

Forced Marriage: an overview of the new guidance.

Women and men, adults and children may all find themselves victims of a forced marriage. Since 16 June 2014 forcing someone to marry has become a criminal offence in England and Wales under the Anti-social Behaviour, Crime and Policing Act 2014. Alongside the Act, new practice guidance and procedures have been issued which apply to all professionals who may come into contact with a child or a vulnerable adult. There are specific actions and responsibilities detailed within the guidance which all practitioners should read and follow. In this paper we look at the overview of forced marriage and a subsequent paper will highlight the key aspects of the guidance.

Key principles:

- Forced marriage is a form of violence against women and men; it is domestic abuse, a serious abuse of human rights, and where a minor is involved, child abuse.
- The motives that drive parents to force their children to marry should not be accepted as justification for denying them the right to choose a marriage partner and enter freely into marriage.
- All professionals working within statutory agencies need to be aware of their responsibilities and obligations when working with suspected or actual victims of forced marriage and honour-based violence. They may only have one chance to speak to a victim and possibly only one chance to save a life. If the victim is allowed to leave without the right support and advice being offered, that one chance might be wasted.
- A multi agency approach is critical.

The legal position:

The Anti-social Behaviour, Crime and Policing Act 2014 makes it a criminal offence to force someone to marry. This includes:

- Taking someone overseas to force them to marry (whether or not the forced marriage takes place)
- Marrying someone who lacks the mental capacity to consent to the marriage (whether they are pressured to or not).

A person commits an offence in England and Wales if he or she uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage without their free and full consent.



An individual can also seek a Forced Marriage Protection Order, a non-molestation order, an occupation order and an Injunction against harassment.

Forced Marriage Protection Orders:

These can only be applied for by an individual child or an adult who requests protection; a relevant third party, currently only the local authority; or any other person with the permission of the court. The order can be to protect an individual from undergoing a forced marriage or, if the marriage has already taken place; to protect them within the marriage. Once made, a breach of an order constitutes an offence.

In addition to the specific offences of forced marriage a number of other offences may be committed, for instance parents or family members may also be prosecuted for offences such as 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.

Any of these prohibited acts carried out outside the UK also constitute offences under domestic law if they involve UK nationals or residents, but once a child or young person has left the country, the legal options are limited. As well as a FMPO a number of other civil and family orders 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 issued in the High Court.

A marriage is not automatically invalid because it was a forced marriage; some 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. A spouse who is the victim of a forced marriage can initiate nullity (within three years of the date of the marriage) or divorce proceedings to end the marriage; however a religious divorce does not end the marriage under UK law.

Consent and capacity to consent:

The issue of forced marriage hinges on consent freely given and understood. A marriage is forced when one or both spouses do not consent to the marriage, but are coerced into it under duress, which may include physical, psychological, financial, sexual and emotional pressure. In the case of vulnerable adults who lack the capacity to consent to marriage, the decision to marry cannot be made on their behalf and it is not necessary to prove coercion for a marriage to be defined as forced.



If a spouse has not been informed that their partner has learning disabilities, or is unaware that they are being married into the role of carer it is also questionable whether they have given informed consent to the marriage. A person with learning disabilities who is forced into marriage is also at risk of abandonment by their spouse either because they were unaware of all of the circumstances of the marriage and/or they simply used the marriage to improve their immigration status.

The motivation to coerce:

Forced marriage occurs for many reasons: sometimes it is an attempt to control sexual behaviour, particularly the behaviour and sexuality of women; but also to control 'westernised behaviours' such as alcohol and drug use or wearing makeup. At other times it is justified to protect the family honour, to strengthen family links, for financial gain or to keep property and wealth within the family. Some marriages are forced in order to provide ongoing care for a child or adult with special needs, or to justify claims for UK residency. Cultural practice and religious beliefs are strong drivers although no religion condones or advocates marriage without consent.

Some factors may increase the risk of someone being forced into marriage, including bereavement within the family, especially of the father, becoming a single parent or the arrival of a step parent. Women and girls may be at an increased risk of forced marriage if they have disclosed sexual abuse or rape and lesbian, gay, bisexual or transgender people are at risk from attempts to 'cure' them or force them to conform to perceived norms.

Consequences for the victims of forced marriage:

The victims of forced marriage face isolation and endure feelings very similar to those experienced by victims of other forms of domestic abuse and child abuse, often leading to depression and self-harm. They rarely disclose these feelings and fears, but their distress may be visible and provide early clues.

Women trapped in a forced marriage may suffer violence, rape, forced pregnancy and forced childbearing. Many girls and young women are withdrawn from education early and some are taken and left abroad. Most are economically dependent and some are unable to leave the house unescorted, living virtually under house arrest. Children born into this marital situation can be equally affected by witnessing violence or emotional abuse.

Running away or attempting to leave is extremely hard, especially for those from black, minority ethnic and refugee communities and those who have little experience of life outside their family and their community. The consequences of leaving can be social ostracism and harassment from the family and community, or living in fear of discovery and retribution. Those who do not have leave to remain in



the UK are threatened by their relatives with deportation and have no access to public funds, although there is now a scheme known as Destitution Domestic Violence Concession to strengthen the way in which domestic violence cases are considered.

<https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>

Potential warning signs or indicators:

Adult and child victims of forced marriage may present in ways or situations that provide clues and raise concerns. The family history may reveal other siblings who were forced to leave school and marry, or siblings who ran away, self harmed or committed suicide. There may be evidence of unreasonable restrictions or family disputes. A family member with a physical or learning disability may have been removed from a day centre.

The school environment, where children are usually seen daily, is probably where most early indicators of potential harm will emerge, these include:

- A decline in behaviour, engagement, performance or punctuality.
- Intermittent or persistent absence.
- Request for extended leave of absence or a failure to return from visits to country of origin.
- Fear about forthcoming school holidays
- Surveillance by siblings or cousins at school.
- Withdrawn from school or prevented from going on to further education
- Not allowed to take part in extracurricular activities
- Sudden announcement of engagement to a stranger

Health professionals should question whether indicators such as self harm or attempted suicide, eating disorders, depression, isolation and substance misuse are connected in any way with forced marriage. Other evidence such as a patient who is always accompanied, not allowed to be seen alone or an unwanted pregnancy should prompt a proactive approach.

Sometimes women have presented with less common warning signs such as cut or shaved hair as a form of punishment, or symptoms of poisoning, or a girl may report that she has been examined to see if she is a virgin. Some women are forced to undergo female genital mutilation before their marriage.

At work, poor attendance or performance alongside other indicators such as not being allowed to follow certain career choices or to attend business trips are all potential alerts. Control of income and being accompanied to or met outside work are further causes for concern.



Contact with police:

The police come into contact with the public in many different ways and need to be alert to reports of domestic abuse, harassment or breaches of the peace at the family home, children who are reported missing or reported for offences such as shoplifting or substance misuse, threats or attempts to kill, or acid attacks, evidence of female genital mutilation or reports of other offences such as rape or kidnap

Forced to travel overseas:

For a victim of forced marriage this may be their first experience of travelling overseas and they may find themselves in a remote area, isolated, subjected to violence or threats, unable to speak the language or to communicate in any way. Passports, phones and money may have been confiscated and leaving the house alone may be impossible. Even if the authorities in the UK are aware of the whereabouts of a British national overseas, it may not be possible to provide help or to repatriate them. Therefore, it is always advisable to warn victims not to travel overseas if possible and to prepare for this eventuality if unavoidable. (See detailed guidance for how).

Dual Nationality:

Individuals who have dual nationality often have two passports; both should be surrendered to prevent an individual from being taken abroad. Forced marriage is one of those circumstances where the Foreign and Commonwealth Office will consider offering assistance to dual nationals in the country of their other nationality.

For advice and assistance contact:

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

Call: 020 7008 0151 (**Mon-Fri: 09.00-17.00**)

Email: fmu@fco.gov.uk

Web: www.fco.gov.uk/forced-marriage

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



Refs:

Multi Agency Practice Guidelines

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/320372/Multi-agency_practice_guidelines.pdf

<https://www.gov.uk/forced-marriage>

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

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/320371/Multi-agency_statutory_guidance_for_dealing_with_forced_marriage.pdf

