

## **EQUALITIES AND HUMAN RIGHTS COMMITTEE**

### **FEMALE GENITAL MUTILATION (PROTECTION AND GUIDANCE) (SCOTLAND) BILL**

#### **SUBMISSION FROM EQUALITY AND HUMAN RIGHTS COMMISSION**

The EHRC welcomes the opportunity to respond to the above call for views on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill. The Commission believes that female genital mutilation is a form of child abuse that risks the health and lives of girls and women, and amounts to torture. At the heart of our Strategic Plan 2019 to 2022 is our over-arching aim that there should be strong equality and human rights laws protect people.

The Equality and Human Rights Commission is the National Equality Body (NEB) for Scotland, England and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We are an “A Status” National Human Rights Institution (NHRI) and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

**1. Will protection orders and statutory guidance be more effective in preventing FGM and safeguarding those at risk of FGM than the current approach? Please explain your reasons.**

The proposed protection orders offer a further layer of protection to suspected victims of FGM by enabling the police to seek an order preventing their removal from the UK, or into a place of safety. In extreme situations or those where the welfare of the child is believed to be in grave danger the use of a protection order may enable the state to intervene to prevent severe harm being done to the alleged victim.

Statutory guidance will help practitioners to be able to understand the purpose of the protection orders and use them to the greatest effect.

**2. What more could the Scottish Government and public services do to strengthen FGM prevention and protection, for example on:**

- **anonymity of victims**
- **failure to protect a girl at risk of FGM**
- **duty to notify the police of FGM**
- **additional protections**
- **communicating with communities**

The EHRC supports the proposal to provide anonymity to victims of FGM. Given that the offence is a serious one, and one which involves a high degree of personal information about the victim, and their family, we support the proposal to grant anonymity to the victim.

In relation to the further proposed offences, that of failing to protect a girl at risk of FGM and on the duty to notify the police of FGM, the Commission supports any measures that enhances potential protection for this vulnerable group.

Accurately measuring the prevalence of FGM in Scotland is an important step towards allocating appropriate resources and tackling it effectively. However, it is unclear exactly how many girls and women in Scotland are affected by, or at risk of, FGM. A 2011 study estimated that 137,000 women and girls in England

and Wales were affected by FGM<sup>1</sup>. In Scotland other studies such as those by the Scottish Refugee Council<sup>2</sup> have attempted to estimate potential communities and numbers at risk. While challenging it would be helpful for a programme of further ongoing research and case investigation by the Government and relevant agencies to build up a more accurate picture of the prevalence of this issue in Scotland.

On the issue of communicating with communities we believe this to be an important part of the protection agenda and that considered and appropriate messages to communities at risk of FGM may help to assist victims and their families to understand the offence and its impact in the context of Scots law.

On the wider issue of communication care will need to be taken when drafting communications about FGM to professional communities to present as accurate a picture as is possible on the issues of risk and prevalence of FGM today in Scotland based on available evidence. Care needs to be taken not to stereotype communities who may be at risk by assuming that a person's ethnicity or country of origin is sufficient grounds for suspicion that an offence has or may be about to take place.

Given the sensitive nature of this issue more support and resources for specialist organisations, including those in the NGO and third sector who are closer and potentially more trusted by communities at risk, should be considered.

### **3. How will the Bill impact on you, your community or organisation?**

N/A

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<sup>1</sup> Macfarlane, A. (2015), '[Prevalence of female genital mutilation in England and Wales: national and local estimates](#)' [accessed: 29 April].

<sup>2</sup> [http://www.scottishrefugeecouncil.org.uk/assets/0000/9061/FGM\\_Report\\_FINAL\\_A4portrait.pdf](http://www.scottishrefugeecouncil.org.uk/assets/0000/9061/FGM_Report_FINAL_A4portrait.pdf)

**4. Please highlight any relevant equalities and human rights issues you would like the Committee to consider, in particular any potential barriers to accessing the provisions of the Bill or any rights which might be advanced or adversely impacted.**

The Equality Human Rights impact assessment of the Bill focusses on the protections gained through the Bill to alleged or future offences. Agencies involved in the detection of these offences and those who are supporting victims of FGM should ensure that they have a good understanding and equality impact assessment of the groups that are involved.