived to be, a “westernised manner”.
- Preventing “unsuitable” relationships, e.g. outside the ethnic, cultural, religious or caste group.
- Protecting “family honour” or “izzat”.
- Responding to peer group or family pressure.
- Attempting to strengthen family links.
- Achieving financial gain.
- Ensuring land, property and wealth remain within the family.
- Protecting perceived cultural ideals.
- Protecting perceived religious ideals which are misguided.
- Ensuring care for a child or adult with special needs when parents or existing carers are unable to fulfil that role.
- Assisting claims for UK residence and citizenship.
- Long-standing family commitments.

## KEY PRINCIPLES

- Forced marriage is a **CRIME**. It is a form of violence against women and men, domestic abuse, a **serious abuse of human rights**, and where a minor is involved, **child abuse**.
- While it is important to have an understanding of the motives that drive parents to force their children to marry, these motives should not be accepted as justification for denying them the right to choose a marriage partner and enter freely into marriage.
- A person’s capacity to consent can change. With the right support and knowledge, a person with a learning disability may move from a position of lacking capacity to consent to marriage, to having capacity. However, some children and adults with learning disabilities are given no choice and/or do not have the capacity to give informed consent to marriage and all it entails.

## **The victim**

Isolation is one of the biggest problems facing those trapped in, or under threat of, a forced marriage. They may feel there is nobody they can trust to keep this secret from their family and they have no one to speak to about their situation – some may not be able to speak English. These feelings of isolation are very similar to those experienced by victims of other forms of domestic abuse and child abuse. It is only rarely that someone will disclose the fear of forced marriage. Consequently, they will often come to the attention of practitioners for behaviour that is consistent with distress.

People forced to marry, or those who fear they may be forced to marry, are frequently withdrawn from education, restricting their educational and personal development. They may feel unable to go against the wishes of their parents or wider family members and be threatened with disownment if they do – consequently they may suffer emotionally, often leading to depression and self-harm. All of these factors can ultimately contribute to impaired social development, limited career and educational opportunities, financial dependence and lifestyle restrictions.

A learning or physical disability or illness may also add to a person's vulnerability and may make it more difficult for them to report abuse or to leave an abusive situation. Their care needs may make them entirely dependent on their carers.

## **Consequences**

Women forced to marry may find it very difficult to initiate any action to end the marriage and may be subjected to repeated rape (sometimes until they become pregnant) and ongoing domestic abuse within the marriage. In some cases they suffer violence and abuse from the extended family, often being forced to undertake all the household chores for the family.

Victims frequently end up trapped in a relationship marred by physical and sexual abuse. The impact this has on children within the marriage is immense. Children may learn that it is acceptable to be abusive and that violence is an effective way to get what you want. They may learn that violence is justified, particularly when you are angry with someone. Children witnessing abuse can be traumatised because witnessing persistent violence undermines children's emotional security and capacity to meet the demands of everyday life. Children's academic abilities can be affected. Witnessing violence as a child is often associated with depression, trauma-related symptoms and low self-esteem in adulthood.

Both male and female victims of forced marriage may feel that running away is their only option. For many of these individuals, especially those from black, minority ethnic and refugee communities, leaving their family can be especially hard. They may have minimal to no experience of life outside the family, so seeking refuge elsewhere may mean that they will lose their children and friends. For others, finding accommodation for themselves and their children can also be very difficult – especially for those who do not have leave to remain and therefore do not have recourse to public funds. UK Visas and Immigration has developed a scheme to strengthen the way in which domestic violence cases are considered enabling those victims who are vulnerable to access additional support. This is known as the Destitution Domestic Violence Concession.<sup>3</sup>

Living away from home with minimal support can make a person, particularly a woman, more isolated, thus making it more likely that they will return to the abusive situation. In addition, leaving their family (or accusing them of a crime or simply approaching statutory agencies for help) may be seen as bringing shame on their 'honour' and on the 'honour of their family' in

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<sup>3</sup> [www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence](http://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence)

the eyes of the community. This may lead to social ostracism and harassment from the family and community. For many, this is simply not a price they are prepared to pay.

Those who do leave still often live in fear of their own families, as they will go to considerable lengths to find them and ensure their return. Families have also been known to solicit help of others to find victims who have run away, or involve the police by reporting them missing, or on occasion falsely accusing the victim of a crime e.g. theft. Some families have also traced individuals through medical and dental records, bounty hunters, private investigators, local taxi drivers, members of the community and shopkeepers or through National Insurance numbers, benefit records, school and college records. Sometimes having traced them, the family may subject them to further violence or abuse, or at worst resort to murder claiming it to be a so called "honour killing".

Women trapped in a forced marriage often suffer violence, rape, forced pregnancy and forced childbearing. Many girls and young women are withdrawn from education early. Some are taken and left abroad for extended periods, which isolates them from help and support – this limits their choices so that often they go through with the marriage as the only option. Their interrupted education limits their career choices. Even if the woman manages to find work, however basic, they may be prevented from taking the job or their earnings may be taken from them. This leads to economic dependence, which makes the possibility of leaving the situation even more difficult. Some may be unable to leave the house unescorted – living virtually under "house arrest".

If a spouse has not been informed that their partner has learning disabilities, it is questionable whether they have given informed consent to the marriage. Questions about informed consent also arise if the spouse is unaware that they are being married into the role of full-time carer. The spouse may also be vulnerable to abuse from the family of the person with learning disabilities.

A person with learning disabilities who is forced into marriage could later be abandoned by their spouse. This can create feelings of rejection, stigmatise the person and possibly lead to the loss of their primary carer. This abandonment could be because:

- (a) the spouse was unaware of all of the circumstances of the marriage and/or
- (b) they simply used the marriage to facilitate an improvement in their immigration status.

### **Forced to travel overseas**

For many people, it may be their first experience of travelling overseas. If they are being held against their will and forced to marry there are various difficulties they may encounter if they want to return to the UK. They may find it impossible to communicate by telephone, letter, e-mail and other forms of social media. They may also no longer have direct access to their passport and money. Women may not be allowed to leave the house unescorted. They may be unable to speak the local language.

Often individuals may find themselves in remote areas and even getting to the nearest road can be extremely hazardous. They may not be able to receive the right level of assistance they expect from the local police, neighbours, family, friends or taxi-drivers. Some find themselves subjected to violence or threats of violence.

Even if the authorities in the UK are aware of the whereabouts of a British national overseas, it may not be possible to provide suitable support and assistance to reach the area or to repatriate them. Therefore, it is always advisable to warn victims not to travel overseas.

## Legal position

Following a public consultation, the Prime Minister announced on 8 June 2012 that the Government intended to make forcing someone to marry a criminal offence in England and Wales; and to strengthen the civil law in England and Wales by making the breach of a Forced Marriage Protection Order a criminal offence. These proposals were part of the Anti-social Behaviour, Crime and Policing Act, which received Royal Assent on 13 March 2014 (“the 2014 Act”). The new offences came into force on 16 June 2014.

Section 121 of the 2014 Act provides that:

- 1 A person commits an offence in England and Wales if he or she—
  - (a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into the marriage, and
  - (b) believes, or ought to reasonably believe, that the conduct may cause the other person to enter into the marriage without free and full consent.
2. In relation to a victim who lacks capacity to consent to marriage, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion).
3. A person commits an offence under the law of England and Wales if he or she—practices any form of deception with the intention of causing another person to leave the United Kingdom, and intends the other person to be subjected to conduct outside the UK that is an offence under subsection (1) or would be an offence under that subsection if the victim were in England and Wales.

In addition to the specific offences of forced marriage, there are still a number of other offences that may nevertheless be committed. Perpetrators – usually parents or family members – may also be prosecuted for offences including fear or provocation of violence, common assault, actual bodily harm, grievous bodily harm, harassment, common assault, kidnap, abduction, theft (of passport), threats to kill, false imprisonment and murder. The Crown Prosecution Service is responsible for making the decision for which offences(s) the perpetrator(s) should be prosecuted. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

The maximum penalty in a criminal court for the forced marriage offences is seven years imprisonment.

### Forced Marriage Protection Orders

Forced Marriage Protection Orders can also be sought under section 4A of the Family Law Act 1996<sup>4</sup> (“the 1996 Act”). The 1996 Act makes provision for protecting both children and adults at risk of being forced into marriage and offers protection for those who have already been forced into marriage. The terms of orders issued under the Act can be tailored to meet the specific needs of victims.

Under section 120 of the 2014 Act, the maximum penalty for breach of a forced marriage protection order is five years imprisonment.

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<sup>4</sup> Section 4A of the Family Law Act 1996 was inserted by the Forced Marriage (Civil Protection) Act 2007

## Extra-Territorial Jurisdiction

The new forced offence also allows for extra-territorial jurisdiction to be taken over both the coercion and deception elements of the new offence. Any of the prohibited acts carried out outside the UK by a UK national or person habitually resident in England or Wales, or to a UK national or person habitually resident in England or Wales, will be an offence under domestic law and triable in the courts of England and Wales. It will also be an offence under domestic law if the prohibited acts are conducted by or against a person habitually resident in England and Wales, but take place in Scotland or Northern Ireland.

## Validity

In addition to the specific remedy in the 1996 Act, there are a number of other civil and family orders that can be made to protect those threatened with, or already in, a forced marriage. For children, an application for a care or supervision order can be made under the Children Act 1989 or wardship proceedings may be issued in the High Court. Adults can seek an order for protection from harassment or non-molestation.

Some forced marriages will be legally valid until they are annulled or a divorce is granted by the court. Others will not be legally valid but may also need to be annulled. There are strict legal requirements that govern whether a marriage is valid under UK law and the rules for recognising a marriage vary depending in which country the marriage took place. When considering the validity of a marriage, particularly a marriage that took place overseas, specialist legal advice should be sought. Agencies should also be mindful that a marriage is not automatically invalid because it was a forced marriage. Although, agencies should not assume that a marriage is invalid because it was forced. **For further details of the legal remedies available, refer to the revised multi-agency practice guidelines.**

## Potential warning signs or indicators

Both women and men facing forced marriage may become anxious, depressed and emotionally withdrawn with low self-esteem. They may come to the attention of practitioners for a variety of reasons, some of which are described in the diagram below. Whilst the factors set out in this diagram may be an indication that someone is facing forced marriage, it should not be assumed that it is forced marriage simply on the basis that someone presents with one or more of these warning signs. These warning signs may indicate other types of abuse that will also require a multi-agency response.

There have been occasions when women have presented with less common warning signs such as cut or shaved hair as a form of punishment for disobeying or perhaps "dishonouring" her family. In some cases, a girl may report that she has been taken to a private practice to be examined to see if she is a virgin. There have been reports of women presenting in the NHS with symptoms associated with poisoning. In certain communities, it is considered important that women undergo female genital mutilation (FGM) before being able to marry – usually this will be performed during childhood, but there have been reports of young girls or young women undergoing FGM just before a forced marriage. FGM has been a specific offence in the UK since 1985<sup>5</sup> and extra-territorial offences were created in 2003 to deter people from taking girls overseas for the purposes of FGM.

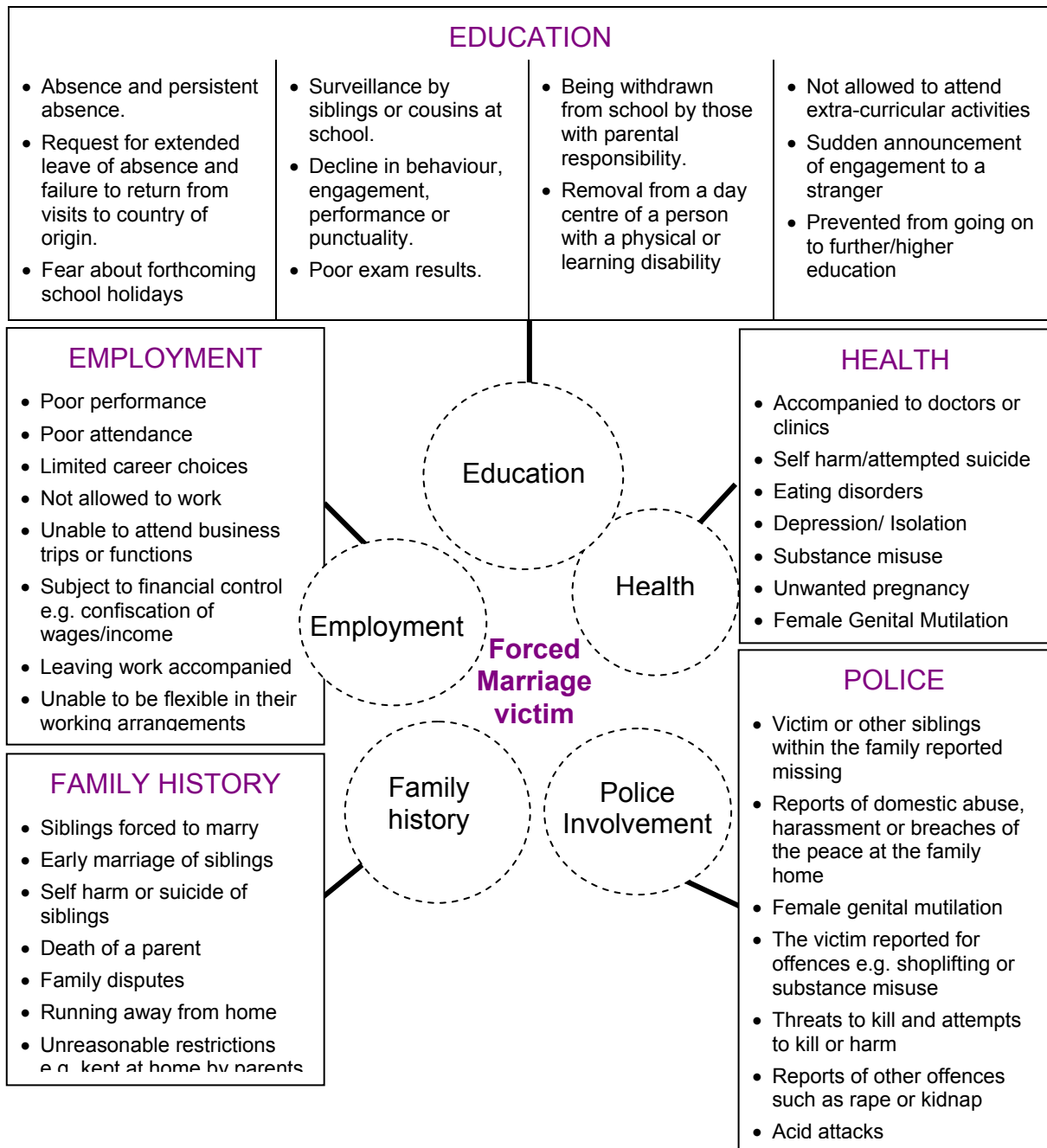
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<sup>5</sup> The Female Genital Mutilation Act, 2003



# CHART OF POTENTIAL WARNING SIGNS OR INDICATORS

These indicators are not intended to be an exhaustive list.



# PART TWO – STATUTORY GUIDANCE

## Chapter 4 - Actions for Chief Executives, directors and senior managers to whom this guidance is addressed

Forced marriage is a crime. It form of child/ adult/ domestic abuse and has to be treated as such; ignoring the needs of victims should never be an option. Forced marriage affects people from many communities and cultures, so cases should always be addressed using all of your existing structures, policies and procedures designed to safeguard children, adults with support needs and victims of domestic abuse.

Existing strategic bodies also need to ensure that their member agencies work effectively, using agreed policies and procedures to address this issue. This includes Local Government Associations, Local Authorities, Local Councils, Community Safety Partnerships, Local Strategic Partnerships, Local Safeguarding Children and Adults Boards, Children's Trusts, Multi-agency Risk Assessment Conferences, Learning Disability Partnership Boards, Local Criminal Justice Boards, Local Family Justice Councils and Multi-Agency Adult Protection Management Committees.

### Senior management commitment

**Chief Executives, directors and senior managers should ensure that their organisation has:**

- A lead person with overall responsibility for safeguarding children, protecting adults with support needs or victims of domestic abuse – where possible the same person should lead on forced marriage.
- Policies and procedures in place to protect those facing forced marriage. The policies and procedures should be in line with existing statutory and non-statutory guidance on safeguarding children, protecting adults with support needs and victims of domestic abuse. These policies and procedures should form part of an overall child/adult protection strategy.
- Policies and procedures that are updated regularly to reflect any structural, departmental and legal changes.
- A named person whose responsibility it is to ensure that cases of forced marriage are handled, monitored and recorded properly.

### Roles and responsibilities

**Chief Executives, directors and senior managers should ensure that:**

- Their staff understand their role in protecting people at risk of, or already trapped in, a forced marriage.
- Through policies and procedures, their staff are familiar with their duties and responsibilities when protecting individuals threatened with, or already in, a forced marriage.

- Their staff know to whom they should refer cases within their organisation and when to refer cases to other agencies.
- Front line staff dealing with cases of forced marriage have access to, and are strongly recommended to consult, the multi-agency practice guidelines issued by the Forced Marriage Unit.

### **Clear lines of accountability**

**Chief Executives, directors, lead members for adult services, lead members for children's services and senior managers should ensure that:**

- There is a designated person within the organisation who is accountable for promoting awareness of forced marriage and a designated individual responsible for developing and updating all policies and procedures associated with forced marriage. This is likely to be the person with overall responsibility for promoting awareness of, and updating policies and procedures concerning the protection of children/adults/ adults with support needs or victims of domestic abuse.
- The designated person is a specialist in domestic abuse, adult protection or child protection with existing experience, expertise and knowledge.
- There is a senior specialist who has undertaken additional training who can be approached to discuss and direct difficult cases.
- There are clear lines of accountability from the front-line staff to senior management.

### **Victim-centred approach**

**Chief Executives, directors and senior managers should ensure that:**

- Victims are listened to and they are able to communicate their needs and wishes.
- Victims are given accurate information about their rights and choices.
- Victims wishes are respected about the level of intervention they require.
- Staff are aware that relatives, friends, community leaders and neighbours should not be used as interpreters or advocates – despite any reassurances from this known person. If it is appropriate to use an advocate then an independent advocate would be advised.

### **Effective inter-agency working and information sharing**

**Chief Executives, directors and senior managers should ensure that:**

- There are policies and procedures in place so organisations can work effectively together to protect people facing forced marriage. These procedures are set out in existing guidance on safeguarding children and adults with support needs.
- These procedures include arrangements for sharing information and arrangements for making referrals including, where appropriate, with police, social care services, health and the Forced Marriage Unit.
- Staff understand the importance of sharing information with other agencies at the earliest opportunity.
- Staff understand the difference between breaking confidence (involving the family without the individual's consent) and sharing information with other professionals to protect the individual from significant harm.

Local Safeguarding Children Boards and Multi-Agency Adult Protection Management Committees are likely to take a lead role in developing policies and procedures for inter-agency working and information sharing to protect adults and children from harm.

## **Confidentiality**

A dilemma may occur because someone facing a forced marriage may be concerned that if confidentiality is breached and their family finds out that they have sought help they will be in serious danger. On the other hand, those facing forced marriage are often already facing serious danger because of domestic abuse, “honour-based” violence, rape, imprisonment etc. Therefore, in order to protect them, it may be necessary to share information with other agencies such as the police.

Consequently, confidentiality and information sharing are extremely important for anyone threatened with, or already in, a forced marriage. Professionals need to be clear about when confidentiality can be promised and when information may need to be shared.

Circumstances sometimes arise where a child, or more probably a young person, explicitly asks a professional not to give information to their parents/guardians or others with some authority over them. Those who are 16 and above are assumed to have capacity to make decisions and their decisions should be respected. However, those under 16 may also have capacity and it is important to try where possible to respect the requests they make.

If a decision is made to disclose information to another person (usually another professional), the professional should seek the consent of the person before the disclosure. Most people will consent to the disclosure if they receive a careful explanation of why the disclosure is to be made and are assured about their safety (e.g. information will not be passed to their family) and what will happen following such a disclosure. Whether or not the person agrees to the disclosure, they should be told if there is to be disclosure of confidential information.

### **Chief Executives, directors and senior managers should ensure that:**

- Staff understand that the individual’s confidence should be respected at all times and that they should not approach family, friends or members of the community without the express permission of the individual as this may place the individual at risk of harm.
- All records belonging to individuals facing forced marriage should be kept secure to prevent unauthorised access by those within the broader community who may potentially pass on confidential information to a victim’s family. Records should only be available to those directly dealing with the case.

## **Staff training and awareness raising**

### **Chief Executives, directors and senior managers should ensure that:**

- Suitable training and awareness raising is incorporated into existing training within agencies to ensure front-line staff are aware of the issue and know how to respond quickly and appropriately to individuals threatened with, or already in, a forced marriage.
- Staff receive updates on the issues surrounding forced marriage and honour-based violence within their existing training on child/adult protection.
- Existing work on social cohesion, equality and community outreach programmes should be used to raise general awareness of forced marriage and the help and support available within the local community.

## Signposting existing practice guidelines on forced marriage

**Chief Executives, directors and senior managers should ensure that:**

- All front line professionals have access to, and are strongly recommended to consult, the practice guidelines issued by the Forced Marriage Unit.

## Monitoring and evaluation

**Chief Executives, directors and senior managers should ensure that:**

- In line with existing guidance concerning safeguarding children and protecting adults at risk, the effectiveness of their organisation's response to forced marriage is monitored and evaluated. This might include collecting information about the number of cases, the source of referrals, information about the individual such as age and gender, together with information about the outcome of the case.

## Record keeping

**Chief Executives, directors and senior managers should ensure that:**

- Staff keep clear, concise records of all actions taken and the reasons why particular actions were taken. There should be a recorded agreement of which agency is to undertake each proposed action together with the outcomes of each action.
- If no further action is to be taken this should be clearly documented together with the reasons.

## Risk assessment

**Chief Executives, directors and senior managers should ensure that:**

- Staff within their organisation understand the risks facing victims of forced marriage, their siblings and other family members - including the possibility of "honour-based" violence, murder, kidnap, rape, held against will, threats to kill and being abducted overseas.
- Staff alleviate these risks by undertaking risk assessments on a case-by-case basis and then manage any risks identified appropriately.
- Their organisational risk assessments are evaluated to ensure that they are appropriate for handling cases of forced marriage – and recognise the potential risk of harm to victims and professionals.

Multi Agency Public Protection Arrangements (MAPPA)<sup>6</sup> and Multi-Agency Risk Assessment Conferences play a role in managing the significant risk to individuals facing forced marriage. For children, the Assessment Framework should be used to assess the risks.

## The danger of family counselling, mediation, arbitration and reconciliation

Due to the nature of forced marriage and honour-based violence, some of the underlying principles and themes within existing guidance may inadvertently place young people and adults with support needs at greater risk of harm. This includes the belief that the best place for them is with their family and the practice of attempting to resolve cases through family counselling, mediation, arbitration and reconciliation.

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<sup>6</sup> [www.homeoffice.gov.uk/rds/pdfs05/dpr45.pdf](http://www.homeoffice.gov.uk/rds/pdfs05/dpr45.pdf)

**Chief Executives, directors and senior managers should ensure that:**

- Staff have adequate training to understand the danger of family counselling, mediation, arbitration and reconciliation.
- Staff understand that in cases of forced marriage, it is important that agencies do not initiate, encourage or facilitate family counselling, mediation, arbitration or reconciliation. There have been cases of individuals being murdered by their families during mediation. Mediation can also place the individual at risk of further emotional and physical abuse.
- Staff are aware that on occasions when an individual insists on meeting with their parents, it should only take place in a safe location, supervised by a trained/specialist professional with an authorised accredited interpreter present (not from the same community), as parents will sometimes threaten the individual in their other language.
- Staff are aware that allowing a victim to have unsupervised contact with their family is normally extremely risky. Families may use the opportunity to subject the victim to extreme physical or mental duress or take them overseas regardless of any protective measures that may be in place.

**Protecting young people and adults with support needs.**

There have been reports of young people and adults with support needs being forced to marry. Some adults with learning disabilities may not have the capacity to consent to the marriage. In order to find a spouse, parents may accept a spouse who they would normally view as unacceptable – such as someone from a lower caste or social group. Sometimes, to ensure a potential spouse is not put off, families may try to hide, play down or make light of the person’s disability. Another motive for forcing young people or adults with support needs is to make certain they will have someone to care for them after their parents have died.

Some young people and adults with support needs may be unable to consent to consummate the marriage – sexual intercourse without consent is rape. There are various offences under the Sexual Offences Act 2003 that can be committed relating to a person with a mental disorder.

Young people and adults with support needs are particularly vulnerable to forced marriage because they are often reliant on their families for care, they may have communication difficulties and they may have fewer opportunities to tell anyone outside the family about what is happening to them.

Safeguards for young people and adults with support needs from forced marriage are essentially the same as those without support needs, however agencies do have a role to play in ensuring they are safeguarded.

**Chief Executives, directors and senior managers should ensure that** young people and adults with support needs receive whatever additional assistance and support they require.

Good practice in relation to this assistance and support includes:

- Listening to young people and adults with support needs and making sure they know how to raise concerns – always consider whether a communication specialist is needed if a young person is deaf, visually impaired or has a communication impairment.
- Ensuring young people and adults with support needs have access to others outside the family to whom they can turn for help.
- Providing training and raising awareness about forced marriage amongst staff who care for young people and adults with support needs

# Chapter 5 - Specific issues to be considered by agencies working with, or providing services to, children and young people facing forced marriage

## Existing multi-agency guidance concerning children and young people

There exists multi-agency statutory and non-statutory guidance on the subject of safeguarding children. This includes:

- Working Together to Safeguard Children (HM Government 2013).
- Safeguarding Children Working Together under the Children Act 2004 (WAG).
- What To Do If You're Worried A Child Is Being Abused (HM Government 2006)
- Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act (HM Government 2004).
- Safeguarding Disabled Children: A Resource for Local Safeguarding Children Boards (Council for Disabled Children 2006).
- Children Act 1989 Guidance and regulations volume 1 Court Orders (2008).

Existing guidance sets out the roles and responsibilities of all agencies involved in safeguarding children and the procedures that should be adhered to by all agencies. Existing guidance includes information about identifying children and young people at risk of harm, discussing concerns, making referrals, undertaking initial assessments and the next steps.

The guidance in this chapter does not attempt to replicate already existing guidance but seeks to address some of the particular issues concerning children and young people threatened with, or already in, a forced marriage.

## The danger of involving the family and the community

In cases of forced marriage, involving the family and the community may increase the risk of significant harm to the child or young person. The family may deny that the child or young person is being forced to marry and they may expedite any travel arrangements and bring forward the marriage.

Any discussion and agreement-seeking between the family and the Local Authority children's social care should only be done where it will not place a child at increased risk of significant harm. **In cases of forced marriage, discussion with the family or any type of family involvement will often place the child or young person at greater risk of harm.**

In care proceedings, local authorities are required to demonstrate to the court that they have considered family members and friends as potential carers at each stage of their decision-making. However, in cases of forced marriage, professionals should exercise extreme caution around how they evidence this, and consider carefully whether, for example, family group conferences are appropriate in these cases. Ideally, family group conferences should not be used in cases where a young person is at risk of forced marriage because of the physical danger and potential emotional manipulation they may experience during this type of session with their parents and other members of their family or community.

There must not be any burden on the child or young person to agree to a family conference.

**Chief Executives, directors and senior managers should ensure that staff have appropriate training in order to:**

- Understand the danger of involving the family and the community in cases of forced marriage.
- Recognise that they should not approach or involve families if forced marriage is suspected.
- Understand that family group conferences are not normally appropriate in cases of forced marriage because it will often place the child or young person at greater risk of harm.

### **The assessment framework**

The Framework for the Assessment of Children in Need and their Families provides a systematic way of analysing, understanding and recording what is happening to children and young people within their families and the wider context of the community in which they live. This framework assists professionals to decide what support a child and family may need.

The assessment has three main parts:

- i. Child's developmental needs.
- ii. Parenting capacity.
- iii. Family and environmental factors.

The Assessment Framework may not highlight any problems concerning children and young people facing forced marriage. They often come from very loving families where the parents capacity to provide safety, emotional warmth and stability is excellent. The children are often high achievers at school, their health is good, they are well integrated into the local community and have good relations with the wider family – they may not necessarily exhibit the warning signs.

Therefore, professionals working with children and young people facing forced marriage require additional training in assessing families to identify those where forced marriage may be an issue. In all cases, forced marriage must be responded to as a child protection, and safeguarding issue.

**Chief Executives, directors and senior managers should ensure that:**

- Staff have appropriate training in order to enable them to effectively assess children and young people facing forced marriage using the Assessment Framework.

### **Safeguarding children and young people from harm by sharing information or to prevent a crime being committed**

Although forced marriage is now a specific criminal offence, there are still a number of other offences that may nevertheless be committed. Perpetrators – usually parents or family members – may also be prosecuted for offences including fear or provocation of violence, common assault, actual bodily harm, grievous bodily harm, harassment, common assault, kidnap, abduction, theft (of passport), threats to kill, false imprisonment and murder. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

Where it may arise that a local authority children's social care has a case referred to it that constitutes, or may constitute, a criminal offence against a child; social workers or their managers should always discuss the case with the police at the earliest opportunity.



Where other agencies encounter concerns about a child's welfare that constitutes, or may constitute, a criminal offence against a child they must consider sharing that information with Local Authority children's social care or the police in order to protect the child or other children from the risk of significant harm. If a decision is reached not to share information, the reasons must be recorded.

**Chief Executives, directors and senior managers should ensure that:**

- Forced marriage is automatically handled as a child protection issue.
- Staff have appropriate training in order to understand the importance of sharing information with other agencies at the earliest opportunity to safeguard children and young people from significant harm or to prevent a crime being committed.
- Staff share information promptly when a child or young person is at risk of forced marriage.
- Staff provide information to the Forced Marriage Unit.
- Staff understand the difference between breaking confidence (involving the child or young person's family without consent) and sharing information with consent with other appropriate professionals to prevent the child or young person being at risk of significant harm.

**Immediate protection**

Ideally, professionals should discuss cases of forced marriage with, and seek advice from, a designated professional or another statutory agency; however, there may be occasions when immediate emergency action is necessary to protect a child or young person from being forced to marry or abducted e.g. police protection or emergency protection orders. In this case, a strategy discussion should take place as soon as possible after the immediate protection to plan next steps.

**Chief Executives, directors and senior managers should ensure that staff have appropriate training in order to:**

- Recognise the importance and relevance of immediate protection.
- Recognise the risk to other siblings in the household who might also be threatened with, or already in, a forced marriage.
- Understand that under no circumstances is it sufficient to protect a child or young person by removing the alleged perpetrator from the household (as in the significant majority of cases the extended family and wider community are also involved).
- Recognise that placing the child or young person with a family member or member of the same community may place them at risk of significant harm from other family members or individuals acting on the family's behalf.

# Chapter 6 - Specific issues to be considered by agencies working with, or providing services to, adults with support needs

## The danger of involving the family and the community

Involving families in cases of forced marriage may increase the risk of serious harm to an individual. The family may deny that the individual is being forced to marry and they may expedite any travel arrangements and bring forward the wedding.

**Chief Executives, directors and senior managers should ensure that staff receive the appropriate training in order to:**

- Understand the danger of involving the family and the community in cases of forced marriage.
- Recognise that discussion with the family or any type of family involvement will often place the adult with support needs at greater risk of harm.

## Safeguarding adults and those with support needs by sharing information when a crime may have been, or may be, committed

In addition to specific forced marriage offences there are also a number other offences that may be committed when forcing someone to marry. Perpetrators – usually parents or family members – may also be prosecuted for offences including fear or provocation of violence, common assault, actual bodily harm, grievous bodily harm, harassment, common assault, kidnap, abduction, theft (of passport), threats to kill, false imprisonment and murder. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

**Chief Executives, directors and senior managers should ensure that staff receive the appropriate training in order to:**

- Recognise the importance of sharing information with other agencies at the earliest opportunity.
- Understand the difference between breaking confidence (involving a adult with support needs family without consent) and sharing information with other professionals to prevent an adult with support needs being at risk of significant harm.

The Forced Marriage Unit (FMU) is always happy to talk to frontline professional handling cases of forced marriage at any stage in a case. The FMU offers further information and advice on the wide range of tools available to tackle forced marriage, including legal remedies, overseas assistance and how to approach victims. FMU staff can also speak at conferences or run training workshops to teams of frontline professionals , and provide free leaflets and posters.

**Call: 020 7008 0151** (Mon-Fri: 09.00-17.00) **Email:** [fmufco.gov.uk](mailto:fmufco.gov.uk)

**Web:** [www.gov.uk/forced-marriage](http://www.gov.uk/forced-marriage)

**Address:** Forced Marriage Unit,  
Foreign & Commonwealth Office,  
King Charles Street, London, SW1A 2AH

For all out of hours emergencies, please telephone 020 7008 1500 and ask to speak to the Global Response Centre.



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