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Welsh Assembly Government

Association of Chief Police Officers



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

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PART ONE

CONTEXT

Chapter 1

BACKGROUND

- 1 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 whether or not to accept the arrangement remains with the prospective spouses. In forced marriages, one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure.
- 2 All Chief Executives, directors and senior managers providing services to victims of forced marriage and honour-based violence need to be aware of the “one chance” rule. That is, their staff may only have one chance to speak to a potential victim and thus their staff may only have one chance to save a life. This means that all professionals working within statutory agencies need to be aware of their responsibilities and obligations when they come across forced marriage cases. If the victim is allowed to walk out of the door without support, that one chance might be wasted.
- 3 The government regards forced marriage as an abuse of human rights and a form of domestic abuse and, where it affects children and young people, child abuse. It can happen to both men and women although most cases involve young women and girls aged between 13 and 30. There is no “typical” victim of forced marriage. Some may be under 18 years old, some may be over 18 years old, some may have a disability, some may have young children and some may be spouses from overseas.
- 4 The majority of cases of forced marriage reported to date in the UK involve South Asian families. This is partly a reflection of the fact that there is a large, established South Asian population in the UK. However, it is clear that forced marriage is not solely a South Asian problem and there have been cases involving families from the Middle East, Europe and Africa. Some forced marriages take place in the UK with no overseas element, while others involve a partner coming from overseas or a British citizen being sent abroad.
- 5 In August 1999, Home Office Minister for Community Relations, Mike O’Brien MP established a Forced Marriage Working Group to undertake an investigation into the scale and extent of forced marriage across the UK. The Working Group’s findings were published in “A Choice by Right”¹ in 2000.
- 6 The Foreign & Commonwealth Office responded to the recommendations in “A Choice by Right” by setting up the Community Liaison Unit in 2000. In 2005, the Unit developed into a joint Home Office and Foreign & Commonwealth Office Unit known as the Forced Marriage Unit (FMU). The role of the Unit is to provide information and support to the victims of forced marriage and to provide advice to professionals handling cases. The Unit, together with relevant government departments and agencies, has also published practice guidelines for police officers, health professionals, social workers and education professionals on dealing with cases² – these are to be updated following the publication of the statutory guidance.

¹ www.fco.gov.uk/resources/en/pdf/a-choice-by-right

² www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/info-for-professionals

- 7 In the first nine months of 2008 alone, over 1,300 incidences of suspected forced marriage have been reported to the Forced Marriage Unit. Cases also come to the attention of the police, social care services, health, education and voluntary organisations. Many others go unreported.³ With greater awareness of the help available, the number of cases reported is likely to increase.
- 8 As part of the Forced Marriage Unit's continuing work to tackle the issue, a consultation paper, "Forced Marriage, A Wrong Not a Right", was published in 2005 to establish whether or not forced marriage should become a criminal offence. Agencies, professionals and individuals were invited to respond to the paper.
- 9 While there was no clear majority among respondents about whether or not a specific criminal offence should be created, the majority felt that the disadvantages of creating new legislation would outweigh the advantages and potentially drive forced marriage underground by preventing victims from coming forward. As a consequence of the consultation paper, the Forced Marriage (Civil Protection) Act was enacted in 2007 and came into force on 25 November 2008. The Act forms part of the Family Law Act 1996 and makes provision for protecting children, young people and adults from being forced into marriage without their free and full consent. Part Two of this guidance is issued under s.63Q (1) of the 2007 Act.

³ Information provided by victims at seminars 2000 – 2008.

Chapter 2

THE STATUS AND PURPOSE OF THIS GUIDANCE

THE STATUS OF THIS DOCUMENT AS STATUTORY GUIDANCE

- 10** Part Two of this guidance is issued as statutory guidance under section 63Q(1) of the Forced Marriage (Civil Protection) Act 2007 (2007 c.20). Section 63Q of the Act states:
- 1** The Secretary of State may from time to time prepare and publish guidance to such descriptions of person as the Secretary of State considers appropriate about –
 - a** The effect of this Part or any provision of this Part;
 - or
 - b** Other matters relating to forced marriages.
 - 2** A person exercising public functions to whom guidance is given under this section must have regard to it in the exercise of those functions.
 - 3** Nothing in this section permits the Secretary of State to give guidance to any court or tribunal.
- 11** As statutory guidance issued under section 63Q of the Act, a person exercising public functions to whom the guidance is given must have regard to it in the exercise of those functions. This means that a person to whom the guidance is given must take the guidance into account and, if they decide to depart from it, have clear reasons for doing so.
- 12** Front-line staff dealing with cases of forced marriage are strongly recommended to consult the practice guidelines issued by the Forced Marriage Unit.⁴

AUDIENCE

- 13** This guidance is given to all persons and bodies in England and Wales who exercise public functions in relation to safeguarding and promoting the welfare of children as listed in section 11(1) or section 28(1) of the Children Act 2004 or under section 175 of the Education Act 2002. Such persons and bodies include schools, local authorities, police authorities and chief officers of police and youth offending teams. This guidance is also given to the Children and Family Court Advisory and Support Service (established under section 11 of the Criminal Justice and Courts Services Act 2000) and Local Safeguarding Children Boards (established under section 13 or section 31 of the Children Act 2004).
- 14** This guidance is also given to all persons and bodies in England and Wales who exercise public functions to protect vulnerable adults from abuse. Examples of these bodies may include but are not limited to police authorities and chief officers of police, and NHS trusts. Also key elements of local authorities and/or district councils in particular adult social care services, strategic health authorities, primary care trusts, local health boards.
- 15** This guidance is also given to any third party who is exercising public functions on behalf of a person or body mentioned in paragraphs 13 and 14.

⁴ www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/info-for-professionals

THE PURPOSE OF THIS GUIDANCE

- 16** This guidance is targeted at Chief Executives, directors and senior managers of persons and bodies mentioned in paragraph 13 or 14 of third parties mentioned in paragraph 15. It outlines their responsibilities concerning developing and maintaining local procedures and practice arrangements to enable their front-line practitioners to handle cases of forced marriage effectively. It sets out how cases of forced marriage should be responded to using existing frameworks for safeguarding children, protecting vulnerable adults and victims of domestic abuse.
- 17** This document is not intended to be used by front-line practitioners as practice guidelines. Front-line practitioners handling cases of forced marriage are strongly recommended to consult the practice guidelines issued by the Forced Marriage Unit.⁵

AIMS

- 18** This document sets out the duties and responsibilities of agencies with the aim of protecting children, young people and adults facing forced marriage. It does not attempt to replicate existing guidance.
- 19** As forced marriage is a form of child/adult/domestic abuse, it should form part of existing child and adult protection structures, policies and procedures.
- 20** The document highlights specific arrangements that may inadvertently place a victim at risk of harm. These include failure to share information appropriately between agencies, the danger of involving families, breaches of confidentiality and all forms of family counselling, mediation, arbitration and reconciliation.

DEFINITIONS

Adult

- 21** In this guidance ‘adult’ means a person aged 18 years or over.

Child abuse and neglect

- 22** Throughout this document the recognised categories of maltreatment as set out in *Working Together to Safeguard Children*^{6&7} have been used. These are:
- Physical abuse
 - Sexual abuse
 - Emotional abuse
 - Neglect

Child, children and young people

- 23** As defined in the Children Act 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 they are living independently.

Child in need

- 24** Children who are defined as being “in need” under section 17 of the 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 (section 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.

⁵ www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/info-for-professionals

⁶ *Working Together to Safeguard Children* 2006.

⁷ *Working Together to Safeguard Children* under the Children Act 2004 (Welsh Assembly Government).

Domestic abuse

- 25 The government defines domestic abuse as: “any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality.”

Forced marriage

- 26 A forced marriage is a marriage in which one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure.

Honour-based violence

- 27 The term “honour crime” or “honour-based violence” embraces 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 against 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.

- 28 Welshman and Hossain state “The term crimes of honour encompasses a variety of manifestations of violence against women; including murder termed “honour killings”, assault, confinement or imprisonment and interference with choice in marriage where the publicly articulated justification is attributed to a social order claimed to require the preservation of a concept of honour vested in male family and or conjugal control over women and specifically women’s sexual conduct – actual, suspected or potential.”⁸

⁸ Welchman, Lynn and Hossain, Sara, eds. (2005) *Honour: Crimes, Paradigms and Violence against Women*. Zed Books (London).

Relevant third party

- 29 The Forced Marriage (Civil Protection) Act 2007 provides for three types of applicant who may apply for a Forced Marriage Protection Order. They are the victim, anyone on their behalf with the permission of the court and a relevant third party. A relevant third party may apply on behalf of a victim and does not require the leave of the court. The Lord Chancellor has specified that, once designated, local authorities will be able to act as a relevant third party.

The concept of significant harm

- 30 The Children Act 1989⁹ introduced the concept of significant harm as the threshold that justifies compulsory intervention in family life in the best interests of children and young people. Under section 47 of the Act, local authorities have a duty to make enquiries to decide whether they should take action to safeguard or promote the welfare of a child who is suffering, or likely to suffer, significant harm.¹⁰

Vulnerable adult

- 31 *No Secrets*¹¹ defines a “vulnerable adult” as 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.”
- 32 In line with *No Secrets* and *In Safe Hands*¹² – Welsh Assembly Government (WAG), ‘community care services’ includes all care services provided in any setting or context.

⁹ Section 31 (9) The Children Act 1989 – www.opsi.gov.uk/acts/acts1989/ukpga_19890041_en_6#pt4-pb1-l1g31

¹⁰ S. 1.23 *Working Together to Safeguard Children* 2006.

¹¹ *No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*, HO & DH, 2000.

¹² *In Safe Hands: Implementing Adult Protection Procedures in Wales*, July 2000 Welsh Assembly Government (WAG).

Chapter 3

UNDERSTANDING THE ISSUES AROUND FORCED MARRIAGE

MOTIVES PROMPTING FORCED MARRIAGE

- 33** Parents who force their children to marry often justify their behaviour as protecting their children, building stronger families and preserving cultural or religious traditions. They often do not see anything wrong in their actions. Forced marriage cannot be justified on religious grounds; every major faith condemns it and freely given consent is a prerequisite of Christian, Jewish, Hindu, Muslim and Sikh marriages.
- 34** Often parents believe that they are upholding the cultural traditions of their home country, when in fact practices and values there may have changed. Some parents come under significant pressure from their extended families to get their children married. In some instances, an agreement may have been made about marriage when a child is in their infancy. Many young people live their entire childhoods with the expectation that they will marry someone their parents select – some may be unaware that they have a fundamental human right to choose their spouse.
- 35** 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 breach of children’s rights under the UN Convention on the Rights of the Child (UNCRC) as well as an abuse of human rights.
- 36** Some of the key motives that have been identified¹³ 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 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 vulnerable 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.

¹³ By practitioners working with victims of forced marriage.

FORCED MARRIAGE IS AN ABUSE OF HUMAN RIGHTS

37 Forced marriage is an abuse of human rights and an abuse of the rights of the child.

“Marriage shall be entered into only with the free and full consent of the intending spouses.”

Universal Declaration of Human Rights, Article 16(2)

“No marriage shall be legally entered into without the full and free consent of both parties.”

UN Convention on consent to marriage, minimum age for marriage and registration of marriages, Article 1

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

United Nations Convention on the Rights of the Child, Article 3

“States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity”

(United Nations Convention on the Rights of the Child, Article 34a)

“A woman’s right to choose a spouse and enter freely into marriage is central to her life and her dignity and equality as a human being.”

(General Recommendation No.21, Comment Article 16 (1) (b), UN Convention on the Elimination of All Forms of Discrimination Against Women)¹⁴

¹⁴ www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom21

THE VICTIM

- 38** Isolation is one of the biggest problems facing those trapped in, or under threat of, a forced marriage. They may feel 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. Only rarely will an individual disclose fear of forced marriage. Therefore, someone who fears they may be forced to marry will often come to the attention of health professionals, police, social care services, education services or other professionals for various behaviours consistent with distress.
- 39** Young people forced to marry, or those who fear they may be forced to marry, are frequently withdrawn from education, restricting their educational and personal development. They may feel unable to go against the wishes of their parents and be threatened with disownment if they do – consequently they 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. Studies have shown that self-harm and suicide are significantly higher among Asian women than other groups¹⁵ and contributory factors include lack of self-determination, excessive control, weight of expectations of the role of women and concerns about their marriages.

- 40** A mental or physical disability or illness adds to a young person's, or an adult's, vulnerability and may make it more difficult for them to report abuse or to extricate themselves from an abusive situation. Their care needs may make them dependent on their carers.

POSSIBLE CONSEQUENCES OF FORCED MARRIAGE

- 41** 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 marked 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 associated with depression, trauma-related symptoms and low self-esteem in adulthood.

¹⁵ 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.

- 42** Both male and female victims of forced marriage may feel that running away is their only option. For many young people, especially women from minority ethnic communities, leaving their family can be especially hard. They may have no experience of life outside the family – leaving may mean they lose their children and friends. For many, finding accommodation for themselves and their children can be very difficult – especially for those who do not have leave to remain and therefore do not have recourse to public funds.¹⁶ Living away from home with little support can make a victim 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.
- 43** 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. Families may solicit the help of others to find their runaways, or involve the police by reporting them missing or falsely accusing the young person of a crime (for example theft). Some families have 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 murder them (so called “honour killing”).
- 44** 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 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.

¹⁶ If a person does not have indefinite leave to remain, some form of discretionary leave or a right of abode in the UK, then they are likely to have a restriction on receiving public funds (no recourse to public funds). Public funds include income support and housing benefit.

DIFFICULTIES FACED WHEN A FORCED MARRIAGE TAKES PLACE OVERSEAS

- 45** For many 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 and e-mail. They may not have 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 where even getting to the nearest road can be hazardous. They may not receive the assistance they expect from the local police, neighbours, family, friends or taxi-drivers. Some individuals may find themselves subjected to violence or threats of violence.

THE LEGAL POSITION

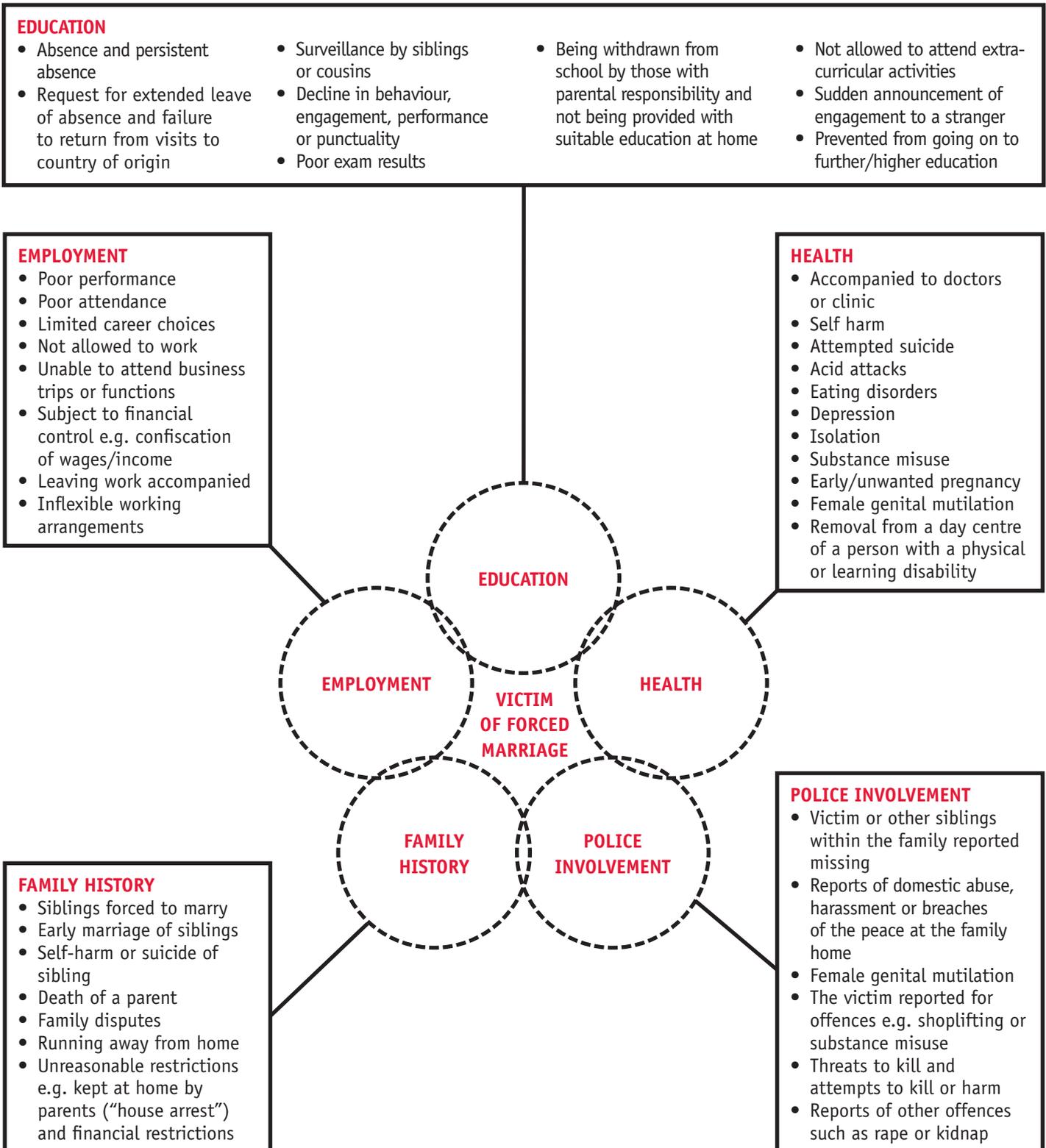
- 46** Although there is no specific criminal offence of “forcing someone to marry” within England and Wales, criminal offences may nevertheless be committed. Perpetrators – usually parents or family members – could be prosecuted for offences including conspiracy, threatening behaviour, assault, kidnap,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

- 47** There are a number of 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.
- 48** A Forced Marriage Protection Order can be sought under the Forced Marriage (Civil Protection) Act 2007 to protect both adults and children at risk of being forced into marriage and to offer protection for those who have already been forced into marriage. This Act is designed to enable the courts to tailor the terms of an order to protect and meet the specific needs of victims of forced marriage or potential forced marriage.
- 49** 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. However, agencies should not assume that a marriage is invalid because it was forced, this will most often not be the case.

POTENTIAL WARNING SIGNS OR INDICATORS

- 50** Individuals facing forced marriage may appear anxious, depressed and emotionally withdrawn with low self-esteem. They may come to the attention of professionals for a variety of reasons, some of which are described in the diagram opposite. Whilst the factors set out in this diagram may be, collectively or individually, 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. These indicators are not intended to be exhaustive.
- 51** There have been occasions when women have presented with less common warning signs, such as cutting or shaving of a woman's 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 the doctors to be examined to see if she is a virgin. There have been reports of women presenting with symptoms associated with poisoning. In certain communities, it is 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 is illegal in the UK and it is also a criminal offence to take someone overseas for the purposes of FGM.

WARNING SIGNS OF A VICTIM OF FORCED MARRIAGE



PART TWO STATUTORY GUIDANCE

Chapter 4

ACTIONS FOR CHIEF EXECUTIVES, DIRECTORS AND SENIOR MANAGERS TO WHOM THIS GUIDANCE IS ADDRESSED

- 52 Forced marriage is a violation of human rights and a form of child/adult/domestic abuse and should be treated as such. Therefore, ignoring the needs of victims is not an option. Cases should be tackled regardless of cultural sensitivities using **existing structures, policies and procedures** designed to safeguard children, vulnerable adults and victims of domestic violence.
- 53 Existing strategic bodies should ensure that their member agencies work effectively using agreed policies and procedures to tackle this issue. This includes Local Councils, Local Strategic Partnerships, Local Safeguarding Children Boards, Children's Trusts, Multi-agency Risk Assessment Conferences, Learning Disability Partnership Boards, Local Criminal Justice Boards, Local Family Justice Councils and Multi-Agency Adult Protection Management Committees.

SENIOR MANAGEMENT COMMITMENT

- 54 **Chief Executives, directors and senior managers should ensure that their organisation has:**
- A lead person with overall responsibility for safeguarding children, protecting vulnerable adults or victims of domestic abuse – the same person should lead on forced marriage.¹⁷

- Policies and procedures in place to protect those facing forced marriage. The policies and procedures should be in line with existing statutory and non-statutory guidance on safeguarding children^{18, 19, 20, 21, 22 & 23} protecting vulnerable adults^{24, 25 & 26} and protecting victims of domestic abuse^{27, 28, 29, 30, 31, 32, 33, 34 & 35}. These policies and procedures should form part of an overall child/adult protection strategy.
- Policies and procedures that are updated regularly to reflect any structural, departmental and legal changes.
- A named person whose responsibility it is to ensure that cases of forced marriage are handled, monitored and recorded properly.

¹⁷ In schools, this would be the designated person for child protection.

¹⁸ Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004.

¹⁹ *Working Together to Safeguard Children* 2006.

²⁰ Education – Safeguarding Children and Safer Recruitment in Education 2006.

²¹ Home Office (2008) *Gang's: You and Your Child* London: Home Office.

²² Safeguarding Children – Working Together Under the Children Act 2004 (Welsh Assembly Government).

²³ What to do if you are worried a child is being abused, DCSF 2006.

²⁴ Mental Capacity Act 2005.

²⁵ *In Safe Hands: Implementing Adult Protection Procedures in Wales*, July 2000.

²⁶ *No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*, HO & DH, 2000.

²⁷ Responding to domestic abuse: A handbook for health professionals, DH 2006.

²⁸ The National Domestic Violence Delivery Plan: Progress Report 2007/08 www.crimereduction.homeoffice.gov.uk/dv/dv017.htm

²⁹ Home Office (2005) Domestic Violence and Children: Good practice guidelines www.crimereduction.homeoffice.gov.uk/dv/dv08e.htm

³⁰ Home Office (2007) Co-ordinated Community Response to Domestic Violence Model www.crimereduction.homeoffice.gov.uk/dv/dv014.htm

³¹ Association of Chief Police Officers (2008) Honour-based Violence Strategy www.acpo.police.uk

³² Tackling Domestic Abuse: The All Wales National Strategy – A Joint Agency Approach, 2005.

³³ Domestic Violence: A resource manual for Health Care Professionals in Wales. Welsh Assembly Government 2003.

³⁴ Home Office 'Safety and Justice: sharing personal information in the context of domestic violence.

³⁵ National Policing Improvement Agency guidelines on Investigating Domestic Abuse, 2008.

ROLES AND RESPONSIBILITIES

- 55 Chief Executives, directors and senior managers should ensure that:**
- Their staff understand their role in protecting people under threat of, or already trapped in, a forced marriage.
 - Through policies and procedures, their staff are familiar with their duties and responsibilities when protecting individuals threatened with, or already in, a forced marriage.
 - Their staff know to whom they should refer cases within their organisation and when to refer cases to other agencies.
 - Front-line staff dealing with cases of forced marriage have access to, and are strongly recommended to consult, the practice guidelines issued by the Forced Marriage Unit.

CLEAR LINES OF ACCOUNTABILITY

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

VICTIM-CENTRED APPROACH

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

EFFECTIVE INTER-AGENCY WORKING AND INFORMATION SHARING

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

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

CONFIDENTIALITY

- 60 A dilemma may occur because an individual facing forced marriage may be concerned that if confidentiality is breached and their family finds out that they have sought help they will be in serious danger. On the other hand, those facing forced marriage are often already facing serious danger because of domestic abuse, “honour-based” violence, rape, imprisonment etc. Therefore, in order to protect the individual, it is appropriate to share information with other agencies such as the police.
- 61 Consequently, confidentiality and information sharing are going to be extremely important for anyone threatened with, or already in, a forced marriage. Professionals need to be clear about when confidentiality can be offered and when information given in confidence should be shared.
- 62 **Chief Executives, directors and senior managers should ensure that:**
- Staff understand that the individual’s confidence should be respected at all times and that they should not approach family, friends or members of the community without the express permission of the individual as this may place the individual at risk of harm.
 - All records belonging to individuals facing forced marriage should be kept secure to prevent unauthorised access by those within the broader community who may potentially pass on confidential information to a victim’s family. Records should only be available to those directly dealing with the case.

STAFF TRAINING AND AWARENESS RAISING

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

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

SIGNPOSTING EXISTING PRACTICE GUIDELINES ON FORCED MARRIAGE

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

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

MONITORING AND EVALUATION

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

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

RECORD KEEPING

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

RISK ASSESSMENT

- 67 Chief Executives, directors and senior managers should ensure that:**
- Staff within their organisation understand the risks facing victims of forced marriage, their siblings and other family members – including the possibility of “honour-based” violence, threats to kill, murder, kidnap, rape, imprisonment and being abducted overseas.
 - Staff alleviate these risks by undertaking ongoing risk assessments on a case-by-case basis and then manage any risks identified appropriately.
 - Their organisational risk assessments are evaluated to ensure that they are appropriate for handling cases of forced marriage – and recognise the potential risk of harm to victims and practitioners.
- 68** Multi Agency Public Protection Arrangements (MAPPA)³⁶ and Multi-Agency Risk Assessment Conferences³⁷ play a role in managing the significant risk to individuals facing forced marriage.
- 69** For children, the Assessment Framework should be used to assess the risks (See paragraphs 84–87).

THE DANGER OF FAMILY COUNSELLING, MEDIATION, ARBITRATION AND RECONCILIATION

- 70** Due to the nature of forced marriage and honour-based violence, some of the underlying principles and themes within existing guidance may inadvertently place young people and vulnerable adults at greater risk of harm. This includes the belief that the best place for them is with their family and the practice of attempting to resolve cases through family counselling, mediation, arbitration and reconciliation.
- 71 Chief Executives, directors and senior managers should ensure that:**
- Staff have adequate training to understand the danger of family counselling, mediation, arbitration and reconciliation.
 - Staff understand that in cases of forced marriage, it is important that agencies do not initiate, encourage or facilitate family counselling, mediation, arbitration or reconciliation. Mediation can also place the individual at risk of further emotional and physical abuse.
 - Staff are aware that on occasions when an individual insists on meeting with their parents, it should only take place in a safe location, supervised by a trained/specialist professional with an authorised accredited interpreter present (not from the same local community), as parents will sometimes threaten the individual in their other language.
 - Staff are aware that allowing a victim to have unsupervised contact with their family is normally extremely risky. Families may use the opportunity to subject the victim to extreme physical or mental duress or take them overseas regardless of any protective measures that may be in place.

³⁶ www.homeoffice.gov.uk/rds/pdfs05/dpr45.pdf

³⁷ www.caada.org.uk

PROTECTING CHILDREN AND ADULTS WITH DISABILITIES

- 72** There have been reports of children and vulnerable adults with mental health needs, learning and physical disabilities being forced to marry. Some vulnerable adults do not have the capacity to consent to the marriage. Some children and vulnerable adults may be unable to consent to consummate the marriage – sexual intercourse without consent is rape. There are various offences under the Sexual Offences Act 2003 that can be committed relating to a person with a mental disorder.
- 73** Disabled children and vulnerable adults are particularly vulnerable to forced marriage and its consequences 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.
- 74** Many of the measures for protecting disabled children and vulnerable adults from forced marriage are the same as those for children and adults without disabilities. However, disabled children and vulnerable adults may have particular needs and face challenges which may be substantially different from those encountered by other people facing forced marriage.
- 75** **Chief Executives, directors and senior managers should ensure that** disabled children and vulnerable adults receive whatever additional assistance and support they require. Good practice in relation to this assistance and support includes:
- Listening to disabled children/vulnerable adults and making sure they know how to raise concerns.
 - Meeting the disabled child/vulnerable adult's care and support needs.
 - Ensuring disabled children/vulnerable adults have access to adults outside the family to whom they can turn for help.
 - Providing speech and language therapists to facilitate communication.
 - Providing training and raising awareness about forced marriage amongst staff who care for disabled children or vulnerable adults.
 - Providing an Independent Mental Capacity Advocate (IMCA) in cases where the victim lacks mental capacity – so their needs and wishes are understood and communicated.

Chapter 5

SPECIFIC ISSUES TO BE CONSIDERED BY AGENCIES WORKING WITH, OR PROVIDING SERVICES TO, CHILDREN AND YOUNG PEOPLE FACING FORCED MARRIAGE

EXISTING MULTI-AGENCY GUIDANCE CONCERNING CHILDREN AND YOUNG PEOPLE

- 76 There exists multi-agency statutory and non-statutory guidance on the subject of safeguarding children. This includes:
- *Working Together to Safeguard Children* (HM Government 2006).
 - Safeguarding Children *Working Together* under the Children Act 2004 (WAG).
 - What To Do If You're Worried A Child Is Being Abused (HM Government 2006).
 - Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act (HM Government 2004).
 - Safeguarding Disabled Children: A Resource for Local Safeguarding Children Boards (Council for Disabled Children 2006).
 - Information Sharing: Practitioner's Guide (DCSF, April 2006).³⁸
 - Statutory Guidance regarding the duty on local authorities in England to identify children not receiving education (DCSF, February 2007, revised version expected December 2008).
 - Children Act 1989 Guidance and Regulations Volume 1 Court Orders (2008).
- 77 Existing guidance sets out the roles and responsibilities of all agencies involved in safeguarding children and the procedures that should be adhered to by all agencies. Existing guidance includes information about identifying children and young people at risk of harm, discussing concerns, making referrals, undertaking initial assessments and the next steps.

- 78 The guidance in this chapter does not attempt to replicate the guidance set out in *Working Together*³⁹ but seeks to address some of the particular issues concerning children and young people threatened with, or already in, a forced marriage.

THE DANGER OF INVOLVING THE FAMILY AND THE COMMUNITY

- 79 One of the underpinning principles of *Working Together*⁴⁰ is the involvement of the child's or young person's family. In cases of forced marriage this may increase the risk of significant harm to the child or young person. The family may deny that the child or young person is being forced to marry and they may expedite any travel arrangements and bring forward the marriage.
- 80 However, the primary principle of *Working Together*⁴¹ is safeguarding children, and section 5.16⁴² states that discussion with family and the family's agreement to refer to Local Authority children's social care should only be done where such discussion and agreement-seeking will not place a child at increased risk of significant harm. **In cases of forced marriage discussion with the family or any involvement of the family or local community members will often place the child or young person at greater risk of harm.**

³⁸ www.everychildmatters.gov.uk/delivering-services/information-sharing/

³⁹ *Working Together to Safeguard Children* (HM Government 2006) and Safeguarding Children *Working Together* under the Children Act 2004 (Welsh Assembly Government).

⁴⁰ *Working Together to Safeguard Children* (HM Government 2006) and Safeguarding Children *Working Together* under the Children Act 2004 (Welsh Assembly Government).

⁴¹ *Working Together to Safeguard Children* (HM Government 2006) and Safeguarding Children *Working Together* under the Children Act 2004 (Welsh Assembly Government).

⁴² S.8.27 *Working Together* under the Children Act 2004 (Welsh Assembly Government) states "While professionals should seek, in general, to discuss any concerns with the family and, where possible, seek their agreement to making referrals to local authority children's social services this should only be done where such discussion and agreement-seeking will not place a child at increased risk of significant harm".

81 In care proceedings, local authorities are required to demonstrate to the court that they have considered family members and friends as potential carers at each stage of their decision-making. However, in cases of forced marriage, professionals should exercise extreme caution around how they evidence this, and consider carefully whether, for example, family group conferences are appropriate in these cases (see paragraph 70–71 – The danger of family counselling, mediation, arbitration and reconciliation). Ideally, family group conferences should not be used in cases where a young person is at risk of forced marriage because of the physical danger and potential emotional manipulation they may experience during this type of session with their parents and other members of their family or community.

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

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

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

THE ASSESSMENT FRAMEWORK

84 The Framework for the Assessment of Children in Need and their Families⁴³ & ⁴⁴ provides a systematic way of analysing, understanding and recording what is happening to children and young people within their families and the wider context of the community in which they live. This framework assists professionals to decide what support a child and family may need.

85 The assessment has three main parts:

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

86 The Assessment Framework may not highlight any problems concerning children and young people facing forced marriage. They often come from very loving families where the parents capacity to provide safety, emotional warmth and stability is excellent. The children are often high achievers at school, their health is good, they are well integrated into the local community and have good relations with the wider family – they may not necessarily exhibit the warning signs described on page 15.

⁴³ The Framework for the Assessment of Children in Need and their Families: Department of Health, Department for Education and Employment, Home Office, 2000 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4003256

⁴⁴ Framework for the Assessment of Children in Need and Their Families (National Assembly for Wales, June 2001).

87 Therefore, professionals working with children and young people facing forced marriage require additional training in assessing families to identify those where forced marriage may be an issue. *Working Together*⁴⁵ section 10.9⁴⁶ states, “In order to make sensitive and informed professional judgements about the child’s needs, it is important that professionals are sensitive to differing family patterns and lifestyles and to child-rearing patterns that vary across different racial, ethnic and cultural groups. **At the same time they must be clear that child abuse cannot be condoned for religious or cultural reasons**” – therefore, forced marriage must be responded to as a protection and safeguarding issue.

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

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

SAFEGUARDING CHILDREN AND YOUNG PEOPLE FROM HARM BY SHARING INFORMATION OR TO PREVENT A CRIME BEING COMMITTED

89 Although there is no specific offence of “forcing someone to marry”, criminal offences may nevertheless be committed. Perpetrators – usually parents or family members – could be prosecuted for offences including threatening behaviour, assault, kidnap, abduction, threats to kill, imprisonment and murder. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

90 Section 5.17⁴⁷ of *Working Together*⁴⁸ states that “Whenever LA children’s social care has a case referred to it that constitutes, or may constitute, a criminal offence against a child, social workers or their managers should always discuss the case with the police at the earliest opportunity”.

91 Section 5.18 states that “Whenever other agencies encounter concerns about a child’s welfare that constitute, or may constitute, a criminal offence against a child they must consider sharing that information with Local Authority children’s social care or the police in order to protect the child or other children from the risk of significant harm. If a decision is reached not to share information, the reasons must be recorded”.

⁴⁵ *Working Together to Safeguard Children* (HM Government 2006) and *Safeguarding Children Working Together under the Children Act 2004* (Welsh Assembly Government).

⁴⁶ S.7.29 *Working Together under the Children Act 2004* (Welsh Assembly Government) states “The assessment process should always include consideration of the way religious beliefs and cultural traditions in different racial, ethnic and cultural groups influence their values, attitudes and behaviour, and the way in which family and community life is structured and organised. Cultural factors neither explain nor condone acts of omission or commission which place a child at risk of significant harm.

⁴⁷ S. 8.29 *Working Together under the Children Act 2004* (Welsh Assembly Government) states “Whenever local authorities children’s social services have a case referred to them because of concerns about a child’s welfare, which constitutes, or may constitute, a criminal offence against a child, they should always discuss the case with the police. Similarly, whenever other agencies, including other local authority departments, encounter concerns about a child’s welfare which constitutes or may constitute a criminal offence against a child, they should refer the case to the police without delay in order to protect the child or other children from the risk of serious harm”.

⁴⁸ *Working Together to Safeguard Children* (HM Government 2006) and *Safeguarding Children Working Together under the Children Act 2004* (Welsh Assembly Government).

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

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

IMMEDIATE PROTECTION

93 Ideally, professionals should discuss cases of forced marriage with, and seek advice from, a designated professional or another statutory agency; however, there may be occasions when immediate emergency action is necessary to protect a child or young person from being forced to marry or abducted e.g. police protection or emergency protection orders. In this case, a strategy discussion should take place as soon as possible after the immediate protection to plan the next steps (section 5.50⁴⁹ *Working Together*).

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

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

⁴⁹ S.8.73 *Working Together under the Children Act 2004* (Welsh Assembly Government) states "Where an agency with statutory child protection powers has to act immediately to protect a child, a strategy discussion should take place as soon as possible after such action to plan next steps".

Chapter 6

SPECIFIC ISSUES TO BE CONSIDERED BY AGENCIES WORKING WITH, OR PROVIDING SERVICES TO, VULNERABLE ADULTS

EXISTING MULTI-AGENCY GUIDANCE CONCERNING ADULTS

- 95**
- *No secrets*: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse.
 - *In Safe Hands: Implementing Adult Protection Procedures in Wales*, July 2000.
 - *Responding to domestic abuse: A handbook for health professionals* DH 2006.
 - *Mental Capacity Act* 2005.
- 96** The arrangements described in *No Secrets* and *In Safe Hands* are aimed at protecting vulnerable adults from all forms of abuse including forced marriage. *No Secrets* and *In Safe Hands* set out the roles and responsibilities of all agencies involved in protecting vulnerable adults and the procedures that should be adhered to by all agencies. The guidance in *No Secrets* and *In Safe Hands* is not statutory although it should be complied with unless there are good reasons locally that justify a variation.
- 97** Section 2.5 of *No Secrets* defines abuse as “a violation of an individual’s human and civil rights by any other person or persons”. It can be physical, psychological, verbal or an act of neglect or omission – “it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it”.
- 98** Section 7.4 of *In Safe Hands* defines abuse as “a violation of an individual’s human and civil rights by any other person or persons”. It can be physical, psychological, financial, verbal or an act of neglect or omission – it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.
- 99** Forced marriage should be seen in the context of domestic abuse and, in the case of vulnerable adults, adult abuse. Agencies should adhere to the good practice set out in the policies and procedures concerned with domestic abuse and adult abuse as the most effective way to tackle forced marriage.
- 100** The guidance in this section is not intended to replace existing guidance but instead it seeks to address some of the particular issues concerning adults and vulnerable adults threatened with, or already in, a forced marriage.

THE DANGER OF INVOLVING THE FAMILY AND THE COMMUNITY

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

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

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

SAFEGUARDING ADULTS AND VULNERABLE ADULTS BY SHARING INFORMATION WHEN A CRIME MAY HAVE BEEN, OR MAY BE, COMMITTED

103 Although there is no specific offence of “forcing someone to marry”, criminal offences may nevertheless be committed. Perpetrators – usually parents or family members – could be prosecuted for offences including threatening behaviour, assault, kidnap, abduction, threats to kill, imprisonment and murder. Sexual intercourse without consent is rape, regardless of whether this occurs within a marriage or not.

104 Section 6.25 of *No Secrets* states, “As a matter of course allegations of criminal behaviour should be reported to the police”.

105 Section 7.8 of *In Safe Hands* states, “When complaints about alleged abuse suggest that a criminal offence has been committed it is imperative that reference should be made to the police as a matter of urgency”.

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

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

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