**Forced Marriage Paper for the Safeguarding Adults Board**

1. **Purpose of the Report on Forced Marriage**

This report aims to bring the issue of Forced Marriage to the attention of the Safeguarding Adults Board in Barking and Dagenham so that we may work together to safeguard adults in our local area.

Please note this information in order for respective agencies to help practitioners spot signs of a likely forced marriage, so that we may prevent and support victims of this crime.

* The report contains information on the most recent prevalence of forced marriage, provided by the Forced Marriage Unit in the UK.
* It also outlines how free training may be used to highlight signs to help staff identify those at risk
* Gives information regarding changes in immigration law that is likely leading to an increase of this crime and abuse of adults who are in receipt of financial benefits as a result of their disabilities
* Provides practice guidance for anyone who is concerned about this crime where it concerns someone with care and support needs and who are unable to protect themselves from abuse

The action expected from SAB partners is that they use this report and enable staff to undertake free online training to raise awareness in their respective organisations to help victims.

1. **Definition of Forced Marriage**

The UK government describes a Forced Marriage as follows: ‘a forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced mental capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.

The pressure put on people to marry against their will may be:

* physical – for example, threats, physical violence or sexual violence
* emotional and psychological – for example, making someone feel like they are bringing ‘shame’ on their family

Financial abuse, for example taking someone’s wages, may also be a factor.’

1. **Forced Marriage Unit and the Prevalence in the UK**

It is estimated that there may be up to 9000 forced marriages taking place in the UK every year. There is a specialist Unit, the Forced Management Unit (FMU) that support victims and can give advice to practitioners and professionals. From their most recent report of May 2019 they comment that: ‘In 2018, the Forced Marriage Unit (FMU) gave advice or support related to a possible forced marriage in 1,764 cases.

For the support they offered the following data was collected that:

* 542 cases (31%) involved victims aged 18-25
* 165 cases (9%) involved victims aged 26-30
* 146 cases (8%) involved victims aged 31-40
* 45 cases (3%) involved victims aged 41 and over

In 2018, the majority of cases - 1,322 (75%) - involved women, with 297 cases (17%) involving men (gender in the remaining cases was unknown). These proportions are in line with previous years.

In 2018, the FMU handled cases relating to 74 countries. The six countries with the highest number of cases in 2018 were:

* Pakistan - 769 cases (44%)
* Bangladesh - 157 cases (9%)
* India - 110 cases (6%)
* Somalia - 46 cases (3%)
* Afghanistan - 44 cases (3%)
* Romania - 43 cases (2%)

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 their annual report continues to highlight that forced marriages can take place in the UK.’

Where practitioners identify issues of possible forced marriage it is advised that the FMU should be contacted to report the matter. The debate about whether forced marriages should be reported on a mandatory basis, is ongoing, with no law in place regarding this as yet.

1. **The Forced Marriage Unit (FMU)**

The [FMU](https://www.gov.uk/stop-forced-marriage) offers advice and guidance on how to recognise the signs of forced marriage.  Trained professionals provide guidance to those at risk on what action to take, where to seek support from and what their rights are.

Tel: 020 7008 0151 (Monday to Friday, 09:00 to 17:00) or 020 7008 1500 (ask for the Global Response Centre) evenings and weekends.   From overseas:  +44(0)207008 0151

E-mail:  fmu@fco.gov.uk

1. **Forced Marriage and Safeguarding Adults**

Forced marriage is illegal in England under the [Anti-Social Behaviour, Crime and Policing Act 2014](http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted), and an abuse of human rights.

It can affect children and adults as a safeguarding issue.  Forcing someone to get married can result in a prison sentence of up to 7 years.  It is an offence to:

* Take someone overseas to force them to marry, whether or not the forced marriage takes place; and
* Marry someone who lacks the mental capacity to consent to the marriage, whether they are pressured to or not.

For Adults it impacts their human rights, article 3: Sets out that everyone should be free from torture and inhuman or degrading treatment. The victims of this crime often experience coercion and control, physical abuse, that may include rape and other forms of abuse such as financial abuse. This would obviously impact life skills and phases of development for young people and will affect their wellbeing. It can lead to psychological and physical health problems and some may be harmed, as a consequence of informing authorities, they could be killed by others, or some may commit suicide.

Therefore, if it is suspected that a child or adult is at risk of forced marriage a Safeguarding Concern needs to be raised with the respected services for Children and Adult Social Services. Adult Services will be appropriate where the person has care and support needs and not able to protect themselves from harm or exploitation as defined in Section 42 of the Care Act 2014.

1. **Change in Immigration Law that could add to the prevalence of the crime and abuse of Forced Marriage**

Since 2012 Minimum Income Requirement for Visa Applications of overseas partners have changed. The financial requirement no longer applies if the UK-based sponsor is in receipt of a range of financial state benefits.

The guidance from the UK Visas and Immigration (UKVI) can be found in the Further Guidance section of this report. Advice to UKVI officers includes that ‘If the decision-maker considers that refusal would result in a breach of Article 8 rights, the application must be granted, even if the financial requirement is not satisfied’ (Immigration Rules, Appendix FM, para GEN 3.2). Therefore disabled people now do not need to meet the steep financial requirements previously put in place to be a sponsor to enable their private and family life by supporting a spouse or child financially to apply for a visa to stay in the UK. It is thought that these arrangements were made to empower people with disabilities and level the playing field to life a fulfilled life and have access to relationships in the same way than someone without a disability.

Many adults with disabilities on certain benefits are affected and adults on Benefits that will exempt a visa sponsor from the financial requirement are as follows:

* Disability Living Allowance
* Severe Disablement Allowance
* Industrial Injuries Disablement Benefit
* Personal Independence Payment
* Attendance Allowance
* Carer’s Allowance
* Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme
* Constant Attendance Allowance, Mobility Support or War Disablement Pension under the War Pensions Scheme
* Police Injury Pension

Therefore UKVI caseworkers states that when assessing potential breaches of ECHR Article 8 rights, decision-makers must consider whether refusal could or would result in “unjustifiably harsh consequences” for the applicant or their family.22 The best interests of any relevant child must be a primary consideration.’

Although the above guidance was put in place to support disabled people who can make decisions themselves, it is now thought that a range of people who lack mental capacity are being subject to forced marriage and this guidance used to support their spouses to the UK. Often the perpetrators of this crime is family or friends of disabled people who utilise this change in visa guidance to financially abuse the person and claim they would like to sponsor their spouse, when in fact the person cannot make any financial decisions and they have been subject to a forced marriage.

1. **Current cases for Barking and Dagenham Residents**

Due to the prevalence in Barking and Dagenham and the links with safeguarding adults at risk of abuse a request was made to raise it to the Safeguarding Adults Board to inform practitioners to be on the look-out for adults who may have experienced this crime or may be at risk of this.

It is best to prevent adults who cannot consent to marriage and who lack mental capacity about it, to be supported to apply for a Forced Marriage Protection order and stop it from happening by contacting the FMU and Adult Safeguarding for people with care and support needs. However, it is acknowledged that many cases of forced marriage are about managing and supporting victims of this crime after it has already happened them. This this crime and laws needs to be communicated with the families who are often orchestrating these events and abuse.

LBBD Adult Services are currently dealing with a range of cases of forced marriage. They are managed mainly in the Disabilities Service and the adults lack mental capacity to marry and have been married for some time and are middle-aged. These individuals lack mental capacity about marriage and usually sexual relations, due to a congenital and permanent learning disability. As they could not give valid consent to marry they have been subject to a forced marriage. Actions are then needed by a range of authorities to get the marriage made void. The FMU and the local authority usually lead on this and support the adult through this process as a result of their care and support needs.

Some of the local cases have been referred by the Forced Marriage Unit, at UKVI or they came known to the local authority through freedom pass applications. In turn the head of service and Adults Principal Social Worker, and other senior managers and directors have been informed and thought it helpful to raise awareness through the SAB.

It is vitally important where there is a concern about a person who likely lacks mental capacity around marriage that they have a formal and detailed mental capacity assessment of this, this can be done by a social worker or psychologist or any other profession outlined as acceptable in court applications. Practitioners are encouraged not to be drawn into issues about whether the marriage is now in the person’s best interests, It is important to recognise forced marriage as crime when someone has not been able to give their valid consent as a consequence of not having mental capacity to make the decision regarding marriage. Whether or not the marriage is void is a decision for a court of law. Family members may be believing that they are acting in the best interests of their disabled child, who is an adult now, by arranging spousal and familial support by means of a marriage, but it is often the stark opposite for victims. It is also important to point out to family members that forced marriage is a crime.

Practitioners should be able to articulate the difference between an arranged marriage where someone can give valid consent and how this differs from a forced marriage where someone who lacks mental capacity to marry, is unable to give valid consent because of their impairment to the brain or mind - often as a result of their disability.

It is important that we talk about the issue of forced marriage locally and raise awareness. LBBD is excited to work with Refuge that have now been commissioned to support victims of domestic abuse / violence and an Independent Domestic Violence Advocate will be co-located with adult social workers in Roycraft House in due course. This will enable support to the workforce and our LBBD community to help identify issues of forced marriage to work with victims of this crime and professionals and social workers who will work with the adults with care and support needs.

1. **Case Law**

There have been a number of high profile cases in the media over the past three years of people who have experienced forced marriage.

7.1 **Re SA [2005] Fam:** Related to an 18 year old woman. She had wardship when she was a child, but further decisions were needed as an adult. She was deaf and had no speech with neuro-loss, no eye-sight in one eye and was not able to communicate in BSL. Her family wanted to take her to Pakistan. She had mental capacity about marriage and sex, but not litigate. She agreed for an arranged marriage, but did not want to stay in Pakistan. Orders were issued around her movements to help safeguard her and her wishes.

7.2 **Amina Al Jeffery and Mohammed Al Jeffery [2016] Fam**: This relates to a woman who has dual citizenship in the UK and Saudi Arabia, albeit that she did not live in the UK for some years. She put her case forward that she was being ill-treated by her father. A FMPO was sought and her father ordered to return to the UK. The judge elaborated on how a cautionary approach was needed around the issue of citizenship.

7.3 **DL v a Local Authority [2012] Civ 253: In this case a** FMPO was applied for and the court offered declaratory relief of a marriage and an injunction was issued to manage the family not to travel to prevent the forced marriage.

7.4 **LB of Southwark v KA [2016]** **Fam: This case related to a** 29-year-old man with LD. He lacked mental capacity around marriage and sex. He was of Bangladeshi origin. The judge made distinction between welfare and mental capacity. It was explained that mental capacity to marry and sexual relations are so interlinked, and they put together a six-point test for mental capacity for marriage as highlighted below. The person must have awareness that:

1) marriage is a Status not person specific

2) Wisdom of the marriage is irrelevant

3) P must understand the board nature of the marriage contract

4) P must understand the duties and responsibilities that normally attach to marriage, including that there may be financial consequences and that a spouse has a particular status and connection with one another

5) The essence of marriage is two people live together and love one another

6) P must not lack MCA to enter sexual relations

1. **Guidance for Practitioners**

The issue of Forced Marriage is described in the London Multi-Agency Safeguarding Adults Policy and Procedure in Chapter 2 and relates it to elements of so-called ‘honour based’ violence later in the document. The Government also issued comprehensive [multi-agency statutory guidance for dealing with forced marriage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/322310/HMG_Statutory_Guidance_publication_180614_Final.pdf) and [practice guidelines](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/322307/HMG_MULTI_AGENCY_PRACTICE_GUIDELINES_v1_180614_FINAL.pdf) in 2014.

**Prevention, Awareness and Detection:**

Complete Free Online Training provided by Government, see the Further Guidance section below. The online training is most informative, even for professionals with a lot of knowledge in this area and approximately 45 minutes long.

Utilise professional research that you may have access to for instance in Adult Social Care we subcribe to Research in Practice which all social workers can access with briefings on the related topics.

**Actions when we have actual concerns**:

1. If Concerned about the safety of a Child or Adult make the Safeguarding Concerns known on the relevant form to the respective Social Services Departments
2. The case should be reported to the Forced Marriage Unit to support the victim of this crime.
3. Social Workers to complete or arrange a comprehensive mental capacity assessment where they are concerned the person is not able to give valid consent because of an impairment of their brain or mind
4. They should plan their approach to give the Service User / Person the maximum safeguards for a likely exit plan.
5. The matter should be reported to the police, but when and how action is taken should be planned carefully to safeguard the person best.
6. Inform your manager
7. Complete any internal communication to senior managers in Adult Social Care, a Need to Know to the Operational Director and Directors.
8. Specialist Legal advice should be sought if this is needed beyond what the FMU can support you with. Discuss this with your manager before gaining advice.
9. If someone is at risk of forced marriage, then a Forced Marriage Protection Order (FMPO) can be sought from the courts or even an annulment can be arranged if it has already taken place.

In LBBD we raised awareness with Social Workers at a joint Adult and Children Social Work Networking event on 2 October. Liana Kotze, PSW for Adults did a briefing to all attendees. The presentation is available should anyone else wish to use it. We are promoting Research in Practice for Adults to social workers, which we subscribe to in LBBD and will add details of Online Learning in the next edition of the Adults Best Practice Update (ABPU) which is a newsletter for Adult Social Workers. SAB members are encouraged to ensure they link information about this with professional magazines or literature as well as raise awareness through any suitable updates or briefings.

1. **Conclusion**

SAB Partners please note the prevalence of forced marriages and that these may be on the increase locally. The change in visa requirements for disabled people with minimum income to sponsor a spouse to the UK, may make them more susceptible to being forced to marry.

Please enable practitioners to do the online training and raise concerns to the FMU and adult safeguarding where needed.

1. **Summary of Recommendations for SAB Partners:**
	1. Note this information for Barking and Dagenham Residents who could be at risk of Forced Marriage.
	2. Raise awareness in your Respective Organisations by getting practitioners to complete the online training, as a minimum
	3. Report matters of concerns through Safeguarding Adults from Abuse Process where it concerns a person with care and support needs and where they are unable to protect themselves from harm or abuse
	4. Note cases that you know about locally so we can keep a track of them.
2. **Further Guidance and Resources**
* E-learning:

<https://www.virtual-college.co.uk/resources/free-courses/awareness-of-forced-marriage>

* Film:

<https://www.gov.uk/government/news/new-video-shows-the-devastating-impact-of-forced-marriage>

* Forced Marriage Government Guidance:

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

* Forced Marriage Multi-Agency Statutory Guidance for dealing with FM:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/322310/HMG_Statutory_Guidance_publication_180614_Final.pdf>

* Forced Marriage Unit Statistics:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804044/Forced_Marriage_Unit_Statistics_2018_FINAL.pdf>

* Survivor’s Handbook:

<https://www.gov.uk/government/publications/survivors-handbook>

* Nottingham Research with people with learning disabilities and dealing with forced marriage:

<https://www.nottingham.ac.uk/research/groups/mymarriagemychoice/>

* RIPFA Resources for LBBD Social Workers:

<https://www.rip.org.uk/resources/publications/frontline-resources/forced-marriage--recognition-and-response-frontline-briefing-2019>

* Completing Mental Capacity Assessments, a Guide:

<http://www.39essex.com/wp-content/uploads/2016/08/Capacity-Assessments-Guide-August-2016.pdf>

* The financial requirement for partner visas:

<https://researchbriefings.files.parliament.uk/documents/SN06724/SN06724.pdf>