



## **FORCED MARRIAGE**

### **Revised June 2011**

These procedures are based on 'Multi-Agency Practice Guidelines: **Handling Cases Of Forced Marriage**', Foreign & Commonwealth Office 2009 and 'Forced Marriage and Learning Disabilities: **Multi-Agency Practice Guidelines**', Foreign & Commonwealth Office 2010 and are focused on aspects of safeguarding children.

**A 'forced' marriage** (as distinct from a consensual 'arranged' marriage) is a marriage in which one or both spouses do not and/or cannot consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure. Duress cannot be justified on religious or cultural grounds.

Honour Based Violence (HBV) may be a feature of forced marriage and the BSCB are producing further guidance which will also be available on the website.

### **1. POSSIBLE CONSEQUENCES OF FORCED MARRIAGE**

1.1 Taking of dowry, forced repatriation, female genital mutilation, acid attacks, blood feuds, honour killings, abduction and homicide.

1.2 Many of these acts fall within the definition of domestic abuse.

1.3 Forced marriages of children may involve non-consensual and/or underage sex, emotional and possibly physical abuse and should be regarded as a child protection issue and referred to children's social care.

1.4 National guidance states that 85% of those seeking help concerning forced marriage are women and so this issue is primarily, but not exclusively, an issue of violence against girls and young women.

1.5 Whilst the majority of cases encountered in the UK involve South Asian families, partly reflecting the composition of the UK population, there have been cases involving families from East Asia, the Middle East, Europe, Norway and Africa. Some forced marriages take place in the UK with no overseas element, whilst others involve a partner coming from overseas or a British citizen being sent abroad.

### **2. FORCED MARRIAGE AND CHILDREN WITH LEARNING DISABILITIES**

2.1 Research also indicates that the forced marriage of children and adults with learning disabilities is likely to be vastly underreported and can differ from the way in which forced marriage presents generally.

<b>Person without a learning disability</b>	<b>Person with a learning disability</b>
Duress always a factor	Duress may manifest itself differently, the person may even appear happy about the forthcoming marriage as they may not appreciate the consequences.

<b>Person without a learning disability</b>	<b>Person with a learning disability</b>
Victim often reports themselves that they may be or have been forced into marriage.	May report themselves or may need support to report. May be reliant on others to recognise what is happening and report or take action. By far the majority of cases come to the attention of statutory agencies through a third party.
More females than males reported to be forced into marriage. Most support services for forced marriage focused on meeting needs of females.	In the case studies identified through this research, proportions of males and females with learning disabilities being forced into marriage are similar. Services need to address needs of males and females.
Capacity to give or withhold informed consent to marriage.	May lack capacity to give consent to marriage. May not understand they are being forced into marriage. May be more easily coerced into marriage.
May be able to obtain support themselves if leave family or community (to find work, apply for benefits, housing, medical needs and so on), though they are often supported in accessing accommodation and other support services, particularly in the short term.	Often need ongoing support from a range of professionals in order that daily living needs are met (may include personal care, helping to eat, shopping, finances, social and leisure activities, work and so on). May need specific and specialist support if placed in a refuge. Males may find it difficult to obtain place of safety given limited availability of refuges to meet needs of males with or without a learning disability.

2.2 There are additional factors which may make someone with a learning disability more vulnerable. Some key motives for forcing people with learning disabilities to marry include:

- Obtaining a carer for the person with a learning disability.
- Obtaining physical assistance for ageing parents.
- Obtaining financial security for the person with a learning disability.
- Believing the marriage will somehow “cure” the disability.
- A belief that marriage is a “rite of passage” for all young people.
- Mistrust of the “system”, mistrust of external (e.g. social care/health) carers.
- A fear that younger siblings may be seen as undesirable if older sons or daughters are not already married.
- The marriage being seen as the only option or the right option (or both) – no alternative.

### 3. LEGAL ASPECTS

3.1 Although there is no specific criminal offence in England and Wales of ‘forcing someone to marry’, criminal offences may nevertheless be committed. Perpetrators – usually parents or family members – could be prosecuted for offences including threatening behaviour, assault, kidnap, abduction, theft (of passport), threats to kill, imprisonment and murder. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not. A woman who is forced into marriage is likely to be raped and may be raped until she becomes pregnant (WTSC 2010).

3.2 The forced marriages of children (and vulnerable adults) may involve one or more criminal offences e.g. common assault, cruelty to persons under 16, child abduction, rape, kidnapping, false imprisonment and even murder.

3.3 The Forced Marriage Act (2007) was brought in to protect those forced into marriage, whether children, teenagers or adults - and irrespective of background, gender, race or religion. The Act gives the courts a wide discretion to deal flexibly and sensitively with the circumstances of each individual case, employing civil remedies that will offer protection to victims without criminalising members of their family.

3.4 Under the Act, the court can order those forcing another into marriage to stop; or impose requirements upon them. If a person fails to comply with the court order they could be sent to prison for contempt of court.

3.5 Not all victims will be able to apply personally to the courts for protection. Some might not want to take court action against members of their own family. Where this happens the intention is that other people or organisations can step in on their behalf.

3.6 The Act gives victims the power to get Forced Marriage Protection Orders from the courts in whatever circumstances they find themselves.

3.7 The Forced Marriage Act sends out a strong message that this practice is totally unacceptable.

3.8 The Act supports the work of the joint Home Office and Foreign Office's Forced Marriage Unit and the many voluntary and charitable organisations that provide support.

3.9 The Mental Capacity Act 2005 aims to empower people to make decisions about their own lives where possible and protects those who lack capacity. 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. [www.legislation.gov.uk/ukpga/2005/9](http://www.legislation.gov.uk/ukpga/2005/9)

## **4. RECOGNITION**

4.1 Victims of existing or prospective forced marriages may be fearful of discussing their worries with friends and teachers; however they may come to the attention of professionals, those working in community groups or in a voluntary capacity due to various behaviours or circumstances consistent with distress. These may include factors relating to:

### **Education**

- Absence and persistent absence
- Request for extended absence and failure to return from visits to country of origin
- Fear about forthcoming school holidays
- Surveillance by siblings or cousins at school
- Decline in behaviour, engagement, performance or punctuality
- Being withdrawn from school by those with parental responsibility
- Removal from a day centre of a person with a physical or learning disability
- Not allowed to attend extra curricular activities
- Sudden announcement of engagement to a stranger
- Prevented from going on to further/higher education

### **Health**

- Accompanied to doctor's or clinics
- Self harm
- Attempted suicide
- Eating disorders

- Depression
- Isolation
- Substance misuse
- Early/unwanted pregnancy
- Female genital mutilation

## **Police**

- Victim or other siblings within the family reported missing
- Reports of domestic abuse, harassment or breaches of the peace at the family home
- Female genital mutilation
- The victim reported for offences e.g. shoplifting or substance misuse
- Threats to kill and attempts to kill or harm
- Reports of other offences such as rape or kidnap
- Acid attacks

## **Family History**

- Siblings forced to marry
- Early marriage of siblings
- Self harm or suicide of siblings
- Death of a parent
- Family disputes
- Running away from home
- Unreasonable restrictions e.g. kept at home by parents (“house arrest”) & financial restrictions

## **5. RESPONSE**

### **5.1 The “One Chance” Rule**

You may only have one chance to speak to a potential victim and thus may only have one chance to save a life. This means that all practitioners working within statutory agencies, community workers and volunteers need to be aware of their responsibilities and obligations when they identify potential forced marriage cases. If the victim is allowed to walk out of the door without support being offered, that one chance might be wasted. Everyone working with victims of forced marriage and honour-based violence need to be aware of the “one chance” rule.

### **5.2 First Steps in all cases**

- See them immediately in a secure and private place where the conversation cannot be overheard.
- See them on their own – even if they attend with others
- Recognise and respect their wishes
- Contact, as soon as possible, the Forced Marriage Unit based at the Foreign and Commonwealth Office [fmu@fco.gov.uk](mailto:fmu@fco.gov.uk), [www.fco.gov.uk/forcedmarriage](http://www.fco.gov.uk/forcedmarriage), 020 7008 0151, or 020 7008 1500 if out of hours. They produce useful information leaflets and posters which are available to order from the publications link on their website.
- If the young person is under 18 years of age, refer them to the designated person with responsibility for safeguarding children and activate local safeguarding procedures
- Reassure them about confidentiality i.e. practitioners will not inform their family

- Establish a way of contacting them discreetly in the future
- Consider the need for immediate protection and placement away from the family.

### 5.3 DO NOT:

- Send them away
- Approach members of their family or the community unless they expressly ask you to do so
- Share information with anyone without their express consent Breach confidentiality unless it is with the information sharing protocol
- Attempt to be a mediator

### 5.4 Additional Steps

- If necessary, record any injuries and arrange a medical examination
- Give them personal safety advice
- Develop a safety plan in case they are seen i.e. prepare another reason why you are meeting
- Establish if there is a family history of forced marriage, e.g. siblings forced to marry.
- Other indicators may include domestic violence, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or “house arrest”) or missing persons within the family
- Advise them not to travel overseas. Discuss the difficulties they may face Identify any potential criminal offences and refer to the police if appropriate
- Give them advice on what service or support they should expect and from whom
- Ensure that they have the contact details for the trained specialist
- Maintain a full record of the decisions made and the reason for those decisions
- Information from case files and database files should be kept strictly confidential and preferably be restricted to named members of staff only
- Refer them, with their consent, to appropriate local and national support groups, counselling services and women’s groups that have a history of working with survivors of domestic abuse and forced marriage.
- Anyone threatened with forced marriage or forced to marry against their will can apply for a Forced Marriage Protection Order. Third parties, such as relatives, friends, voluntary workers and police officers, can also apply for a protection order with the leave of the court. Fifteen county courts deal with applications and make orders to prevent forced marriages. Local authorities can now seek a protection order for vulnerable adults and children without leave of the court. Guidance published by the Ministry of Justice explains how local authorities can apply for protection orders and provides information for other agencies. [www.justice.gov.uk/guidance/forced-marriage.htm](http://www.justice.gov.uk/guidance/forced-marriage.htm)

- Where a case of forced marriage has resulted in the serious harm of a child or young person, practitioners should also consider undertaking a Serious Case Review.

## 5.5 Remember

- Circumstances may be more complex if the young person is lesbian, gay, bisexual or transgender.
- British Embassies and High Commissions can only help British nationals or, in certain circumstances EU or Commonwealth nationals. This means that if a non-British national leaves the UK to be forced into marriage overseas, the British Embassy or High Commission will not be able to assist them.
- If in doubt, ask the Forced Marriage Unit for advice.

## 6. NATIONAL GUIDANCE & ADVICE

### 6.1 Professionals working in this field should be familiar with:

- Multi-Agency Practice Guidelines: **Handling Cases Of Forced Marriage** Foreign & Commonwealth Office 2009

<http://www.fco.gov.uk/resources/en/pdf/3849543/forced-marriage-guidelines09.pdf>

- Forced Marriage And Learning Disabilities: **Multi-Agency Practice Guidelines** Foreign & Commonwealth Office 2010

<http://www.fco.gov.uk/resources/en/pdf/travel-living-abroad/when-things-go-wrong/fm-disability-guidelines>

- The Forced Marriage Unit (FMU) is Government's central unit dealing with forced marriage casework, policy and projects. The FMU provides confidential information and assistance to potential victims and concerned professionals

<http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/forced-marriage/>

### 6.2 FMU staff can offer advice and assistance to individuals who:

- Fear they will be forced into a marriage (in UK or overseas)
- Fear for a friend or relative who may be forced into a marriage (in the UK or overseas)
- Have been forced into a marriage and do not want to support their spouse's visa application