

South Lanarkshire

Adult and Child Protection Committee



Forced Marriage Multi-Agency Guidance

September 2020

www.childprotectionsouthlanarkshire.org.uk

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“Everyone has a right to choose their own spouse and enter into marriage with their full and free consent. Legislation is in place to prevent an individual from being forced or tricked into marriage”.

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This guidance is created to represent the multi agency partners who make up the South Lanarkshire Adult and Child Protection Committees, in particular the Gender-Based Violence Partnership.

Who is this guidance for?

This document is intended to provide initial guidance for any member of staff working in a South Lanarkshire organisation who may come into contact with people at risk of forced marriage.

This multi-agency guidance is intended to provide a concise overview of what forced marriage is, the legislation in relation to forced marriage, some of the issues that practitioners' should take into account when dealing with potential cases of forced marriage and the immediate steps practitioners should take if concerned that someone is at risk of or has been subject to, forced marriage.

It should be read in conjunction with the Multi-agency Practice Guidelines produced by the Scottish Government and available here:

Preventing and Responding to Forced Marriage (2014)

<http://www.gov.scot/Publications/2014/10/4797>

Understanding Forced Marriage in Scotland (2017)

<http://www.gov.scot/Publications/2017/01/6540>

Your organisation's procedures in relation to Child Protection and Adult Support and Protection must also be considered in every case.

In line with the Scottish Government Forced Marriage Multi-Agency Practice Guidelines, the term 'victim' is used throughout this document to refer to people who are, or have been, or at are at risk of being forced into marriage against their will. This term is not used to suggest weakness or inferiority.

Definition

A **forced marriage** is where one or both prospective spouses do not (or, in the case of children cannot) consent to the marriage and duress is involved.

Duress can include physical, psychological, financial, sexual and emotional pressure, threatening conduct, harassment, threat of blackmail, use of deception and other means. It is also 'force' to knowingly take advantage of a person's incapacity to consent to, or understand the nature of, the marriage. Duress may be from a prospective spouse, parents, other family members and the wider community. A forced marriage is always an abuse of someone's human rights.

A forced marriage is not the same as an arranged marriage which is entered into freely by both people and families take a role in introducing the marriage partners. Nor is it the same as a sham marriage, where both parties enter into an agreement to marry, e.g. to

assist a stay in the UK, and money may be paid to a UK or EU resident to enter into the marriage as a type of illegal 'business arrangement'.

Legislation

Legislation came into force in November 2011 which makes provision for the protection of people being forced into marriage or who have already been forced into marriage.

The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 is available to view here:

<http://www.legislation.gov.uk/asp/2011/15/contents/enacted>

The above Act legislated for Forced Marriage Protection Orders (FMPO) which can be granted in the civil courts in Scotland. FMPO's can protect both adults and children at risk.

The provision within the act is designed to enable the courts to tailor the terms of an FMPO to protect and meet the specific needs of victims of forced marriage or potential forced marriage.

For example, it might state that:

- The protected person must be taken to a place of safety designated in the order
- The protected person must not be taken to a specified place designated in the order
- The protected person be brought to a court at such time and place as the court specifies
- Any violent, threatening or intimidating conduct be stopped

Forcing someone into a marriage in Scotland is now a criminal offence (under the **Anti-Social Behaviour, Crime and Policing Act 2014**), which could lead to a two-year prison sentence, a fine or both.

Prevalence and reasons for forced marriage

Many cases of forced marriage go unreported. Many families do not consider the marriage to be 'forced' and many victims are reluctant to speak out.

Forced marriage is widely recognised at a national and international level as a violation of women's and children's human rights and as a form of violence against women and children. In 75% (1,322) of reported cases in 2018 the victim was recorded as female, with 17% (297) recorded as male (gender in the remaining cases was unknown). These proportions are in line with previous years. 574 cases (33%) involved victims below 18 years of age; and a further 542 cases (31%) involved victims aged 18-25.

Forced marriage is not a problem specific to one country or culture. Since 2011, the FMU has handled cases relating to over 110 countries across Asia, the Middle East, Africa, Europe and North America.

In 2018, 119 cases (7%) had no overseas element, with the potential or actual forced marriage taking place entirely within the UK. This is a decrease compared with previous years but continues to highlight that forced marriages can take place in the UK.

Reasons for forced marriage

Those who force people to marry often justify their actions as upholding cultural/religious traditions or protecting family honour or 'izzat'. This could be as a result of being raped, pregnant, or where it is thought that they have had an intimate relationship with someone of the same or opposite sex.

This is misguided as forced marriage is condemned by every major faith. Further reasons can include:

- Controlling unwanted behaviour and sexuality (perceived promiscuity or being lesbian, gay or transgendered).
- Responding to the pressure of others including family and friends and peers
- Achieving financial gain or control
- Ensure care for a child or adult with a disability as carers now unable to fulfil role
- Assisting claims for UK residence/citizenship
- Marrying off older sibling with a disability because their unmarried status is a barrier to marriage for other siblings.

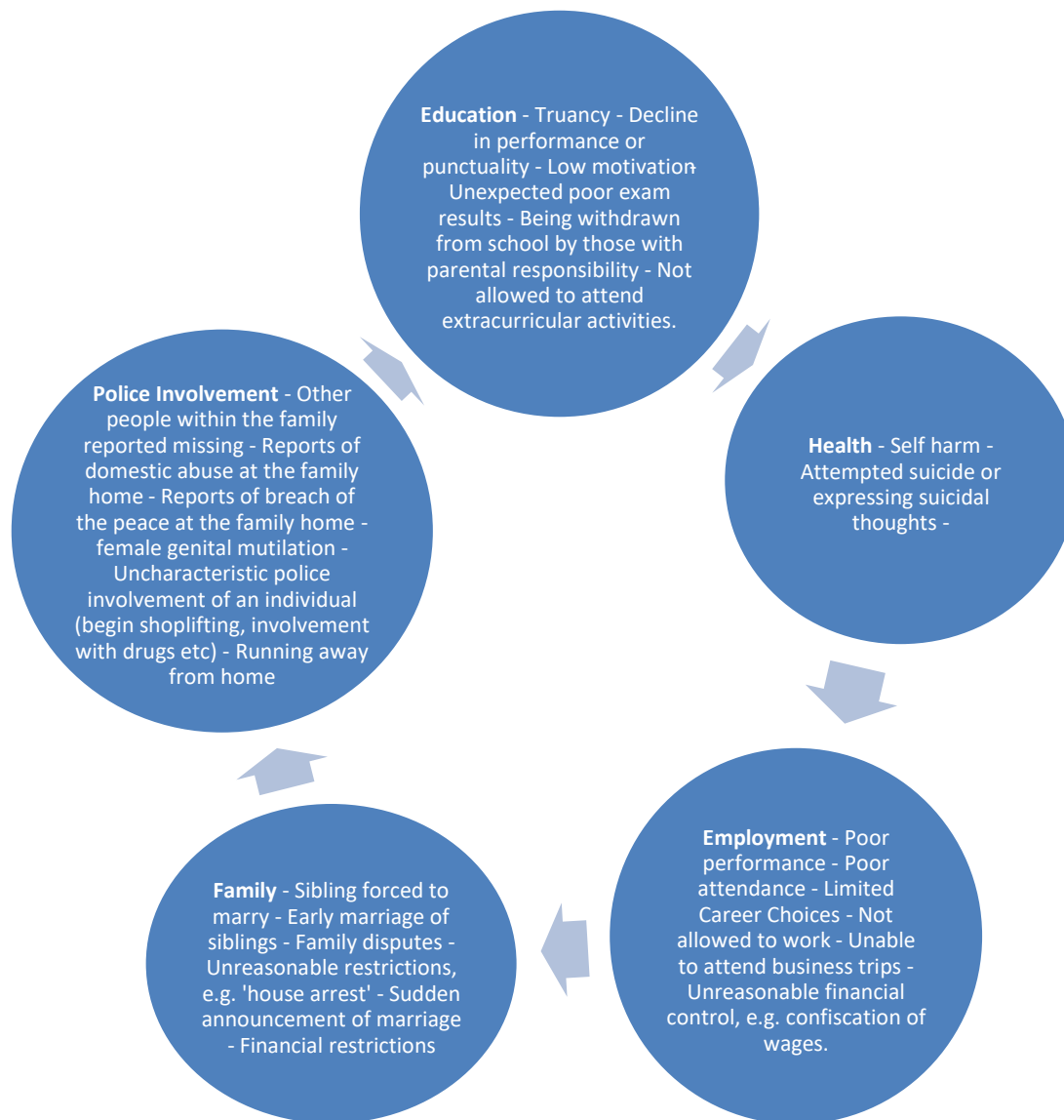
Warning signs and potential indicators

Clearly, the nature of your professional role will present different opportunities to observe or become aware of, warning signs or indicators of forced marriage as the legislation is intended to both stop the course of conduct that would lead to a forced marriage as well as the marriage itself. What is critical is that you appreciate that forced marriage is a real issue in South Lanarkshire and that we all have a responsibility to identify and respond effectively to these types of concerns.

The previous section, which sets out some of the reasons for forced marriage helps to raise awareness of some of the warning signs which are indicative of the grooming process that occurs as part of a forced marriage and some indicators of potential vulnerability to this risk.

For example, disability may increase vulnerability and families who display very controlling behaviour and language towards an individual may pose a higher risk.

The diagram on the following page highlights the key warning signs and indicators that may make you concerned that forced marriage is a risk. Please remember this is not an exhaustive list of signs and that the presence of these indicators is not conclusive evidence that forced marriage is a risk. You must continue to use your professional judgement and make use of the available guidance.



Case Studies:

Rhea's Story

Rhea was looking for advice on benefits and told the benefits adviser that she needed to maximise her benefits to help pay for her forthcoming wedding. Rhea has a learning disability and was unable to read and write and has often sought assistance in the past. Rhea was really excited and told the worker that her boyfriend had promised her a new dress to wear. Rhea told the worker that her boyfriend was 'foreign' and he was really excited about getting married, as he will be able to stay in Scotland. Rhea explained that her

best friend, who had attended the same additional support needs school as her was also going to marry Rhea's boyfriend's friend, who is also 'foreign' and wants to stay in Scotland. The benefits adviser made an adult support and protection referral to her local Social Work department who shared information with the Registrar and ultimately the marriage was stopped. Shortly afterwards, Rhea's 'boyfriend' moved away.

Serena's Story

Serena was a student and contacted the Scottish Domestic Abuse Helpline because she had overheard her brothers talking about a wedding being planned for her. The previous summer, her two cousins had returned from a holiday to see family abroad, both with much older husbands whom they had never previously met. Serena was concerned as the summer holidays were approaching and she felt this would be the time that she would be taken abroad. Serena was very concerned about what would happen to her, but also what might happen to her family if she sought support. Helpline staff contacted the Police from the Public Protection Unit who met with Serena and assisted her in obtaining a Forced Marriage Protection Order. Ultimately Serena felt protected and secure and shared the information about how to obtain a Protection Order with several of her friends.

Essential Practice in EVERY case

If you do suspect forced marriage, particular care must be taken around confidentiality; it can be **dangerous** to involve families, friends or community leaders in any capacity. Do not assume anyone (e.g. the person's mother) will take a protective role. Remember that in some instances, a victim's life may be at risk.

Confidentiality and information sharing

Victims facing or in a forced marriage are understandably very concerned about privacy and confidentiality. They know that if anyone finds out that they have gone for help they will be at serious risk. But they are often already at serious risk because of domestic abuse, so called 'honour-based' violence, sexual violence and imprisonment within the family.

Staff must be clear to victims about when confidentiality can be promised and when information may need to be shared. Staff should clearly explain to the victim what our agency means by 'confidentiality' and the limits to this i.e. when a child or adult is at serious risk.

Most victims will consent if you explain the reasons and what will happen and give assurances (for example the information will not be passed to their family).

Whether or not the victim consents, staff must tell them if they intend to disclose confidential information, what information is being shared, with whom it is being shared, who else will be party to it and why it is being shared. They should also be told which people/organisations are aware of their circumstances, even though specific information may not necessarily be shared with them.

Staff should also be aware that they, other colleagues within the organisation, or others within the victim's support network may be approached and/or pressurised by a member of the community to give out information.

All records belonging to victims 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.

Impact of Forced Marriages

As a result of forced marriage, individuals may face consequences which can include;

- Sexual degradation and domestic abuse (includes repeated rape, pregnancy and physical harm)
- Additional isolation particularly if the individual has a lack of access to an alternative home or support networks or finances.
- Lack of experience of life outside the home or relationships and as such a lack of skills, knowledge or ability to access or understand their rights (leads to desire to run away)
- Fear – of professionals as this may cause them to be ostracised, family or friends who may try to find them
- Families can report someone missing or falsely accuse them of a crime in order to illicit their return
- Removal to another country or location causing further isolation
- Death by so called 'honour killing'

Protecting children and adults with disabilities

If an individual has dependent children, they too are likely to be affected by the consequences set out above and this will affect their well-being. In addition, child siblings of those subject to forced marriage may themselves experience some of the consequences outlined above – and may also be at risk of forced marriage themselves.

Girls are at particular risk although it could be a child of any sex or gender identity.

Concerns about children's well-being should be responded to by using your local GIRFEC processes. Concerns about risk to children should be responded to using your organisations child protection procedures.

There have been reports of children and adults with mental health needs, learning and physical disabilities and additional support needs being forced to marry. In the case of children, the law is straightforward: children do not have capacity to consent to marriage, irrespective of any disability. This must be considered under child protection procedures and a **Child Protection Initial Referral Discussion** will apply in all cases.

Some adults do not have the capacity to consent to the marriage and may be unable to consent to consummate the marriage - sexual intercourse without consent is rape. There are various offences under the **Sexual Offences (Scotland) Act 2009** that can be committed against a person with a mental disorder.

The **Adults with Incapacity (Scotland) Act 2000** can also be used to protect adults who lack capacity to consent to marriage. **The Adult Support and Protection (Scotland) Act 2007**, places a duty on local authorities to inquire about the well-being of an adult who may

be at risk of harm. This would include an adult with physical or mental disability who has been forced to marry and allows the local authority to take a range of measures to provide appropriate support and protection. In particular, applications can be made to the sheriff for guardianship orders or intervention orders.

There are also sexual offences that can be committed against a person suffering from a mental health disorder under the **Mental Health Care and Treatment (Scotland) Act 2003**.

Children and young people with additional support needs or disabilities and some adults could be at risk of forced marriage and its consequences because they may be 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.

Many of the measures for protecting children and young people with disabilities and adults who may be at risk from forced marriage are the same as those for children and adults without disabilities. However, they may have particular needs, and face challenges which may be substantially different from those encountered by other people facing forced marriage. In the context of police interviews, the use of an Appropriate Adult should be considered to assist with communication.

ESSENTIAL INFORMATION - One Chance Checklist

Staff may only have one chance to speak to a victim at risk of forced marriage and thus, protect them.

DO

- See the victim on their own – even if they are accompanied by others – check in private if the person wishes to speak with a male or female member of staff, never use any accompanying person as an interpreter
- See the victim in a secure and private place where you will not be overheard
- Reassure the victim about confidentiality (in line with your organisation's policy) and explain that you will not give information to their family/ friends or community
- Accept what the victim says
- Explain all the options open to the victim and their possible outcomes
- Recognise the victim's wishes and take these into account
- Assess the risk faced by the victim by conducting an appropriate and thorough risk assessment (in line with your organisation's policy)
- Contact, as soon as possible, the Lead Person responsible for Forced Marriage within your organisation (Appendix 2) – if you are employed by a Statutory Organisation – your organisation is required to have this (if the individual is under 16 years of age, refer to your organisation's guidance on Child Protection, if they are over 16 refer to your organisation's guidance on Adult Support and Protection) and also contact your local Public Protection Unit (Police) for South Lanarkshire.
- Agree a way to contact the victim safely (for example agree a code word)

- Obtain full details, record these securely (in line with your organisation's policy on confidentiality and record keeping) and pass on as appropriate
- Give the victim (or help them memorise) your contact details and ensure they know the emergency services number for use in an emergency situation and/or give them appropriate agencies contact details (as appropriate to their communication needs)
- Consider the need for immediate police involvement, protection and placement away from the family and arrange this if necessary: this includes any action to stop the victim being removed from the UK
- Do everything you can to keep the victim safe
- Get immediate advice, while the victim is still with you if possible, if you are not sure what to do

If you are aware someone is potentially at risk of a forced marriage and you need to take immediate emergency action in relation to their health or safety, do not hesitate to dial 999 for the appropriate emergency service (Police, Ambulance or Fire).

In all cases you must contact Social Work Resources on 0303 123 1008 to advise of your concerns.

DO NOT

- Send a victim away or let them leave without a safety plan and follow up arrangements.
- Approach the victim's family/friends or community unless they ask you to do so and even then use your professional judgement and discuss the merits of doing so with the individual
- Consider approaching community leaders for advice, share information with anyone without the victim's consent unless there is risk of immediate harm to any children (this merits a child protection referral to Social Services), whereby contact should be made with Social Services as outlined and Police Scotland.
- Attempt to mediate with any member of the family, extended family or community.

What Action do I Take?

If you witness or are told about a possible forced marriage you must:

- Dial 999 if you are in immediate danger, leave the scene and do not return until a multi agency risk assessment has been completed
- Ensure that the victim is not in immediate danger
- If the victim is injured or at risk of harm contact the appropriate emergency service – police and/or ambulance service immediately
- If there is a possibility a crime may have been committed contact the police immediately (be careful not to disturb any evidence)
- **Do not** speak with family/community members unless the victim has given their consent
- Consider the safety of other potential adults/children who might be present.
- Make a note of the victim's circumstances

➤ **USE THE ONE CHANCE CHECKLIST ABOVE**

- Date, time and details of the incident
- What the victim is saying about the incident/s
- Whether there are any witnesses
- Discuss consent to share
- Advise victim what you plan to do next
- Sign and date your report

You should then:

- Contact your manager immediately (or a manager if yours is not available)
- Refer to Social Work Resources immediately **the same day** (if the referral involves a child pass to Children and Justice Services and if it involves an adult pass to Adult and Older Peoples Services.
- The Lead Person responsible for forced marriage for your organisation should be contacted. See table below for details.

In all instances for both children and adults where Forced Marriage or potential Forced Marriage is suspected – Police should be notified by contacting the Public Protection Unit on 101.

Forced Marriage Referral Monitoring template FM4

Date of referral	Referred to	Name of person at risk of forced marriage	Age/date of birth	Sex	Address	Nationality	Comments

Appendix 2

Key Local contacts

Lead Person responsible for Forced Marriage within South Lanarkshire			
Name	Designation	Organisation	Telephone Number
Michelle McConnachie	Service Manager	South Lanarkshire Council- Adult and Older Peoples	01698 453761
Michele Kennedy-Lunan	Fieldwork Manager	South Lanarkshire Council – Children and Families	01698 452769
Aileen Muir	Strategy and Policy Officer	South Lanarkshire Council – Housing and Technical Resources	01698 454121
Alan MacDonald	Detective Inspector	Police Scotland	01355 564005
Mark Richards	Director of Nursing and Allied Health Professions	The State Hospital	01555 842002
Ann Hayne	NHSL Operational Adviser on Gender-Based Violence	NHS Lanarkshire	01236 707767

Registrars (Marriage) within South Lanarkshire Local Authority		
Name	Address	Telephone Number
Chief Registrar	Floor 11, Almada Street, Hamilton	01698 455916

Useful Links		
Name	Description	Telephone Number
Shakti Women's Aid Support www.shaktiedinburgh.co.uk	<i>Advocacy, refuge and information to all black minority ethnic women, children and young people experiencing and/or fleeing domestic abuse.</i>	0131 475 2399
Hemat Gryffe Women's Aid Support www.hematgryffe.org.uk	<i>Advocacy, refuge and information for black minority ethnic women, children and young people experiencing and/or fleeing domestic abuse</i>	0141 353 0859
Scottish Domestic Abuse and Forced Marriage Helpline	<i>For anyone who has experienced domestic abuse and/or forced marriage (signposting for male victims)</i>	0800 027 1234 (24 hours)
Just Right Scotland	<i>Help for women with no recourse to public funds: Women who entered the UK on spousal or partner visa and are eligible to apply for Indefinite Leave to Remain (ILR) under the Domestic Violence rules.</i>	0141 406 5350
Men's Advice Line	<i>Help and support for male victims of domestic abuse.</i>	0808 801 0327
Victim Support Scotland	<i>Provides emotional support, practical help and essential information to victims witnesses and others affected by crime</i>	0845 603 9213

Forced Marriage – Scottish Government Guidance:

Multi-agency practice guidelines: preventing and responding to forced marriage – update 2014

[Scottish Forced Marriage Multi Agency Practice Guidance](#)

Scottish Government study to better understand forced marriage in Scotland 2017:

<http://www.gov.scot/Publications/2017/01/6540>

Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011

www.gov.scot/Topics/People/.../forcedmarriage

Visit the Scottish Government Website:

www.scotland.gov.uk

Government Departments - UK

Forced Marriage Unit Joint Foreign & Commonwealth Office/Home Office service: Helpline: (Mon – Fri: 9am – 5pm) – **020 7008 0151**

www.fco.gov.uk/forcedmarriage

Email: fmf@fco.gov.uk

For emergencies out of hours, phone **020 7008 1500** and ask for the Global Response Centre UK Border Agency www.ukba.homeoffice.gov.uk enforces immigration and customs regulations and considers applications for permission to enter or stay in the UK, and for citizenship and asylum.