

FEMALE GENITAL MUTILATION (PROTECTION AND GUIDANCE) (SCOTLAND) BILL BRIEFING

Female Genital Mutilation (FGM)

Female Genital Mutilation is a procedure that involves partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. It is an unacceptable and illegal practice, and an extreme abuse and violation of the human rights of women and girls. FGM reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women and girls.

FGM has no known health benefits and is an extremely harmful practice that often carries devastating short and long-term health consequences for women and girls. These health consequences can be both short and long-term, and may manifest in sexual, psychological and/or physiological problems.

FGM has been unlawful in Scotland since 1985. The Female Genital Mutilation (Scotland) Act 2005¹ re-enacted the Prohibition of Female Circumcision Act 1985 and extended protection by making it a criminal offence to have FGM carried out either in Scotland or abroad. The Act also increased the penalty on conviction on indictment from 5 to 14 years imprisonment.

Female Genital Mutilation (Protection And Guidance) (Scotland) Bill

Through this new Bill, the Scottish Government is seeking to strengthen the protection of women and girls from FGM through new provisions including Female Genital Mutilation Protection Orders and statutory guidance. The Bill and associated documentation were introduced to Parliament on 30 May 2019 and documents can be [found here](#).

Protection Orders and Guidance

A court will be able to make an FGM Protection Order (“Order”) to protect a person at risk of being subjected to FGM, to protect a person who has already been subjected to FGM and more generally to prevent or reduce the likelihood of an FGM offence being committed.

The Order will contain conditions designed to protect a person (e.g. preventing travel overseas) and will be able to be applied for in different ways through the court, and an application can be made by a person at risk, a victim, a local authority, Police Scotland, the Lord Advocate or any other person with the permission of the court.

An application for an Order can be made directly to the court or an Order can be made by the court in the course of other civil proceedings or certain criminal proceedings.

¹ <https://www.legislation.gov.uk/asp/2005/8/contents>

The Court will decide how long the Order is supposed to last and it can be varied, extended or ended by the court. Anyone breaching the Order would be committing a criminal offence with a potential prison sentence of up to 5 years.

There is a robust and effective system of child protection in Scotland backed by legislation, guidance and the Children's Hearing's system. The proposed FGM Protection Orders and statutory guidance will complement this system.

The FGM Bill will require the Scottish Ministers to issue guidance relating to FGM Protection Orders. It also gives the Scottish Ministers the power to issue guidance about the Act or on other FGM matters. Those who exercise public functions will be obliged to have regard to this guidance. This means that public bodies subject to the guidance will have to take it into account in their processes and decision making in this area, and have good reasons should they decide to depart from it. The guidance will be made by Ministers following consultation.

Consultation on Bill

A consultation was commenced in October 2018 and concluded in January 2019. The analysis is [available here](#). The consultation showed strong backing for FGM protection orders and statutory guidance.

Action on FGM

The Scottish Government is firmly committed to working with its partners across the public and third sectors, and potentially affected communities, to do everything possible to effectively tackle, and eradicate this unacceptable practice. We published a [National Action Plan](#) to prevent and eradicate FGM in 2016. This set out a series of objectives and actions under three main categories:

Prevention: this looks at how we can address the cultural beliefs that not only perpetrate FGM, but all forms of violence against women and girls.

Protection: this looks at how we can ensure the most stringent protections are in place to safeguard potential victims of FGM.

Provision: this looks at how we can ensure that women and girls who have been affected by, or who are potentially affected by, FGM have access to relevant, effective and integrated services.

There is a multi-agency FGM National Action Plan Implementation Group, whose membership is drawn from a broad range of stakeholders from statutory and third sector, and community based organisations. This group meets regularly and gives practical assistance and strategic oversight to the work required to realise our ambitions in this agenda. A Year One report on progress in implementing the Action Plan was published in October 2017². Non-statutory multi agency guidance was published in February 2018³.

² <https://www.gov.scot/publications/scotlands-national-action-plan-prevent-eradicate-female-genital-mutilation-fgm/>

³ <https://www.gov.scot/publications/responding-female-genital-mutilation-fgm-scotland-multi-agency-guidance-978-1-78851-364-7/>

GLOSSARY OF TERMS

Female Genital Mutilation is categorised into four types. These are:

Clitoridectomy (Type I): partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals) and, in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).

Excision (Type II): partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (the labia are ‘the lips’ that surround the vagina).

Infibulation (Type III): narrowing of the vaginal opening by creating a covering seal. The seal is formed by cutting and repositioning the inner or outer labia, with or without removal of the clitoris.

Other (Type IV): all other harmful procedures to the female genitalia for non-medical purposes, such as pricking, piercing, incising, scraping and cauterising the genital area.

‘Honour based’ violence is a collection of practices, which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. Such violence can occur when perpetrators perceive that a relative has shamed the family and / or community by breaking their honour code.

Scottish Government

30 May 2019