

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Scottish Statutory Instrument (SSI) - The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (Relevant Third Party) Order 2017</b>	
<b>Minister</b>	<b>Cabinet Secretary for Communities Social Security and Equalities</b>	
<b>Lead official</b>	<b>Lesley Musa</b>	
<b>Officials involved in the EQIA</b>	<b>Name</b>	<b>Team</b>
	<b>Bruce Sutherland Nicola Cogan</b>	<b>Equality Policy Team</b>
<b>Directorate: Division: Team</b>	<b>Local Government and Communities Equality Unit</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>Revision to an existing policy</b>	

### Screening

#### *Policy Aim*

The aims of this SSI is to amend the Forced Marriage etc (Protection and Jurisdiction) (Scotland) 2011 Part 1 Section 3(1), to allow Police Scotland to become a relevant third party and allow them to directly make applications for Forced Marriage Protection Orders, thus streamlining the process.

## **The National Outcomes this contributes to are:**

- ◆ *Our children have the best start in life and are ready to succeed.*
- ◆ *We have improved the life chances for children, young people and families at risk.*
- ◆ *We live our lives safe from crime, disorder and danger.*
- ◆ *We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.*
- ◆ *We take pride in a strong, fair and inclusive national identity.*
- ◆ *We have tackled the significant inequalities in Scottish society.*
- ◆ *Our young people are successful learners, confident individuals, effective contributors and responsible citizens.*

## ***Who will it affect?***

The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (Relevant Third Party) Order 2017 may directly impact on members of affected communities who are at risk of Forced Marriage. It may also impact frontline practitioners, particularly Police Scotland. This SSI will allow Police Scotland to become a relevant third party and allow them to directly make applications for Forced Marriage Protection Orders. It will indirectly affect wider society with the roll out of awareness raising alongside the SSI, with potential to reach across Scotland.

## ***What might prevent the desired outcomes being achieved?***

The hidden nature of this practice could have an effect on achieving outcomes.

## Stage 1: Framing

### ***Results of framing exercise***

The Scottish Government commissioned a study, published 31 January 2017 to better understand Forced Marriage in Scotland. This is the first Forced Marriage study that focuses exclusively on Scotland. The study had three research questions:

- What is the level and profile of service use relating to Forced Marriage in Scotland?
- How are services responding to Forced Marriage in Scotland?
- What is the impact of the interventions for Forced Marriage in Scotland?

We then analysed the results of the study '*Understanding Forced Marriage in Scotland*' (2017). The study focussed on six areas: Aberdeen, Dundee, East Renfrewshire, Edinburgh, Glasgow and Highland. An analysis of Forced Marriage policy in each of the six case study areas was undertaken, together with interviews with Protection Leads. One-to-one semi-structured interviews were carried out with a range of professionals including police officers, social workers, legal professionals and staff from Women's Aid groups and other third sector organisations. Eight in-depth interviews were also conducted with survivors of Forced Marriage.

Additionally, a survey was distributed to 293 organisations – schools and women's organisations in the six study areas, and Women's Aid, minority ethnic and other support organisations throughout Scotland.

The research concluded that there was widespread support for civil remedies for dealing with Forced Marriage, from professionals interviewed and survivors of Forced Marriage. A number of issues were identified with regard to the implementation of civil remedies, relating to:

- a lack of consensus about what constitutes 'sufficient' evidence to justify granting a Forced Marriage Protection Order
- the onus of responsibility being placed on the victim, particularly where the victim is an adult who does not meet the criteria for accessing adult protection
- confidentiality of the victim not always being maintained

## Forced Marriage SSI – Survey Analysis

The Scottish Government Equality Unit conducted a targeted stakeholder survey which sought views on a proposal to amend the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) 2011 Part 1 Section 3(1), to allow Police Scotland to become a relevant third party and allow them to directly make applications for Forced Marriage Protection Orders (FMPOs), thus streamlining the process.

The targeted survey was sent to stakeholders on 17 July 2017 and closed 28 August 2017.

The following questions were asked:

Q1 (a) Do you agree or disagree with the above proposal?  
Q1 (b) Please tell us why you think this?

Respondents were invited to say Yes, No or Don't Know in response to question 1 (a) and to expand further in question 1(b).

11 responses were received from the statutory sector, third sector and community based organisations.

7 of respondents answered Yes to question 1a indicating support for the proposed SSI.

A further 3 respondents, while not explicitly answering Yes to question 1a, indicated in their response that they support the proposal.

1 organisation (Police Scotland) indicated that they support the proposal in principle.

- Police Scotland sought assurance that the legislation would make clear, or guidance would be provided, to clarify when each of the relevant Third Parties should take the lead in applying for a FMPO. In addition to guidance being provided, Police Scotland requested that an impact assessment be undertaken in advance of any legislative change.
- The majority of respondents indicated that the proposal to allow Police Scotland to directly make applications for Forced Marriage Protection Orders has the potential to streamline the process of obtaining FMPOs and this could assist in protecting those at risk.
- The Crown Office and Procurator Fiscal Service (COPFS) welcomed the proposal and highlighted that almost all of the information which required to make an FMPO is held by Police Scotland and that the information transfer between Police Scotland and COPFS potentially delayed a time critical process designed to protect an individual. COPFS also highlighted that Police Scotland have existing analogous powers to apply for orders from Courts to provide protection for individuals. For example they are specifically named as being able to apply for Orders under the Sexual Offences Act 2003, the Human

Trafficking and Exploitation (Scotland) Act 2015, the Police, Public Order and Criminal Justice (Scotland) Act 2006 (in relation to Football Banning Orders) and the Serious Crime Act 2007.

- Some respondents, including Edinburgh City Council raised the concern that while it is generally a positive that Police Scotland are more inclined than other agencies to respond with immediate action, that full consideration should be given before any action is taken; especially consideration of the implications for the individual and who is likely to need on-going support from other agencies is taken into account prior to action.
- Community based organisations Scottish Women's Aid, Hemat Gryffe Women's Aid's and Bright Choices and Shakti Women's Aid's welcome the proposal and suggest that given the close involvement of Police Scotland in responding to cases of Forced Marriage and the fact that Police Scotland already work closely with community organisations to protect those at risk, it would be advantageous for them to apply directly to the courts for a FMPO as a Relevant Third Party.

### **Forced Marriage - Best Practice Workshop**

On 22 August 2017 a workshop was held with representatives from the statutory sector, public sector, third sector and community based organisations. During the workshop a number of case studies were examined and best practice was identified.

It was reiterated that Forced Marriage is not a single event, but a process/pattern of control, pressure and abuse that often comes from immediate and extended family, wider community and even friends. Intervention is often time critical and FMPOs are useful in protecting victims.

Swift intervention and quick application for interim FMPOs was identified as best practice. It is important also to carefully consider implications, long term support needs etc. This can be put in place alongside/after the immediate threat of someone being taken from the country has been mitigated through a FMPO.

### **Forced Marriage Unit Information**

- In 2016, the FMU gave advice or support related to a possible Forced Marriage in 1,428 cases via its public helpline and email inbox. The FMU covers the whole of the UK.
- In 2016, victims' ages ranged from young children to people post-retirement age.
- In 2016, 1145 cases (80%) involving female victims and 283 (20%) involved male victims. This demonstrates that men can also be forced into marriage, but that women are more likely to be victims.

- Where the age was known, 15% of cases involved victims below 16 years of age, and 26% involved under-18 year olds. The largest proportion of cases (35%) involved 18-25 year old victims.
- In 2016, 30 cases (2%) involved victims who identified themselves as lesbian, gay, bisexual or transgender (LGBT).
- 2% (28 calls) of calls to the FMU were made from Scotland.

***Extent/Level of EQIA required***

As a result of the framing exercise, a full EQIA was carried out.

## Stage 2: Data and evidence gathering, involvement and consultation

Characteristic <sup>1</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	<p>According to the SG commissioned study ‘Understanding Forced Marriage in Scotland’ between 2011 and 2014, there were 191 cases of Forced Marriage reported by survey respondents, with a fairly even spread across the years. Age was unknown for around a quarter of cases. Of the cases where age was known, the majority of victims were aged 18-25, with under 18s representing around a quarter of cases and under 16s around 1 in 10 of cases. The interviews with the eight survivors of Forced Marriage echo the survey findings.<sup>2</sup></p> <p>The age range of when the Forced Marriage occurred was from 14-25. This indicates that young people are most likely to be affected by Forced Marriage and thus this SSI.</p> <p>In 2016, the Forced Marriage Unit (FMU), which serves the whole of the UK, gave advice or support related to a possible Forced Marriage in</p>	<p>Understanding Forced Marriage in Scotland (2017)</p> <p>Forced Marriage Unit (FMU) Statistics (2016)</p>	<p>Data availability around age is strong.</p>

<sup>1</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

<sup>2</sup> <http://www.gov.scot/Resource/0051/00513514.pdf>



	<p>1,428 cases via its public helpline/ email inbox. In 2016, victims' ages ranged from young children to people post-retirement age. Where the age was known, 15% of cases involved victims below 16 years of age, and 26% involved under-18 year olds. The largest proportion of cases (35%) involved 18-25 year old victims<sup>3</sup>.</p> <p>People of all ages may be impacted by this SSI, but because Forced Marriage disproportionately impacts younger people, particularly young girls, young people are more likely to be affected.</p>		
<p><b>DISABILITY</b></p>	<p>In 2011, the proportion of people in Scotland with a long-term activity-limiting health problem or disability was 20 per cent (1,040,000 people), the same proportion as reported in 2001 (1,027,872 people).<sup>4</sup></p> <p>In 2012, 28 per cent of men and 35 per cent of women in Scotland reported a limiting long-term condition or disability.</p> <p>Disability and Forced Marriage are linked, the definition explicitly states a Forced Marriage is a marriage in which one or both parties do not (or, in</p>	<p>2011 Scotland Census</p> <p>Scottish Health Survey</p>	<p>Data availability around disability is strong.</p>

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/597869/Forced\\_Marriage\\_Unit\\_statistics\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/597869/Forced_Marriage_Unit_statistics_2016.pdf)

<sup>4</sup> <http://www.gov.scot/Topics/Equality/Equalities/DataGrid/Disability/DisabPopMig>

	<p>the case of some adults with learning or physical disabilities, cannot) consent to the marriage and duress is involved.</p> <p>In 2016, 140 cases (10%) involved victims who had a learning disability. 61% of victims with a disability who called contact the FMU were men<sup>5</sup>.</p> <p>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 carer's.</p> <p>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.</p> <p>Research and evidence from practice tells us that children and adults with learning disabilities are subjected to more abuse and less likely to be</p>	<p>Forced Marriage Unit (FMU) Statistics (2016)</p>	
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<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/597869/Forced\\_Marriage\\_Unit\\_statistics\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/597869/Forced_Marriage_Unit_statistics_2016.pdf)

	<p>Forced Marriage Unit, Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines</p>	<p>protected by safeguarding systems than their peers who do not have learning disabilities. Research also indicates that the Forced Marriage of children and adults with learning disabilities is likely to be vastly underreported and can differ from the way in which Forced Marriage presents generally.<sup>6</sup></p> <p>In some marriages involving a person with learning disabilities, the spouse without a disability may not know they are marrying a person with a learning disability. It can therefore be questionable whether they have given informed consent themselves.</p> <p>Some key motives for forcing people with learning disabilities to marry include:</p> <ul style="list-style-type: none"> <li>• Obtaining a carer for the person with a disability.</li> <li>• Obtaining physical assistance for ageing parents.</li> <li>• Obtaining financial security for the person with a learning disability.</li> <li>• Believing the marriage will somehow “cure” the disability.</li> <li>• A belief that marriage is a “rite of passage” for all young people.</li> <li>• A fear that younger siblings may be seen as undesirable if older sons or daughters are not already married.</li> </ul>
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<sup>6</sup> <http://arcuk.org.uk/safetynet/files/2012/08/Forced-Marriage-Guidelines.pdf>

	<ul style="list-style-type: none"> <li>• The marriage being seen as the only option or the right option (or both) – no alternative.</li> </ul> <p>Anecdotal evidence also suggests that young women with learning disabilities can be forced to marry young men who have in some way “disgraced” family honour and are now regarded as “unsuitable” to enter any other marriage.<sup>7</sup></p>		
<p><b>SEX</b></p>	<p>In 2011, 52% of Scotland's population were female and 48% were male. This proportion has not changed much since 1947.</p> <p>In 2016, 1 145 cases (80%) involving female victims and 283 (20%) involved male victims<sup>8</sup>. This demonstrates that men can also be forced into marriage, but that women are more likely to be victims.</p> <p>According to the SG commissioned study ‘Understanding Forced Marriage in Scotland’ between 2011 and 2014, there were 191 cases of Forced Marriage reported by survey respondents. 91% (174) victims were women, for the remaining 9% (17) of victims sex was unknown.</p>	<p>Scotland's population 2011</p>	<p>Data availability around sex is strong.</p>

<sup>7</sup> <http://arcuk.org.uk/safetynet/files/2012/08/Forced-Marriage-Guidelines.pdf>

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/597869/Forced\\_Marriage\\_Unit\\_statistics\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/597869/Forced_Marriage_Unit_statistics_2016.pdf)

	<p>Research indicates that men with learning disabilities are at significantly higher risk of Forced Marriage than men who don't have learning disabilities.<sup>9</sup></p>	<p><b>Forced Marriage Unit,</b> Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines</p>	
<p><b>PREGNANCY AND MATERNITY</b></p>	<p>There is a link between Forced Marriage and unwanted/forced pregnancy. According to community based organisations within Scotland women who are forced into marriage are often repeatedly raped until they become pregnant. Forced Marriage often occurs in childhood which can increase a girl/woman's risk of pregnancy.</p> <p>For some women in certain communities, marriage and reproduction are the only means to ensuring economic security and social status. Therefore any reduction in Forced Marriage occurring will give young girls and women more opportunities in education and society as a whole.</p>	<p>Forced Marriage Statutory Guidance (2011)</p> <p>Girls Not Brides</p>	

<sup>9</sup> <http://arcuk.org.uk/safetynet/files/2012/08/Forced-Marriage-Guidelines.pdf>

<p><b>GENDER REASSIGNMENT</b></p>	<p>The Scottish Transgender Alliance estimates there are 10,000 - 25,000 trans &amp; intersex people in Scotland.</p> <p>According to Stonewall trans people can experience Forced Marriage . For example, they may experience emotional pressure to get married by being made to feel that their gender identity brings shame on the family.<sup>10</sup></p>	<p>The Scottish Transgender Alliance, Equality Network</p> <p>Stonewall – Forced Marriage</p>	
<p><b>SEXUAL ORIENTATION</b></p>	<p>Statistics published in the Integrated Household Survey shows that the number of people who self-identified as lesbian, gay or bisexual in Scotland was 1.4%. A comparison by gender showed that 93.6% of men and 94.3% of women identified themselves as heterosexual/straight. The out gay population in Europe is estimated to be around 22.6 million (2.6% of the population).</p> <p>In 2016, 30 cases (2%) involved victims who identified themselves as lesbian, gay, bisexual or transgender (LGBT)<sup>11</sup>.</p> <p>According to Stonewall, lesbian, gay and bisexual people can experience Forced Marriage . For</p>	<p>Integrated Household Survey April 2010 to March 2011: Experimental Statistics</p>	

<sup>10</sup> <http://www.stonewall.org.uk/help-advice/criminal-law/forced-marriage>

<sup>11</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/597869/Forced\\_Marriage\\_Unit\\_statistics-\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/597869/Forced_Marriage_Unit_statistics-_2016.pdf)

	example, they may experience emotional pressure to get married by being made to feel that their sexual orientation brings shame on their family. <sup>12</sup>		
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<sup>12</sup> <http://www.stonewall.org.uk/help-advice/criminal-law/forced-marriage>

<p><b>RACE</b></p>	<p>The size of the minority ethnic population in 2011 was just over 200,000 or 4% of the total population of Scotland (based on the 2011 ethnicity classification); this has doubled since 2001 when just over 100,000 or 2% of the total population of Scotland (based on the 2001 ethnicity classification) were from a minority ethnic group.<sup>13</sup></p> <p>The Asian population was the largest minority ethnic group (3% of the total population or 141,000 people) and has seen an increase of one percentage point (69,000) since 2001.</p> <p>According to the SG commissioned study ‘Understanding Forced Marriage in Scotland’ between 2011 and 2014, there were 191 cases of Forced Marriage reported by</p>	<p>Understanding Forced Marriage in Scotland (2017)</p>	
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<sup>13</sup> <http://www.gov.scot/Topics/Equality/Equalities/DataGrid/Ethnicity/EthPopMig>



	<p>survey respondents, with a fairly even spread across the years. Ethnicity was unknown in a fifth of cases, indicating that better recording of cases is necessary. Victims of Forced Marriage were mainly from Pakistani backgrounds (more than half of cases where ethnicity was known), followed by “other ethnicity”, Indian and Black African.</p> <p>In 2016, the FMU handled cases relating to 69 ‘focus’ countries which a victim was at risk of, or had already, been taken to in connection with a Forced Marriage. The six highest volume countries in 2016 were:</p> <p>Pakistan - 612 cases (43%).  Bangladesh - 121 cases (8%).  India - 79 cases (6%).  Somalia - 47 cases (3%).</p>		
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	<p>Afghanistan - 39 cases (3%). Saudi Arabia - 16 cases (1%)<sup>14</sup></p> <p>The 2017 SG study reports that professionals with experience of working on Forced Marriage cases have reported Forced Marriage within the Roma community, this illustrates the importance of ensuring that understanding about communities where Forced Marriage is practiced is not restricted to South Asian communities.</p>		
<p><b>RELIGION OR BELIEF</b></p>	<p>In 2011 over half (54%) of the population of Scotland stated their religion as Christian - a decrease of 11 percentage points since 2001, whilst 37 per cent of people stated that they had no religion.</p> <p>After Christianity, Islam was the most common faith with 77,000</p>	<p>2011 Scotland Census</p>	

<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/597869/Forced\\_Marriage\\_Unit\\_statistics-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/597869/Forced_Marriage_Unit_statistics-2016.pdf)

	<p>people in Scotland describing their religion as Muslim. This is followed by Hindus (16,000), people from Other religions (15,000), Buddhists (13,000), Sikhs (9,000) and Jews (6,000). Even with these groups added together they still accounted for less than 3% of the overall population.<sup>15</sup></p> <p>Forced Marriage is not recommended by any religion or in any religious texts. The freely given consent of both parties is a prerequisite of Christian, Hindu, Muslim and Sikh Marriages. Although is not religious, Forced Marriage might have become symbolic in some communities as a demonstration of faith.</p> <p>The 2017 study reports that professionals with experience of working on Forced Marriage cases have reported Forced</p>	
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<sup>15</sup> <http://www.gov.scot/Topics/Equality/Equalities/DataGrid/Religion/RelPopMig>

	<p>Marriage within Christian and Jewish communities. This illustrates the importance of ensuring that understanding about communities where Forced Marriage is practiced is not restricted to Muslim South Asian communities.</p>		
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**Stage 3: Assessing the impacts and identifying opportunities to promote equality**

**Do you think that the policy impacts on people because of their age?**

<b>Age</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation	X			People of any age can apply for a FMPO, considered by the court for a FMPO is not predicated on age, however the majority of people affected by Forced Marriage are young women.
Advancing equality of opportunity	X			The policy's inclusiveness has the potential to advance equality of opportunity and there will be no barriers to people of different ages.
Promoting good relations among and between different age groups	X			Pressure to marry, coercion and violence is mainly exercised by older members of the community/family. Ending this practice should improve relationships between different age groups.

**Do you think that the policy impacts disabled people?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation	X			This policy development is primarily for the elimination of a specified practice which can affect disabled people. This policy will assist any one at risk of Forced Marriage, including disabled people.
Advancing equality of opportunity	X			This policy development is primarily for the elimination of a specified practice which can affect disabled people. This policy will assist any one at risk of Forced Marriage, including disabled people. The police being named as a relevant third party and being able to apply for FMPOs should assist in removing barriers faced by people in obtaining FMPOs.
Promoting good relations among and between disabled and non-disabled people	X			This policy development is primarily for the elimination of a specified practice which can affect disabled people. A potential victim of Forced Marriage who is disabled is likely to be forced into marriage by an non-disabled member of their family. The increased ease by which FMPOs can be obtained by adding the police as a relevant third party should assist any one at risk of Forced Marriage, including disabled people. The ultimate elimination of Forced Marriage should promote better relations between disabled and non-disabled people, particularly within families.

**Do you think that the policy impacts on men and women in different ways?**

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			This policy development is primarily for the elimination of a specified practice which primarily affects young women. This policy will assist any one at risk of Forced Marriage, including men.
Advancing equality of opportunity	X			<p>Forced Marriage can happen to both men and women although most cases involve younger women and girls aged between 13 and 30. The Scottish Government regards Forced Marriage as a form of violence against women and, when children are involved, child abuse. It is associated with other forms of domestic abuse and ‘honour-based’ violence.</p> <p>Within certain communities there is significant pressure placed on both men and women to marry. For some women in certain communities, marriage and reproduction are the only means to ensuring economic security and social status.</p> <p>Therefore any reduction in this occurring will give young girls and women more opportunities in education and society as a whole.</p>

Promoting good relations between men and women	X			By eradicating Forced Marriage and giving Police Scotland power to directly apply for FMOs it is hoped that attitudes and behaviour regarding marriage will improve thus improving relationships between men and women.
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**Do you think that the policy impacts on women because of pregnancy and maternity?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			There is a link between Forced Marriage and forced/unwanted pregnancy.  According to community based organisations within Scotland women who are forced into marriage are often repeatedly raped until they become pregnant. Tackling forced marriage will help to reduce the risks of damage to young women and girls of unwanted pregnancy.
Advancing equality of opportunity	X			This policy is intended to streamline the process for obtaining a FMO by including Police Scotland thus protecting people, particularly women and girls, from Forced Marriage. There is a link between Forced Marriage and forced/unwanted pregnancy – protecting women from Forced Marriage may then contribute to protecting them from marital rape and forced pregnancy.



Promoting good relations	X			<p>This policy is intended to streamline the process for obtaining a FMPO by including Police Scotland thus protecting people, particularly women and girls, from Forced Marriage. There is a link between Forced Marriage and forced/unwanted pregnancy – protecting women from Forced Marriage may then contribute to protecting them from marital rape and forced pregnancy.</p>
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**Do you think your policy impacts on transsexual people?**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			<p>Trans people may be forced to enter a marriage, by their family or their wider community, to hide their gender identity. Anecdotal evidence suggests families may force family members into a marriage to protect the honour of their family and/or community.</p> <p>There are no negative impacts related to eliminating unlawful discrimination of transgender people.</p>
Advancing equality of opportunity	X			<p>The policy's inclusiveness has the potential to advance equality of opportunity and there will be no barriers to engagement of transgender people. There are no negative impacts related to eliminating unlawful discrimination of transgender people.</p>
Promoting good relations	X			<p>It is hoped this policy implementation will build on relationships and help form new bonds with people transitioning and other members of the community as a whole.</p>

**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			<p>LGB people may be forced to enter a heterosexual marriage, by their family or their wider community, to hide their sexual orientation with the view to protect the honour of their family and/or community.</p> <p>LGB people can be at risk of Forced Marriage and this policy will potentially assist anyone at risk of Forced Marriage. The policy's inclusiveness has the potential to advance equality of opportunity and there will be no barriers to engagement of LGB people.</p>
Advancing equality of opportunity	X			<p>LGB people can be at risk of Forced Marriage and this policy will potentially assist anyone at risk of Forced Marriage . The policy's inclusiveness has the potential to advance equality of opportunity and there will be no barriers to engagement of LGB people.</p>
Promoting good relations	X			<p>LGB people can be at risk of Forced Marriage and this policy will potentially assist anyone at risk of Forced Marriage. LGB people may be forced to enter a heterosexual marriage, by family or their wider community. There are reports that LGB people have felt they need to hide their sexual orientation to protect the honour of their family and/or community.</p>

**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination		X		As detailed in the scoping exercise victims of Forced Marriage in Scotland are mainly from Pakistani backgrounds.  The policy's inclusiveness has the potential to protect anyone at risk of Forced Marriage in streamlining the process for the obtaining for an FMPO. People living in Scotland of South Asian heritage are most likely to be impacted by this SSI – they are most likely to be both protected by an FMPO and named on a FMPO.
Advancing equality of opportunity		X		The policy's inclusiveness has the potential to advance equality of opportunity and protect anyone at risk of Forced Marriage in streamlining the process for the obtaining for an FMPO.
Promoting good race relations	X			This policy is intended to streamline the process for obtaining a FMPO by including Police Scotland thus protecting people, particularly women and girls, from Forced Marriage. It is hoped that this policy will reduce instances of Forced Marriage promote good race relations.

**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			It is a cultural practice, which does not have any basis in any religion, although there is a commonly held misconception in some communities that it is a religious requirement.
Advancing equality of opportunity	X			The policy's inclusiveness has the potential to advance equality of opportunity and there will be no barriers to engagement of faith groups.
Promoting good relations	X			Forced Marriage is not a religious requirement this policy should foster good relations.

## Stage 4: Decision making and monitoring

### *Identifying and establishing any required mitigating action*

Have positive or negative impacts been identified for any of the equality groups?	Yes
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>16</sup> ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Indirect discrimination – this policy is most likely to impact young women from a South Asian background, as they are most likely to be at risk of Forced Marriage thus in need of a FMPO. This is justified as the practice this policy is hoping to eradicate disproportionately affects young women.
If not justified, what mitigating action will be undertaken?	N/A

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<sup>16</sup> See EQIA – Setting the Scene for further information on the legislation.

## ***Describing how Equality Impact analysis has shaped the policy making process***

Forced Marriage workshop

- Impact of any new legislation
- Identified the need to update the Forced Marriage Multi-Agency Practice Guidelines in light of this change

## ***Monitoring and Review***

This change in policy will be monitored through the Forced Marriage Network.

## Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes  No  Not applicable



## **Declaration**

**I am satisfied with the equality impact assessment that has been undertaken for The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (Relevant Third Party) Order 2017 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name: Lisa Bird**

**Position: Deputy Director, Equalities, Human Rights & Third Sector**

**Authorisation date: 12/12/2017**

## Annex A

### Case Study

H was 14 when she was referred to us by high school. H is of Pakistani origin, she is the third generation of her family to live in Scotland. She lived with her maternal grandmother and her maternal uncle, this wife and their children. Her mother was remarried. Both her first marriage to H's father and her step father had been arranged by the grandmother. It seems that both her mother's marriages were forced on her.

H was already know to social work because of issues around her behaviour. The issues identified for referral were aggression towards students and staff, stealing in school and not engaging with school staff. She did not trust professionals including Shakti when we began supporting her.

Initially, social work were working with the maternal family, i.e. Grandmother, maternal uncle and wife whose home she had lived in. During this process the family had raised concerns with social work that her father was going to abduct her and take her to Pakistan. Social work had no concerns towards the maternal family at the time of our involvement. The family would show up to all social work/social meetings.

Our support practice was to encourage her to indulge in her interests, which was Bollywood dance and drama. The plan we had in place with H was, that we would only dance as a way of building relationships. Through dance, she started talking to us about her routine and that helped us build a picture of the control that she was living with. She didn't have any friends, she wasn't allowed to wear her hair down, or clothes of her choice particularly western clothes. She was only allowed the school uniform, and only one pair of black trousers. The Shakti worker suggested we could take her out for a coffee and cinema after school however, she couldn't do this as she was always dropped off and picked up by her uncle and was not allowed any time out of the family house unsupervised.

Soon after our involvement, we attended a routine multi-agency meeting organised by social work for H. We raised concerns that there was a lot more going on than was being explored and highlighted concerns about the extreme control she was living under and the potential risk of Forced Marriage as indicated within the Forced Marriage guidance. She had also disclosed that her 5 aunties had already been married off in Pakistan and they were not happy, because the grandmother had insisted. (Please watch Mustang)

Social work had disclosed to grandmother that someone was coming to carry out dance sessions with H. They did not heed to Shakti's advice not to tell the family anything and said that we were working with them, however, they did not name us as the agency. The grandmother then insisted that she meet with the Shakti worker and kept harassing the school and H, about who the Shakti worker was. We fed back that this was an area of concern for us and further supported our view that she was at risk. The biggest challenge for us was that the school did not acknowledge the concerns of Forced Marriage and the potential risk that she could be taken to

Pakistan and continued to suspend H from school, so there were long periods of time without contact, during which anything could have happened. The also failed to recognised that school was the one place that H had some respite from the control that she was experiencing at home. This action on the part of the school caused further isolation and increased vulnerability for H. School was the only place that she could tell professionals what was going on for her and there were no professionals she could really trust given their interaction with the family. There had been consistent concerns raised about the treatment of H by the family. Where she had disclosed, not being able to sleep at night as grandmother slept in her bed with her, not eating properly because she wasn't allowed to eat with other family members; additionally, when the concern of her lack of friends at school was explored staff raised concerns that a contributing factor could be she smelled bad. It turned out that she wasn't allowed to use the shower or toilet without permission because the door was locked. H reported that she was often denied this basic human right. The school, suggested at a multi-agency meeting that she should have a shower in the school as a way of addressing this. The family was never investigated on these concerns.

About 8 months into our support, there was an incident with H's father. He had turned up at the home asking for contact with her and her maternal uncle phoned the police. The police showed up and disclosed in front of the family that she was receiving Shakti support. This alarmed the family, they continued to harass H about who we were. H complied with our safety planning with her, which was not to disclose our identity for her safety and ours. The harassment became so unbearable that to deflect suspicion, H and the Shakti worker gave a dance performance at the school assembly to reinforce the story that the reason H was being taken out of class was for dancing lessons.

At a case conference Shakti raised concerns that the risks to her of Forced Marriage in particular were increasing. No further actions were taken after this meeting, just that support would continue as it was. When the question of using Forced Marriage civil protection was raised the local authority said they would consult the legal team.

At this point, H had begun conversations with Shakti about her desire to leave home for her safety. She was very unhappy because of how she was treated in comparison to her cousins who also lived in the house. She lived in a fantasy world where she felt that someone would rescue her from her situation which was strongly influenced by the only creative outlet she had i.e. Bollywood cinema. At this time we had an escape plan in place, where H would bring personal items and place them in the school locker. The hope was that she would use this when she finally ready to go. H wished to go to Shakti refuge when space would become available, however the social work view was that she must remain in the local authority area as she was not yet an adult. Despite repeatedly raising concerns of the neglect H was experiencing at home, and the increasing risk of Forced Marriage social work took no action.

Eventually, H disclosed at school that her uncle had assaulted her. Social work spoke to her and were of the view that no action was needed. In Shakti's view this was because they saw H as a trouble maker and didn't take risk to her safety seriously. The police were uncomfortable with this especially as they were aware of

previous criminal history of her maternal uncle and were confident that they would investigate any further disclosures more fully.

H was convinced of leaving because she heard of another girl from the school who had left for similar reasons and this gave her hope and confidence. H reiterated that she wished to go to refuge. Shakti raised in a subsequent placement, that she was going to be 16 soon and if no action was taken the support she would get would be heavily compromised not because she didn't need the support that children and families could provide but because of her age. She was refused support and Shakti took advice and we were going to claim refuge under the 1995 Children's Scotland Act for 7 days. In the week that she was to seek refuge from the local authority, H disclosed to her support worker from social work that a man had come to the house and she described a scenario culturally familiar to an arrange marriage introduction. On hearing this Shakti pointed out to social work that a lack of action would be a serious breach in their duty of care and would put her on an irreversible path of abduction and Forced Marriage. This was demonstrated because on the day that H did leave, she disclosed that she had been asked to be ready by her uncle as she was going to be taken to England and she had no idea where. She had no access to any of her travel documents and travel plans. At this point, social work finally agreed to help and accommodated her in foster placement. This was not a collaborative process in any way or form, it was through constant daily pressure being applied by Shakti. No real discussion was being entertained on applying for a Forced Marriage protection order since the need for it was first raised many months ago. The police were on board with Shakti in recognising the need for raising a Forced Marriage protection order.

H was removed from the family home and taken into care. H stayed with a foster carer but she was told that she will only be able to stay there for 2 weeks and then she will have to go somewhere else. This is because there were concerns of violence towards the carer from H's Uncle as the carer's family had been previously affected by criminal behaviour from the uncle towards them. While in foster care, H was receiving messages from her family over 70 of them a day including from her half brother who she had no real relationship with, about how much she was missed and loved. At this time, mother made contact with social work and social work agreed to facilitate a meeting with the support of the police. This was against extensive objections by Shakti, particularly as this could be viewed as mediation in crisis, which is against the Forced Marriage guidance. On the day of the meeting, mother showed up with grandmother and birth father who was previously identified as a risk by the family and another female relative. Despite this contact was allowed to go ahead, citing H's now age of majority of 16 and her wish to establish contact. At this time it was also suggested going for a child protection order by Shakti but social work vetoed this suggestion saying it would only expose H to further risk if she was to have to go through the children's hearing system.

This is interesting given that previous discussion regarding H just a few days ago questioned her ability to make safe decisions for herself. H's mother has come forward to say that H would be welcome to stay with her and her new husband. H was very excited about this as she has wanted to live with her mother for a very long time.

At this meeting, it was discussed that H would go and live with mother and her step-father and half-brother in Glasgow. It was explored with social work why H was not living with mother, and it transpired that there had been previous violence against H and her mother by the step-father. This was not considered a risk by social work as they said that the step father's job meant he would be out of the house most of the time.

H went with two social workers to the mother's home, and when they arrived H's mother had prepared a room with new furniture and lots of toys and gifts. Social work said that it was up to H if she decided to go to live with her mother, that they could do nothing to stop her.

H decided that she would rather go and live with her mother than going to another foster carer she hadn't met out with the local authority. Shakti repeatedly raised concerns about the burden of this decision being placed on H. Social work said that they had asked H about the Forced Marriage concerns, but she had failed to disclose anything concrete, they suggested that she was just telling the Shakti worker what we wanted to hear, and that we should stop pushing our agenda. Shakti insisted that there needed to be some sort of plan in place to protect her from the risks of Forced Marriage. A Forced Marriage protection order was again explored, but professionals could not agree who's name should go on the order as potential perpetrators. H has been adamant that her Uncle's name not be on the order as she was scared of what he might do to her. Social work felt it would be wrong to put H's mother's name on it as this might increase the risk of honour based violence towards her. So against Shakti's repeated objections the police and social work decided that no Forced Marriage protection order would be applied for. Instead social workers would continue to visit H at her mother's home for a period of time. It should be noted that H was now of legal age so was no longer going to school. After a number of visits H became hostile towards the social workers and was verbally abusive. The Shakti worker tried speaking to H on a number of occasions and while the call was always taken it was clear that the conversation was happening on speaker phone and being monitored. A marker was also placed on H's passport by police.

Social work ended their involvement stating that they had a right not to have to put up with H's verbal abuse. Shortly after this the number for H's mobile was disconnected.

About 3 months later in January 2014 Shakti received a phone call from social work and the police saying H had applied for a passport and had paid extra for it to be processed quickly. It turns out that three weeks after social work had ended their involvement with H she had been returned to the care of her Uncle by her mother. The Police said that they would be able to slow down the application process and asked if we would speak with H. The Shakti worker was then given new contact information for H and was able to speak to her. H was very excited because she was being taken on a shopping trip to Pakistan with her grandmother. There had apparently been a death in the family and H's grandmother needed her to accompany her, her reward being the shopping trip. H repeatedly asked the Shakti worker what could be done though if this was all a lie and they wouldn't let her come back. The Shakti worker went through a safety plan with her trying to find out where the family were going and giving her the address of the consulate and different organisations that might be able to offer help. It was Shakti's opinion that H knew what was ultimately going to happen but desperately hoping to be proved wrong. Shakti again pleaded

with social work and the police to go for a Forced Marriage protection order but they said that because H was now 16 it was her choice to go and there was nothing that they could do but offer her advice.

In January 2016, we got a phone call from a police officer in Police Scotland that they received contact from H who was in Pakistan. They requested Shakti to speak to her. She was being forced into marriage with a 40 year old man. On making contact, H said that she couldn't talk on the phone; she spoke in Urdu just to manage who she was speaking with as it was very dangerous for her. She gave indication that this was happening. By this time, she was in Pakistan for 9 months against her wish and she wanted to return. With police, Shakti and Forced Marriage unit we organised a charity in Islamabad to pick her up. She knew she was in Lahore but not where in Lahore as she was imprisoned in the house. Her grandmother became suspicious and on the day that she was to move and be rescued. H changed her mind completely and she refused to speak to any service. But prior to that, H had created a safe Facebook account and was communicating with Shakti. She wouldn't say much, she would just say that she was fine and that she would get in touch when she arrived back in Scotland. Somehow, her family found out about her speaking to the police and then her father was spoken by the police enquiring about her safety. At this stage, H's father sister and grandmother got together to tell H that they would support her. So the proposed Forced Marriage with the 40 year old ended. A younger man was introduced to her and H knew that the only way to get back from Pakistan was to marry him and he was a better option than the earlier man, so she agreed to marry him and is now returned to Scotland. She currently wants to sponsor his visa and has limited contact with Shakti.