

EQUALITIES AND HUMAN RIGHTS COMMITTEE
FEMALE GENITAL MUTILATION (PROTECTION AND GUIDANCE) (SCOTLAND)
BILL
SUBMISSION FROM NATIONAL FEMALE GENITAL MUTILATION CENTRE

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.

FGM is a hidden form of child abuse, which affects the lives of millions of girls and women globally every year; and denies them of their right to health, bodily autonomy and bodily integrity. Despite the Prohibition of Female Circumcision Act being introduced in 1985, providing specific legislation to make FGM unlawful across the UK, we know FGM is being practiced in the UK, putting the lives of girls at risk.

The NFGMC welcomes the Scottish government's commitment to tackling the issue of FGM by introducing a Bill which includes provisions such as protection orders, which in England and Wales have been an invaluable resource for protecting girls and women at risk or who have undergone FGM. The NFGMC believes that all girls and women affected by FGM should have access to the same level of protection across the UK. Protection orders also not only allow professionals to protect girls, women and families, but also empower families to protect their daughters from FGM.

We have been involved in gaining 35 FGM POs, so we have quite in depth understanding of how effective they can be. However, given that these orders are a relatively new measure, we will recommend that once implemented research be conducted to determine the long term effectiveness of these orders i.e. does it protect girls not only in the short term (immediately after granted), but also over time.

The NFGMC believes that the introduction of statutory guidance on FGM is a step in the right direction as it will ensure professionals have a clear understand of the steps to be taken. However the guidance must be multi-agency to ensure all professionals receive the same guidance on how to intervene in known or suspected cases of FGM, whilst tailored for their agency's needs. Statutory multi-agency guidance will ensure there is one robust piece of guidance which all professionals can look to for direction. This guidance must provide clear guidance for not only frontline professionals, but must also include what are the responsibilities of statutory and voluntary organisations, local authority chief executives, directors of children's services, other directors in statutory services, independent chairs of child protection committees and adult protection committees etc. There must be clear accountability for ownership of the guidance.

Given that FGM cases can often be multi-faceted and complex, such guidance should also make reference to other issues that may present in FGM cases; such as but not limited to: honour related abuse, domestic abuse, abuse linked to faith or belief, etc.

The NFGMC also believes that guidance on applying for, and using protection orders should be published alongside the statutory guidance as a resource for professionals. The NFGMC has developed guidance on protection orders for families which can easily be adapted for Scotland.

The NFGMC also recommends that the introduction of protection orders follow precedent from England and Wales by making the application of the order free, and where needed, legal aid should be granted to ease the process for families who wish to protect their daughters.

Based on our work with on FGM POs across the country, these orders are poorly understood by professionals. For example, social workers are unaware that the threshold to obtain an order is the same as a care order. Therefore instead of it being one of the first things used to protect a child from FGM, it is the last thing that is considered. We have worked with the Home Office to deliver a series of conferences across England and Wales to upskill all professionals on what the orders are and how to obtain one. Therefore, we suggest to the Scottish government that if these orders are implemented resources must be made available to train professionals.

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 NFGMC believes that all girls and women affected by FGM should have access to the same level of protection across the UK, and therefore the NFGMC advocates the above-mentioned provisions are introduced to Scotland.

Whilst anonymity for survivors is crucial to ensure their protection from the general public, the risk to her life may well be from her family or community, which anonymity would not solve the issue of.

The NFGMC believes that a ‘failure to protect’ provision in the law sends a strong message to all, including families and communities, that either direct or indirect involvement in the cutting of a girl could have serious criminal ramifications, and enforces the message that FGM is a form of child abuse. The NFGMC does however take into account the difficulties active vs non-participative involvement in the cutting of a girl can present in court, which was recently seen in a landmark

conviction at the Old Bailey in England. Nonetheless, the NFGMC sees the ‘failure to protect’ provision as an essential part of English and Welsh FGM law.

Anecdotal evidence suggests that mandatory reporting in England and Wales has not been effective. We will suggest the Scottish government considers firstly if there is evidence to suggest cases are not being referred by partners to children's social care and if not take the steps to ensure that organisations report these previously unreported cases. The National FGM Centre supported a young woman, who was cut in England and only reported as an adult as she was aware of mandatory reporting and did not want her parents to be arrested. Therefore, the Scottish Government should consider whether or not mandatory reporting will result in young people failing to report.

The NFGMC believes it is essential that the Scottish government consult with NGO's, charities, and community organisations specialising in FGM as well as other areas which can intersect with FGM (for example, honour related abuse) when producing the statutory guidance, and the roll out of the new laws. It is essential that the Scottish government work closely with community organisations supporting survivors regularly, to understand gaps which need addressing in order to protect more girls and women. With this regard, the NFGMC recommend the Scottish government commission a 'needs analysis' report alongside the introduction of the new Bill. It is vital that the Scottish government is equipped with the resources in place needed to support the potential girls and women who are identified as a result of the introduction of the new Bill.

The NFGMC believes it would be useful for the Scottish government to commission a prevalence report into the estimated statistics of girls and women affected by FGM in Scotland. Such statistics exist in England and Wales, by way of the City University and Equality Now Study 'Prevalence of FGM in England and Wales' which has been undoubtedly useful in the preventative work undertaken, highlighting that there is not a single local authority that has not had a case of FGM.

FGM is a global phenomenon and is very much influenced by what happens in countries where it is happens. Therefore any work being done to prevent it in Scotland will undoubtedly be impacted on by what happens overseas. There is a need for the Scottish Government to work closely with partners overseas and to develop a long-term plan of engagement.

We have worked with over 260 adult and child survivors of FGM. Based on our work, women have consistently stated that they it would have been difficult for them to take the step to have their parents prosecuted, but at the same time they want justice. This suggests that a prosecution will not always be the step in the right direction and in some cases it will not pass the public interest test. Therefore one step the Scottish Government could consider is to use a restorative justice approach. This will allow the victim to speak to the persons involved in this in a safe environment and this could help them receive justice in another way. The approach has a cathartic element so can be therapeutic and assist with reducing the strain on already limited psychological support services. Key to ending FGM is getting communities to talk about it, so by facilitating a conversation between survivors and those involved in the cutting can have an impact on reducing future incidences.

Moreover, the NFGMC advocates that, like England, teaching FGM in schools be made mandatory. A multi-agency approach is needed in which schools play a pivotal role in teaching and reporting cases of FGM. Educating children and young people is key to prevention, and also to their empowerment in ending FGM.

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

We have experience of working on this issue across several EU countries and our website is accessed by users across the world. The NFGMC is equipped to work with the Scottish government to ensure that professionals in Scotland are educated on any measures put in place by embedding the requirements into all CPD accredited training. The NFGMC's knowledge hub also works as a central repository for FGM and other harmful practices, consistently developing and releasing tools for professionals on FGM, in which the Bill will be embedded. The NFGMC has also developed an award winning Risk Assessment Tool for FGM, which has been accessed in Scotland, which we hope to adapt to the new Bill for professionals to use in Scotland when assessing risk to a girl or family of FGM.

The NGMC believes the Bill will add to the measures Scotland has to protect more girls affected by FGM.

The National FGM Centre (NFGMC)

We work with local authorities and communities to keep children and young people safe from Female Genital Mutilation (FGM), Breast Flattening and Child Abuse Linked to Faith or Belief (CALFB).

The NFGMC is a partnership between Barnardo's and the Local Government Association and is the only organisation of its kind internationally. Through a multifaceted health and social care model of delivery, we aim to achieve a system change in the delivery of children's services to children and families affected by FGM, Breast Flattening and CALFB. We currently work with 12 local authorities and between September 2015 and Feb 2019 we worked with over 450 families from over 65 countries; have helped to secure over 32 FGM Protection Orders; worked on over 40 cases concerning CALFB, and have trained over 15,000 professionals.