



HM Government

# Multi-agency practice guidelines: Handling cases of Forced Marriage

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# 1. THE PURPOSE OF THIS DOCUMENT

## 1.1 Aims

These practice guidelines have been developed alongside the statutory guidance “The Right to Choose” issued in November 2008 under s.63 Q(1) Forced Marriage (Civil Protection) Act 2007. The statutory guidance sets out the responsibilities of Chief Executives, Directors and Senior Managers within agencies involved with handling cases of forced marriage. It covers issues such as staff training, developing inter-agency policies and procedures, raising awareness and developing prevention programmes through outreach work.

This document seeks to supplement the statutory guidance with advice and support to front line practitioners who have responsibilities to safeguard children and protect adults from the abuses associated with forced marriage. As it is unlikely that any single agency will be able to meet all the needs of someone affected by forced marriage, this document sets out a multi-agency response and encourages agencies to cooperate and work together closely to protect victims.

Forcing someone to marry is a criminal offence. It is child abuse, domestic abuse and a form of violence against women and men; it should form part of existing child and adult protection structures, policies and procedures.

In 2013, the Forced Marriage Unit (FMU) received calls in relation to a possible or actual forced marriage in over 1300 cases; however forced marriage still remains a hidden practice as many more cases remain unreported. The topics covered in this document include:

- A victim-focused approach.
- The dangers of family mediation.
- The importance of information-sharing.
- Venues for interviews.
- Future contact and meetings.
- Personal safety advice and strategies for leaving home.
- Missing persons and young people who run away.
- Confidentiality and security of information.
- Record keeping.

Where a victim may have a learning disability. The following areas also need to be considered:

- Issues surrounding capacity to consent and use of the Mental Capacity Act 2005.
- Reasons why people with a learning disability are forced into marriage.
- Consequences for the person with a learning disability and (actual or potential) spouse.
- Good practice in handling cases.
- Ongoing support required if the person cannot live with their family.

## **1.2 Audience**

These practice guidelines should be used by all front-line professionals and volunteers within agencies that are responsible for:

- safeguarding children and young people from abuse, and
- protecting adults from abuse.

The information contained within this document may also be relevant to a wide range of non-governmental organisations and voluntary organisations that are working directly with people at risk of forced marriage and/or its consequences.

## **1.3 Status**

These practice guidelines provide further advice and support to front-line professionals. The statutory guidance on forced marriage clearly states that all practitioners dealing with cases of forced marriage are strongly recommended to consult this document before implementing their response.

Forced marriage is a criminal offence – 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.

## **1.4 Coverage**

These practice guidelines are designed for application in England and Wales.

For more information about the Scottish Government's work to prevent and tackle forced marriage, visit: [www.scotland.gov.uk/Topics/People/Equality/violence-women/forcedmarriage](http://www.scotland.gov.uk/Topics/People/Equality/violence-women/forcedmarriage). For more information about the Northern Ireland Executive's work on domestic violence, visit [www.northernireland.gov.uk/index.htm](http://www.northernireland.gov.uk/index.htm).



## 2. 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 18th 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 cases of vulnerable adults who lack the capacity to consent to marriage, 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>

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.

## 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**

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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)

**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.**

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

In addition to the specific offences of forced marriage, there are a number of other offences that may be committed in forced marriage cases. 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 offence/s the perpetrator/s should be prosecuted. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

### **Forced Marriage Protection Orders**

Forced Marriage Protection Orders can also be sought under section 4A of the Family Law Act 1996 (“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 Act, the maximum penalty for breach of a forced marriage protection order is five years imprisonment.

### **Extra-Territorial Jurisdiction**

The new legislation also allows for extra-territorial jurisdiction to be taken over both the coercion and deception elements of the new offences. 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.

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<sup>2</sup> Section 4A of the Family Law Act 1996 was inserted by the Forced Marriage (Civil Protection) Act 2007

# 3. UNDERSTANDING THE ISSUES AROUND FORCED MARRIAGE

## 3.1 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 vulnerable adults who lack the capacity to consent to marriage, 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.

### 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 to marriage, 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.

## 3.2 Specific issues facing people with disabilities

Research and evidence from practice tells us that children and adults with learning disabilities are subjected to more abuse and less likely to be protected by safeguarding systems than their peers who do not have learning disabilities.<sup>3</sup> It might also be wrongly assumed that the impact of abuse is somehow physically or emotionally less painful because the victim has a learning disability.

European and international human rights law and the Human Rights Act 1998 apply equally to people with and without disabilities. All too often people with learning disabilities are seen or treated by others in ways that contravene their rights, for example in not being given choices or having their views listened to. The impact of this can be that people with learning disabilities do not have the opportunity to develop fulfilling relationships, do not participate fully in decisions affecting their lives and have their participation in many activities limited.

Children and adults with learning disabilities are subjected to more abuse than their peers who don't have a disability for a range of reasons including:

- Increased likelihood of social isolation.

<sup>3</sup> Sullivan, P. and Knutson, J. (2000) 'Maltreatment and disabilities: a population-based epidemiological study', *Child Abuse & Neglect*, 24 (10), 1257–73.

- Dependency on parents or family members and carers for practical assistance in daily living including intimate and personal care.
- Impaired capacity to resist or avoid abuse or understand that a situation is abusive.
- Speech, language and communication needs.
- Lack of access to a trusted person if wanting to disclose.
- For children and adults living in residential care, an additional dependency on staff for daily care and possibly no access to an independent person who can advocate on their behalf.
- Being more easily coerced or eager to please.
- Human rights not being recognised or respected.

Children and adults with learning disabilities are less likely to be safeguarded from harm than people without learning disabilities. Considering the age range of victims, the transition period between child and adult services for young people with learning disabilities is a time of particular vulnerability. Professionals are sometimes unable to recognise that abuse is taking place for a range of reasons including:

- Over identifying with parent or carer – this can lead to reluctance in accepting abuse is taking place or seeing it as being attributable to the stress of caring for a person with disabilities.
- Lack of knowledge about the impact of the learning disability on the child or adult.
- Lack of knowledge of the child or adult’s usual behaviour.
- Confusing behaviours that indicate a person might be being abused with those associated with disability (e.g. behaviour that challenges).
- Accepting what are perceived to be “cultural norms”.
- Lack of clear guidance in safeguarding policies and procedures.
- Not recognising forced marriage for what it is.
- Physical injuries, e.g. bruising, explained by the person’s disability rather than abuse.
- Reliance on parents to speak for their child or explain behaviour or symptoms.
- Difficulty for professionals to remain confident in their own expertise when challenged by a parent or carer.
- The belief that a child or adult with a learning disability cannot communicate their wishes and feelings, or it is thought too difficult to obtain their views.<sup>4</sup>

A person’s capacity to consent can change. For example, 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. This may include engaging in a sexual relationship, having children and deciding where to live.

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<sup>4</sup>[http://www.nspcc.org.uk/inform/publications/downloads/itdoesnthappentodisabledchildren\\_wdf48044.pdf](http://www.nspcc.org.uk/inform/publications/downloads/itdoesnthappentodisabledchildren_wdf48044.pdf)

### 3.3 Capacity to consent and the Mental Capacity Act 2005

The Mental Capacity Act 2005 applies to all people aged 16 and over. It aims both to empower people to make decisions for themselves whenever possible and to protect those who lack capacity to do this. The Act starts from the basis that, unless proved otherwise, all adults have the capacity to make decisions. Individuals may lack capacity if they are unable to:

- Understand information given to them.
- Retain that information for long enough to be able to make the decision.
- Weigh up the information available to make the decision.
- Communicate their decision to others.

Where someone is found to lack capacity to make a particular decision, others may be permitted to make decisions on behalf of that person, so long as any such decision is made in the best interests of the person who lacks capacity. For example, family and professionals might decide that it is in a person's best interest to live in a certain place, even though the person themselves lacks the capacity to consent to such a decision. However, there are certain decisions which cannot be made on behalf of another person and this includes the decision to marry. There is therefore no legal basis on which someone can agree to marriage, civil partnerships or sexual relations on behalf of someone who lacks the capacity to make these decisions independently. However, families sometimes do believe they have the "right" to make decisions regarding marriage on behalf of their relative.

### 3.4 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.

### 3.5 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. (You are advised to refer to the Mental Capacity Act Code of Practice<sup>5</sup> for more detailed guidance; this section provides an outline only.)

#### **The five statutory principles which underpin the legislation are:**

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because they make an unwise decision.
4. An act carried out or decision made under this Act for or on behalf of a person who lacks capacity must be done, or made, in their best interests.

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<sup>5</sup> <http://www3.imperial.ac.uk/pls/portallive/docs/1/51771696.PDF>

5. Before the act is carried out, or the decision is made, regard must be paid to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

"In English law, the Court and/or any individual (including a parent) is unable to give consent to a marriage on behalf of an adult who lacks the capacity to give his/her own consent" (barrister, family law).<sup>6</sup>

### **3.6 What does "lack capacity" mean?**

The Mental Capacity Act Code of Practice uses the term "a person who lacks capacity" to mean a person who lacks capacity to make a particular decision or take a particular action for themselves at the time the decision or action needs to be taken. This reflects the fact that a person who lacks capacity to make a decision for themselves at a certain time may be able to make that decision at a later date. This may be because their capacity fluctuates or changes as a result of their illness or condition. It also reflects the fact that while some people may always lack capacity to make some types of decisions, for example because they have a condition or severe learning disability that has affected them from birth, others may learn new skills that enable them to gain capacity and make decisions for themselves.

### **3.7 Best interest decisions**

One of the key principles of the Act is that any act carried out for, or any decision made on behalf of, a person who lacks capacity must be carried out, or made, in that person's best interests. Where a person is assessed as not having capacity to make a decision the Act allows for another person (e.g. family member, a professional, a court-appointed deputy etc.) to make a decision in their best interests.

The Act sets out some common principles that must always be considered when trying to work out someone's best interests. These include:

- Working out what is in someone's best interest cannot be based simply on someone's age, appearance, condition or behaviour.
- All relevant circumstances should be considered when working out someone's best interest.
- Every effort should be made to encourage and enable the person who lacks capacity to take part in making the decision.
- The person's past and present wishes and feelings, beliefs and values should be taken into account.
- The views of other people who are close to the person who lacks capacity should be considered, as well as those of an attorney or deputy appointed by the Court of Protection (note that this is very unlikely to be an appropriate course of action in cases of forced marriage, which will often involve significant family or community pressure).

It is important to note that people with learning disabilities who have capacity are also at risk. We must not be simply equating learning disability with lack of capacity for safeguarding purposes. People with learning disabilities who have capacity should still be dealt with using 'learning disability' guidelines, and to not do so leaves them vulnerable.

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<sup>6</sup> [http://www.anncrafttrust.org/Forced\\_Marriage.php](http://www.anncrafttrust.org/Forced_Marriage.php)

### 3.8 Frequency

The UK Government regard 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.

The majority of cases reported to the Forced Marriage Unit to date have involved South Asian countries, however this in part reflective of the largely established South Asian diaspora in the UK. Therefore, 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. A number of forced marriages do take place here in the UK without any form of overseas element, while a large number of others also involve a prospective partner being brought into the UK from overseas or a British national being taken abroad for the purpose of a forced marriage.

In 2013, over 1,300 cases of forced marriage were reported to the Forced Marriage Unit. A number of other cases also come to the attention of the police, children and adult social care services, health, education and voluntary organisations. Sadly, still many more cases remain unreported. However, with the ever-increasing levels of support 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.

### 3.9 Drivers

Perpetrators who force their children or other family members into marriage often try to 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 can never be justified 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 in their countries of origin. 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 during their infancy.

Many young people will then endure their entire childhoods with the expectation that they will be made to marry someone of their parents or other family members choosing. What needs to be communicated to all of those at risk is forcing someone to marry is a criminal offence 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

- 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.
- Forced marriage 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**.

### 3.10 Additional risks

There is evidence to suggest that there may be factors that increase the risk of someone being forced into marriage, including bereavement within the family. Occasionally, when a parent dies, especially the father, the remaining parent or wider family members may feel there is more of an urgency to ensure that the children are married. A similar situation may arise within single parent households or when a step parent moves in with the family. When an older child (particularly a daughter) refuses to marry, younger female siblings are forced to marry in order to protect the family honour or to fulfil the original contract.

Women and girls may also have an increased risk of forced marriage if they have disclosed sexual abuse. Families may feel that this has brought shame on her and by ensuring she is married may be the only restore 'honour' to the family. They may also feel that marriage will put a stop to the abuse.

A person may be at greater risk if they are lesbian, gay, bisexual or transgender (LGBT), as their wider family may feel that by forcing the individual into marriage either their sexuality or gender identity will not be questioned. Parents may also do so out of a mistaken belief that this will "cure" their son or daughter of what they perceive to be abnormal sexual practices.

### 3.11 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.

Young people, particularly girls, 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. Studies have shown that self-harm and suicide are significantly higher among South Asian women than other groups<sup>7</sup> and contributory factors include lack of self-determination, excessive control, weight of expectations of the traditional role of women and anxiety about their marriages.

A learning or physical disability or illness may also add to a young person's, or an adult'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.

### 3.12 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>8</sup>

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<sup>7</sup> See, for example, Self harm in British South Asian Women: psychosocial correlates and strategies for prevention - Husain M, Waheed W, Husain N: *Annals of General Psychiatry* 2006.

<sup>8</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)

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 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 a 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.

### **3.13 Potential warning signs or indicators**

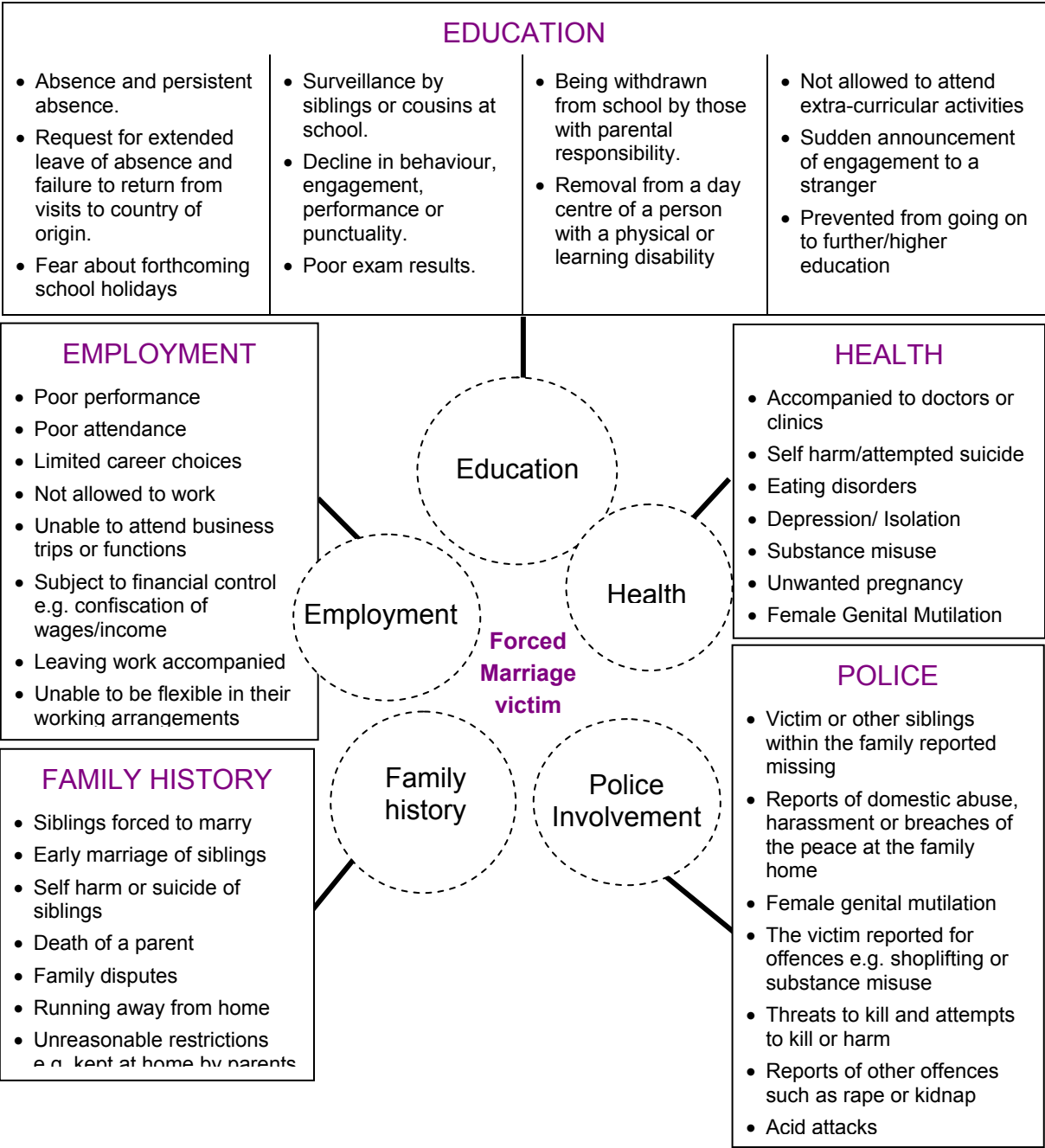
Both men and women facing forced marriage may become anxious, depressed and emotionally withdrawn with low self-esteem. They may come to the attention of practitioners for a variety of reasons, some of which are described in the diagram opposite. Whilst the factors set out in this diagram may be an indication 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 and extra-territorial offences were created in 2003<sup>9</sup> to deter people from taking girls overseas for the purposes of FGM<sup>10</sup>.

### CHART OF POTENTIAL WARNING SIGNS OR INDICATORS

These indicators are not intended to be an exhaustive list.



<sup>9</sup> The Female Genital Mutilation Act 2003 applies in England, Wales and Northern Ireland.

<sup>10</sup> [www.gov.uk/government/publications/female-genital-mutilation-multi-agency-practice-guidelines](http://www.gov.uk/government/publications/female-genital-mutilation-multi-agency-practice-guidelines)

### 3.14 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 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.

#### **Camille's story**

'I was 16 when my dad took me to Afghanistan. He told me it was to visit my grandfather who was sick but when we got there it was all about marriage. I was told straight away that I was to wed my cousin, Samir, in two week's time; he was my uncle's eldest son and 7 years older than me. I felt sick and told my dad that I was too young. I wanted to go home, back to school and my friends but he said that it had been decided years ago, there was no negotiating.'

Camille called her friend to say what was happening and she told her teacher. The teacher called the Forced Marriage Unit. They arranged for an order to be served on her mum in England to ensure her safe return to the UK. Camille lived with her parents with the Order in place. She is now a graphic designer and is living independently.

### 3.15 Dual Nationality

If a person is a British national and also holds the nationality of another country, they are considered a dual national. In some cases, this will mean that in the country of their other nationality the authorities there view them as being solely or primarily nationals of that country and treat them accordingly. Consequently, the authorities in that country will not recognise that the British Embassy or High Commission has any right to assist them and will not permit any assistance to be given. Where the Foreign and Commonwealth Office considers there is a special humanitarian reason to do so, it will consider offering assistance to dual nationals in the country of their other nationality. Forced marriage is one of those circumstances where such an exception may be made.

## KEY PRINCIPLES

- When asking a court to order the surrender of the passports of a person to prevent them from being taken abroad, ensure that this includes all passports if they are a dual national. Any queries concerning dual nationality should be addressed to the FMU.
- The FMU offers advice to anyone in the UK, regardless of nationality. Overseas our Embassies and High Commissions can only offer consular assistance to British nationals plus, in certain circumstances, European Union or Commonwealth nationals whose country does not have a local Embassy or Consulate in the country concerned. However, they cannot offer assistance to European Union or Commonwealth nationals in the country of their own nationality. Neither can they offer consular assistance to those who have been resident in or who have close ties with the UK.

### 3.16 One Chance Rule

All professionals working with suspected or actual victims of forced marriage and honour-based violence need to be aware of the “one chance” rule. That is, they may only have one opportunity to speak to a victims or potential victim and may possibly only have one chance to save a life. As a result, all professionals working within statutory agencies need to be aware of their responsibilities and obligations when they are faced with forced marriage cases. If the victim is allowed to leave without the appropriate support and advice being offered, that one chance might be wasted.

### 3.17 Forced Marriage Unit (FMU)

The Forced Marriage Unit is a joint Foreign & Commonwealth Office and Home Office unit. The FMU works with other government departments, statutory agencies and voluntary organisations to develop effective policy for tackling forced marriage. The FMU also has a caseworker who leads on cases involving people with learning disabilities.

The FMU runs an ongoing outreach programme raising awareness amongst frontline practitioners such as police, teachers, doctors, nurses and social workers across the UK. It also works in partnership with community organisations and voluntary organisations to tackle forced marriage. The FMU also provides an annual Domestic Programme Fund to support small projects to tackle forced marriage.

The FMU runs a public helpline that provides confidential advice and support to victims, and to practitioners handling cases of forced marriage. Caseworkers in the FMU have experience of the cultural, social and emotional issues surrounding forced marriage.

### 3.18 UK Cases

- The FMU offers information and support to those who fear they will be forced into marriage and can discuss their options with them.

### 3.19 Overseas Cases

- The FMU can assist British nationals facing forced marriage abroad by helping them to a place of safety and helping them to return to the UK.

- The FMU can assist non-British nationals facing forced marriage abroad but only by referring them to local organisations that can help.

### **3.20 Immigration Cases**

- The FMU can help those who have already been forced into marriage to explore their options, including assisting those who are being forced to sponsor a spouse's visa for settlement in the UK.

The FMU is always happy to talk to frontline professionals handling cases of forced marriage at any stage in a case. It can offer 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 practitioners, and provide free leaflets and posters.

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

**Email:** [fmfco.gov.uk](mailto:fmfco.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.

## 4. GENERAL ACTION TO BE TAKEN IN ALL CASES

Forced Marriage cases can involve a variety of complex and sensitive issues that should be handled by a child protection or adult protection specialist, that where possible, should also have additional expertise in forced marriage. Statutory guidance on forced marriage states that all organisations should have “a nominated lead person with overall responsibility for safeguarding children, protecting vulnerable adults or victims of domestic abuse – the same person should also be the lead on forced marriage”.<sup>11</sup> Where possible, front line staff should contact this specialist immediately. However, there may be occasions when they will need to gather some information from the person to establish the facts themselves and assist the referral.

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.
- Explain all the options to them.
- Recognise and respect their wishes.
- Perform a risk assessment – there are already a number of risk assessment tools available, including CAADA/DASH, however it will be best to use a tool as guided by your specific agency.
- Contact a trained specialist (forced marriage specialist) as soon as possible.
- If the young person is under 18 years of age, refer them to the designated person responsible for safeguarding children and activate local safeguarding procedures.
- If the person is an adult with support needs, refer them to the designated person responsible for safeguarding vulnerable adults and activate local safeguarding procedures.
- If an adult discloses to an NHS professional that they are in a FM situation, and states that they don't want any further action taken about it, their rights as a patient would need to be respected and patient confidentiality maintained, no reports or referrals made etc. This is the case for rape and domestic abuse too.
- Reassure the victim about confidentiality where appropriate i.e. practitioners will not inform their family.
- Establish and agree an effective method of contacting the victim discreetly in the future, possibly using a codeword to confirm identity.
- Obtain full contact details that can be forwarded to a trained specialist.
- Where appropriate, consider the need for immediate protection and placement away from the family.

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<sup>11</sup> In schools, this would be the designated person for child protection.



## KEY PRINCIPLES

- When referring a case to other agencies, ensure that they are capable of handling the case appropriately. If in doubt, approach other established organisations that work with survivors of domestic abuse and forced marriage and request further advice and support to take it forward.
- Circumstances may be more complex if the person is lesbian, gay, bisexual or transgender, so refer to the appropriate organisations.
- British Embassies and High Commissions can only provide consular assistance to British nationals, dual 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 provide any form of Consular assistance.
- If you are still in doubt, feel free to ask the Forced Marriage Unit for further advice.

## BEST PRACTICE

- **Inform them of their right to seek legal advice and representation.**
- **If necessary, record any injuries and arrange a medical examination.**
- **Provide personal safety advice.**
- **Develop and agree 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. have siblings been forced to marry in the past. Other indicators may also include domestic violence, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or “house arrest”) or missing persons within the family.**
- **Advise the victim not to travel overseas and/or discuss the difficulties they may face.**
- **Identify any other potential criminal offences that may have been committed and refer to the police if appropriate.**
- **Provide advice on the further service or support they should expect and from whom.**
- **Ensure that the victim has the contact details for an identified specialist.**
- **Maintain a full record of the decisions made and the reason for those decisions.**
- **Information from case files and database files MUST be kept securely<sup>12</sup> and preferably be restricted to named members of staff only.**
- **Refer the victim, with their consent if over 18, to other recognised local and national support groups with a history of working with victims of domestic abuse and forced marriage.**

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<sup>12</sup> [http://ico.org.uk/for\\_organisations/data\\_protection](http://ico.org.uk/for_organisations/data_protection)

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## **NEVER**

- **Send them away.**
  - **Approach members of their family or the community – unless it involves a learning disability victim and you need to work alongside the family in assessing capacity.**
  - **Share information with anyone without the victim’s express consent.**
  - **Breach confidentiality – unless there is an imminent risk of serious harm or threat to life of the victim.**
  - **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**
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# 5. INFORMATION REQUIRED FOR ALL CASES

Ideally, all information should be gathered by a police or social services trained specialist. However, there may be occasions when a person is going overseas imminently and as it is an emergency, an education or health professional may need to gather as much information as possible from the victim. In these cases, the information should be passed on to police, social care services and the Forced Marriage Unit. All information should be stored in accordance with safeguarding children and adult protection policies and procedures.

All practitioners working with victims of forced marriage and honour-based violence need to be aware of the “one chance” rule. That is, they may only have one chance to speak to a potential victim and thus they 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 could be lost.

The case may be reported by a third party or the person under threat - whoever reports the case, you should:

- Obtain details of the person making the report, their contact details, and their relationship with the individual under threat.
- Obtain details of the person under threat including

<p><b>KEY INFORMATION TO BE CAPTURED</b></p> <ul style="list-style-type: none"><li>• Date of report</li><li>• Name of person under threat</li><li>• Nationality</li><li>• Age</li><li>• Date and place of birth</li><li>• Passport details</li><li>• School details</li><li>• Employment details</li><li>• Full details of the allegation</li><li>• Name and address of parents or those with parental responsibility</li><li>• National Insurance number</li><li>• NHS number</li><li>• Driving licence number</li></ul>
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- Obtain a list from the person under threat of all those friends and family who can be trusted and their contact details.
- Establish a code word to ensure you are speaking to the right person.

- Establish a way of contacting them discreetly in the future that will not put them at risk of harm.
- Obtain any background information including schools attended, involvement by adult or children's social care, doctors or other health services etc.
- Record details about any threats, abuse or other hostile action against the person, whether reported by the victim or a third party.
- Obtain a recent photograph and any other identifying documents. Document any other distinguishing features such as birthmarks and tattoos etc.
- Establish the nature and level of risk to the safety of the person (e.g. is she pregnant? Do they have a secret boyfriend or girlfriend? Are they already secretly married?)
- Establish if there are any other family members at risk of forced marriage or if there is a family history of forced marriage and abuse.

## **IF THE PERSON AT RISK IS GOING OVERSEAS IMMINENTLY**

- A photocopy of their passport must be requested for retention. Where possible, encourage the individual to keep details of their passport number, including the place and date of issue.
- Gather as much information as possible about the family – ensure this is gathered discreetly and needs to include

- |   |
|---|
| <ul style="list-style-type: none"> <li>- <b>Full name and date of birth of the person under threat</b></li> <li>- <b>Father's and/or Mother's name</b></li> <li>- <b>Address where they may be staying overseas</b></li> <li>- <b>Potential spouse's name (if known)</b></li> <li>- <b>Date of the proposed wedding (if known)</b></li> <li>- <b>Name of the potential spouse's father (if known)</b></li> <li>- <b>Addresses of the extended family in the UK and overseas.</b></li> </ul> |
|---|

- Information that only they would be aware of (if the victim is a British national, this may assist any subsequent interview at an Embassy/British High Commission in case another person of the same age and gender is produced pretending to be them).
- Details of any travel plans and people likely to accompany them.
- Names and addresses of any close relatives remaining in the UK.
- Safe means by which to contact them e.g. a mobile phone.
- Details of the third party in order to maintain contact in case the person contacts them whilst overseas or on her return.
- Estimated return date. Ask that they contact you without fail on their return.
- Written statement by the person explaining that they want the police, adult or children's social care, a teacher or a third party to act on their behalf if they do not return by a certain date.

## KEY PRINCIPLES

- If the family are approached, they may deny that the person is being forced to marry; they may move the individual concerned to another location, or expedite any travel arrangements and ultimately bring the marriage forward.
- Report details of the case, with full family history, to the FMU. Encourage the person to get in touch with the Forced Marriage Unit. The FMU Unit provides advice and support to anyone who fears they may be forced to marry.
- The FMU takes its responsibility to keep information secure very serious and will only disclose information if a Data Protection Act exemption applies. For example to the police and social services where a child or young person is suffering or at risk of suffering significant harm. Information will not be provided to friends, family or other third parties without consent, irrespective of how concerned they say they are.
- The person may be a dual national and have two passports or if they are under 18 years, they may be listed on their parents' foreign passport.
- British Embassies and High Commissions can only provide consular assistance to 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.

## WHERE OVERSEAS TRAVEL IS UNAVOIDABLE, THE FOLLOWING PRECAUTIONS ALSO NEED TO BE TAKEN

- Provide contact details of the agency and professional handling their case.
- Encourage the victim or potential victim to memorise a telephone number and e-mail address preferably (if they are a British national) those of the British Embassy or British High Commission. Supply the address and contact number for the nearest British Embassy or High Commission.
- If they are not a British national, advise them to contact the FMU, who can provide details of reliable NGOs overseas and the details of the Embassy of their own nationality.
- Advise they take a mobile phone that will work overseas and which they can keep hidden.
- Encourage them to provide you with details of a trusted friend/advocate in the UK who they will be keeping in touch with whilst overseas, who will act on their behalf, and whom you can approach if they do not return. Establish contact with the friend or advocate before the person under threat departs and request that the friend or advocate makes a written statement of their support.
- Advise them to take emergency cash, in case problems arise in the country of destination, together with contact details of someone there they can trust to help them.
- Ascertain whether they are dual nationals, as they may have two passports. Remind them about the implications of dual nationality.
- Advise them to contact the Forced Marriage Unit.

# 6. HEALTH PROFESSIONALS: GUIDELINES

## 6.1 Background

The National Health Service (NHS) aims to create an “open and safe environment” where forced marriage can be discussed and where people know that they will be listened to, their concerns taken seriously and healthcare help offered. The NHS has a wider social duty to promote equality through its services and to consider carefully those groups or sections of society where improvements in health are most needed to address inequalities.

Helping young women and men who may be threatened by forced marriage should be part of ensuring all services and departments within the health service are addressing inequalities and also that they are young people friendly services. The quality criteria set out in “You’re Welcome”<sup>13</sup> provide advice for services on enabling young people friendly services which includes providing reassurance about confidentiality and practical advice such as offering appointments during school lunchtimes, enabling young people to visit unaccompanied if they wish while already out of their home for other reasons which increase the opportunities they have to discuss or disclose any worries.

All areas within Primary Care services, NHS England, Clinical Commissioning Groups, NHS Trusts, NHS Foundation Trusts, Public Health England, General Practice, specialised commissioning services and community health services can help create an “open” and supportive environment by:

- Displaying relevant information e.g. details of the free phone National Domestic Violence Helpline, NSPCC, Child Line, and other appropriate local and national forced marriage support groups.
- Circulating and displaying copies of the FMU’s leaflets and posters.
- Educating health professionals about the issues surrounding forced marriage.
- Including forced marriage and honour-based violence issues within domestic abuse training for health professionals. The training should also include safety planning, risk assessment and risk management.

Many victims may wrongly assume that health professionals cannot help them. For this reason, it is unlikely that they will disclose to a health professional that they are a victim of forced marriage. However, if a health professional is aware of the issues around forced marriage and the ways in which victims can be supported, they are in an ideal position to provide early and effective intervention. They can offer practical help by providing information about rights and choices. They can also assist them referring them on to the police and social care services if they are under 18, or over 18 with their consent, as well as signposting to local and national support groups.

There will be occasions when victims (especially women) do not mention either forced marriage or domestic violence, but present with signs or symptoms, which, if recognised, may indicate to the health professional that they are within a forced marriage or under threat of one. They may have unexplained injuries, be depressed, anxious, self-harming or be

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<sup>13</sup> [www.gov.uk/government/publications/quality-criteria-for-young-people-friendly-health-services](http://www.gov.uk/government/publications/quality-criteria-for-young-people-friendly-health-services)

involved in substance misuse. Some individuals attend for a completely different reason and mention in passing that there are “family problems”; and with careful questioning may disclose more. In the case of women with learning disabilities they may present in the NHS because they are unable to become pregnant. Questions should then be considered regarding capacity to consent to marriage and/or a sexual relationship.

There are many different ways individuals may come to the attention of health professionals. For example, they may present to:

- Accident and emergency (A&E) departments, rape crisis centres or genito-urinary clinics with injuries consistent with rape or other forms of violence.
- Dental surgeries with facial injuries consistent with domestic abuse.
- Mental health services, counselling services, school nurses, health visitors, or to their GP, with depression as a result of forced marriage. They may display self-harming behaviour such as anorexia, cutting, substance misuse or attempted suicide.
- Family planning clinics or GP for advice on contraception or a termination as many women do not want to have a baby within a forced marriage.
- Midwifery services if a woman becomes pregnant.

An interview with a health professional may be the only opportunity some victims have to tell anyone what is happening to them. To prevent this type of domestic abuse it is imperative that health professionals are prepared to use these limited opportunities to openly discuss the issues around forced marriage. This guidance is intended to assist all health professionals recognise the warning signs of forced marriage; understand the dangers faced and respond to their needs safely and effectively.

Many health professionals have to make difficult decisions when presented with issues around forced marriage – particularly when someone presents “early” before an actual crime has been committed or before they are confident enough to articulate forced marriage as a risk. These dilemmas are recognised and this document aims to address these together with some of the practical ways in which health professionals can support anyone facing forced marriage.

## **6.2 How health professionals can help**

As with all types of domestic abuse, those under threat of forced marriage, or already in a forced marriage, present to health professionals in many different ways. Therefore, health professionals should take a proactive role to establish whether forced marriage is an issue. Health professionals now ask women about domestic abuse routinely when taking patient details – for example by midwives; health visitors and staff carrying out mental health assessments. It may be useful to incorporate forced marriage into the routine questions about domestic abuse when it appears relevant or sensible to do so. Most people will not be offended by such questions if they know the questions are routine.

Questioning could include:

- “How is your relationship?”
- “Are you happy about the baby – is your husband/partner happy?”
- “Are you bonding with your baby?”
- Does your partner or family let you do what you want, when you want?
- “Have you ever been afraid of your partner’s or a family member’s behaviour - are they verbally abusive?”
- “Do you ever feel unsafe at home?”

- “Has your spouse/partner or anyone else at home threatened you?”

Depending on the response a health professional receives, they may go on to ask:

- “Have you ever been hurt by your partner or anyone else at home – perhaps slapped, kicked or punched?”
- “Have you ever been forced to have sex when you didn’t want to?”

These routine questions can be tailored to any department within the health service to reflect the types of issues with which women may present. For example, in a child and adolescent mental health service, or any department where children or young people attend, the questions may focus on the family relationship – such as:

- “How are things at home – do you get on with your parents?”
- “What do you do at weekends?”

Again, depending on the answer, the health professional may go on to ask more in-depth questions - for example around gender roles within the family or questions around the marriage of older siblings and the circumstances of those marriages.

- “Are your parents supportive of your aspirations – what do they hope for you?”
- “Do your parents have similar aspirations for all your brothers and sisters?”
- “Apart from school, do you get out much?”

Some health professionals have more opportunities than others depending on their area of work, or are able to create opportunities to see someone alone, where they may feel more able to talk. These include health visitors, midwives, GPs, practice nurses, school nurses, mental health staff and professionals in family planning clinics, genito-urinary clinics and rape crisis centres amongst others. If there are concerns that forced marriage may be an issue, the health professional might ask questions about family life and whether the person faces restrictions at home.

Some people trapped within a forced marriage have severe restrictions placed on them either by their spouse or extended family. Some find themselves under “house arrest”, and face severe financial restrictions. Others are not allowed out of the house unaccompanied – and may frequently be accompanied to appointments. If they are not accompanied it may be one of the few opportunities they have to tell someone what is happening to them. Health professionals should try and see the individual alone whenever possible, e.g. by explaining that it is standard practice to do this.

There are many questions a health professional could ask to establish whether someone is trapped in a forced marriage. These include:

- “How are things at home?”
- “Do you get out much?”
- “Can you choose what you want to do and when you want to do it – such as seeing friends, working or maybe studying?”
- “Do you have friends or family locally who can provide support?”
- “Is your family supportive?”

Some health professionals may be concerned that someone is under threat of a forced marriage because they are exhibiting some of the behaviours shown in the chart of potential warning signs or indicators [ref to where this is e.g. page no or annex]. They may be isolated,



depressed, withdrawn, misusing alcohol and drugs (prescribed or non-prescribed), or have unexplained injuries.

In these cases, sensitive questioning may encourage the person to disclose forced marriage. Even if they do not disclose anything the first time forced marriage is raised, it will show them that you understand the issues and it may give them confidence to disclose in more detail at a later date.

## KEY PRINCIPLES

- Some people, especially women may not wish to speak to a health professional who is male or who is from their own community.
- Always try to speak to someone on their own even if they are accompanied.
- If they require an interpreter, never use family members, friends or individuals who are prominent or influential in the individual's community. You should always use an accredited interpreter. Some people may be more likely to disclose forced marriage when a telephone interpreting service is used, as they can speak to the interpreter more anonymously.

### 6.3 Handling cases involving minors

Early identification of risks can help children and young people receive the crucial support they need to be healthy, safe and happy.

If a person is under 18 or has children under 18 and does not want any referral to be made, e.g. to children's social care, the health professional will need to consider what is in the best interests of the child/ren and whether the adult's wishes should be respected or whether their safety, or that of their children, requires further action to be taken. If you do take action against their wishes, you must inform them of this.

If you have concerns for the safety of an individual under 18 years of age, **activate your local child protection procedures** and use existing national and local protocols for multi-agency liaison with police and children's social care.<sup>14</sup>

Refer to the local police child protection unit if there is any suspicion that a crime has been, or may be, committed. Liaise with the police if there are concerns about the safety of the person, their siblings or their children.

### 6.4 Confidentiality

A dilemma may arise because someone facing forced marriage may be concerned that if action is taken and a member of their family finds out that they have sought help, they will be in serious danger. On the other hand, it can be argued that people facing forced marriage are often already facing serious danger because of domestic abuse, rape, imprisonment etc.

Therefore, confidentiality and information-sharing are extremely important issues for anyone threatened with, or already in, a forced marriage. Health professionals need to be clear about when patient confidentiality can be offered and when information given in confidence should

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<sup>14</sup> [www.gov.uk/government/publications/working-together-to-safeguard-children](http://www.gov.uk/government/publications/working-together-to-safeguard-children)

be shared with the appropriate authorities. In the latter case, in order to protect individuals, it may be necessary to share information with other agencies such as the police.

There may be occasions when the woman's family ask a third party e.g. a family friend, councillor, GP, MP, or those with influence within the community to request information from a health professional. The third party may have been given a very plausible reason by the family for needing to know the whereabouts of the woman e.g. the illness of a close relative, and the third party may unwittingly think they are helping the woman. These requests are often made by telephone and rely on the person making the request persuading a health professional that they are authorised to receive information. **Do not share this information as doing so could endanger the victim.**

The General Medical Council (GMC)<sup>15</sup> outlines when confidential information must be disclosed by law, with express consent, in the public interest, to protect the patient or when the individual lacks capacity to consent.

**The general principles on disclosure of information in respect of adults are:**

- i. You must not disclose personal information to a third party, including a solicitor, police officer or officer of a court without the patient's express consent, unless it is required by law or justified in the public interest. If the purpose is covered by a regulation made under section 251 of the NHS Act 2006<sup>16</sup>, disclosures can also be made without a patient's consent, but not if the patient has objected.
- ii. You must respect the wishes of any patient who objects to particular information being shared within the healthcare team or with others providing care, unless disclosure would be justified in the public interest. If a patient objects to a disclosure that you consider essential to the provision of safe care, you should explain that you cannot refer them or otherwise arrange for their treatment without also disclosing that information.
- iii. Circumstances may arise in which a patient cannot be informed about the disclosure of information, for example when a woman has already been taken overseas for the purpose of a forced marriage and it is not possible to obtain her consent. In these cases, it may be in her best interest for a health professional to share information with for example the police and the Forced Marriage Unit.

**Public interest**

There can also be a public interest in disclosing information: to protect individuals or society from risks of serious harm, such as serious communicable diseases or serious crime; or to enable medical research, education or other secondary uses of information that will benefit society over time.

Personal information may, therefore, be disclosed in the public interest, without patients' consent, and in exceptional cases where patients have withheld consent, if the benefits to an individual or to society of the disclosure outweigh both the public and the patient's interest in keeping the information confidential. You must weigh the harms that are likely to arise from non-disclosure of information against the possible harm both to the patient, and to the overall trust between doctors and patients, arising from the release of that information.

You should inform the patient that a disclosure will be made in the public interest, even if you have not sought consent, unless to do so is impracticable, would put you or others at risk of serious harm, or would prejudice the purpose of the disclosure. You must document in the

<sup>15</sup> [www.gmc-uk.org/guidance/ethical\\_guidance/confidentiality.asp](http://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp)

<sup>16</sup> [www.hra.nhs.uk/about-the-hra/our-committees/section-251/what-is-section-251/](http://www.hra.nhs.uk/about-the-hra/our-committees/section-251/what-is-section-251/)

patient's record your reasons for disclosing information without consent and any steps you have taken to seek the patient's consent, to inform them about the disclosure, or your reasons for not doing so.

It may be appropriate to encourage patients to consent to disclosures you consider necessary for their protection, and to warn them of the risks of refusing to consent; but you should usually abide by a competent adult patient's refusal to consent to disclosure, even if their decision leaves them, but nobody else, at risk of serious harm. You should do your best to provide patients with the information and support they need to make decisions in their own interests, for example, by arranging contact with agencies to support victims of domestic violence.

Disclosure of personal information about a patient without consent may be justified in the public interest if failure to disclose may expose others to a risk of death or serious harm. You should still seek the patient's consent to disclosure if practicable and consider any reasons given for refusal. Such a situation might arise, for example, when a disclosure would be likely to assist in the prevention, detection or prosecution of a serious crime. Whether or not you decide to disclose information, you must be prepared to justify your decision/document your reasons.

### **Capacity to consent**

If a patient who lacks capacity asks you not to disclose personal information about their condition or treatment, you should try to persuade them to allow an appropriate person to be involved in the consultation. If they refuse, and you are convinced that it is essential in their best interests, you may disclose relevant information to an appropriate person or authority. In such a case you should tell the patient before disclosing the information and, if appropriate, seek and carefully consider the views of an advocate or carer.

For advice in relation to children and young people under 18, the GMC has also issued guidance.<sup>17</sup>

Essentially, the same duties of confidentiality apply when using, sharing or disclosing information about children and young people as with adults. The GMC states that health professionals must inform an appropriate person or authority promptly of any reasonable concern that children or young people are at risk of abuse or neglect, when that is in a child's best interests or necessary to protect other children or young people. Health professionals should participate fully in child protection procedures, attend meetings whenever practical and co-operate with requests for information about child abuse and neglect.

In such cases it is good practice to:

- a. disclose information that identifies the patient only if this is necessary to achieve the purpose of the disclosure – in all other cases you should anonymise the information before disclosing it;
- b. inform the patient about the possible uses of their information, including how it could be used to provide their care and for clinical audit;
- c. ask for the patient's consent before disclosing information that could identify them, if the information is needed for any other purpose, other than in the exceptional circumstances described in this guidance;
- d. keep disclosures to the minimum necessary.

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<sup>17</sup> [www.gmc-uk.org/guidance/ethical\\_guidance/children\\_guidance\\_27\\_28\\_lack\\_capacity.asp](http://www.gmc-uk.org/guidance/ethical_guidance/children_guidance_27_28_lack_capacity.asp)

Additionally, point 7 of the Nursing and Midwifery Council (NMC) Standards of Conduct, Performance and Ethics for Nurses and Midwives<sup>18</sup>: states that information must be disclosed if you believe someone may be at risk of harm.

## 6.5 Disclosure necessary to safeguard or to prevent a serious crime

The types of serious crimes that may be committed by forcing a woman to marry include , grievous bodily harm, harassment, , kidnap, abduction, theft (of passport), threats to kill, false imprisonment and murder.

Annex B of the NHS code of practice<sup>19</sup> on confidentiality states that murder, manslaughter, rape, kidnapping, child abuse or other cases where individuals have suffered serious harm may all warrant the breaching of confidentiality.

### KEY PRINCIPLES

- Draw on existing national and local information sharing protocols and procedures concerning child protection, adult protection and domestic abuse.
- Consult with other professionals, particularly an experienced manager/colleague, the local police child protection or domestic abuse units or the Forced Marriage Unit. Advice can be sought without revealing identities.

### If you suspect someone is being forced into marriage:

- Speak to them about your concerns.
- Assure them that their confidentiality will be respected, however if action must be taken in their best interests or to prevent crime, inform them of the action taken.
- Follow the general action as set out in this section.
- Document any injuries or treatment in their patient record.
- Refer to warning signs in **section 3.13**.
- Liaise with your manager or specialists as appropriate.
- If you have concerns for the safety of a child under 18 years old, activate local child safeguarding procedures.
- Seek advice from the Forced Marriage Unit.

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<sup>18</sup> Nursing and Midwifery Council (NMC); The Code: Standards of conduct, performance and ethics for nurses and midwives [www.nmc-uk.org/Publications/Standards/The-code/Introduction/](http://www.nmc-uk.org/Publications/Standards/The-code/Introduction/)

<sup>19</sup> Confidentiality NHS code of practice 2003 – [www.gov.uk/government/publications/confidentiality-nhs-code-of-practice](http://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice)

## **BEST PRACTICE**

- Inform them of their right to seek legal advice and representation.
- If necessary, record any injuries and arrange a medical examination.
- Provide 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. have siblings been forced to marry in the past. Other indicators may also include domestic violence, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or “house arrest”) or missing persons within the family.
- Advise the victim not to travel overseas and/or discuss the difficulties they may face.
- Identify any other potential criminal offences that may have been committed and refer to the police if appropriate.
- Provide advice on the further service or support they should expect and from whom.
- Ensure that the victim has the contact details for an identified specialist.
- Maintain a full record of the decisions made and the reason for those decisions.
- Information from case files and database files **MUST** be kept strictly confidential and preferably be restricted to named members of staff only.
- Refer the victim, with their consent if over 18, to other recognised local and national support groups with a history of working with victims of domestic abuse and forced marriage.

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## **DO NOT**

- **Treat any information disclosed as merely ‘domestic’ or dismiss out of hand the need for immediate protection.**
  - **Decide that it is not your responsibility to follow-up the concern.**
  - **Approach the family or those with influence within the community, without the express consent of the person, as this may place them in danger.**
  - **Contact the family in advance of any enquiries by the police, the Forced Marriage Unit, adult or children's social care.**
  - **Share information outside information sharing protocols without the express consent of the person.**
  - **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**
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# 7. SCHOOLS, COLLEGES AND UNIVERSITIES: GUIDELINES

Although this chapter is specifically aimed at teachers, lecturers and other members of staff within schools, colleges and universities, much of the guidance and information within will apply to staff working in other educational establishments.

Schools and colleges must have regard to statutory guidance on safeguarding, *Keeping Children Safe in Education*, published in April 2014.<sup>20</sup>

## 7.1 Background

Young people, especially girls who are 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 and consequently may suffer emotionally, often leading to depression and self-harm. These factors can contribute to impaired social development, limited career and educational opportunities, financial dependence and lifestyle restrictions.

Staff may become aware of a student because they appear anxious, depressed and emotionally withdrawn with low self-esteem. They may have mental health disorders and display behaviours such as self-harming, self-cutting or anorexia. Sometimes they may come to the attention of the police having been discovered shoplifting or taking drugs or alcohol. Often students' symptoms can be exacerbated in the periods leading up to the holiday season. Staff may wish to be particularly vigilant in that period.

Students may present with a sudden decline in their performance, aspirations or motivation. Some female students may feel studying is pointless if they are going to be forced to marry and therefore be unable to continue with their education.

There may be occasions when a student comes to school or college but then absents themselves from lessons. Often young people at risk of forced marriage are living in virtual imprisonment. They may be subject to excessive restrictions and control at home. Some students may not be allowed to attend any extra-curricular or after school activities. Girls and young women may be accompanied to and from school/college, and even during lunch breaks. Therefore, school time is their only "free" time to do ordinary adolescent activities that other students do at weekends with their friends.

Some students may stop attending school or college and visits to the home by welfare officers or other members of staff may result in the professional being told that the student is out of the country. In some cases, the student may have been locked in a room of the house and not allowed to communicate with anyone outside.

Other students may show a decline in punctuality, especially if they are past compulsory education age, which may be the result of having to "negotiate" their way out of the house. Some students, particularly girls, are given minimal time to get to school so they do not have time to meet a boyfriend or talk to friends. There are occasions when older siblings (usually

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<sup>20</sup> [www.gov.uk/government/publications/keeping-children-safe-in-education](http://www.gov.uk/government/publications/keeping-children-safe-in-education)

brothers) and cousins keep a close eye on girls to make sure that they do not meet anyone or talk to friends.

Some students may come to notice because their homework is incomplete or appears rushed. This may be the result of being actively discouraged from doing it by family members. These students may do their homework late at night, which frequently shows in school because they are lethargic, unable to concentrate and have a general appearance of tiredness.

Staff may become aware of conflict between the student and their parents about whether the student will be allowed to continue their education. Sometimes there may be family disputes over whether the student can make applications to colleges or universities, and the distance of the college or university from the family home.

Another warning sign might be a family history of older siblings leaving education early and marrying early. Their parents may feel it is their duty to ensure that children are married soon after puberty in order to protect them from sex outside marriage. In these cases, there may be a history of considerable absence authorised by the student's parents. These absences may be for sickness, or extended family holidays overseas often interrupting the school term.

Students who fear they may be forced to marry often come to the attention of, or turn to, a teacher, lecturer or other member of staff before seeking help from the police or social services. Sometimes the student's friends report it to staff. Teachers, lecturers and other members of staff are in an ideal position to identify and respond to a victim's needs at an early stage. They can offer practical help such as referring the student to social services or to local or national support groups, but also by providing them with information about their rights and choices.

Educational establishments should aim to create an "open environment" where students feel comfortable and safe to discuss the problems they are facing - an environment where forced marriage is discussed openly within the curriculum, and support and counselling are provided routinely. Students need to know that they will be listened to and their concerns taken seriously. Staff in special schools need to be aware of potential warning signs for pupils.

### **How education professionals can help:**

- Signposting where appropriate forced marriage materials on further support and advice can be accessed.
- Displaying relevant information e.g. details of the NSPCC Helpline, Child Line, and appropriate local and national support groups on forced marriage.
- Ensuring that a private telephone is made available should students need to seek advice discreetly.
- Educating teachers, lecturers and other staff about the issues surrounding forced marriage and the presenting symptoms – appropriate training should be included in continuing professional development(CPD).
- Referring students to an education welfare officer, pastoral tutor, learning mentor or school counsellor as appropriate.
- Encouraging young people to access appropriate advice, information and support.

### **If you suspect a student is being forced into marriage:**

- Speak to the student about your concerns.
- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Refer to warning signs in **section 3.13**.

- Liaise with the guidance/pastoral/head teacher as appropriate.
- If you have concerns for the safety of a student under 18 years old, activate local child safeguarding procedures and use existing national and local protocols for multi-agency liaison with police and children's social care<sup>21</sup>
- Establish if the student has dual nationality as they may have two passports.
- Seek advice from the Forced Marriage Unit.

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## **DO NOT**

- **Treat such allegations merely as a domestic issue and send the student back to the family home.**
- **Ignore what the student has told you or dismiss out of hand the need for immediate protection.**
- **Decide that it is not your responsibility to follow-up the allegation.**
- **Approach the student's family or those with influence within the community, without the express consent of the student, as this will alert them to your concerns and may place the student in danger.**
- **Contact the family in advance of any enquiries by the police, the Forced Marriage Unit, adult or children's social care, either by telephone or letter.**
- **Share information outside information sharing protocols without the express consent of the student.**
- **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**

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## **7.2 If a student stops attending school**

Local authorities in England have a duty to identify all children not receiving a suitable education. This duty came into force in Wales in 2009. This relates to children of compulsory school age who are not on a school roll and who are not receiving a suitable education otherwise than being at school (this could involve, for example, home education, private education, alternative provision). Details of the steps local authorities need to take to meet this duty are described in "Statutory Guidance" for local authorities in England to identify children not receiving a suitable education".<sup>22</sup> Guidance in Wales was published in 2009.

There may be occasions when a student does not return to education after a holiday or they may stop attending school during term time. In these situations, staff may have a suspicion that forced marriage is an issue. If a teacher, lecturer or other member of staff suspects that a student has been removed from, or prevented from, attending education as a result of forced marriage, a referral should be made to the local authority adult or children's social care and the police.

- Liaise with the local police domestic abuse unit.
- Contact the Forced Marriage Unit.
- Try to obtain as much information about the student as possible.

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<sup>21</sup><https://www.gov.uk/government/publications/working-together-to-safeguard-children>

<sup>22</sup> See - [www.gov.uk/government/publications/children-missing-education](http://www.gov.uk/government/publications/children-missing-education)



- Establish if there is a history of siblings being forced to marry.
- Consider speaking to the student's friends.

There may be occasions when an Education Welfare Officer (EWO) or teacher visits the family in the UK to find out why the student is not attending school or college. The family may tell the EWO or teacher that the student is being educated overseas. Sometimes, the family may suggest that the EWO or teacher speaks to the student on the telephone. If this occurs, the EWO or teacher should refuse to speak on the telephone and (if the student is a British national) insist that the student is presented at the nearest British Embassy or High Commission. There have been occasions when students have not been able to talk freely over the telephone or a different individual has spoken to the EWO or teacher.

For further information, refer to the statutory guidance for local authorities in England to identify children not receiving a suitable education.<sup>23</sup>

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### **DO NOT:**

- **Remove the student from the register without first making enquiries and referring the case to police and local authority adult or children's social care.**
  - **Dismiss the student as taking unauthorised absence.**
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## **7.3 Making Referrals**

It is not the role of teachers, lecturers and staff to investigate allegations of abuse of a student and therefore, if the student is under 18 years, all referrals should be made in accordance with Working Together.<sup>24</sup> These referrals will usually be to children's social care or the police. The Forced Marriage Unit can also be contacted for advice and help in making the referral.

If the student is an adult with disabilities, referrals should be made in accordance with the local Multi-agency Adult Protection Committee procedures and protocols to protect vulnerable adults from abuse.

The student may not wish to be referred to a social worker, police officer or a guidance/pastoral/head teacher from his or her own community. Consult other professionals, particularly an experienced manager/colleague, the local police child protection or domestic abuse unit. Advice can be sought without revealing the student's identity.

Speaking to the student's parents about the action you are taking may place the student at risk of harm. Therefore, do not approach the family as they may deny that the student is being forced to marry, move the student, expedite any travel arrangements and bring forward the forced marriage.

Report details of the case, with full family history, to the Forced Marriage Unit. Encourage the student to get in touch with the Forced Marriage Unit. The Unit provides advice and support to individuals who fear that they may be forced into marriage.

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<sup>23</sup> [www.everychildmatters.gov.uk/resources/IG00202/](http://www.everychildmatters.gov.uk/resources/IG00202/)

<sup>24</sup> [www.gov.uk/government/publications/working-together-to-safeguard-children](http://www.gov.uk/government/publications/working-together-to-safeguard-children)

### **BEN'S STORY**

“My family had no idea that I was gay, something that they would never accept because where they are from, it is still illegal and for them, it is a terrible ‘sin’ to commit. I can’t help who I am and always thought, once I moved out and went to university, I would explain to them who I was and that I wasn’t going to change. I miss my family, but I deserve to live my life for me and if they can’t accept that, it’s their loss, not mine”.

Luckily Ben’s university began to be concerned and called the police. They went to his home and said he needed to be seen in person for a welfare check at the British Embassy. Ben stayed in a men’s refuge for a month when he came back. He passed his exams and now enjoying his new life. He needed a lot of counselling and still sees someone but he is glad that help was available when he needed it.

# 8. POLICE OFFICERS: GUIDELINES

## 8.1 Background

Police have a number of responsibilities in relation to forced marriage. These include, keeping victims safe with their cooperation, investigating any crimes associated with forcing someone to marry and assisting the prosecution as well as supporting the witnesses.

Women trapped in a forced marriage often experience 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 women manage 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.

Although this chapter focuses on women, much of the guidance applies to men facing forced marriage – and men should be given the same assistance and respect when they seek help. Men may find it more difficult to admit to being forced into marriage and therefore, may be less likely to seek help.

## 8.2 How police officers can help

To gain the trust of the person, police must have a good understanding of the issues surrounding forced marriage and the steps that they can take in order to protect a victim. They need to be aware that people living within a forced marriage, or those under threat of one, may face significant harm if their families become aware that they have sought assistance from an agency whether it is police, social care or a voluntary or community-based organisation. The person's safety must come first. In many cases, it may not be in their best interest to remain with the family or even in the immediate vicinity. For these reasons, cases of forced marriage, actual or suspected, should only be handled by an officer who has been nominated by his or her police force as being qualified by both relevant experience and specialist training to deal with cases of forced marriage.

## 8.3 If someone fears they are being forced into marriage

- Follow the general action to be taken as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Discuss the case with HM Government's Forced Marriage Unit.
- Refer the victim, with their consent, to appropriate local and national support groups that have a history of working with survivors of domestic abuse and forced marriage.
- Consider whether a communication specialist is needed if the victim is deaf, visually impaired or has learning disabilities.
- Check police and social services' records for past referrals of family members including siblings – e.g. domestic abuse or missing persons within the family.
- Obtain details of any threats, abuse or hostile actions against them.

- Create a restricted entry in the force intelligence system and submit a crime report if applicable (refer to National Crime Reporting Standards & get advice from your Force Crime Registrar if appropriate).
- Explain all of the options available to them.
- Victims have got a fundamental right to be believed.
- The safety of the victim or prospective victim must take precedence. Do not underestimate the risks that such victims face.
- If foreign travel with the family becomes unavoidable, take the precautions as set out in **chapter 5**.

There may be occasions when police are required to establish whether someone is safe while they are still in the UK. In these situations, it is important that police interview them confidentially away from their family home, in a neutral place, where they cannot be influenced or pressured by family members.

If the person is travelling overseas, the police should obtain all names and addresses (or other identifiable geographic location) of extended family members where they may be staying. It is good practice in all cases to obtain details of a family tree.

In addition to the above it is ACPO Policy that in all cases of honour based violence, which includes forced marriage then the police should obtain a photograph, fingerprints and a DNA sample from the victim with their consent. Such products will support identification at a later stage.

#### **8.4 If a third party reports that someone has been taken overseas for the purpose of a forced marriage.**

Sometimes a person may be taken overseas on the pretext of a family holiday, the wedding of a relative or the illness of a grandparent. On arrival, their documents and passports may be taken away from them. Some even report their parents drugging them. In these cases, it may be a concerned friend, relative, partner or agency that reports them missing. These cases may initially be reported to the Forced Marriage Unit, social care, police, education or a voluntary group.

As with all cases of forced marriage, confidentiality and discretion are vitally important. It is **not** advisable immediately to contact an overseas police service or organisation to make enquiries. Risks may arise if police or organisations overseas are contacted directly. If, through police actions, the family becomes aware that enquiries are being made, they may move the victim to another location and/or possibly expedite the forced marriage.

#### **Response:**

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Refer to warning signs in **section 3.13**.
- Refer to a Child Protection Officer, if the person is under 18 years of age.
- Check existing missing persons' reports.
- Obtain details of, and maintain contact with, the third party in case the person contacts them whilst overseas or on their return.
- Consider asking an Education Welfare Officer to make careful enquiries.

- Use existing national and local protocols for inter-agency liaison e.g. liaison with National Crime Agency (NCA) and Forced Marriage Unit.
- Document a risk assessment.

Reassure the third party that if the person being held overseas wishes to return to the UK (if they are a British national), the Foreign & Commonwealth Office may be able to repatriate them as soon as possible. The Foreign & Commonwealth Office is obliged to ask the individual, the third party or trusted friends to fund the cost of repatriation. However, this should never delay the process of getting the individual to safety.

In any contacts, the police should be extremely careful not to disclose information to the overseas police or any other overseas organisation that could place the person in further danger e.g. disclosure about previous/current boyfriends or partners in the UK.

There may be occasions when a person is overseas and the Forced Marriage Unit ask the police to visit the family in the UK to request that the family overseas present the person at the nearest British Embassy or High Commission (if they are a British national). In these situations, the family may suggest that the police officer speaks to the person on the telephone. If this occurs, the officer should refuse to speak on the telephone and insist that the person is presented at the British Embassy or High Commission. There have been occasions when individuals have not been able to talk freely over the telephone or a different person has spoken to the officer.

#### **ALWAYS TRY TO:**

- Ascertain if anyone else is aware of the situation and establish whether enquiries have already been made. Is there evidence to support forced marriage and other abuses?
- Dissuade the third party and other agencies involved in the case from making enquiries and taking action independently of the police or the Forced Marriage Unit.
- Find and document any evidence to confirm the threat of forced marriage and any related criminal offences.
- If the third party needs support, refer them to an organisation with a history of assisting in cases of forced marriage and domestic abuse.

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#### **DO NOT:**

- **Go directly to the person's family, friends or those with influence within the community, as this will alert them to the enquiries and may place them in further danger. (Note: There may be exceptional circumstances when the Forced Marriage Unit may ask the police to visit the family).**
  - **Make direct contact with the British Embassy, High Commission or overseas police without first liaising with the Forced Marriage Unit.**
  - **Speak to the person on the telephone in order to find out if they are being held against their will. The family may be present threatening them or it may be a different person speaking on the telephone.**
  - **Make direct contact with overseas law enforcement agencies without reference to a specialist supervisor experienced in managing such cases and the Forced Marriage Unit.**
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## **8.5 What to do when someone has already been forced into marriage**

Many cases of forced marriage come to light when a person is reported missing or there are allegations of domestic and other forms of abuse, but some cases are brought to the attention of the police or social care when a victim is forced to act as a sponsor for their spouse's immigration to the UK. They are frequently reluctant to tell the Visas and Immigration Service that it was a forced marriage because of threats and fear of reprisals from the family. A person whose application to enter the UK as a spouse is refused has a right to know the reasons why – and the right to appeal against the decision. This can place the victim in a difficult position.

Although someone may be tempted to prevent a successful visa application for their spouse, in reality, it is not possible to do this without all parties concerned being aware of their reason for not wishing to sponsor their spouse's visa application.

Spouses forced into marriage may suffer years of domestic violence, but feel unable to leave due to fear of losing their children, lack of family support, economic pressures and other social circumstances. The fact that they were forced to marry may only become apparent years after the marriage has taken place.

In all cases, the police officer needs to discuss the range of options available to the person and the possible consequences of their chosen course of action.

### **Response:**

- Follow the general action as set out in **Chapter 4**.
- Refer to a Child Protection Officer, if the person is under 18 years of age.
- Record full details of the person together with details of the marriage including date and place.
- Record the name, address and date of birth of the spouse together with the interview dates for their visa (if known).
- Refer them, with their consent, to appropriate local and national support groups that have a history of working with survivors of domestic abuse and forced marriage.
- Refer to the Forced Marriage Unit if the marriage has an overseas dimension or they have concerns about their "spouse" getting a visa.
- If they require specific legal advice suggest they consult a family panel solicitor.
- If they do not want to return to the family home, a strategy for leaving home should be devised, personal safety advice discussed and devise a risk assessment & management strategy (using DASH model).
- If they wish to remain at the family home, try to maintain contact without placing them at risk. A risk management plan will still need to be compiled.

## **8.6 What to do when a spouse has come to the UK from overseas.**

A spouse may come to the UK from overseas and report that they have been forced to marry overseas. Often they may not speak English and may not be aware of the support to which they may be entitled. Again, these cases may be reported initially as cases of domestic abuse, missing persons or child protection.

If the spouse does not have indefinite leave to enter (ILE), indefinite leave to remain (ILR), humanitarian protection, discretionary leave or a right of abode in the UK, then they are likely

to have a restriction on receiving public funds. Public funds include income support and housing benefit. This means that it is extremely difficult to get access to a refuge (although occasionally refuges may be able to offer places). As a result, individuals may experience tremendous difficulty in finding alternative accommodation and a means by which to live. This may lead individuals to feel they have no option but to remain in the marriage and to feel unable to co-operate with police or anyone they see as being in “authority”.

### **Response:**

- Follow the general action as set out on in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Refer to a Child Protection Officer, if the person is under 18 years of age.
- If they are over 18 years old, refer them to your local community safety / domestic abuse unit.
- Explain the options available to the person.
- If they remain within home with the perpetrator(s), devise a risk assessment & management strategy (using DASH model).
- If they are leaving home, devise a risk assessment & management strategy for leaving home (using DASH model).
- Ensure they are managed in a culturally sensitive way and their wishes are recognised and respected.
- Arrange for the careful selection of an authorised interpreter who speaks their language and dialect. If necessary, obtain consent from them through Language Line. Establish any preferences regarding the gender of the interpreter.
- 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.
- If you believe that immigration advice is required, refer them to an appropriate adviser e.g. trustworthy solicitor with immigration and asylum franchise, law centre and/ or the immigration advisory service. Ideally, refer to a law firm with a family law and immigration franchise, near to their new place of residence.
- Provide them with written contact details of the trained/specialist officer dealing with the case to give to their solicitor together with the crime reference number, if appropriate.
- Record any injuries and with consent take a photograph. Arrange for a medical examination. Inform the doctor that there may be an immigration application and detailed notes will need to be taken during the examination.
- Create a restricted entry in the force intelligence system and submit a crime report if applicable (refer to National Crime Reporting Standards & get advice from your Force Crime Registrar if appropriate).

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## **DO NOT:**

- **Use a relative, friend, neighbour, child or those with influence in the community as an interpreter despite any reassurances from this known person. Information at the interview may be imparted to other members of the community and put the victim at risk of harm.**
  - **Use an interpreter from the victim's community or cultural group. The UK can be a small place and the details of the case could be disclosed to others. Every effort should be made to secure the interpreting services of a linguist from another cultural group.**
  - **Attempt to give them immigration advice. It is a criminal offence for any unqualified person to give this advice.<sup>25</sup>**
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## **8.7 CASH DEPOSITS FOR REPATRIATION**

There may be rare occasions when the Forced Marriage Unit asks a third party in the UK to deposit a sum of cash at the local police station in order to cover the cost of repatriation of a person who has been held abroad. The police should issue a depositor with a receipt for the amount received and email or telephone the Forced Marriage Unit to confirm receipt of the cash. Later a cheque for the amount received should be sent to the Forced Marriage Unit.

Police stations are usually able to do this and this should not pose any difficulty. It should be recognised that delays in this process can delay the repatriation of the victim. Normally, the Forced Marriage Unit prefers to arrange bank transfers with the third party not calling on the police for this function at all.

## **8.8 LEGAL POSITION**

Once a young person has left the country, the legal options open to police, social services, other agencies or another person to recover the young person and bring them back to the UK are slightly limited. However, it is possible to seek the return of the young person to the jurisdiction of England and Wales by making them a ward of court and/or taking out a Forced Marriage Protection Order (FMPO).

A spouse who is the victim of a forced marriage can initiate nullity or divorce proceedings to end the marriage. Another protective order available under the Family Law Act 1996 is a non-molestation order. The Protection from Harassment Act 1997 also offers protection by way of a restraining order. Further information on these is set out below.

If the young person is under the age of 18, is present in the UK without their family, and states that they were forced into marriage and does not wish to remain with their spouse, social services should consider the young person in the same manner as an unaccompanied asylum-seeking minor, and should accommodate the young person under s.20 Children Act 1989.

Local Authority Circular (LAC) 2003, 13 states that when a child has no parent or guardian in this country, the presumption should be that the child would fall within the scope of s.20 and become "looked after", unless the needs assessment reveals particular factors which would

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<sup>25</sup> S.84 & s.91 Immigration and Asylum Act, 1999



suggest that an alternative response would be more appropriate. If the young person is under 18 and has children, they should still be regarded as an unaccompanied child.

Anyone who has been granted indefinite leave to enter or remain, refugee leave, humanitarian protection, discretionary leave or who has a right of abode in the UK has the same entitlements to public funds as a British citizen. Funding for legal advice ('legal aid') is not counted as public funds, and individuals may be entitled to legal aid whatever their immigration status. Children's social care may have the power to make discretionary payments. These payments do not count as public funds.

If they are a victim of domestic abuse, the Domestic Violence Provisions under the Immigration Rules may apply. Under these Provisions, police can provide evidence of domestic abuse in the form of a report confirming attendance at the applicant's home because of domestic abuse. Police records and statements may be vital evidence in their immigration case. This evidence may be placed before an immigration hearing and a police officer may be called as a witness. Consider contacting the Home Office for funding for those with no recourse to public funds – this would be only for those making a DV rule application under the spousal visa if the person is destitute. People should always seek legal advice before they do this.

For further information about applications for wardship, FMPOs and other legal remedies, see the good practice section at **chapter 13** and contact the Forced Marriage Unit.

**Refer to the documents below which can be found on force Intranet sites:**

Practice Guidance for Specialist Staff – Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH) ACPO 2009

Practice Guidance for First Response Police Staff – Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH) ACPO 2009

Risk Identification and Assessment Model for Police Staff – Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH) ACPO 2009

Guidance on Taking of Fingerprints, DNA & Photographs of Victims/Potential Victims of Forced Marriage, ACPO 2008

Procedure for Requesting HM Revenue and Customs to make National Insurance Data "Nationally Sensitive" – Forced Marriage and Honour Based Violence Victims, ACPO 2009.  
Note: this document is confidential and for police use only

Guidance on the Relocation of Victims of Forced Marriage and Honour Based Violence between Force Areas, ACPO 2008

Guidance on Investigating Domestic Abuse ACPO 2008

## 9. CROWN PROSECUTION SERVICE INFORMATION

The CPS is committed to fairly and effectively prosecuting those who are found to harm others in the name of “honour”. The principles and the overarching strategic framework are set out in *Call to End Violence Against Women and Girls*, a cross-government strategy which sets out a long-term commitment towards the prevention of Violence Against Women and Girls (VAWG). Prevention is at the heart of the strategy and the action plan reflects this theme, with an emphasis on awareness raising, early identification and early intervention. Honour Based Violence and Forced Marriage falls under the umbrella of VAWG.

The role of the Crown Prosecution Service is distinct and separate from the police who investigate a case once a crime is reported. The police will collate the evidence and submit a file the Crown Prosecution Service who will then prosecute. Prosecutors are required to review each case in accordance with the two-stage test as set out in the Code for Crown Prosecutors (the Code), when deciding whether or not to bring a prosecution.

Prosecutors must first be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge (the evidential stage). If the case does not pass the evidential stage, it must not go ahead, no matter how serious or important it may be.

If the case does pass the evidential stage, prosecutors must then go on to decide if a prosecution is needed in the public interest (the public interest stage). A prosecution will usually take place unless there are public interest factors tending against the prosecution which outweigh those tending in favour.

### KEY PRINCIPLE

**The civil remedy will continue to exist alongside the criminal sanctions, which means a victim could choose to take the civil route, or pursue a prosecution and report it to the police.**

# 10. CHILDREN'S SOCIAL CARE: GUIDELINES

## 10.1 Background

It is unlikely that children's social care or any single agency will be able to meet all the needs of a child or young person affected by forced marriage, but it is probable that children's social care will play a key role in protecting the interests of the child or young person. This can be achieved not only by arranging practical help such as accommodation and financial support, but also by co-operating and working with other agencies such as police, health and education professionals.

## 10.2 How children's social care can make a difference

Children's social care has a duty under s.47 Children Act 1989 to make enquiries when they have reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm. This includes allegations of abuse or neglect against a child. Forced marriage is child abuse and can put children and young people at risk of physical, emotional and sexual abuse. Although children's social care needs to be sensitive to cultural and racial differences, they also have a clear overriding duty to identify children who are likely to suffer significant harm, and to invoke the necessary safeguarding children procedures. The personal safety of the child or young person must be put first.

Mediation and involving the family can place a child or young person in danger and should not be undertaken as a response to forced marriage. This includes visiting the family to ask them whether they are intending to force their child to marry or writing a letter to the family requesting a meeting about their child's allegation that they are being forced to marry.

Each Local Safeguarding Children Board (LSCB) will have local safeguarding protocols and procedures for safeguarding and promoting the welfare of children, including helping children and young people who are facing abuse. Every children's social care should, as part of domestic abuse and safeguarding children protocols, have multi-agency policies and procedures that include handling cases where forced marriage is alleged or known about.

## 10.3 What to do when a child or young person fears they may be forced into marriage

A child or young person may approach children's social care because they are going on a family holiday overseas and they are concerned about this. Often they have been told that the purpose is to visit relatives, attend a wedding or because of the illness of a grandparent or close relative. The child or young person may suspect that this is a ploy and that there is an ulterior motive, which is to force them to marry.

Do not assume that a child or young person is at risk of being forced into marriage simply on the basis that they are being taken on an extended family holiday. These assumptions and stereotyping can cause considerable distress to families. All efforts should be made to establish the full facts of the case at the earliest opportunity.

## **Response:**

In addition to the general action as set out on in **chapter 4**.

- Check police and social services' records for past referrals of family members e.g. domestic abuse or missing persons within the family.
- Talk to them about whether they can avoid going overseas and discuss the difficulties they may face.
- Discuss the implications of dual nationality.
- If going overseas is unavoidable, take the precautions set out in **chapter 5**.
- Seek advice from the local authority legal department.
- Establish whether there is a family history of forced marriage i.e. siblings forced to marry. Other indicators may include domestic abuse, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or "house arrest") or missing persons within the family.
- Consider liaising with the school to identify any concerns.
- Consider obtaining a court order such as wardship and a forced marriage protection order to protect the child or young person or to prevent them being taken overseas.
- Refer them, with their consent, to appropriate local and national support groups that have a history of working with survivors of domestic abuse and forced marriage.

In all cases, the social worker needs to discuss the range of options available with the child or young person and the possible consequences of their chosen course of action. 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.

### **10.4 What to do when a third party reports that a child or young person has been taken overseas for the purpose of a forced marriage.**

Sometimes a child or young person is taken overseas on the pretext of a family holiday, the wedding of a relative or the illness of a grandparent. On arrival, their documents, passports, money and mobile phones are often taken away from them. Some even report their parents drugging them. In these cases, it may be a concerned friend, relative, partner or practitioner that reports the child or young person missing. These cases may initially be reported to the Forced Marriage Unit, police, education professionals, or a voluntary group.

As with all cases of forced marriage, confidentiality and discretion are vitally important. It is not advisable to immediately contact an overseas organisation to make enquiries. If, through your actions, the family becomes aware that enquiries are being made, they may move the child or young person to another location or expedite the forced marriage.

## **Response:**

In addition to the general action as set out in **chapter 4**.

- Liaise with the police and check existing missing person reports.
- Obtain details of, and maintain contact with, the third party in case the young person contacts them whilst overseas or on their return.
- Seek advice from the local authority legal department.
- Consider asking an Education Welfare Officer to make enquiries.

- Use existing national and local protocols for inter-agency liaison.
- Extreme care should be taken not to disclose information to the overseas police or any other overseas organisation that could place the young person in further danger e.g. disclosure about previous/current boyfriends or partners in the UK.
- Reassure the third party that if the child or young person being held overseas wishes to return to the UK (if they are a British national), the Foreign & Commonwealth Office can try to repatriate them as soon as possible.
- Ascertain if anyone else is aware of the situation and establish whether enquiries have already been made. Is there evidence to support forced marriage and other abuses?
- Dissuade the third party and others from making enquiries and taking action independently of children's social care and the police.
- Find and document any evidence to confirm the threat of a forced marriage and any related abuse.
- Refer the third party for support to appropriate local and national support groups that have a history of assisting in cases of forced marriage and domestic abuse.

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## DO NOT

- **Go directly to the young person's family, friends, or those people with influence within the community, as this will alert them to your enquiries and may place the young person in further danger.**
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### 10.5 If a child or young person has already been forced into marriage

There may be occasions when a child or young person approaches children's social care or the police because they are concerned that they may need to act as a sponsor for their spouse's immigration to the UK.

Confronting the family may be extremely risky for the child or young person. They may not get the support they hope for and further pressure may be put on them to support the visa application. These risks must be discussed with the child or young person if only to exclude this option.

Cases of forced marriage may initially be reported to children's social care as cases of domestic abuse. Spouses forced into marriage may suffer domestic abuse but feel unable to leave due to a lack of family support, economic pressures and other social circumstances – some may fear losing their children.

#### Response:

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Refer to warning signs in **section 3.13**.
- Record full details of the young person together with details of marriage including date and place.
- Record the name, address and date of birth of the spouse together with interview dates for their visa (if known).

- Refer to the Forced Marriage Unit if the marriage has an overseas dimension or the child or young person has concerns about their “spouse” getting a visa.
- If they require specific legal advice suggest they independently consult a family panel solicitor.
- If the child or young person does not want to return to the family home, then a strategy for leaving home should be devised and personal safety advice discussed.
- If the child or young person wishes to remain at the family home, try to maintain contact without placing them at risk.
- Maintaining contact using community workers, health workers etc.
- Referring the child or young person to a police officer with responsibility for safeguarding children.
- Referring 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.
- Using the legal remedies below to protect the child or young person from family members if they decide to leave the family home or wish the spouse to leave the family home.

## **10.6 When a child or young person is repatriated**

Sometimes the Forced Marriage Unit may ask a children’s social care for assistance when a child or young person is being repatriated to the UK from overseas.

In these cases, the child or young person may be extremely traumatised and frightened. They may have been held against their will for many months. They may have suffered emotional and physical abuse and the child or young person may have been raped, sometimes repeatedly or until they become pregnant. Sometimes a child or young person will have risked their life to escape and their family may go to considerable lengths to find them. This makes all victims particularly vulnerable when they return to the UK.

When a child or young person who is a British national arrives at, or contacts, a British Embassy or High Commission, the Foreign & Commonwealth Office can try to repatriate them as soon as possible. Unfortunately, due to the urgency of the situation, the Foreign & Commonwealth Office may not be able to give children’s social care a great deal of notice of the child or young person’s arrival.

The Foreign & Commonwealth Office is obliged to explore all options for funding the cost of repatriation. For victims who are children or young people, this means asking the young person themselves, a trusted friend or children’s social care or a school or college if they are able to meet the costs of repatriation. However, this should never delay the process of getting the child or young person to safety.

### **Response**

- Arrange for someone to meet the child or young person at the airport e.g. a social worker, police officer (there is a child protection officer at Heathrow airport) or reliable, sympathetic adult. Where necessary, contact an appropriate national support agency for further advice on assisting repatriated victims of forced marriage.
- Contact “Travel Care” if the young person is arriving at Heathrow or Gatwick.
- Inform police in case family members try to abduct the young person at the airport.

- Explain the options available.
- Consider whether it is appropriate to apply for an emergency protection order or an interim care order.
- Organise safe and secure accommodation.
- If the young person is under 17 years old and it is not appropriate to apply for a care order, inform the police that the young person's family may attempt to locate them.

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### **DO NOT:**

- **Meet them at their new address, refuge, or friend's house. You may be followed.**
  - **Put the child or young person at risk of harm.**
  - **Put yourself at risk of harm.**
  - **Send the child or young person back to the family home against their wishes.**
  - **Inform family members or friends of the young person's whereabouts.**
  - **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**
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Arranging a foster family from the same community as the child or young person may not be appropriate and may place the child or young person at risk of harm. A child or young person might wish to be fostered outside the immediate geographical area.

Children's social care should actively encourage children and young people to be accommodated outside the immediate geographical area. They should liaise with other agencies in order to provide safe accommodation. The child or young person may need practical help e.g. emergency cash, clothes and toiletries etc.

Under s.17 Children Act (1989), social care services may make a payment for a child in need, including the cost of accommodation. The local authority within which the child or young person had their last permanent residence should provide funding.

### **ALWAYS CONSIDER:**

- With the child or young person's consent, accommodating or relocating them with a different local authority. This may require a transition period where funding and support need to be negotiated.
- Referring 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.
- Taking active steps to ensure that the child or young person's identity together with their benefit and other records are kept confidential. This may involve witness protection schemes or seeking legal advice for a child or young person to change their name and National Insurance number.
- Assessing the risk to any other siblings, now and in the future. Younger siblings might be at risk of being forced to marry when they reach a similar age. Consider speaking to younger siblings to explain the risk of forced marriage and give them information about the help available.

## **NATASHA'S STORY**

"I was forced into marriage by my parents when I was 14 to a man I had never met, he must have been about 23 or 24...way too old. I don't want to talk about it even now, but he abused me and raped me. I never even kissed a boy before; it was worst experience of my life. After it was over, my parents told me it was time to celebrate and be happy. I ran away to my friend's house. Her mum answered the door. She called the police. Whilst I didn't want my parents to get into trouble because until that day they had always been so nice to me, I was told that some things are too serious to let go of."

Natasha was happy that the Police believed her and that the law is there to protect children. She is now living with a foster family and moving on with her life and her education.

### **10.7 When a spouse has come to the UK from overseas**

A spouse may come to the UK from overseas and report that they have been forced to marry overseas. Consequently, they may be suffering domestic abuse or they may have runaway. The child or young person may not speak English and may not be aware of the support to which they may be entitled. Again, these cases may be reported to practitioners initially as cases of domestic abuse, missing persons or child protection.

If a young person does not have indefinite leave to enter (ILE), indefinite leave to remain (ILR), humanitarian protection, discretionary leave or a right of abode in the UK, then they are likely to be the subject of a restriction on access to public funds. Public funds include jobseekers allowance and housing benefit.

Practitioners may not be aware that a young person who is married is entitled to support and they should still be regarded as an unaccompanied child – therefore, the local authority has certain duties to provide support and accommodation for them (see legal position below).

#### **Response**

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Discuss the options available.
- Ensure the child or young person is dealt with in a culturally sensitive way and their wishes are recognised and respected.
- Arrange for an authorised interpreter who speaks the dialect of the child or young person. If necessary, obtain consent from the child or young person through Language Line. Establish any preferences regarding the gender of the interpreter.
- 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.
- If you believe that immigration advice is required, refer them to an appropriate adviser e.g. trustworthy solicitor with an immigration and asylum franchise, law centre and/or the immigration advisory service. Ideally, refer to a law firm with a family law and immigration franchise, near to their new place of residence.
- Provide the child or young person with written contact details of the social worker handling their case to give to their solicitor.



- With the child or young person's consent, notify the local police domestic abuse/victim liaison/vulnerable person's officer or child/family protection unit.
- Record any injuries and arrange a medical examination. Inform the doctor that there may be an immigration application and detailed notes will need to be taken during the examination.
- If the child or young person has a disability they will be entitled to an assessment of their needs.

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### **DO NOT:**

- **Use a relative, friend, community leader or neighbour as an interpreter - despite any reassurances from this known person. Information at the interview may be imparted to other members of the community and put the young person at risk of harm.**
  - **Attempt to give the child or young person immigration advice. It is a criminal offence for any unqualified person to give this advice.**
- 

## **10.8 LEGAL POSITION**

A spouse who is the victim of a forced marriage can initiate nullity (as long as this is initiated within three years of the date of the marriage) or divorce proceedings to end the marriage. The child or young person should be informed that a religious divorce would not end the marriage under UK law.

A child or young person can also take action to protect themselves under the Family Law Act 1996 and the Protection from Harassment Act 1997. Under these Acts the following orders may be sought:

- Forced Marriage Protection Order.
- Non-molestation order.
- Occupation order.
- Injunction against harassment.

Once a child or young person has left the country, the legal options open to social care services, other agencies or another person to recover the child or young person and bring them back to United Kingdom are limited. An FMPO is the best course of action – for a young person under 18 years old; you will also need to make them a ward of court.

Depending upon the circumstances and the child's age it may be appropriate for the local authority to apply for a care order. A care order can only be obtained while a child is under the age of 17 years old, or 16 years old if the child is married.

If the young person cannot be the subject of a care order, the local authority can, nevertheless, assist; either by accommodating the young person under s.20 Children Act 1989 (in which case the child will still be looked after) or by providing services under s.17 Children Act 1989.

S.20 (3) Children Act 1989 states that every local authority shall provide accommodation for any child in need within their area who has reached 16 years old and whose welfare the authority considers is likely to be prejudiced if they do not provide the young person with accommodation.

A young person who has been the subject of a forced marriage and is at risk of harm from their family is likely to fall within this definition. The young person may, themselves, ask the local authority for such accommodation. The request does not need to come from the parents.

There are a range of court orders that may be used to protect children and young people. If the risk of forced marriage is immediate, it may be necessary to take emergency action to remove the child or young person from the home in order to protect them. There are a number of approaches to emergency protection, and staff may wish to take from their legal department.

**Also refer to:**

- Police protection.
- Emergency protection orders.
- Care and supervision orders.

If the young person is under the age of 18 years old, is present in United Kingdom without their family, and stating that they were forced into marriage and does not wish to remain with their spouse; children's social care should consider the child or young person in the same manner as an unaccompanied asylum-seeking minor, and should accommodate the young person under s.20 Children Act 1989.

Local Authority Circular (LAC) 2003 (13) states that where a child has no parent or guardian in this country, the presumption should be that the child would fall within the scope of s.20 Children Act 1989 and become looked after, unless the needs assessment reveals particular factors which would suggest that an alternative response would be more appropriate.

If the young person is under 18 years old and has children, she should still be regarded as an unaccompanied child. Anyone who has been granted indefinite leave to enter or remain, refugee leave, humanitarian protection, discretionary leave or who has a right of abode in the UK has the same entitlements to public funds as a British citizen.

Funding for legal advice ('legal aid') is not counted as public funds, and children and young people may be entitled to legal aid whatever their immigration status.

Children's social care may have the power to make discretionary payments. These payments do not count as public funds.

If the child or young person is suffering domestic abuse, the Domestic Violence Provision under Rule 289A Immigration Rules may apply. Under the Provision, social care services can provide evidence of domestic abuse in the form of a letter or report.

Children's social care records and statements may be vital evidence in a child or young person's immigration case. This evidence may be placed before an immigration hearing and children's social care may be called as a witness.

## **10.9 Safeguarding disabled children and young people**

There have been reports of children and young people with mental ill health, learning and physical disabilities being forced to marry. 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 a child or young person's disability. Another motive for forcing a child or young person with a disability to marry is to make certain they will have someone to care for them after their parents have died.

Disabled children and some young people do not have the capacity to consent to the marriage, into marriage. Indeed children under the age of 16 cannot legally in the UK consent to marriage and those aged 16-18 can only do so with permission from some with Parental Responsibility. Others may have capacity but be easily coerced or tricked into marriage. Some may be unable to consent to consummate the marriage – sexual intercourse without consent is rape. Compelling, inciting or facilitating a person with impaired capacity for choice to engage in sexual activity without consent is also an offence under the Sexual Offences Act 2003.

Disabled children and young people 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 disabled children and young people from forced marriage are essentially the same as those for non-disabled children and young people. However, agencies do have a role to play in ensuring that children and young people with disabilities are able to help themselves.

Good practice should include:

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

Disabled children and young people are defined as “children in need” under s.17 Children Act 1989. Practice guidance on Safeguarding Disabled Children is available.<sup>26</sup>

**Other key legislation and guidance includes:**

- Working Together to Safeguard Children – HM Government 2013
- Safeguarding Children: Working Together Under the Children Act 2004 (WAG)
- What to do if you are worried a child is being abused – HM Government 2006
- Children Act (1989)
- Children Act (2004)
- Homelessness Act (2002)
- Sexual Offences Act (1956 & 2003)

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<sup>26</sup> <https://www.gov.uk/government/publications/safeguarding-disabled-children-practice-guidance>

# 11. ADULT SOCIAL CARE: GUIDELINES

## 11.1 Background

Until recently, the term “vulnerable adult” has been used to describe a person over 18 “who is, or may be, in need of community care services by reason of mental or other disability, age or illness and who is, or may be, unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”<sup>27</sup>

It is recognised that the term vulnerable adult is unacceptable to some people with disabilities as it is frequently other people, the environment and social circumstances that make people with disabilities vulnerable and not their disability per se. Therefore, the term “adult with support needs” is used throughout this document to refer to those who fall within the commonly accepted definition of “vulnerable adult”.

While forced marriage is commonly a problem for young women, there have been reports of both female and male adults with disabilities being forced to marry. In order to find a spouse, parents may accept a spouse who they would normally view as unacceptable – such as a person 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 a person’s disability. Another motive for forcing an adult with disabilities to marry is to make certain they will have someone to care for them when their parents are no longer able to do so.

Some adults with learning disabilities and/or mental health problems do not have the capacity to consent to a marriage. Some may be unable to consent to consummate the marriage – sexual intercourse without consent is rape. Compelling, inciting or facilitating a person with impaired capacity for choice to engage in sexual activity without consent is also an offence under the Sexual Offences Act 2003.

Adults with support needs may be particularly vulnerable if they are 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.

## 11.2 How adult social workers can make a difference

The measures for protecting adults with support needs from forced marriage are similar to those for non-disabled adults. However, agencies do have a role to play in ensuring that people with disabilities are able to help themselves. Good practice should include:

- Listening to adults with disabilities – especially those with learning disabilities and mental health issues – and making sure they know how to raise concerns.
- Ensuring adults with support needs have access to adults outside the family to whom they can turn for help.
- Providing training and raising awareness about forced marriage amongst staff who care and support adults with disabilities.

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<sup>27</sup> *No Secrets*: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse, HO & DH, 2000 and *In Safe Hands*: Implementing Adult Protection Procedures in Wales, July 2000 (WAG)

In line with *No Secrets* and *In Safe Hands*, ‘community care services’ includes all care services provided in any setting or context.

Some cases of forced marriage take place in the UK and in others an adult with support needs may be taken overseas and forced to marry. In either situation, adult social care should be ready to give guidance to the person about their rights; the choices open to them and take action in partnership with other agencies to protect them from harm.

Each Multi-Agency Adult Protection Committee will have local protocols and procedures to protect adults with learning or physical disabilities from abuse. Key legislation and guidance includes:

- Mental Health Act 2007.
- The National Health Service and Community Care Act 1990.
- Carer's (Recognition and Services) Act 1995.
- Sexual Offences Act 2003.
- Domestic Violence Crime and Victims Act 2004.
- Mental Capacity Act 2005.

### **11.3 What to do when an adult with support needs fears they may be forced into marriage**

An adult with support needs may approach adult social care because they are going on a family holiday overseas and they are concerned about this. They are often told that the purpose is to visit relatives, attend a wedding or because of the illness of a grandparent or close family relative. They may suspect that this is a ploy and that there is an ulterior motive, which is to force them to marry.

Do not assume that an adult with support needs is at risk of being forced into marriage simply on the basis that they are being taken on an extended family holiday. These assumptions and stereotyping can cause considerable distress to families. All efforts should be made to establish the full facts of the case at the earliest opportunity.

#### **Response:**

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Discuss the case with the Forced Marriage Unit.
- Refer them, with their consent, to appropriate local and national support groups that have a history of working with survivors of domestic abuse and forced marriage.
- If the person's capacity to consent is in doubt, have their capacity to consent to marriage assessed.
- Consider whether a communication specialist is needed if a person is deaf, visually impaired or has learning disabilities.
- Check police and social care records for past referrals of family members including siblings – e.g. domestic abuse or missing persons within the family.
- Talk to them about whether they can avoid going overseas and discuss the difficulties they may face.
- Seek advice from the local authority legal department.

- Establish whether there is a family history of forced marriage i.e. siblings forced to marry. Other indicators may include domestic abuse, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or “house arrest”) or missing persons within the family.
- If they have dual nationality, they may have two passports, one British and one from another country.
- If the risk of forced marriage is immediate, it may be necessary to take emergency action to remove them from the home in order to protect them. Advice should be taken from the local authority legal department.

#### **11.4 When a third party reports that an adult with support needs has been taken overseas for the purpose of a forced marriage.**

Sometimes it may be a concerned friend, relative, partner, agency, teacher or carer who reports an adult with support needs missing. These cases may initially be reported to the Forced Marriage Unit, police, education professionals, or a voluntary group.

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#### **DO NOT:**

- **Go directly to the person’s family, friends, or those people with influence within the community, as this will alert them to your enquiries and may place the young person in further danger.**
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#### **11.5 If an adult with support needs has already been forced into marriage**

Although many cases of forced marriage come to light when an adult with support needs is reported missing or there are allegations of abuse and domestic violence, some cases are brought to the attention of adult social care or the police when they are forced to act as a sponsor for their spouse’s immigration to the UK. They are frequently reluctant to tell UK Visas and Immigration that it was a forced marriage because of threats and fear of reprisals from the family. A person whose application to enter the UK as a spouse is refused has a right to know the reasons why - and the right to appeal against the decision. This can place the adult with support needs in a difficult situation.

Confronting the family may be extremely risky for the adult with support needs. They may not get the support they hope for and further pressure may be put on them to support the visa application. These risks must be discussed with them if only to exclude this option.

Although a person may be tempted to prevent a successful visa application for their spouse, in reality, it is usually not possible to do this without all parties concerned being aware of the person’s reason for not wishing to sponsor their spouse’s visa application. The Forced Marriage Unit can be contacted to talk through the person’s options.

Cases of forced marriage may initially be reported to adult social care as cases of domestic abuse. Spouses forced into marriage may suffer years of domestic abuse, but feel unable to leave due to fear of losing their children, lack of family support, economic pressures and other social circumstances. The fact that they were forced to marry may only become apparent years after the marriage has taken place.

**Response:**

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Record full details of the adult with support needs together with details of marriage, including date and place.
- Record the name, address and date of birth of the spouse together with interview dates for their visa (if known).
- Refer them to the Forced Marriage Unit if they have concerns about their “spouse” getting a visa.
- Refer to a family panel solicitor for legal advice.
- If the person does not want to return to the family home, then a strategy for leaving home should be devised and personal safety advice discussed.
- Refer them, with their consent, to appropriate local and national support groups that have a history of working with survivors of domestic abuse and forced marriage.
- If the adult with support needs wishes to remain at the family home, try to maintain contact without placing them at risk.
- Consider maintaining contact using community workers, health workers etc.
- Refer the adult with support needs to the local police domestic abuse unit.

**11.6 When an adult with support needs is repatriated to the UK from overseas**

Sometimes the Forced Marriage Unit may ask adult social care for assistance when an adult with support needs is being repatriated to the UK from overseas.

**Response:**

- Arrange for someone to meet them at the airport e.g. a social worker, police officer (there is a child protection officer at Heathrow airport) or reliable, sympathetic adult. Where necessary, contact an appropriate national support agency for further advice on assisting repatriated victims of forced marriage.
- Inform police in case family members try to abduct them at the airport.
- Organise safe and secure accommodation.
- Explain the options available.
- Inform the police that the person’s family may attempt to locate them.
- They may need practical help e.g. emergency cash, clothes and toiletries etc.
- The local authority within which the adult with support needs had their last permanent residence should provide funding.

**DO:**

- With the person’s consent, accommodate or relocate them with a different local authority. This may require a transition period where funding and support need to be negotiated.
- 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.

- Take active steps to ensure that the person's identity together with their benefit and other records are kept confidential. This may involve witness protection schemes or seeking legal advice for them to change their name and National Insurance number.
- Assess the risk to any other siblings, now and in the future. Younger siblings might be at risk of being forced to marry when they reach a similar age. Consider speaking to younger siblings to explain the risk of forced marriage and give them information about the help available.

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**DO NOT:**

- **Meet them at their new address, refuge, or friend's house - you may be followed.**
  - **Put either yourself or the victim at risk of harm.**
  - **Send them back to the family home against their wishes.**
  - **Inform family members or friends of their whereabouts.**
  - **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**
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### **11.7 When a spouse of a an adult with support needs has come to the UK from overseas**

A spouse may come to the UK from overseas and report that they have been forced to marry overseas. Consequently, they may be suffering domestic abuse or they may have run away. The adult with support needs may not speak English and may not be aware of the support to which they may be entitled. Again, these cases may be reported initially as cases of domestic abuse or missing persons.

If an adult with support needs does not have indefinite leave to enter, indefinite leave to remain (ILR), humanitarian protection, discretionary leave or a right of abode in the UK, then they are likely to be the subject of a restriction on receiving public funds. Public funds include income support and housing benefit. This means that they may not be able to access refuge accommodation (although some refuges will offer places). As a result, they may experience tremendous difficulty in finding alternative accommodation and a means by which to live. This may lead them to feel they have no option but to remain in the marriage and to feel unable to co-operate with social care services or anyone they see as being in "authority".

#### **Response:**

- Follow the general action as set out in **chapter 4**.
- Collect as much as possible of the information required in **chapter 5**.
- Ensure they are dealt with in a culturally sensitive way and their wishes are recognised and respected.
- Arrange for an authorised interpreter who speaks the dialect of the person. If necessary, obtain consent from them through Language Line. Establish any preferences regarding the gender of the interpreter.
- Explain all the options available.
- 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.



- If you believe that immigration advice is required, refer them to an appropriate adviser e.g. trustworthy solicitor with an immigration and asylum franchise, law centre and/or the immigration advisory service. Ideally, refer to a law firm with a family law and immigration franchise, near to their new place of residence.
- Provide them with written contact details of the social worker dealing with the case to give to their solicitor.
- With the person's consent, notify the local police domestic abuse unit.
- Record any injuries and arrange a medical examination. Inform the doctor that there may be an immigration application and detailed notes will need to be taken during the examination.

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### **DO NOT:**

- **Use a relative, friend, community leader or neighbour as an interpreter - despite any reassurances from this known person. Information at the interview may be imparted to other members of the community and put the adult with support needs at risk of harm.**
  - **Attempt to give the person immigration advice. It is a criminal offence for any unqualified person to give this advice.**
- 

Anyone who has been granted indefinite leave to enter or remain, refugee leave, humanitarian protection, discretionary leave or who has a right of abode in the UK is entitled to access public funds on the same basis as a British citizen.

In exceptional circumstances, someone who is subject to immigration control may still be eligible to access certain benefits. This is because they may benefit from an exception to the general 'no recourse to public funds' rule. These exceptions are generally in place to meet the UK's commitments under EU or other reciprocal social security treaties and they are set out in legislation<sup>28</sup>.

Funding for legal advice ('legal aid') is not counted as public funds, and adults with support needs may be entitled to legal aid whatever their immigration status.

If they are suffering domestic abuse, the Domestic Violence Provisions under Rule 289A and Appendix FM of the Immigration Rules may apply. Under these Provisions, social care services can provide evidence of domestic abuse in the form of a letter or report.

Adult social care records and statements may be vital evidence in a person's immigration case. This evidence may be placed before an immigration hearing and adult social care may be called as a witness.

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<sup>28</sup> Further information on these and other exceptions is contained in the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000, the Tax Credits (Immigration) Regulations 2003 and the Persons Subject to Immigration Control (Housing and Homelessness) Order 2000. [www.hmrc.gov.uk/manuals/cbtmanual/CBTM10140.html](http://www.hmrc.gov.uk/manuals/cbtmanual/CBTM10140.html)

## LEGAL POSITION

If an individual lacks the capacity to consent to the marriage, one course of action is for the local authority to make an application to the Court of Protection under the Mental Capacity Act for orders to protect them (declaratory relief). If satisfied that the adult lacks capacity the court can grant a declaration to this effect. The court can also grant injunction(s) to restrain family members from arranging a marriage for them or prevent them being taken overseas for the purpose of a marriage.<sup>29</sup>

If an adult with suspected learning disabilities has left the country and it is not known if they lack the capacity to consent to marriage, it is recommended that a FMPO is taken out to ensure they are returned. Following that, a capacity assessment will need to be carried out to determine their capacity to consent to marriage.

Whilst an adult with support needs can make an application in their own name acting with the assistance of a “litigation friend”, they may not be in a position to take such action because of their personal circumstances. In this case, you may need to consider whether the local authority should do so.

Adults can also take action to protect themselves under the Family Law Act 1996 and the Protection from Harassment Act 1997.

A spouse who is the victim of a forced marriage can initiate nullity (as long as this is initiated within three years of the date of the marriage) or divorce proceedings to end the marriage. They should be informed that a religious divorce would not end the marriage under UK law.

Adults with support needs can also take action to protect themselves under the Family Law Act 1996 and the Protection from Harassment Act 1997. Under these Acts the following orders may be sought:

- Forced marriage protection order.
- Non-molestation order.
- Occupation order.
- Injunction against harassment.

### **Irfan’s story**

Irfan, 29 from Leeds, has severe learning disabilities and accesses a day centre four days a week. Irfan’s father was approached by a priest who informed him that his son’s disability will improve if he goes overseas and marry the priest’s niece Miriam. Irfan’s father returned back to the family home to plan the marriage – he informed the centre that Irfan will be travelling out of the country to get married. Fortunately, the day centre staff reported this information to Irfan’s social worker, who then handled this as a safeguarding issue and obtained a FMPO to protect Irfan from being taken overseas, due to his clear lack of capacity to consent to the marriage.

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<sup>29</sup> Refer to the Practice Note: Official Solicitor: Declaratory proceedings: Medical and Welfare Decisions for Adults who lack Capacity which can be found on the Official Solicitor’s website at [www.officialsolicitor.gov.uk](http://www.officialsolicitor.gov.uk)

# 12. LOCAL HOUSING AUTHORITY: GUIDELINES

## 12.1 Background

For children and young people, especially women from black and minority ethnic communities or those with a disability or illness, leaving their family can be especially hard. Family occupies a very important role, and the child or young person may have no experience of life outside the family.

Those who do leave often live in fear of their own families, who will go to considerable lengths to find them and ensure their return. On their return, they are often subjected to violence and threats. Therefore, in these cases, accommodating those fleeing forced marriage is extremely important and frontline staff in local housing authorities are generally well placed to ensure the person's safety by providing timely, safe accommodation as local housing authorities have a duty to secure suitable accommodation for people who are eligible for assistance, unintentionally homeless and who fall within a priority need group.

Some people (particularly women) may not have the correct documents to prove their identity; some may be British nationals but again may not be able to prove this. Others may not have leave to remain in the UK and therefore will not have recourse to public funds.

Whatever their situation, front line staff in local housing authorities should be aware of the risk of harm facing those who have been or may be forced to marry.

There may be occasions when a victim's family ask a third party e.g. a family friend, councillor, GP, MP, or those with influence within the community to request information from a local housing authority. The third party may have been given a very plausible reason by the family for needing to know the whereabouts of the person e.g. the illness of a close relative, and the third party may unwittingly think they are helping the victim. These requests are often made by telephone and rely on the person making the request persuading frontline staff in local housing authorities that they are authorised to receive information. If you are in any doubt about such a request, consult an experienced colleague or manager.

## 12.2 How housing authority staff can help

- Follow the general action as set out in **chapter 4**.

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### DO NOT

- **Use a relative, friend, community leader or neighbour as an interpreter - despite any reassurances from this known person. Information at the interview may be imparted to other members of the community and put the person at risk of harm.**
  - **Inform family members or friends of their whereabouts.**
-

## 12.3 Accommodating children and young people

Children and young people who have been forced to marry and those who are estranged from their families because of their refusal to accept a forced marriage often require long-term accommodation to help them live away from their families and start a new life.

Where the assessment of the child's needs identifies that there is a possibility of a child suffering significant harm attributable to parental care – which is often the case when parents force a child into marriage – then, the local authority must consider taking legal action to protect the child. This might involve application for an emergency protection order and/or an application for a care order so that the child becomes “looked after” by the local authority and the authority is able to share parental responsibility and specify where the child might live safely.

If the local authority provides accommodation for the child by exercising its powers under s.20 Children Act 1989 then it does not share parental responsibility for the child and could not continue to provide accommodation where parents object; and were parents to seek to remove the child or young person from the accommodation provided by the local authority then the authority would need to consider taking urgent legal action to make sure that the child is safeguarded.

The Children Act 1989 also provides local authorities with powers to accommodate children and young people who are “in need”.

A child or young person is considered as being “in need” under s.17 (10) Children Act 1989 if their 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. Local authorities have a duty to safeguard and promote the welfare of children in need.

Children and young people (especially girls and young women) who are forced to marriage are extremely likely to be children “in need” and likely to suffer significant harm as they are frequently withdrawn from education, taken overseas, imprisoned, forced to marry and raped (often until they become pregnant).

The duties the Children Act 1989 places on local authorities to accommodate children “in need” include:

### 12.4 Section 17

- S.17 places a general duty on local authorities to make provision for children in their area who are “in need”. A child means any person under the age of 18.
- The local authority has the power to provide accommodation to a child or young person under s.17 (6) – however, being provided with accommodation under s.17 does not bring a child into the “looked after” system. Furthermore, the power to provide accommodation under section 17 will almost always involve children needing to be accommodated with their families<sup>30</sup> and this may not offer the child or young person the necessary level of protection.

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<sup>30</sup> Local Authority Circular LAC( 2003)13 Dept of Health (2003)

## 12.5 Section 20

- S.20 (1) places a duty on every local authority to provide accommodation for any child “in need” within their area who appears to them to require accommodation. This can be as a result of (amongst other things) the person who has been caring for the child being prevented (whether or not permanently, and for whatever reason) from providing them with suitable accommodation or care.
- S20 (3) requires that every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide them with accommodation.
- If the child is under the age of 16 and is not the subject of a care order, it is still possible for a local authority to offer accommodation under s.20 Children Act 1989. The local authority, however, will not share parental responsibility for the child and will not be able to offer them the same level of protection. A child, who is accommodated by the local authority in this way, may be removed from such accommodation at any time by the parent. Once the child reaches 16 years old, however, the parent loses that power.

The fact that a child or young person under the age of 18 has gone through a form of marriage does not detract from the local authority’s responsibilities to assess the child’s needs and take action to protect the child including providing them with accommodation.

The local authority will need to take the young person’s wishes and feelings into account in planning for their care and once the child or young person feels safe, they may wish to move to accommodation that is more independent. The local authority will be responsible for helping to identify options for the young person’s future accommodation and supporting them through this transition. Depending on the length of time that they will have been “looked after” the young person may be entitled to continuing support from leaving care services. This means that if a young person has been “looked after” by the local authority for 13 weeks or more, even if the young person ceases to be “looked after”, the local authority still has a duty to support them <sup>31</sup>.

Local authorities are frequently reluctant to accommodate older teenagers; especially those aged 16 and 17, and provide them with services as “looked after” children. When young people are facing or have been victims of forced marriage, this kind of vigorous protective action may be essential to provide the level of inter-agency protection that the young person will need.

Under the homelessness legislation (Part 7, Housing Act 1996), local housing authorities in England and Wales have a duty to secure suitable accommodation for people who are eligible for assistance; unintentionally homeless and who fall within a priority need group. S.189 (1) Housing Act 1996, The Homelessness (Priority Need for Accommodation) (England) Order 2002 and the Homeless Persons (Priority Need) (Wales) Order 2001 define those who have a priority need for accommodation.

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<sup>31</sup> Sections 23A 23B and 23C Children Act 1989 (as amended by the Children (Leaving Care) 2000)

## **12.6 The following priority need categories are likely to be the most relevant when dealing with young people who are homeless:**

- 16 and 17 year olds, other than “relevant” children under the Children (Leaving Care) Act 2000 and “children in need” who are owed a duty under s20 Children Act 1989.
- Care-leavers aged 18, 19 or 20 years old who were looked after, accommodated or fostered when aged 16 or 17, and who are not “relevant students”.
- People aged 21 or over who are vulnerable as a result of being looked after, accommodated or fostered by the local authority, and who are not “relevant students”.
- People who are vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out.

The test of whether a person is vulnerable for the purpose of the homelessness legislation has been developed through case law and is set out in the Homelessness Code of Guidance for Local Authorities. Paragraph 10.13 of the code states “the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

## **12.7 Other homelessness priority need categories include:**

- A pregnant woman or a person with whom she resides or might reasonably be expected to reside.
- A person with whom dependent children reside or might reasonably be expected to reside.
- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside.

## **12.8 Accommodating disabled adults with support needs**

Adults with support needs<sup>32</sup> who are homeless or likely to become homeless may be able to obtain accommodation from the local housing authority under part 7 Housing Act 1996. Local housing authorities in England and Wales have a duty to secure suitable accommodation for people who are eligible for assistance; unintentionally homeless and who fall within a priority need group.

S.189 (1) Housing Act 1996, the Homelessness (Priority Need for Accommodation - England) Order 2002 and the Homeless Persons (Priority Need) (Wales) Order 2001 set out the categories of people who have a priority need for accommodation.

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<sup>32</sup> In this context an adult with support needs is a person over the age of 18 years “who is, or may be, in need of community care services by reason of mental or other disability, age or illness and who is, or may be, unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”

Community care services’ includes all care services provided in any setting or context.

*No Secrets*: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse, HO & DH, 2000 and *In Safe Hands*: Implementing Adult Protection Procedures in Wales, July 2000 WAG

## 12.9 Homelessness priority need categories include:

- A pregnant woman or a person with whom she resides or might reasonably be expected to reside.
- A person with whom dependent children reside or might reasonably be expected to reside.
- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason or with whom such a person resides or might reasonably be expected to reside.
- A person under 21 years old (other than a 'relevant student') who at any time between the ages of 16 – 18 was, but is no longer looked after, accommodated or fostered.
- People aged 21 years old or over who are vulnerable as a result of being looked after, accommodated or fostered by the local authority, and who are not 'relevant students'.
- People who are vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out.
- A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other reason.

A person is statutorily homeless if it is not reasonable for them to continue to occupy their accommodation. It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic abuse against him or her or against another person who normally lives – or might reasonably be expected to live – with him or her.

The test of whether a person is vulnerable for the purpose of the homelessness legislation has been developed through case law and is set out in the Homelessness Code of Guidance for Local Authorities. Paragraph 10.13 of the code states “the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

An adult with support needs is a person over the age of 18 years “who is, or may be, in need of community care services by reason of mental or other disability, age or illness and who is, or may be, unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”<sup>33</sup> Community care services' includes all care services provided in any setting or context.

## 12.10 NO RECOURSE TO PUBLIC FUNDS

### **People whose immigration status means they have no recourse to public funds have few options for housing and financial support:**

Women and men who have been victims of domestic abuse can apply for Indefinite Leave to Remain (ILR) if they meet the criteria set out in the Domestic Violence Provisions in the Immigration Rules. However, until their application is successful, they will have no recourse to public funds – this means they will not be eligible for benefits such as income support or

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<sup>33</sup> *No Secrets*: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse, HO & DH, 2000 and *In Safe Hands*: Implementing Adult Protection Procedures in Wales, July 2000 WAG

housing benefit. In practice, it is extremely difficult to access any funding for victims while they await the outcome of their application.

The Government has been working closely with both the statutory and voluntary sector to find ways to support victims of domestic violence with no recourse to public funds and remains committed to finding a long term solution for these victims. The Home Office 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  
[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)



## **NATIONAL SUPPORT AGENCIES**

This section gives details of national support agencies including addresses, telephone numbers and an explanation of the service. There are also excellent regional organisations that can help victims of forced marriage and the contact details for many of these can be found on the FMU website at [www.gov.uk/forced-marriage](http://www.gov.uk/forced-marriage).

### **Ann Craft Trust**

Offers advice to professionals, parents, carers and family members on issues relating to the protection of vulnerable children and adults. You can contact them about general issues but they are also happy to give advice about specific cases. If they are unable to answer your question, they will try to find you the most appropriate person to talk to about your concerns.

0115 951 5400

[www.anncrafttrust.org](http://www.anncrafttrust.org)

### **Ashiana Network (London)**

Offers emotional and practical help, as well as accommodation, for women and children who are escaping violence. They also provide two refuges specifically for South Asian, Turkish and Iranian women between the ages of 16-30 at risk of forced marriage.

0208 539 0427

[www.ashiana.org](http://www.ashiana.org)

### **Ashiana Sheffield**

Works with Black, Asian, Minority Ethnic and Refugee (BAMER) adults, children and young people fleeing domestic and sexual abuse, forced marriage, human trafficking, gang violence and 'honour'-based violence. Provides accommodation for BAMER women and children experiencing domestic abuse.

0114 255 5740

[www.ashianasheffield.org](http://www.ashianasheffield.org)

### **BAWSO**

This is an all Wales, voluntary organisation. It provides a specialist service to Black and Minority Ethnic (BME) women and children made homeless through a threat of domestic abuse or fleeing domestic abuse in Wales. They have purpose built refuges across Wales. They also provide emotional and practical support for BME women living in social housing. The service is accessible 24 hrs a day.

0800 731 8147

[www.bawso.org.uk](http://www.bawso.org.uk)

### **Child Line**

This service is for any child or young person with a problem

0800 1111

[www.childline.org.uk](http://www.childline.org.uk)

### **Citizens Advice Bureau**

The Citizens Advice Bureau offers free, confidential and impartial information and advice on a wide range of subjects including consumer rights, debt, benefits, housing, employment,

immigration, family and personal matters. For a list of branches, see “Citizens Advice Bureau” in the telephone directory.

0844 111 444

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### **Freedom Charity**

Freedom Charity raises awareness and prevent child abuse to keep children safe. Their aim is to empower young people to feel they have the tools and confidence to support each other and have practical ways in which they can help their best friend around the issues of family relationships which can lead to early and forced marriage and dishonour based violence.

0845 6070133 (24 hour helpline)

Text “4freedom” 88802 (24 hour textline)

Free app available online to download

[www.freedomcharity.org.uk](http://www.freedomcharity.org.uk)

### **Gaia Centre (London)**

The Gaia Centre provides confidential and independent support for anyone experiencing gender violence in the London borough of Lambeth. Also provides refuge spaces.

0207 733 8724

[www.refuge.org.uk](http://www.refuge.org.uk) search for ‘Gaia Centre’

### **Gatwick Travel Care**

This service ensures that young people are able to leave the airport and arrive at their destination safely and without delay. Victims of forced marriage may require assistance when they arrive at Gatwick and Travel Care can be contacted for advice. The service is available from 9am to 5pm Monday to Friday, and 9am to 4pm Saturday, Sunday and Bank Holidays.

01293 504283

[www.gatwick-airport-guide.co.uk/disabled-facilities.html](http://www.gatwick-airport-guide.co.uk/disabled-facilities.html)

### **Halo Project**

The Halo Project is based in the North East of England; supporting victims of honour based violence and forced marriages by providing appropriate advice and support to victims. The programme of work with key partners will also provide required interventions and advice necessary for the protection and safety of victims.

01642 683045

[www.haloproject.org.uk/](http://www.haloproject.org.uk/)

### **Heathrow Travel Care**

This service ensures that young people are able to leave the airport and arrive at their destination safely and without delay. Victims of forced marriage may require assistance when they arrive at Heathrow and Travel Care can be contacted for advice. The service is available from 9am to 5pm Monday to Friday.

020 8745 7495

[www.heathrowtravelcare.com](http://www.heathrowtravelcare.com)

## **Henna Foundation**

Henna Foundation operates a “one stop” service that works to meet and advance the needs, concerns and aspirations of Asian and Muslim children and families.

02920 496 920

[www.hennafoundation.org](http://www.hennafoundation.org)

## **Imkaan**

Imkaan is the national Black, Minority Ethnic and Refugee (BMER) charity dedicated to addressing violence against women and girls

[www.imkaan.org.uk](http://www.imkaan.org.uk)

## **Include Me Too**

Work with disabled parents and carers.

[www.includemetoo.org.uk/contact-us](http://www.includemetoo.org.uk/contact-us)

## **Iranian and Kurdish Women’s Rights Organisation**

Provides advice and support to Middle Eastern women and girls facing honour based violence, domestic abuse, forced marriage and female genital mutilation.

0207 920 6460

[www.ikwro.org.uk](http://www.ikwro.org.uk)

## **JAN Trust**

Raises awareness and prevent abuse and violence against women and girls including honour based violence, domestic abuse, forced marriage and female genital mutilation. Specialist service for Black, Asian, Minority Ethnic, Refugee (BAMER) and Muslim women.

0208 889 9433

[www.jantrust.org](http://www.jantrust.org)

## **Jeena International**

Dedicated to empowering women and young people to initiate personal and social change. Provide counsel and support sessions. Also provides safe homes for families that are victims of domestic violence.

01753 424 240

[www.jeenainternational.org](http://www.jeenainternational.org)

## **Judith Trust**

Focuses its work on the problems faced by people who have both a learning disability and mental ill-health.

020 7266 1073

[www.judithtrust@lineone.net](mailto:www.judithtrust@lineone.net)

## **Karma Nirvana**

An organisation that provides emotional and practical support and advice for both male and female victims and survivors of forced marriage and/or honour based violence and abuse. It provides advice and support to potential victims, victims in crisis and professional agencies. It delivers this service through the Honour Network helpline, a confidential helpline.

0800 5999 247

[www.karmanirvana.org.uk](http://www.karmanirvana.org.uk)

## **Language line**

This service can provide an interpreter on the telephone immediately in 100 different languages, 24 hours a day. This is not a free service.

020 7520 1430

[www.languageline.co.uk](http://www.languageline.co.uk)

## **Newham Asian Women's Project (London)**

Provides advice and support for Asian women and children experiencing domestic violence specifically safety planning and advice, emergency refuge space and translation services.

0208 472 0528

[www.nawp.org](http://www.nawp.org)

## **Palm Cove Society**

Palm Cove Society provides supported accommodation for single homeless refugees, eligible destitute asylum seekers or migrants and unaccompanied asylum seeker children leaving care. They can also accommodate any of the aforementioned women fleeing domestic violence.

0113 230 2271

[www.palmcovesociety.co.uk/index.htm](http://www.palmcovesociety.co.uk/index.htm)

## **Rape Crisis**

Rape Crisis centres provide crucial crisis and long term specialised counselling, support and independent advocacy for all women and girls of all ages who have experienced any form of sexual violence both recently and/or in the past; centres are community based and independent of government and the criminal justice system.

0808 802 9999

[www.rapecrisis.org.uk](http://www.rapecrisis.org.uk)

## **Respond**

Respond provides a range of services to both victims and perpetrators of sexual abuse who have learning disabilities and those who have been affected by other trauma. They also offer support and training to families, carers and professionals.

0808 808 0700

[www.respond.org.uk](http://www.respond.org.uk)

## **Reunite**

Reunite is the leading charity specialising in international parental child abduction. It operates a 24-hour advice line providing advice, support and information to parents, family members and guardians who have had a child abducted or who fear abduction. It supports and informs parents who have abducted their children and assists with international contact issues. Their advice is impartial and confidential to either or both parties involved in an international parental child abduction case – it also provides information and support on the issue of forced marriage.

0116 255 6234 (advice line)

[www.reunite.org](http://www.reunite.org)

## **Rights of Women**

Rights of Women is a women's voluntary organisation committed to informing, educating and empowering women concerning their legal rights.

[www.rightsofwomen.org.uk/](http://www.rightsofwomen.org.uk/)

## **Roshni Asian Women's Aid**

Provides refuge for south Asian women and children experiencing domestic violence

0115 924 2864

[www.womensaid.org.uk](http://www.womensaid.org.uk) search for Roshni

## **Samaritans**

A 24-hour helpline for any person in emotional distress

08457 909090

[www.samaritans.org](http://www.samaritans.org)

## **Savera (Liverpool)**

Savera Liverpool is dedicated to tackling domestic abuse within Black, Asian, Minority Ethnic and Refugee Communities and to preserve and protect of the mental and physical health of women from these communities who are experiencing, or have experienced domestic abuse

[www.saverliverpool.co.uk](http://www.saverliverpool.co.uk)

## **Scottish Women's Aid**

Lead organisation in Scotland working towards the prevention of domestic abuse

0131 226 6606

[www.scottishwomensaid.org.uk](http://www.scottishwomensaid.org.uk)

## **Sharan Project**

Provides confidential advice, befriending service and practical support for South Asian Women towards leading successful independent living.

0844 504 3231

[www.sharan.org.uk](http://www.sharan.org.uk)

### **Solace Women's Aid**

Works with women and children who have been affected by domestic and sexual violence. Range of services including emergency accommodation.

0808 802 5565

[www.solacewomensaid.org](http://www.solacewomensaid.org)

### **Southall Black Sisters**

This is a resource centre offering information, advice, advocacy, practical help, counselling, and support to black and minority women experiencing domestic abuse, forced marriage and honour based violence. Southall Black Sisters also offer a specialised service for repatriated victims of forced marriage. The office is open Mon-Fri, 9am to 5pm

National helpline 020 8571 0800

Office: 020 8571 9595

[www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk)

### **Stonewall**

Works with a range of agencies to address the needs of lesbians, gay men and bisexuals in the wider community

0800 050 2020

[www.stonewall.org.uk](http://www.stonewall.org.uk)

### **Victim Support**

Victim Support offers information and support to victims of crime, whether or not they have reported the crime to the police. All help given is free and confidential. You can contact Victim Support direct, or ask the police to put you in touch with your local group. The national helpline is open from 9am to 9pm Monday to Friday and from 9am to 7pm on Saturdays, Sundays and Bank Holidays.

0845 3030 900

[www.victimsupport.org](http://www.victimsupport.org)

### **Women's Aid**

Provides services for women and children who have been affected by the experience of domestic violence, rape and sexual abuse.

0808 800 0028

[www.womensaid.org.uk](http://www.womensaid.org.uk)

### **Welsh Refugee Council**

The Welsh Refugee Council is an independent charity that empowers refugees and asylum seekers to rebuild their lives in Wales. They provide advice, information and support for asylum seekers and refugees in four offices in Cardiff, Newport, Swansea and Wrexham. They offer specialist services in areas such as housing, health and employment. They are actively involved in policy development and campaign for refugee rights.

02920 489800

[www.welshrefugeecouncil.org](http://www.welshrefugeecouncil.org)

## **GENERAL CONTACTS**

Police (in an emergency)	999
Police	101
NSPCC Child Protection Helpline <a href="http://www.nspcc.org.uk">www.nspcc.org.uk</a>	0800 800 5000
Citizens Advice Bureau <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>	0844 4 111 444
Child Line <a href="http://www.childline.org.uk">www.childline.org.uk</a>	0800 1111
Home Office Visas and Immigration	0300 123 2241
Samaritans <a href="http://www.samaritans.org">www.samaritans.org</a>	0845 790 9090
Court of Protection	0300 456 4600

## BRITISH HIGH COMMISSIONS AND EMBASSIES

Please contact the Forced Marriage Unit if you require further details of any other British High Commission or Embassy

<p><b>BANGLADESH</b>  <b>Dhaka</b>  British High Commission  United Nations Road  Baridhara  Dhaka  Postal Address:  PO Box 6079, Dhaka - 1212</p> <p>Telephone: (00) (880) (2) 8822705-9  Facsimile: (00) (880) (2) 8823437</p> <p>Office Hours (GMT):  Sun to Wed 03.00 - 10.15  Thurs 03.00 - 09.00  Local Time  Sun - Wed 08.00 - 15.15  Thurs 08.00 - 14.00</p>	<p><b>BANGLADESH</b>  <b>Sylhet</b>  British High Commission  House 37A  Kumarpara  Sylhet</p> <p>Telephone: (00) (880) (821) 724694  Facsimile: (00) (880) (021) 720070</p> <p>Office Hours (GMT):  Sun to Wed 03.00 - 10.15  Thurs 03.00 - 09.00  Local Time  Sun - Wed 08.00 - 15.15  Thurs 08.00 - 14.00</p>
<p><b>INDIA</b>  <b>Mumbai (Bombay)</b>  Office of the British Deputy High Commissioner  Naman Chambers  C/32 G Block  Bandra Kurla Complex (Opposite Dena Bank)  Bandra East  Mumbai 400051</p> <p>Telephone: (00) (91) (22) 66502222  Facsimile: (00) (91) (22) 66502324</p> <p>Office Hours (GMT)  02.30 - 07.30 and 08.30 - 10.30</p> <p>Local Time  08.00 - 13.00 and 14.00 - 16.00</p>	<p><b>INDIA</b>  <b>New Delhi</b>  British High Commission  Chanakyapuri  New Delhi 110021</p> <p>Telephone: (00) (91) (11) 2687 2161  Facsimile: (00) (91) (11) 2 6116094  Email: conqry.newdelhi@fco.gov.uk  Office Hours (GMT)  Mon - Fri 03.30 - 07.30 and 08.30 - 11.30</p> <p>Local Time 09.00 - 13.00 and 14.00 - 17.00</p>
<p><b>PAKISTAN</b>  <b>Karachi</b>  British Deputy High Commission  Shahrah-E-Iran  Clifton  Karachi 75600</p> <p>Telephone: (00) (92) (21) 5827000  Facsimile: (00) (92) (21) 5827012  Email: consularenquiries.karachi@fco.gov.uk</p> <p>Office Hours (GMT)  Mon - Thurs 03.00 - 11.15  Fri 03.00 - 08.00  Local Time  Mon - Thurs 08.00 - 16.15  Friday 08.00 - 13.00</p>	<p><b>PAKISTAN</b>  <b>Islamabad</b>  British High Commission  Diplomatic Enclave,  Ramna 5  PO Box 1122  Islamabad</p> <p>Telephone: (00) (92) (51) 2012000  Facsimile: (00) (92) (51) 2012019  Email: cons.Islamabad@fco.gov.uk</p> <p>Office Hours (GMT)  Mon - Thurs 03.00 - 11.15  Fri 03.00 - 08.00  Local Time  Mon - Thurs 08.00 - 16.15  Friday 08.00 - 13.00</p>



# 13. GOOD PRACTICE; KEEPING VICTIMS SAFE

## 13.1 A victim-centred approach

- Whatever someone's circumstances, they have rights that should always be respected such as personal safety and accurate information about their rights and choices. Professionals should listen to the victim and respect their wishes whenever possible.
- However, there may be times when someone wants to take a course of action that may place them; on these occasions, professionals should explain all the risks and adopt the necessary child or adult protection precautions.
- Young people, especially those aged 16 and 17, can present specific difficulties to agencies as there may be occasions when it is appropriate to use both child and adult protection frameworks. For example, some 16 and 17 year olds may not wish to enter the care system but prefer to access refuge accommodation. Whatever the case, professionals should be led by the wishes of the victim.
- Disclosures of forced marriage should not be dismissed as merely a family matter; for many people, seeking help from an agency is a last resort and therefore all disclosures of forced marriage MUST be taken seriously.

## 13.2 The danger of involving the family and community

Involving families in cases of forced marriage is dangerous:

- It may increase the risk of serious harm to the victim. Experience shows that the family may not only punish them for seeking help but also deny that the person is being forced to marry, expedite any travel arrangements and bring forward the marriage.
- Involving the family include may include visiting the family to ask them whether they are intending to force their child to marry or writing a letter to the family requesting a meeting about their child's allegation that they are being forced to marry, increasing the danger faced by the individual at risk.
- Relatives, friends, community leaders and neighbours should not be used as interpreters – despite any reassurances from this known person.

## 13.3 Where to hold interviews

- It is likely that the person or complainant will be anxious and distressed.
- The interview should take place in a private and secure part of the building free from interruptions, in accordance with local practices and procedures.
- The room should not be adjacent to the public part of the building, as there have been cases reported of people, particularly women, being forcibly removed by their families.
- They may wish to be interviewed by a practitioner of the same gender.
- They may not want to be seen by a practitioner from their own community.
- Develop and agree a safety and support plan in case they are seen by someone "hostile" at or near the department, venue or meeting place e.g. prepare another reason why they are there.

- If they insist on being accompanied during the interview e.g. by a teacher or advocate, ensure that the accompanying person understands the full implications of confidentiality especially with regard to the person's family.
- For some, an interview may require an authorised accredited interpreter who speaks their dialect. There may be occasions when a communication specialist is needed to support a person who is deaf, visually impaired or has learning disabilities. Consider approaching charities with a history of helping people with mental and physical disabilities.

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### **DO NOT:**

- **Use family members, friends, neighbours or those with influence in the community as interpreters – people may feel embarrassed to discuss personal issues in front of them and sensitive information may be passed on to others and place the person in danger.**
  - **Furthermore, such an interpreter may deliberately mislead professionals and/or encourage the person to drop the complaint and submit to their family's wishes.**
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## **13.4 Explaining the options available to people facing forced marriage**

If someone fears they may be forced to marry, they have limited choices:

- To leave their family, start a new life and possibly have to remain in hiding.
- To leave their family, start a new life knowing they face a life of ostracism and isolation.
- To leave their family, start a new life and prosecute their family.
- To return to the family and hope the situation can be resolved.
- To seek legal protection.

If someone is already trapped in a forced marriage, they have limited choices:

- To stay with the marriage.
- To flee the marriage, start a new life and possibly have to remain in hiding.
- To leave their family, start a new life knowing they face a life of ostracism and isolation.
- To flee the marriage, start a new life and prosecute the family.
- Other issues such as having young children or younger siblings will affect the options available to them and this may limit their choices further.
- There may be serious risk of harm, especially for women, if they choose to return to the family or stay within the marriage.
- To leave and start a new life can make them extremely vulnerable. Their family or spouse may search for them through routes such as housing records, benefit records, employment records and health records – however these records can be protected.
- For many people prosecuting their family is something they simply will not consider.
- If the victim is from overseas, fleeing the marriage and applying to remain in the UK is an extremely complicated process and requires professional immigration advice.
- For many victims from overseas returning to their country of origin is not an option – they may be ostracised, subjected to violence or even killed. These risks should be explained, even just to exclude this option.

- Many people, especially women, may be extremely frightened by contact with any statutory agency as they may have been told that the authorities will deport them and/or take their children from them. Professionals need to be extremely sensitive to these fears when dealing with a victim from overseas, even if they have indefinite leave to remain or a right of abode as they may not be aware of their true immigration position. These circumstances make them particularly vulnerable.
- If it is discovered that they are in breach of immigration rules (for example if they are an over stayer), remember that they may also be the victim of a crime and be traumatised as a result. Do not allow any investigation of their immigration status to impede police enquiries into an offence that may have been committed against the victim or their children.
- Male victims of forced marriage may have difficulty in being taken seriously. If they then wish to leave the family home, refuge accommodation tends to be limited for men so the use of hostels may be the only alternative.

### 13.5 Future contact and meetings

- Agree where future meetings can take place if the person does not want to meet at the practitioner at their office. Consider alternative venues e.g. local libraries/cafés, somewhere they will feel comfortable but not at risk of being seen by a family member. Establish whether they can be contacted in confidence at work, at school or through a trusted friend, sibling or organisation.
- If you are staying in contact using mobile phones, establish whether the person or another family member pays the bill, as the record of calls made may place the person at risk of harm. Make sure you have a code word to ensure that you are speaking to the right person.
- If you are using text messages, email or post – make sure that messages cannot be intercepted.
- There may be occasions when a third party is the only link to the person. This situation can arise when a person has been taken overseas.
- If they have moved, do not meet the person at their new address, refuge or friend's house as you may be followed and never speak to them in the presence of "friends".

### 13.6 Assessing Capacity

It may not always be clear whether or not a person has the capacity to consent to marriage. It is essential that the specific sections of these guidelines relating to people with learning disabilities are followed WHETHER OR NOT the person has capacity. This is because a person with a learning disability WITH capacity will need more specialised support than someone without a learning disability. Not following the specific guidelines or making assumptions about how the person has reached the decision to marry may in fact put them at increased risk.

Capacity to consent to marriage can be tested using the Mental Capacity Act 2005. It is useful to remember that "In some cases people with learning disabilities may appear to be more able than they are. They may communicate in such a way that masks their disability. Their learning disability may therefore not be taken into consideration and the correct services might not be put into place." (Care Services Improvement Partnership (2007) *Positive Practice, Positive Outcomes: a handbook for professionals in the criminal justice system working with offenders with learning disabilities.*)

Local areas can devise tools for assessing capacity and it may be beneficial to incorporate a multi-agency approach. Suggestions for questions to ask in assessing capacity to marry include:

- What is a husband/wife?
- What is a marriage?
- What is different about being married or unmarried?
- Can the person name body parts including intimate parts of the body?
- Do they know what different body parts are used for?
- Which are sexual or non-sexual parts?
- What might happen when you have sex?
- Who will you live with and where?

### **13.7 Confidentiality and sharing information safely**

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 the 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.

#### **Consider:**

- Drawing on existing national information-sharing protocols and procedures concerning child protection and domestic violence<sup>34</sup>.
- Seeking advice from a domestic violence/safeguarding children/MARAC co-ordinator on how to share information with practitioners from other agencies.
- Consulting with other agencies, particularly police and social care.
- Consulting existing guidance from the relevant professional bodies or associations.

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<sup>34</sup> <http://www.acpo.police.uk/documents/crime/2008/2008-cba-inv-dom-abuse.pdf>

- Referring 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.

From time to time, practitioners may be asked to make exceptional disclosures, for example to police colleagues or other agencies to assist a criminal investigation. The Data Protection Act 1998 provides an exemption from certain requirements of that Act in particular circumstances, including for the purposes of the prevention or detection of crime. This can enable disclosures to be made without the consent of the subject. This is important as in some cases it may not be possible to obtain someone's consent - for example if they are overseas. Professionals should seek advice from their legal departments.

From time to time, professionals may be asked to make exceptional disclosures, for example to police colleagues or other agencies to assist a criminal investigation. In these situations, the Data Protection Act 1998 provides exemptions from the normal restraints on disclosure. The Act allows for disclosure without consent of the subject in certain circumstances, including for the purposes of the prevention or detection of crime.

In cases of forced marriage, it is important that agencies work together to help victims; inevitably, this will involve sharing information safely and confidentially. There may be occasions when a professional is not able to obtain someone's consent in order to share sensitive information with other agencies, for example, when the person is overseas. In these cases, information should be shared if there is concern that a crime may be committed and you are satisfied that the organisation you are sharing the information with can keep the information secure.

There may be occasions when the person's family members ask a third party e.g. a family friend, councillor, MP or those with influence within the community to request information from practitioners. The third party may have been given a very plausible reason by the family for needing to know the whereabouts of the person e.g. the illness of a close relative, and the third party may unwittingly think they are helping them. These requests are often made by telephone and rely on the person making the request persuading a professional that they are authorised to receive information. **Do not share this information.**

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## **DO NOT:**

- **Overlook possible breaches of confidentiality including leaks of information from within your organisation, from records, interpreters and communications with external agencies and organisations.**
  - **Share information with members of the person's family, others within their community or members of the public without the express consent of the person involved.**
  - **Give details of the case to the media without the express consent of the person involved.**
- 

## **13.8 Medical examinations**

In some cases, it may be necessary to arrange a medical examination for emotional or physical illness as part of a protection order which has been obtained; in other cases, a person may require attention to injuries for treatment or evidential purposes. It may **not** be advisable to call or visit a medical practitioner from the local community as this may threaten the security of the victim.

The report of the medical examination together with records from other agencies and police statements may provide police with vital evidence in a person's case (especially if they are a spouse from overseas). It is advisable in all cases where injuries are apparent to encourage the person to have those injuries documented for future reference.

The examination of a child or young person should be in accordance with safeguarding children procedures and should normally be carried out by an appropriate professional.

### **13.9 Making enquiries**

There may be occasions when it is necessary to make enquiries about someone, for example if they are being held within the home or have gone missing. In these circumstances, it is important to make discreet enquiries before approaching the family. Care is needed not to reveal that enquiries are related to forced marriage issues. If the fact that the enquiries relate to forced marriage needs to be shared, this should only be shared with professionals aware of the need to handle such information appropriately.

Gathering information, in a confidential manner, about the person and the families involved may be difficult. In general, enquiries should be undertaken by police officers with assistance from social workers. However, there may be occasions when, for example, education and health professionals wish to make discreet enquiries before involving police. Those undertaking enquiries should consider approaching the Forced Marriage Unit, the person's school, college, place of work, GP, friends etc. It may also be possible to acquire further information through previous reports to police and social care services or through housing agencies and community groups.

### **13.10 If someone is being held overseas, there are risks that may arise if organisations overseas are contacted directly:**

- Collusion between overseas organisations, including respected bodies such as the police or authorities in the country where the person has been taken, and the person's family.
- Violence towards the person being held and the forced marriage brought forward.
- Removal of the person to an unknown destination.
- Attempts to assist by overseas agencies/authorities which actually further jeopardise the person's safety.

In handling these cases, agencies need to liaise closely with the Forced Marriage Unit and then gather information about the family discreetly.

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

Due to the nature of forced marriage and honour-based violence, some of the principles and themes within existing guidance may inadvertently place those facing forced marriage at greater risk of harm. This includes the principle that the best place for a young person is with their family and the practice of attempting to resolve cases through family counselling, mediation, arbitration and reconciliation.

In cases of forced marriage, it is important that agencies do not actively initiate, encourage or facilitate family counselling, mediation, arbitration or reconciliation – whether offered by community councils, religious or professional groups. There have been cases of women

being murdered by their families during mediation. Mediation can also place someone at risk of further emotional and physical abuse.

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.

There may be occasions when someone insists on meeting with their family. Any meetings should take place in a safe location, supervised by a trained/specialist professional with an authorised accredited interpreter present, as families will sometimes threaten the person in their native language.

If someone has left the family home, allowing them to have unsupervised contact with their family may be extremely dangerous. 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.

### **13.12 Personal safety advice and devising a strategy for leaving home**

Research shows that leaving home is the most dangerous time for women experiencing domestic abuse and this is often the case when someone flees a forced marriage. Therefore, if someone is planning to leave or the perpetrators suspect they might leave, they should take measures to ensure their safety.

Even if someone is not ready or willing to leave, they should still be advised of their options and helped with safety planning so they can take measures to protect themselves at home and make arrangements to leave home in an emergency.

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.

Get the person to think about:

- Who they could go to in an emergency?
- Who would be able to send them money if necessary?
- All the things they may need to start a new life
- The possible finality of this decision and the ongoing lack of contact between them, their family and extended family.

When devising a strategy for someone over the age of 16 to leave home, they should:

- Be fully consulted as to their future needs and their wishes respected.
- Consider the risk to themselves and whether they should involve the police.
- Open a separate/secret bank or savings account in their name.
- Leave copies of important documents such as passport, National Insurance number and birth certificate with police, social care services or a trusted friend.
- Leave spare clothing and cash etc. with a trusted friend.
- Keep helpline numbers close at hand.
- Have a telephone card or change for urgent phone calls.
- Arrange alternative emergency accommodation should the need arise.

If the person is leaving the family home:

- Complete a safety plan before they leave the family home.
- Arrange for an adult, e.g. a social worker or specialist domestic violence service worker, to accompany them if they insist on returning to the family home to collect their possessions.
- If necessary, arrange for a police officer to escort the social worker/refuge worker or other and the person to collect their possessions – in order to prevent a breach of the peace.
- Ensure an accredited interpreter, who speaks the same dialect as the family, is also present, in case the family makes threats.
- Perform a risk assessment before visiting the family home.
- Advise the victim how their actions may compromise their safety.
- Take precautions to ensure that the person's identity, benefit, and other records are confidential.
- Encourage them to change their bank account details and mobile phone so they cannot be traced.
- Use existing domestic violence safety measures such as mobile phones and alarms.
- 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.

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### **DO NOT:**

- **Re-house locally unless specifically requested after all the risks of harm have been explained to the person.**
  - **Allow a woman to be accompanied by her children when returning to the family home to collect possessions.**
  - **Allow them to return to their home unless a risk assessment has been carried out.**
- 

Personal possessions should include:

- Proof of identity (something with a photograph and signature e.g. passport, student ID).
- Card, photo-card driving licence or National Insurance number/card).
- Benefit books, money, cheque books, bank and credit cards.
- Medication and medical card.
- Address book, photographs, jewellery and clothing.
- Marriage/divorce papers.
- Documents relating to immigration status.

Ask them if they want anyone to be told that they are safe and well - if so, who? What information do they want given out?

Many people who remain in contact with their families once they have left home continue to be subjected to emotional pressures. This may include stories about the illness or death of



parents, relatives or siblings. If such a message is received, police/social services should check the validity of the information if the person wishes.

Sometimes families use organised networks that will track their children. These networks include family and community members, bounty hunters, taxi drivers, together with people who have access to records such as staff from benefits offices, GP surgeries and local housing authorities. There may be occasions when practitioners unwittingly give confidential information to those searching for the person.

### 13.13 Missing persons and those who run away

People, especially those under 18, who leave home to escape a forced marriage, or the threat of one, often present specific difficulties for the police and other agencies such as children's social care. Police may feel they should inform families if the young person is found. On occasion, police and children's social care have faced criticism both for failing to share information about a young person who has run away from home and for giving them practical support and protection. Ultimately, however, the first concern should be for the welfare of the young person.

Someone facing a forced marriage is at risk of significant harm if they are returned to their family. There have been incidents where families have killed the woman or young person after they have been located. In these situations, police and children's social care should feel confident about justifying their actions, because experience shows that if information is shared with their family and friends it may place the person in danger.

Some families go to considerable lengths to find their children who run away and some may use subterfuge to locate and return them. For example, some families may falsely accuse a missing person of a crime (e.g. theft) in the expectation that the police will locate the person for them.

There may be occasions when someone's family ask a third party, such as, a family friend, councillor, GP, MP or those with influence in the community to request information from a practitioner. The third party may have been given a very plausible reason by the family for needing to know the whereabouts of the person (e.g. the illness of a close relative) and the third party may unwittingly think they are helping the victim. These requests are often made by telephone and rely on the person making the request persuading a practitioner that they are authorised to receive information. **Do not provide this information.** If you are in any doubt about such a request, consult an experienced colleague or manager.

For further information about missing persons and young people who run away refer to the Department of Health publication Children Missing from Care and from Home: a guide to good practice, November 2002<sup>35</sup>.

Those fleeing a forced marriage that has not yet taken place may be reported as missing by their families. The forced marriage aspect of the case may not be apparent when the report is made.

If police locate a young person under the age of 18, social services or the police should interview the young person (before returning them home) to establish whether it is in their best interests to return home.

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<https://www.education.gov.uk/consultations/downloadableDocs/Runaway%20and%20Missing%20from%20Home%20and%20Care%20Guidance.pdf>

If the family locate the person, try to interview them on their own to establish why they left home, the circumstances of their return and what they want to do.

If someone is at risk of being forced into marriage or other types of abuse, it may not be in their best interests if police or social services disclose information to their family, friends or members of the community.

A local authority may provide accommodation for young people between the ages of 16 and 21, if they consider that to do so would safeguard or promote the young person's welfare (s.20 (5) Children Act 1989).

Those fleeing a forced marriage, or the threat of one, may need to be relocated with a different local authority, as they may not wish to live in the same area as their family.

A child or young person fleeing a forced marriage, or the threat of one, may not wish to be fostered with a family from their own background or community.

A child or young person might wish to be fostered outside the immediate geographical area.

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### **DO NOT:**

- **Inform the family, friends, colleagues or acquaintances as to the whereabouts of the person.**
  - **Disclose information without the express consent of the person, unless the disclosure is to other agencies and is necessary to protect the person.**
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### **13.14 Repatriation**

Sometimes the Foreign & Commonwealth Office may ask the police or social care for assistance when a British national is being repatriated to the UK from overseas.

In these cases, the victim may be extremely traumatised and frightened. They may have been held against their will for many months or years. They may have suffered emotional and physical abuse. If a marriage has already taken place, a girl or woman may have been raped. Sometimes they will have risked their life to escape and their family may go to considerable lengths to find them. This makes all victims, particularly women, extremely vulnerable when they return to the UK.

When a British national seeks assistance at a British Embassy or High Commission, the Foreign & Commonwealth Office can try to repatriate them as soon as possible. Unfortunately, due to the urgency of the situation, the Foreign & Commonwealth Office may not be able to give the police or social care a great deal of notice of the person's arrival.

The Forced Marriage Unit can facilitate a British national's return to the UK by providing emergency travel documents, helping to arrange flights and, where possible, by arranging temporary accommodation whilst the victim is overseas. The Foreign & Commonwealth Office or social care may ask the police to meet the person on arrival, in case family members try to abduct them at the airport.

There are support agencies that can also offer a specialised project for repatriated victims of forced marriage. They provide advice or assistance in collecting women from the airport, and further assistance with their resettlement in the UK.

The Foreign & Commonwealth Office is obliged to ask the person or trusted friends to fund the cost of repatriation. In some cases, repatriation has been funded by schools or social

care. However, this should never delay the process of getting them to safety. The Forced Marriage Unit in certain very exceptional circumstances may provide a loan from public funds to help the victim return to the UK, but only when all other avenues have been exhausted.

The victim will have to sign an agreement to pay the loan in full and will have to secure the loan by giving up their passport to Consular staff who can issue them with an emergency travel document valid for a single journey to the UK. Once the loan has been repaid in full, the person's passport will be returned, or a new passport issued.

### **13.15 Record keeping**

Keeping records of forced marriage is important. The records may be used in court proceedings or to assist a person (particularly women claiming domestic violence) in their immigration case. Records should provide a detailed account of what was discussed with the person. Even if forced marriage is not disclosed, a record of your suspicion may be useful in the future.

All records belonging to people 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 – they also need to:

- Be accurate, detailed, clear and include the date.
- Use the person's own words in quotation marks.
- Document any injuries – include photographs, body maps or pictures of their injuries.
- Only be available to those directly involved in the person's case.

Some people who have fled a forced marriage have been traced through their medical or benefit records. When someone moves to a different area, it is important to have systems in place to prevent their medical records being traced to another GP practice or benefit office.

### **13.16 Police protection**

Social care services may approach the police and ask for their assistance in undertaking a joint investigation. The way in which this is to be handled should be covered in the procedures prepared by the Local Safeguarding Children Board and in accordance with Working Together<sup>36</sup>. A joint approach may be particularly useful where it is thought that a child or young person is at immediate risk of forced marriage.

Where there is reasonable cause to believe that a child or young person, under the age of 18 years, is at risk of significant harm, a police officer may (with or without the co-operation of social care services) remove them from the parent and place them under "police protection" (s.46 Children Act, 1989) for up to 72 hours. The police must inform children's social care and ask them to assist in finding safe and secure accommodation for the child or young person. Children's social care should commence child protection enquiries under s.47. After 72 hours, the police must release the child or young person. At this point, however, children's social care may apply for an emergency protection order (EPO) if they are still considered to be at risk of significant harm. The police have the power to make their own application for an EPO, but as a matter of practice this is done by children's social care.

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<sup>36</sup> Working Together to Safeguard Children HM Government, 2006 and Safeguarding Children: Working Together Under the Children Act 2004 (Welsh Assembly Government (WAG))

Social care services should assist the police, if requested to do so, by arranging a placement for the child or young person in a place of safety, taking into account risk management and safety planning - whether this is in local authority accommodation provided by children's social care, on their behalf, or in a refuge.

Police officers have power, under s.17 (1) (e) Police and Criminal Evidence Act, 1984 (PACE), to enter and search any premises in order to protect life or limb.

Police officers can also prevent a child or young person's removal from a hospital or other safe place in which the child or young person is accommodated.

The parents may ask for contact with the child or young person, but this does not have to be granted if it is not in the child's best interests, i.e. it would place the child or young person in danger.

The local Police Child Protection Officer must be informed of any child under police protection. A child or young person may wish to see a police officer of the same gender. They may, or may not, want to see a police officer from their own community – try to give the child or young person the choice.

In all cases, ensure that the Child Protection Register has been checked.

You may be placed under pressure from relatives, those with influence within the community, councillors or MPs to say where the child or young person has gone. **Do not** divulge this information.

The police do not have parental responsibility with respect to the child or young person while they are under police protection but they can do what is reasonable in the circumstances for the purposes of safeguarding or promoting the child's welfare. The police cannot make any decisions for them beyond the 72 hours of the order.

### **13.17 Forced Marriage Protection Order**

Part 4A of the Family Law Act 1996 (which was introduced by the Forced Marriage (Civil Protection) Act 2007) enables the courts to make forced marriage protection orders (FMPOs) to prevent or pre-empt forced marriages from occurring and to protect those who have already been forced into marriage. The order can include restrictions or requirements to protect a victim from a spouse, family member or anyone involved<sup>37</sup> - and the order can relate to conduct either within or outside of England and Wales. In cases involving children, FMPOs can be used alongside wardship.

Applications for a FMPO can be made direct to the court by the person seeking protection, and local authorities as a designated relevant third party. This means that local authorities do not need to seek the court's permission to make an application for an order. Other people can also make applications with the leave of the court. This means that they have the court's permission to make an application.

Breach of a FMPO is now, by virtue of amendments to Part 4A of the Family Law Act made by section 120 of the Anti-Social Behaviour, Crime and Policing Act 2014, a criminal offence. It is accordingly no longer necessary for a power of arrest to be attached to the order, since a person may be arrested for the offence of breaching it. For further information on Forced

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<sup>37</sup>Involvement can include aiding, abetting, counselling, procuring, encouraging, or assisting another person to force or attempt to force a person to marry

Marriage Protection Orders and a list of courts where applications can be made, refer to Her Majesty's Court Service form FL701.<sup>38</sup>

Some forced marriage protection orders last for a specific period e.g. six months and the threat to the person may still exist after the order has expired.

It is advisable to seek specialist legal advice at the earliest opportunity.

There may be occasions (e.g. when the person is overseas) when seeking a forced marriage protection order may alert the family and practitioners should consider whether this might place the person at greater risk of harm.

### **13.18 Emergency Protection Order (EPO) s.44 Children's Act, 1999**

If the police are unwilling to take a child or young person into police protection, or if, for some reason, such an action is not appropriate, or the situation cannot be resolved during the 72 hours of police protection, an EPO should be considered. The application can be made by anyone including social workers, police, youth workers, advocates or friends of the child or young person but in practice, it is usually made by children's social care.

An EPO acts as a direction to any person in a position to do so (e.g. the parents) to produce the child to the applicant (e.g. children's social care), and authorises the applicant to remove the child and keep the child in accommodation. The child may only be removed to safeguard his or her welfare. An EPO lasts for up to eight days but it may be renewed for up to a further seven days.

If the person applying for an EPO is anyone other than the local authority, children's social care must be informed and must then undertake s.47 enquiries. The local authority has the power, having consulted the applicant and the child or young person, to take over the order and responsibility for the child or young person (Emergency Protection Orders (Transfer of Responsibilities) Regulations 1991, SI 1991/1414)).

An application may be made to court for an EPO without giving notice to the parents if this is necessary to protect the child or young person. In exceptional cases, where the application is particularly urgent, it can be made by telephone.

An EPO is open to challenge by the child's or young person's parents or any person with parental responsibility. Once an EPO is made the local authority shares parental responsibility with the parents but can only exercise parental responsibility so far as required to safeguard or promote the child's welfare. The local authority need not release details of where the child or young person is living if this is necessary to protect the young person.

If it is necessary to protect the child or young person, the court should be asked for an order that states there be no contact (or restricted contact) during the period of the EPO. If this is not asked for, there is a presumption of reasonable contact.

Social care services have a duty to make child protection enquiries (s.47) when a child or young person living in their area is the subject of an EPO or is in police protection or who they have reasonable cause to suspect is suffering, or is likely to suffer from significant harm (s.47 Children Act, 1989).

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<sup>38</sup> <http://www.justice.gov.uk/about/hmcts/>

### 13.19 Care orders and supervision orders

Sometimes, an emergency protection order (EPO) is followed by an application from the local authority for a care order (s.31 and s.38 Children Act, 1989). Without such an application, the EPO will lapse and the local authority will no longer have parental responsibility.

A court will only make an interim care order or an interim supervision order under s.38 Children Act, 1989 if it is satisfied that there are reasonable grounds to believe that the following threshold criteria are met:

- a. The young person concerned is suffering, or is likely to suffer, significant harm; and
- b. The harm, or likelihood of harm, is attributable to (amongst other things) the care given to the young person, or likely to be given to them if the order were not made, not being what it would be reasonable to expect a parent to give to a young person.

Note: The term “significant harm” should be taken to include all forms of abuse - physical, sexual and emotional and all forms of ill treatment that are not physical.

It is the court’s responsibility to decide whether an order is necessary to protect the young person and what sort of order is the most appropriate.

S.31 (3) Children Act, 1989 provides that no care order or supervision order may be made with respect to a child who has reached the age of 17 (or 16, in the case of a child who is married).

The advantage of a care order over a supervision order is that it allows greater protection to be offered to the young person as the local authority may obtain an order that there be no contact with the family and may conceal the whereabouts of the child if that is necessary to ensure adequate protection.

When a care or supervision order is not available due to the age of the young person, children’s social care should be aware of the opportunities presented by a ward of court order. This is available up to 18 years old and while social services themselves cannot have a young person “warded” (without leave of the court under s.100 Children Act 1989), the young person or an adult friend or advocate can apply for wardship. Various injunctions can be attached to a wardship as required. Very commonly, for a young person in fear of being taken abroad, the injunctions will relate to surrendering passports to the court so that the young person may not leave the jurisdiction without the court’s permission (see section 3.15.5 for further information on wardship).

A care order gives parental responsibility to the local authority. The local authority can decide the extent to which others with parental responsibility may meet that responsibility.

A care order places a duty on the local authority to receive the child or young person into their care in order to safeguard and promote the child or young person’s welfare.

The local authority also has a duty to accommodate and maintain the child or young person.

Young people are not able to apply for a care order on their own behalf. Furthermore, a care order cannot be made once a young person has reached the age of 17 or, in the case of a married person, once they reach 16. The point has not been tested as to whether the court would be willing to make a care order with respect to a young person who is 16 and who alleges that he or she was the subject of a forced marriage.

If a care order is granted it lasts until the young person reaches the age of 18 unless it is discharged before this date. It is a criminal offence to remove a child who is subject to a care

order from the UK, without the express consent of the local authority (and every other person who has parental responsibility), or the court. When a care order is not appropriate, wardship may still be an option.

The parents may agree to the young person being accommodated by the local authority in an attempt to forestall the local authority's application for an interim care order. The accommodation provided must adequately protect the young person. When a young person is accommodated, the local authority does not share parental responsibility and may be forced to disclose to the parents where the young person is living. It may be the case that a care order or wardship can offer greater protection to the child or young person.

If there is a relative or adult whom the young person can trust, that person could apply for a residence order with respect to the young person. This can be done as a freestanding application or within the care proceedings. Again, the question is likely to arise, would such an action provide adequate protection to the young person. Although the residence order holder would share parental responsibility, the parents would retain their parental responsibility and would know where the young person was living. However, the residence order holder could also apply for a prohibited steps or specific issue order to keep the whereabouts of the child undisclosed

It is possible for a local authority to acquire a supervision order (on the same criteria as a care order) to accompany a residence order. A supervision order places a duty to advise, assist and befriend the supervised child whilst providing support and back up to a residence order holder, but the order would not give the local authority parental responsibility.

If the child is not in care, it is also possible for a local authority to obtain a prohibited steps order under s.8 Children Act, 1989. Such an order could prohibit the parents from removing the young person from the country without the permission of the court. The local authority would need to seek the leave of the court before it obtained such an order. Such an order does not confer parental responsibility on the local authority.

Following a prohibited steps order, further steps should be made by children's social care, education and police to monitor the continuing well being and safety of the young person if they continue to live in the family home.

In care proceedings, local authorities are required to demonstrate to the court that they have considered family members and friends as potential carers as part of their decision-making. In cases of forced marriage, practitioners should exercise extreme caution around how they evidence this. Ideally, family group conferences should not be used in cases where a child or 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.

### **13.20 Inherent jurisdiction**

There will be cases where a care order is not appropriate, possibly because of the age of the child. A children's social care department may ask the court to exercise its inherent jurisdiction to protect the child. Any interested party, including the young person themselves, a private individual or the Children and Family Court Advisory Support Service (CAFCASS/CAFCASS CYMRU) legal services can apply to have a young person up to the age of 18 made a ward of court.

For the purposes of obtaining protection for a child or young person, there is little difference between wardship and the other orders made in the exercise of the inherent jurisdiction of

the High Court. Both types of orders under the inherent jurisdiction are flexible and wide-ranging and an order may be sought where either there is a real risk of a child or young person being forced into marriage or after the marriage has taken place. Where there is a fear that a child or young person may be taken abroad for the purpose of a forced marriage, an order for the surrender of their passport may be made as well as an order that the child or young person may not leave the jurisdiction without the Court's permission.

### **13.21 Application for wardship**

Once a young person has left the country, there are fewer legal options open to police, social services, other agencies or another person to recover the young person and bring them back to the UK. One course of action is to seek the return of the young person to the jurisdiction of England and Wales by making them a ward of court, in addition to taking out a Forced Marriage Protection Order.

An application for wardship is made to the High Court Family Division, and may be made by a relative, friend close to the child or young person, or CAFCASS/CAFCASS CYMRU legal services department or any interested party, including a local authority, if it has permission under s.100 Children Act 1989. The High Court has extensive experience of forced marriage cases and of dealing with them quickly. Its orders in the inherent jurisdiction and under wardship have greater influence in foreign states.

An Emergency Family Division Applications Judge is available at 10.30 am and 2 pm on all working days at the Royal Courts of Justice in the Strand, London, to hear without notice applications. Once the order is obtained, the co-operation of the authorities in the country to which the child or young person has been taken can be sought. Without such co-operation, it may be difficult to locate and return the child or young person. The Forced Marriage Unit can offer advice and support on possible options.

### **13.22 Tipstaff orders**

In Child Abduction, Forced Marriage and FGM cases, it may be possible to seek an order directed to the Tipstaff – this may be one of the following orders, Collection Order, Location Order or Passport Seizure order. These orders provide for a port alert against the child, vulnerable adult and respondents, removal of a child or vulnerable adult from the care of a respondent or an address where they are residing, removal of passports, ID Cards and all travel documents in the name of a child or vulnerable adult and the respondent. The orders carry a direction to the Tipstaff to arrest any person who disobeys the order having been served with a copy of it. A direction to the Tipstaff to enter and search for using force if necessary.

In the case of children who have been declared a ward of court i.e. cases where the court is acting in loco parentis the Tipstaff, where directed by an order of the court has a role in ensuring that those children are delivered to the locations specified by the court.

### **13.23 Non-molestation order**

A person may seek a non-molestation order against their spouse under s.42 Family Law Act, 1996. When such an order is granted it forbids the spouse or family member from using violence or other behaviour amounting to harassment against the applicant. Such an order can also be sought in relation to a child of the family.

The criteria for granting such an order are:



- There must be evidence of molestation (e.g. domestic violence or other behaviour which amounts to harassment).
- The applicant or child must need protection.
- The judge must be satisfied on the balance of probabilities that judicial intervention is required to control the behaviour, which is the subject of complaint.

The order may be applied for without notice being given to the spouse if there is a risk of significant harm to the applicant or to a child.

**A non-molestation order may be made not only against a spouse but also against:**

- A person who lives in the same household (but not if the reason they are living in the same household is because one is the other's employee, tenant, lodger or boarder).
- Relatives.
- A person whom the applicant has agreed to marry.

Even though non-molestation orders are civil court orders, breaching a non-molestation order is a *criminal* offence for which perpetrators may be fined or sent to prison.

### **13.24 Occupation order**

A person may also seek an occupation order against their spouse under the Family Law Act 1996, seeking the removal of that spouse from the house. The criteria for removal are stricter, and being a victim of a forced marriage is unlikely to be sufficient to obtain an occupation order. The basis on which an order may be granted also depends upon the "right to occupy". It will be necessary to seek legal advice to ascertain whether it would be possible for someone to obtain such an order.

### **13.25 Injunction against harassment**

The Protection from Harassment Act 1997 (PfHA) makes it an offence for someone to pursue a course of conduct which amounts to harassment (section 2) or cause someone to fear that violence will be used against them (section 4).

Harassment is generally understood to involve improper oppressive and unreasonable conduct that is targeted at an individual and calculated to alarm them or cause them distress. Crucially, the individual elements of a course of conduct need not themselves be criminal; however, a series of events in combination may form a course of conduct which could amount to a criminal offence. A "course of conduct" in a case of conduct in relation to a single person must involve conduct on at least two occasions.

In addition to the criminal offences, section 3 of the PfHA allows for a person to take civil proceedings in respect of harassment during which the court may grant an injunctions and/or award damages to the victim of the harassment. Breach of such an injunction is a criminal offence. A civil injunction can often effectively prevent the alleged offender from persisting with the behaviour without the need for criminal proceedings to be brought.





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