

Justice Committee

Supplementary Legislative Consent Memorandum on the Anti-social Behaviour, Crime and Policing Bill

Written submission from Police Scotland

As the lead for Public Protection for Police Scotland, I write in response to the call for evidence from the Justice Committee who are currently considering the proposed Criminalisation of Forced Marriage in Scotland.

Police Scotland supports the criminalisation of Forced Marriage in the belief that it will create a powerful deterrent and send out a strong public message that Forced Marriage is socially and legally unacceptable and the creation of a substantive offence may help change attitudes amongst practicing communities.

At the same time, we recognise the apprehension of many of our third sector Violence Against Women partners who have concerns that criminalisation is likely to have a detrimental impact on victims coming forward for fear of criminalising their relatives, bringing shame on their family and increasing their risk of significant harm.

There is a general view that Forced Marriage is hugely under reported in Scotland and there is a need for a strong reporting framework across agencies to ensure that criminalisation does not have an adverse impact on hard to reach vulnerable communities.

We believe that the civil protections currently offered by the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 should be retained alongside any new criminal offence. This would in effect mean that victims can still access the same level of protection that they can now, whilst also ensuring those who have already forced a victim to marry will be held to account.

There is still a lack of knowledge and awareness of current legislative provisions across agencies and for any new legislation to be effective it must be accompanied by a policy support package to increase practitioner's awareness whilst promoting discussion amongst practicing communities. There is a need for a national coordinated effort to challenge the practice within communities whilst improving access to support for victims.

Some concern exists over the significant variation in sentencing options, with Scotland having a maximum penalty of 2 years imprisonment and England and Wales having a maximum penalty of 7 years. This could affect public confidence and some may view Scotland as having a more lenient approach to the issue. This could also have an indirect impact and actually increase the number of victims in Scotland.

There are also some concerns around how the civil and criminal law will work in practice. For this reason Police Scotland are keen to work with the Scottish Government to create an Operational Toolkit for staff to ensure that all legislative provisions for Forced Marriage are consistently used to best effect to protect vulnerable victims.

Since the inception of the 2011 Act there have been seven Forced Marriage Protection Orders granted in Scotland. To date only one has been breached with the case subject to live criminal proceedings.

I am keen to further support the Justice Committee in their call for evidence and have nominated my Deputy, Detective Chief Superintendent Gill Imery to attend the Committee on 26 November 2013 to represent the Police Scotland position.

Malcolm Graham
Assistant Chief Constable
22 November 2013