

Preventing and tackling forced marriage

Page 1: Questions on introducing a duty

Q1. 1: Do you feel that the introduction of a mandatory reporting duty for forced marriage would improve the safeguarding response to this crime?

No

Q2. 2 a: If a mandatory reporting duty for forced marriage was introduced, do you think it should apply to:

	Yes	No	Don't know
'Known' cases		X	
'Suspected' cases		X	
'At risk' cases		X	

Q3. 2 b: If a mandatory reporting duty for forced marriage was introduced for 'suspected' and/or 'at risk' cases, what safeguards do you think could be put in place to help mitigate the risks outlined above?

We do not think there is an adequate way to mitigate the risks. The proposal is counter-productive and risk-laden.

We have worked with victims of gender-based violence including domestic abuse and forced marriage for 40 years. We led demands to have forced marriage recognised as a human rights violation and were at the forefront of campaigns seeking better protection and support for victims of forced marriage, which ultimately led to the Forced Marriage (Civil Protection) Act 2007 and to statutory guidance. We opposed the proposal to criminalise forced marriage for a number of reasons, one of which was that we feared it would discourage women and girls – some of whom ultimately ended up reconciling with their families – from seeking help. Since the law on the criminalisation of forced marriage was introduced in 2014, we have witnessed a decrease in the number of self-referrals and third party referrals to our service (including referrals from schools). We believe this to be directly linked to the criminalisation law and is concerning. In light of this, we are very concerned that a mandatory reporting duty would simply compound the problem of victims being too scared to come forward and will drive the problem underground.

A mandatory reporting duty should only be considered (whether in 'known', 'suspected' or 'at risk' cases) if there is clear evidence it would improve safeguarding for victims of forced marriage. We would have expected the starting point to be an assessment as to how effective mandatory reporting duties in other contexts have been, for example in the case of Female Genital Mutilation (FGM). We are not aware of the government undertaking any formal evaluation, review or 'lessons learned' exercises to assess the effectiveness of the mandatory duty regarding FGM. Indeed, an article in British Journal of Midwifery (Mandatory reporting of female genital mutilation in children in the UK, Malik et al, British Journal of Midwifery, (June 2018, Vol 26, No 6) pointed to the lack of consistent, high-quality data on FGM since the mandatory duty had been introduced. The authors had great difficulty obtaining accurate, or often any, information from the police and health services and did not note a significant increase in prosecutions. They concluded that "the issues identified in this study suggest that mandatory reporting and recording of FGM is more symbolic than effective".

Our view, therefore, is that the mandatory reporting duty should not apply to known, suspected or at risk cases. Our front line experience tells us that this would be a severely retrograde move. The risks associated with mandatory reporting are too high and very likely to hinder rehabilitation work with victims who have come forward. Forced marriage victims are already extremely vulnerable and feel unsafe and unsure about their actions. Many distrust outside agencies and if they knew or were told that a mandatory reporting duty was in place, would be deterred from not only coming forward but also in accessing the help and assistance that they desperately needed. This would push them further into isolation and expose them to the risk of exploitation, self-harm, suicide and even honour-based violence or killings. Our views are informed by 40 years of experience of working with forced marriage and abuse victims. We know only too well how the majority are reluctant to take action that might lead to the criminalisation of their parents or family members. Many victims want to escape abuse and forced marriage but often, even taking the step to tell someone can take months or even years. Most victims are only likely to do so when they feel safe enough and confident that there will be no reprisals for their parents, that could also lead to enhanced risks to themselves and any vulnerable siblings. The decision to report quite often has such severe repercussions for victims and other vulnerable family members or friends that, in our experience, they are highly reluctant to report to outside agencies. Without adequate support, victims are emotionally ill-prepared to deal with the consequences of making official reports about family members. A mandatory reporting duty is therefore very likely to drive forced marriage victims back into the home, and to drive the issue underground. It will leave the most vulnerable without safe places to make disclosures.

The following case illustrates how reluctant victims of forced marriage are in seeking support. Often they can take months if not years to make the decision to get out of a forced marriage. We are extremely concerned that if the mandatory reporting duty was to be enacted, victims like Ms A would not make a disclosure or seek help at all:

"Ms A was a 17 year old student who lived in West London with her parents, her brother and a younger sister aged 11. Ms A was taken to Pakistan by her parents under the guise of a holiday. Upon reaching Lahore, Ms A was told that the family was going to settle there. Shortly after this, Ms. A was told that she was to be engaged and later married to a cousin that her father had chosen for her. Ms A was opposed to this and so she contacted friends in the UK. She also contacted the British Embassy for help. The Forced Marriage Unit arranged for her repatriation back to the UK. Ms A returned to the UK in October 2014. Her family followed her shortly afterwards. Following her return, Ms A self-referred to Southall Black Sisters (SBS) and was assisted in obtaining emergency accommodation in a refuge. SBS also advised her to obtain a Forced Marriage Protection Order (FMPO) from the Family Court. Ms A was hesitant and unsure about applying for such an order. In the meantime, SBS continued to provide her with emotional and financial support. Following the return of her parents to the UK, Ms A chose to go back to her family. Although she was advised against this, Ms A made the choice to reconcile with her family. SBS continued to support her and her younger sister and offered to help them but they declined and continued to live with their family. However, following further engagement by SBS, Ms A eventually obtained a FMPO that protected her from further attempts by her parents to force her into marriage. Although we alerted her to

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the risks involved, Ms A who was only 17 felt really conflicted about taking any further action against her parents. Her decision to remain in the family home came out of fear of isolation and lack of support. At that stage, she felt an overwhelming need to remain close to her family.

Months later, Ms A returned to SBS following a complaint that she had made against her father. This decision was made at a stage of her life when she felt strong and confident enough to take that step. SBS provided her with the advice and support that she needed and facilitated her access to legal and welfare support."

We are of the strong view that had there been a system of mandatory reporting in place, Ms A would not have come forward, let alone remain engaged with our services or sought an FMPO. Victims like Ms A need considerable support and advice often over months and even years, before they feel safe and confident in taking control of their lives and in facing the consequences of their decisions.

Mandatory reporting does not take account of the need of victims to be emotionally ready to take decisions that will impact on them and their families. What is needed is a victim centred approach which allows victims to make informed decisions when they feel ready, usually only after their concerns about their physical safety have been met. Also, more often than not, it is only when concerns about accommodation, education and employment opportunities and networks of support have been met, that victims feel safe enough to report forced marriage and take further legal action, although this often stops short of supporting the prosecution of their families. Without these assurances, this mandatory reporting standard will only fulfill a statistical goal and exacerbate the barriers that forced marriage victims face in making disclosures. The proposal will not create a context conducive for victims to come forward. It will only create a context conducive to silence and denial. Why would victims come forward in circumstances where they risk everything to speak up against their families?

We would also question the rationale behind mandatory reporting and question why it applies to cases of FGM and – potentially – forced marriage only, and not to other forms of abuse? Why do victims of other gender-based violence have choices as to how and when they report abuse but not victims of FGM and forced marriage? Why are victims of FGM and forced marriage seen as less able/deserving of having and exercising choice over how their cases are dealt with? This is extremely disempowering for victims and potentially discriminatory.

Q4. 3: If a mandatory reporting duty for forced marriage was introduced, do you think it should apply to cases involving:

	Yes	No	Don't know
under 16s		X	
16 and 17 year olds		X	
under 18 year olds		X	
vulnerable adults		X	
other adults		X	

Q5. 4: If a mandatory reporting duty for forced marriage was introduced, do you think it should apply to:

	Yes	No	Don't know
teachers		X	
regulated health professionals (including doctors, nurses etc)		X	
regulated social care professionals		X	
voluntary and community sector workers		X	
other (please specify)		X	

Other:

We reiterate the above point that we believe that mandatory reporting in forced marriage cases will be highly counter – productive. We also wish to draw attention to the fact that with regards to children, forced marriage is already recognised as a form of child abuse. Mandatory reporting for this group is therefore superfluous as there are already clear guidelines and legal duties in place for statutory bodies, even without the victim's consent. Direction also already exists for voluntary sector professionals in the 'Working Together to Safeguard Children' guidance. Mandatory reporting therefore adds nothing more to the protections which already exist for children.

We would also point out that it is highly risky and unacceptable to have a mandatory reporting duty in place without a corresponding increase in resources that are desperately needed by statutory and women's services to make safeguarding a reality. For example, our experience shows that 16 -17 year old victims in particular, are already falling between the safeguarding framework for the protection for children and the legal protection framework for vulnerable adults. Children's social care take the view that this age group are 'almost adults' and therefore do not fall under the 'jurisdiction' of children's social care which results in a lack of protection and care for this age group. We are very concerned for example that although some young victims are able to access all or some of the protection available to adult victims of abuse (for example by seeking redress through the criminal justice system), most are not. The existing framework of support is inappropriate for women and girls within this age group and yet they often have highly complex needs and issues. We need to see services specifically tailored to this age group. For example, specific refuges and hostels for 16-18 year olds are vital since such young girls often face an entirely different set of risks and dangers, ranging from sexual exploitation to online sexual grooming. Our experience is that placing young girls and women in refuges occupied by mainly older women who do not understand their concerns, can result in young girls experiencing further isolation and alienation accompanied by higher incidences of isolation, mental health problems, drug and alcohol abuse, self-harming, suicide attempts and sexual exploitation. The following is an example of the range and complexity of needs of young women that need to be met if safeguarding is to be successful.

"Ms B, a young 18 year old Bangladeshi girl, feared that her father was going to take her to Bangladesh and force her into a marriage. She left home and sought assistance in obtaining a Forced Marriage Protection Order (FMPO) and was temporarily placed in a refuge in another part of the country. However, as someone who had never lived away from home, she found it difficult to get used to the acute isolation that she faced and she fell into depression. Unable to cope with her isolation, she made contact with her elder sister and eventually moved back into the family home even though she faced even more risks and dangers. Once back home, she asked for the FMPO to be removed on the grounds that 'normal' relations within the family had been re-established and she no longer feared for her safety. However, the court remained concerned and ordered a thorough investigation as to the risks that remained for Ms B. SBS was instructed to carry out a risk assessment to determine the wishes and feelings of Ms B in the light of her age and understanding; to consider whether Ms B was under duress to take certain decisions and to assess whether there were any risk to Ms B in relation to forced marriage. Our assessment concluded that she returned home because she could not cope with the isolation that she experienced in a women's refuge and did not have any one to one support. We recommended that the FMPO continue to afford her the protection she needed whilst living with her family. Had it not been for the court's intervention and SBS assessment and support, it is likely that Ms B would have returned home without any kind of risk or needs assessment having been conducted. In addition, had the mandatory reporting duty been in place, it is highly unlikely that she would have sought assistance in the first place or continued to engage with SBS even after returning home."

Our view is that a mandatory reporting duty applied to under 16 year olds, or to 16 - 18 year olds, or other vulnerable adults, will not help identify forced marriage cases or mitigate against the risks involved. As stated above, there are already safeguarding protocols for child abuse that are applicable to those under 18. In addition, 16 to 17 year olds are particularly reluctant to disclose forced marriage, often because they do not have financial or other support from sources other than their parents. Therefore their fear of seeing their parents convicted is likely to deter them from ever coming forward. Appropriate resources for this age group are also severely lacking (see above) and in these circumstances, the assumption that a victim will want their family members convicted at the risk of becoming destitute and homeless or being exploited in other ways, is simply unreasonable and untenable. If the choice is taken away from a victim, her reluctance to come forward would only be magnified and she is likely to remain outside the protection

Q5. 4: If a mandatory reporting duty for forced marriage was introduced, do you think it should apply to:

frameworks that currently exist. Given the nature of the crime of forced marriage, it is imperative that the victim's basic needs for safety and support are prioritised over the statistical need to monitor or report these concerns.

We also have grave concerns about the issue of breach of confidentiality that appears not to have been taken into account in this consultation. All victims above 18 are entitled to confidentiality from all statutory and voluntary agencies much in the same way that victims of gender-based violence are in the wider society (other than, for example, in cases where serious harm/death to the victim or another is suspected). If teachers and other service providers were compelled to report an actual or suspected forced marriage, it would close reporting avenues, for victims who are unlikely to be in contact with other outside agencies. Victims would struggle to trust anyone outside their family or friendship group. Victims may feel compelled to hide their true circumstances or any injuries sustained (physical or otherwise), making the possibility of identification of forced marriage even more remote. Statutory social care professionals and voluntary community sector workers would be faced with reluctant victims who refuse to take immediate action and this in turn, will reduce the number of referrals to organisations like ours. Mandatory reporting will disincentivise forced marriage victims from contacting support services or even worse, from seeking repatriation back to the UK if they find themselves stranded abroad by family members. It would in fact hinder contact with any organisation that aims to help these victims. The proposal is counter-intuitive to the government's aims of addressing and preventing forced marriage.

The following case is an example of how young women will only make full disclosures, and take steps to protect themselves, after they have gained the trust and confidence of those in whom they confide.

"Ms. C was a 17 year old originally from Iraq. She lost her parents at a very young age and remained in Iraq with the maternal side of her family. Ms. C then moved to the UK with her paternal uncle who was resident here. She lived with the uncle's family and went to school in the UK. However, she found herself in very difficult circumstances and while living with her paternal uncle was barely allowed to leave the house. She was practically enslaved. After a while, Ms C's uncle attempted to force her to marry his son. At that stage, Ms. C confided in her teacher and friends and they directed her to children's social care, the Forced Marriage Unit and to SBS. We helped Ms C to obtain a place in a refuge, but she was very reluctant to take any other steps against her family. She eventually moved out of the refuge and lived with her maternal uncle and aunt and with our help over a period of time, eventually felt strong enough to contemplate proceedings against the paternal side of her family. Ms. C found the courage to take necessary steps against her paternal uncle but only after she had secured her own safety and had counselling and support over a period of time with the help of SBS. She remained in contact with SBS and received support when she needed it and only made decisions and take steps when she felt emotionally able to do so."

This case illustrates the absolute necessity of gaining the trust and eventual consent of victims to report their experiences of forced marriage. Ms C would not have trusted her teacher if she knew that that she would have been reported to the official authorities whether or not she gave her consent. We fear that had mandatory reporting been in place, she would have remained silent and continued to suffer the serious consequences of not being supported.

Our concern is that the mandatory reporting duty disregards the complexity and sensitivity of the circumstances that forced marriage victims find themselves in, and how difficult it is for victims from specific cultural and social contexts to disclose whilst remaining in fear of familial and community repercussions. Our view is that increasing access to existing protective mechanisms through painstaking and long-term advocacy, counselling and support work by women's services is the most realistic way of creating a more conducive context for forced marriage victims to come forward, make disclosures and get the support they need. Mandatory reporting, in contrast, can only stifle the options and constrict the autonomy and rights of victims to make informed choices. What is needed is not the creation of a mandatory reporting duty but a victim focused and safe environment that enables all victims of abuse to make disclosures and seek support without fear.

Q6. 5: If a mandatory reporting duty for forced marriage was introduced, do you think it should require reports to be made to:

Other (please specify):

Mandatory reporting, whether to the police and/or social care, may not lead to the desired outcomes in what are clearly sensitive cases of forced marriage. We do not support the proposal but if it was introduced, it would not be effective unless there is sufficient expertise and resources in place to safeguard and support women and young girls who will inevitably be put at great risk. As it is, in our experience there have been instances where both the police and social care - due to a lack of understanding and/or will and/or resources or all of these - have failed to safeguard vulnerable children and adults even when they have a clear duty to do so. Without the additional resources and support, in our view, we cannot see how victims would be willing to put themselves at even greater risk associated with mandatory reporting. The following case study demonstrates how even at present, police involvement in safeguarding victims of forced marriage remains unsatisfactory. "Ms. D and her sister were British nationals (aged 21 and 24 at the time) who were taken by their mother to Somalia in August 2017 under the ruse of seeing their sick grandmother. Once there, they were told that they were in Somalia to learn more about their culture and religion as their mother believed that they had become 'too westernised'. She also wanted them to get married. The sisters were subjected to considerable control and physical abuse for refusing to obey their mother who went ahead and planned their marriages for September 2017. Fearful and anxious, Ms D managed to contact the British Embassy and officials from the Forced Marriage Unit assisted the sisters to return to the UK. Ms D and her sister were repatriated to the UK in 2018 and were referred to SBS for support. SBS assisted the young women and referred them to the local Multi Agency Risk Assessment Conference (MARAC) as they presented as high risk. Although the police questioned both Ms D and her sister upon their return to the UK, they failed to take any further action to support and safeguard the sisters. It was down to SBS and another local agency – rather than the police – to provide the protection and support that Ms D and her sister needed. This included providing accommodation as well as facilitating their access to benefits, and devising safety plans to minimise the risk of reprisals by the victims' family. The police did not provide any further assistance." Mandatory reporting to the police is not in our view, the most effective way to help victims given their sheer reluctance to involve statutory authorities who still lack of understanding of the issues and the willingness to meet the needs of victims. Reporting of any sort should be based to a large degree on the readiness of the victim to do so. Without a victim's co-operation, statutory responses are bound to fail or become ineffective and may even heighten victims' vulnerability to, coercion and control by their families, thus placing them in situations of grave danger. Our experience shows that victims need to feel safe before they can contemplate taking action. The mandatory reporting duty would take control away from victims who already feel helpless and isolated. Moreover, it would not actually guarantee an effective police response, as the case above highlights. Forced marriage cases require a highly sensitive approach to protection involving amongst other things, a robust risk assessment, sophisticated understanding of the particular cultural and family dynamics of forced marriage and the will of statutory agencies to intervene in appropriate cases. It also requires statutory and voluntary services to provide the victim with – or help them access – wrap around, holistic support consisting of safe accommodation, the provision of witness protection schemes, new identity documents, financial and practical support to access free education or employment and counselling. In addition, services need to keep the risks that victims face under regular review, particularly when victims engage in the civil or criminal justice systems. All of this is severely lacking in the current economic climate where spending cuts have decimated key front line services. In many of the police and social care responses to forced marriage that we have seen, victims are often left to fend for themselves. Indeed, we frequently find that social care act as 'gatekeepers' to their scarce resources and together with the police expect organisations like us with our meagre resources to take the primary role in safeguarding despite the fact that they hold statutory responsibility. There are also other problems that are likely to arise if mandatory reporting is introduced. Our experience in handling domestic abuse and forced marriage cases shows that when victims report abuse, they often do so to multiple agencies, resulting in confusion and chaos as to which agency takes the lead in safeguarding. The current safeguarding system for vulnerable adults and children is riddled with such failures, leading to tragic consequences. Mandatory reporting is therefore likely to exacerbate what is already a pervasive problem. It will lead to multiple agencies making multiple mandatory reports to the police and social care with the consequence that no agency takes ownership and responsibility for the protection, support and care of forced marriage victims. Our experiences of multiple reporting in the context of Serious Case Reviews and Domestic Homicide Reviews highlights this problem; far from safeguarding the victims, agencies tend to shift their responsibility, with the result that victims 'slip through the safety net' with horrific and sometimes fatal consequences. Without learning the lessons from such failures, the introduction of a mandatory reporting duty is likely to result in less, not more, accountability on the part of the agencies involved.

Q7. 6: If a mandatory reporting duty for forced marriage was introduced then do you think reports should be made:

only if/when the individual consents

Q8. 7: If a mandatory reporting duty for forced marriage was introduced, do you think it should require a report to be made:

Other (please specify):

We have already stated that we do not support the introduction of a mandatory reporting duty for forced marriage in any circumstances where the victims are over 18 years old and not at immediate risk of serious harm. If it was introduced despite our significant concerns, we cannot see the benefit in having more than one report per profession – unless there is a new incident (e.g. a new threat of forced marriage). Please see our response to question 5 above. Multiple reports from the same agency/organisation can only create confusion and duplication of support that will essentially slow down any adequate help that a victim should receive immediately. Multiple reports of the same incident may also mean that victims are required to tell their story many times to the agency(ies) to whom the mandatory report is made – i.e. social care and/or the police and others. This is particularly alarming since it will not only serve to re-traumatise victims multiple times but is also likely to diminish trust in statutory agencies. It will also be a poor use of resources if social care/the police or other such agencies are compelled to deal with the same incident on multiple occasions.

Q9. 8: If a mandatory reporting duty for forced marriage was introduced, do you think failure to comply with it should be:

Other (please specify):

Whilst we have always supported the principle that agencies involved in safeguarding must be accountable, we find the suggestion of applying criminal sanctions to agency responses, highly questionable. Firstly, it should be self-evident that working with victims of gender-based violence, especially forced marriage, is a specialist, resource-intensive, and extremely challenging task. It requires considerable commitment and intellectual and emotional stamina on the part of the individual professional to keep victims engaged so that they make proper and informed decisions that will minimise the risks to themselves and other vulnerable adults and children. Many of the non-statutory agencies working with such victims are specialist BME groups. Unfortunately these are steadily decreasing due to cuts in public spending. Those that exist are under-resourced in terms of funding and personnel and there is a real shortage of specialist advocates and counsellors. If professionals/agencies knew that they could be subject to criminal sanctions for failure to comply with a mandatory duty (a failure which might have occurred in good faith), then they are highly likely to be dissuaded from working with such victims. Organisations like ours will be discouraged from undertaking what is life-saving but complex and specialist work. Applying criminal sanctions will also encourage an institutional risk-averse approach; one that seeks to 'cover the organisation's back' rather than provide wrap-around support and assistance to victims based on victim centred risk and needs assessments. For example, fear of sanctions may lead to a report being made on flimsy evidence out of professional anxiety and fear. We are concerned that this could lead to the targeting of certain communities (largely BME communities) as the focus shifts to protecting the professional rather than protecting the victim. It may lead to mandatory reporting being seen as 'an end in itself' insofar as safeguarding is concerned. We are also anxious that such an approach will create institutional attitudes/cultures that follow a 'tick box' approach to forced marriage. Professionals will work on the assumption that once a mandatory report is made and the legal duty complied with, they need do nothing more to safeguard and support forced marriage victims. For all these reasons, it may also, lead to a conflict of interest between the professional/organisations involved and the victims and their needs. In relation to the suggestion that a failure to comply with the mandatory duty be considered by the employer/regulator, we are not clear what is being proposed. We are not sure what this adds to the existing procedures surrounding rules for disciplinary action that usually exists in all organisations. If an employee is deemed not to have met the requirements of their role in some way, they are always subject to review and disciplinary action in accordance with their workplace codes of conduct and their contract. With regard to the suggestion that a 'regulator' consider the failure to comply, we are at a loss as to understand who will be carrying out such a role, especially in the voluntary sector. There is no information as to what is meant here. Who would fulfil the role and under what powers would he/she be able to command compliance? Again, complaints procedures and other accountability mechanisms (including the removal of funding, reports to the Charity Commissioner, the requirement to participate in Serious Case Reviews/Domestic Homicide Reviews) are already available if an organisation from the statutory or voluntary or charitable sector is seen to have failed in safeguarding or 'fallen short' in some other serious way. This is in addition to internal mechanisms of accountability within each organisation. We are gravely disappointed that the government has chosen to focus on what appears to be empty gestures that revolve around penalising professionals rather than the consideration of meaningful measures that actually enhance protection for victims of forced marriage.

Q10. 9: What evidence or information do you have on the expected increase in reports to the police from introducing mandatory reporting of forced marriage and how do you think they would vary with the different proposals?

We do not hold such data and would have expected the government to gather and evaluate such data, before embarking on this controversial consultation. It is of considerable concern that this consultation is not based on any sound evidence or data that shows that mandatory reporting is likely to substantially increase reporting and will lead to the prevention of forced marriage. In fact, we fear that the opposite is the most likely outcome.

We hope that it is clear from our responses above, that even though the stated object of a mandatory reporting duty is to identify more cases of forced marriage, in reality, it is a backward step. It is likely to hinder any progress made so far in encouraging disclosures and in getting professionals to understand and respond appropriately to very vulnerable and isolated victims who need considerable support in overcoming their fears and in seeking protection. Our biggest fear is that the proposal will drive the problem even further underground as victims stop reporting altogether for fear of institutional repercussions. This is highly likely given the massive spending cuts faced by statutory and BME specialist women's rights services which will hinder our ability to provide the additional protection that will be required as a result of mandatory reporting. It is extremely disappointing to us that the mandatory reporting proposal is not accompanied by a corresponding proposal for more resources to ensure that victims are not deterred by the additional risks that will arise from the moment they report. Mandatory reporting is simply an unsafe measure.

Far from being able to provide information and data to show that mandatory reporting will lead to increased reporting, our evidence shows that there is likely to be a considerable decrease in reporting, given the current decrease in referrals to organisations like ours. In addition we face difficulties in supporting victims of forced marriage due to the lack of alternative safe accommodation, adequate benefits, counselling and befriending services, advice and support on careers and education and one to one key work, all of which is so necessary to rehabilitate victims into society and to give them a sound platform from which to plan for their futures without fear of destitution and isolation.

Even if there is - contrary to our expectations and evidence - an increase in reports to the police, our concern is that this will not translate into appropriate police action in forced marriage cases. As already stated above, the police continuously fail to take appropriate action in forced marriage and other cases of abuse. Further, even if there was a rise in reports to the police, in the current climate of police funding cuts and limited police resources, we have to wonder what other crimes of gender-based violence would be overlooked or de-prioritised to meet the statistical goals that are implicit in this proposal? The drive to increase prosecutions on forced marriage cannot be supported without assessing its impact for victims of forced marriage and indeed other victims of gender-based crimes.

Q11. 10: What evidence or information do you have on the length of time which would be required to refer a case of suspected forced marriage to the police, the length of time which the police would spend investigating such a case, and any other costs to statutory agencies of complying with the duty?

In terms of the length of time required to refer a case to the police, this will vary depending on the individual case as well as the accessibility and availability of the police. We would refer you to Her Majesty's Inspectorate of the Constabulary (HMIC) investigations into domestic abuse (2014), and honour killings and forced marriage (2015). These reports highlighted the highly inconsistent nature of police response to domestic abuse and culturally specific forms of harm. Our own front line experience shows that much of our time is spent chasing up the police for a response or reasons for a decision not to charge/take any action, or in making complaints for the failure of the police to take appropriate action. This inevitably takes up considerable resources on our part. Sadly, we anticipate that this will continue to be the case even if a mandatory reporting duty is introduced. The real risk is that this will place a victim of forced marriage at further risk of harm.

We do not hold data on how long the police spend investigating cases of forced marriage, and would have expected the government to gather and evaluate such data, before embarking on this consultation.

Q12. 11: Would there be any other implications for frontline professionals of introducing a mandatory reporting duty for forced marriage?

Yes

If 'yes' please explain:

Mandatory reporting is likely to have many serious implications for frontline professionals. We have outlined many of these above. The major implication is that trust between the professional and victim will be severely undermined. As explained above, we fear that victims are likely to be more reluctant to come forward out of fear that they would not have any control over the outcome. As it is, we are already experiencing a reduction in the numbers of self and third party referrals which we believe is the direct outcome of the introduction of the criminal law on forced marriage. Anecdotal information provided to us from other BME organisations appears to support our front line experience.

In addition, no thought has been given in this consultation as to how frontline professionals are expected – without any government commitment for further funding or resources – to support victims both before, during and after the mandatory report is made. Our experience is that, few if any, victims will dare to contemplate co-operating with criminal proceedings without effective protection being put into place for them. Mandatory reporting will result in the need for even more support if victims are to have trust in the authorities. The provision of adequate resources must be the first priority of the government if it is serious about its commitment to address the problem of forced marriage. Introducing new legislation without funding and resources is at best, of symbolic value and at worst, a cynical and empty gesture designed to distract the public's attention from the government's ongoing failure to properly resource Violence against Women and Girls' services.

Given this consultation has failed to deal with the wider challenges faced by victims of forced marriage and the services that support them – or look at the wider context – we feel it is important to highlight a number of issues below.

Firstly, the impact of the wider climate of austerity and spending cuts on victims of domestic abuse including forced marriage cannot be under-estimated. Statutory services have seen their funding slashed and many are at crisis point. We are also witness to an unprecedented attack on the welfare state and legal aid services – services that were historically set up to address poverty and inequality. At SBS, we see on a daily basis the suffering that punitive austerity measures have caused to the women who arrive at our door. Vulnerable women who are trying to recover from domestic abuse must also now cope with the prospect of rising poverty and destitution. Benefits cuts (including the imposition of the 'bedroom tax' and the benefits cap) have financially affected many women who are forced into poverty after fleeing abuse and need to rely on housing and other welfare support. Other changes, such as the 'rape clause' in relation to child tax credits, actively victimise women who experience domestic abuse. The cuts have a disproportionate impact on all women but they have had a specifically dangerous impact on marginalised and vulnerable BME women who need protection from violence, abuse and persecution at the hands of wider family and community members. This is also demonstrated by a report by the Women's Budget Group, which states that austerity and spending cuts since 2010 have disproportionately affected BME women, especially the poorest BME women (Women's Budget Group and others, *Intersecting Inequalities: the impact of austerity on BME women in the UK*, 10 October 2017).

Secondly, there is a serious lack of BME specialist accommodation, support services and resources to re-settle and support women. More and more minority women's services are under pressure to merge, or are becoming subsumed within larger organisations as local authorities seek to make budget cuts or move towards a commissioning model of funding that only favours 'generic' services. However, 'generic' services are often run by those who do not have the inclination, or the experience and ability, to carry out the sensitive, labour intensive support that is required in forced marriage cases, especially where they involve the intersection of a number of complex issues. Specialist BME women's refuges, advocacy and counselling services, particularly those for young BME women, are facing funding difficulties, and many have closed or have drastically reduced their services due to the lack of funds. There is only one refuge which specialises in helping victims of forced marriage. Refuges for BME women are incredibly scarce especially outside London. There is a serious gap in services for women across the UK, with some areas, completely left without any specialist or general services for abused women. Refuges in general have been de-skilled, with many not being able to provide specialist key workers and others having essentially been reduced to little more than bed and breakfast accommodation. Many are forced to close due to funding cuts; others have been taken over by non-specialist housing associations; other organisations have had to either close or merge with larger, generic services because of commissioning processes and the austerity measures. Yet it is precisely these specialist services and refuges which are crucial in supporting victims of forced marriage. For example, once women have been rescued and returned to the UK, most will need to be collected at entry ports and supported with emergency accommodation, access to benefits, help with any presenting physical, emotional and mental health problems, and then provided with continuous and often long-term support to address a range of complex and interrelated issues. Yet even where such organisations exist, few can provide the intensive, resource heavy support that includes collections at weekends, early or late hours of the day as well as key emotional and practical support. Without specialist services, vulnerable victims are less likely to pursue redress through the criminal or civil justice system and are left to navigate their own way around complex areas of law and procedures. They are likely to become even more isolated and face an uncertain future in circumstances where they may be acutely traumatised. The meagre £300,000 that has been suggested by the government in the current Domestic Abuse Bill to support BME women across the UK with regards to all their needs, is woefully

Q12. 11: Would there be any other implications for frontline professionals of introducing a mandatory reporting duty for forced marriage?

inadequate and inspires no confidence in the government's promise to protect victims of forced marriage.

Thirdly, we find that British citizens who are repatriated to the UK after facing forced marriage abroad often find it exceptionally difficult to claim benefits due to the 'habitual residence' test used by the Department of Work and Pensions. Given their absence from the UK has been involuntary and part of the abuse, the Forced Marriage Unit frequently issues 'waiver' letters to confirm that the victim has remained habitually resident in the UK despite their physical absence. However, the DWP do not always understand or accept these letters, leaving victims with no state support.

Fourthly, victims of forced marriage have difficulty accessing further and higher education. The problem at the moment, is that many repatriated victims need to claim benefits in the absence of any other means of financial support, and so can only study part time. They are also unable to access student loans because they cannot demonstrate a sound credit history. They must be able to access full time education for which they should automatically qualify for full education grants including maintenance grants.

Fifthly, whilst victims of domestic abuse including forced marriage are in theory able to access legal aid for non-molestation orders and Forced Marriage Protection Orders, on a daily basis we find it very hard to find solicitors who remain willing to take on legal aid work at all, or who can make an application for legal aid quickly enough to ensure that the protection provided by an injunction is actually effective.

Finally, on a broader point, we are concerned with the contradictory faith-based approach taken by the government to minority communities, which in effect undermines the work being done to address violence against minority women and girls. The promotion of faith-based initiatives to social problems have being rigorously promoted and endorsed by the government with devastating consequences for BME women' and their right to exit from violence and abuse and other forms of oppression. Faith based organisations, are dominated by religious conservatives and fundamentalists and yet they are receiving funding to address equality issues for which they have no track record or commitment. The funding of these groups are at the expense of projects run by secular BME women's groups that have a significant track record in advancing women's human rights, in raising awareness on violence against women and in bringing about the positive changes in how it is addressed at the family, community and State levels. Faith based groups in all religions have used the spaces opened up by the government to demand stronger adherence to patriarchal religious norms and values, which in turn has led to the increased surveillance and policing of female sexuality. This either takes the form of familial pressures on women to conform to strict religious identities and values or to increased community pressure, especially from religious leaderships or vigilante groups of young men who have taken it upon themselves to be the 'guardians' of women's bodies and custodians of 'community' morality. The result is denial and silence on issues of gender based abuse and violence including forced marriage. The needs of BME women and girls are also ignored by government and statutory agencies as they seek to accommodate religious norms and values in service provision in the name of 'religious sensitivity'. For this reason, we urge the government to desist from working with faith –groups, which most minority women do not trust and instead to support and fund the work of BME women's groups that have a sound track record in progressing gender equality and human rights values.

Q13. 12: Would the introduction of a mandatory reporting duty have any equalities implications, and, if so, how could these be addressed?

Yes

If 'yes' how could these be addressed?

We are concerned that there has been no Equality Impact Assessment undertaken prior to this proposal of mandatory reporting, which in our view, is potentially harmful and discriminatory and likely to lead to a decrease in the numbers of vulnerable BME victims from making disclosures or engaging in services.

We reiterate our concern that the mandatory reporting duty may lead to the targeting of certain BME communities or groups in a way that is harmful. Whilst there is a need to focus resources on those who are at risk of specific types of harm including forced marriages, which may involve some communities more than others, the exercise must be balanced against the risk of false reports, baseless assumptions and discrimination based on the ethnic origins (or perceived origins) of the victim or her family. These issues have serious equalities implications and are likely to marginalise BME victims even more. The fear of bringing 'dishonour' and 'shame' on themselves or their community by exposing harmful practices already acts as a powerful deterrent for BME women which is why they are one of the most marginalised, vulnerable and hard to reach groups in society. Yet at the same time, we have seen how stereotypical assumptions by statutory bodies can also lead to discrimination and racial profiling. One professional we work has given us this cautionary example of how the FGM mandatory reporting duty has negatively impacted certain African women in particular, in Wales, whilst also failing to safeguard victims. In her communication to us last year, she warned against the abuse of mandatory reporting by statutory services resulting in the rise of institutional racism:

"I am a African Women that is based in Wales, but do some work in London. I am contacting you to ascertain, whether you are aware of the discrimination faced & being racially profiled relation to the FGM agenda. Hundreds of women have been persecuted by the Mandatory Reporting Laws 2015 act, in which they have had children removed or stopped at airports. I have been getting some of the ladies that I have supported, to tell their stories in the media... I am against any injustice that is happening to children and women; however black women being referred by white health professionals for safeguarding, when there is no risk of harm is on the increase, in which I feel what is happening is institutional racism."

In view of the serious consequences of not getting the balance right in supporting victims of harmful practices, we are concerned about the current proposal on mandatory reporting on forced marriage. It is ill-thought out and lacking in any insight into the legal, emotional, financial and practical barriers that victims of forced marriage face and devoid of any evidence that suggests that mandatory reporting is a viable way of improving reporting of forced marriage.

To mitigate against discrimination, statutory and non-statutory professionals working with women and children in these communities must prioritise the need to be supported and trained by experts with a successful track record and history of assisting BME women and children to assert their rights. Their approach must take account of the need for evidence-led risk assessments. Not enough is done by state authorities to ensure that there is adequate provision of support especially specialist support and housing and welfare benefits and education options, that can address the problem of isolation, homelessness and poverty. Young women who have to leave an area and make new lives for themselves need a great deal of support over a considerable period of time. This is especially true of young victims with or without children who have been uprooted from their environments and have to adopt new identities elsewhere. Many are psychologically damaged by their experiences and need new networks of support and intense counselling which can be very difficult to provide, especially if they remain in witness protection schemes.

A mandatory reporting duty by itself addresses none of this.

Page 3: Wider questions

Q14. 13: Are there any benefits to introducing a mandatory reporting duty for forced marriage which are not highlighted in this consultation?

No

Q15. 14: Are there any risks to introducing a mandatory reporting duty for forced marriage which are not highlighted in this consultation?

Yes

If 'yes' please outline:

We have set out our concerns at length above, but in summary the risks are: - This is an ill thought out gesture that is not based on sound evidence that a mandatory reporting duty will improve safeguarding. In fact, our concern is that it will lead to fewer victims seeking help, leaving them at greater risk of forced marriage but also mental health problems, isolation, exploitation and even death; - The proposal will take away choice for victims and further disempower them; in the case of adult victims, they will be treated differently from victims of other gender-based violence (other than FGM), where there is no requirement for mandatory reporting. This is discriminatory since other victims of gender-based abuse in society have freedom and choice as to how their cases are dealt with; - There is no simultaneous proposal to increase support and services for victims of forced marriage with the introduction of a mandatory reporting duty; victims will be left unprotected against both risks to their own emotional and mental health as well as reprisals from family/community members; - Mandatory reporting by itself does not actually guarantee any or any appropriate response from the police or children's social care; indeed our experience is that the responses of both agencies to forced marriage leaves much to be desired; - In focusing on increasing prosecutions, this consultation ignores the necessity of a needs based approach that also requires the provision of holistic, wraparound support for victims of forced marriage; - Mandatory reporting may lead to multiple reports being to various agencies with no one agency takes leadership or responsibility; - Mandatory reporting may become seen as an end of itself with regards to safeguarding. There is already a serious problem with institutional responses to risk assessments in domestic abuse cases which has become a tick box exercise rather than used to inform a victim-centred or needs – based response. - There has been no equality impact assessment of the discriminatory and disproportionate impact this will have on BME women and girls (and indeed, no thought given to the impact on the already under-resourced BME women's services which support them).

Page 4: Questions about guidance on forced marriage

Q16. 15: Are there substantive amendments which could be made to the statutory guidance which would help to prevent forced marriage and protect and support victims?

A number of amendments need to be made to the existing statutory guidance on forced marriage that take account of the following concerns:

We note that the introduction states that there is a 'clear distinction between arranged and forced marriage'. The reality is that what may start off as an 'arranged' marriage may become 'forced' and professionals engaged in risk assessment must be attuned to the fact that risk is dynamic process. There must be flexibility in the way in which professionals approach the issue which is also why a mandatory reporting duty will not work. Risk can change from day to day due to a number of factors. However, if mandatory reporting is introduced then the risk will always be considered high from the moment of reporting. Considerable resources will then be required including the possibility of more witness protection schemes to ensure that those reporting forced marriage are not exposed to serious risks and dangers arising from the consequences of mandatory reporting.

Additionally, our view is that the monitoring and enforcement mechanisms in respect of the guidelines are inadequate and need to be improved to ensure proper implementation and accountability on the part of statutory bodies. At present there is an inconsistent and at times, indifferent and even discriminatory response from the police and other statutory services.

The 2012 Forced Marriage Unit's 'Report on the implementation of the multi-agency statutory guidance for dealing with forced marriage', highlighted many shortcomings in statutory agencies' responses to forced marriage: a lack of commitment within agencies to address the issue of forced marriage, an inconsistent approach to training and disparity in the way different agencies and individual departments within those agencies handle and monitor cases of forced marriage. For example, not only did children's social care have difficulties responding to cases of forced marriage involving children aged 15 and under, many children's social care departments had even greater difficulty providing an appropriate level of response to persons aged 16 and 17 and facing forced marriage. Many children's social care departments found it hard to find appropriate housing or foster placements for this vulnerable age group. The review also found that agencies wanted an audit tool and performance indicators to monitor and improve their response to forced marriage. The review recommended that OFSTED (schools and social care), HMIC (police) and CQC (health) and other inspectorates give consideration to their relevant statutory agency's response to forced marriage as part of each inspection.

Whilst the guidelines were updated in 2014, based on our experience, the concerns highlighted in the 2012 review remain and have still not been adequately dealt with.

Q17. 16: Are there substantive amendments which could be made to the practice guidelines which would help to prevent forced marriage and protect and support victims?

There are a number of amendments that could be made to the practice guidelines. They are as follows:

- We again reiterate what we have said above at Question 15 in respect of the statement in the introduction about a 'clear distinction between arranged and forced marriage'.
- In order for the guidelines to be more effective, in our view, there is a need for regular and compulsory training on forced marriage and gender based violence within all statutory agencies as part of their professional qualifications and continuous professional development. This training should be delivered by, or in conjunction with, experts within BME women's services.
- We are concerned about the impact of insecure immigration status on victims of forced marriage. The plight of victims with an insecure immigration status who are also victims of forced marriage must be urgently addressed. Spouses or partners of British or settled persons can apply for indefinite leave to remain in the UK under the Domestic Violence Rule if their relationship has broken down to domestic abuse, and they can claim benefits and social housing while they make this application under the Destitution and Domestic Violence Concession. However, victims on other dependent visas, and those in abusive relationships who are undocumented or in the UK as unidentified trafficked women, are not entitled to public funds or eligible to apply under the Domestic Violence Rule. Whilst there is some reference to the plight of these victims and to the existence of the Domestic Violence Rule in the guidelines, there is insufficient guidance and explanation of the particular vulnerability of these victims. Lack of secure immigration status can be used as a weapon of control and coercion by perpetrators. We fear that the current 'hostile environment' for migrants has created even more fear and confusion amongst victims of domestic abuse, including forced marriage and honour-based violence who also have insecure immigration status. This, together with the prioritisation of immigration enforcement over protection by statutory agencies such as the police and social care, gives us much cause for concern. Indeed this practice is the subject of the recent, first ever police super-complaint made jointly by us and the organisation Liberty. We call for a complete firewall between the immigration authorities and statutory agencies whose duty first and foremost is to provide protection to vulnerable children and adults. These are a number of significant harms that we believe are being generated due to the lack of a firewall between immigration and statutory services: a) the 'weaponisation' of immigration status by perpetrators who use a victim's insecure immigration status as a weapon of control; b) victims are too afraid to report their experiences to the police or outside agencies; c) discriminatory responses towards migrant communities since the police are more likely to conduct immigration checks on victims and more likely to prioritise immigration enforcement when dealing with them or their perpetrators.
- Whilst we note the detailed guidance to schools, colleges and universities in the practice guidelines, our frontline experience shows that the education system has been the slowest to respond to the need to address forced marriage. Considerable attention must be given to increasing awareness and creating monitoring mechanisms for all forms of gender-related violence and gender equality aspects in schools. Issues such as child sexual abuse, sexual grooming, forced marriage, ritual abuse, female genital mutilation, honour-based violence and many others are not properly covered in personal, health and social education (PSHE) classes with the result that many children simply do not recognise warning signs or know how to stay safe. Indeed, our experience shows that children from some communities are withdrawn from these classes on religious grounds although it is precisely such classes that are likely to help them increase their awareness and seek appropriate support to stay safe. All aspects of PSHE classes should be made mandatory and parents should not be given the right of withdrawal.
- In 2010, we were part of a pilot project funded by Comic Relief that involved 6 organisations working on tackling violence against women and girls in schools. We developed a project for our local schools that was very successful in changing attitudes and behaviour amongst secondary school children. A number of young BME women we worked with were identified as 'ambassadors for change' and took part in a series of short films to highlight issues around violence against women and girls. As a result we developed the guide 'Changing Hearts and Minds', a unique, free education resource pack specifically for teachers to undertake prevention work on violence against BME women and girls including forced marriage. This pack is now widely used by teachers, students and many other professionals outside the schools setting. (See <http://www.southallblacksisters.org.uk/changing-hearts-and-minds/>). But it needs to be more widely disseminated and endorsed by the government as a useful resource for all agencies working on forced marriage and related issues. However, simply relying on individual schools to 'take up the gauntlet' and educate themselves and their students is not enough. We would like to see PSHE and RSE classes become compulsory in all schools so that all children have access to information delivered in a sensitive and age - appropriate way. OFSTED must take more of a leadership role on this.

Q18. 17: Do you think that the statutory multi-agency guidance and the practice guidelines should be combined to provide one clear document for professionals?

Yes

Q19. 18: Do you think that the guidance should be broadened to include information on so called 'honour-based' violence/abuse?

Yes

Q20. 18 a: If yes, is there specific information and advice on so-called 'honour-based' violence/abuse which you think should be included?

We would urge the government to ensure that any new guidance is prepared in close consultation with BME women's groups who have history of working with victims of honour-based violence.

Whilst forced marriage may often be motivated by a desire to restore 'honour', it is important that the guidance does not simply collapse the issues of forced marriage, honour based violence and other gender-based violence against women and girls since this will skew data and evidence. It is also important that honour-based violence is seen in a human rights violation and therefore addressed within a human rights framework and as part of a continuum of violence against women and girls. The guidance should include, at minimum, information and advice about:

- The meaning of honour and the twin concepts of honour and shame and how they operate in forced marriage cases and the risks that ensue;
- The multiple economic, legal, cultural and religious barriers faced by victims of honour-based violence ;
- An understanding of the family/community dynamics of honour-based violence; sometimes (as in the Banaz Mahmood case) there may be large numbers of people complicit or directly involved in planning the violence or murder, unlike the traditional understanding of 'intimate partner violence';
- An understanding of the links between honour based violence and self-harm/suicide by victims; research has shown the increased vulnerability of BME (particularly South Asian) women to self-harm compared to women in the wider society;
- An understanding of key suspect/perpetrator behaviour including use of immigration status to exert coercion and control and clear understanding of warning signs that suggest victims are at risk of honour based violence. We would like to see clear recognition in the guidance of 'honour' as a motivating factor behind violence and abuse and how it must be seen as an aggravating and not mitigating feature;
- An understanding of the 'one chance rule' in forced marriage and honour-based violence cases. Over the years we have seen more and more cases where victims are taken abroad to be abused or murdered; it is all the more important that professionals in the UK seize the opportunity to safeguard victims since it may prove impossible or extremely difficult to help or protect victims once they are removed from the jurisdiction;.
- Vigilance on the part of statutory bodies to the ways in which they can be used by perpetrators to further the abuse/find the victim – for example, through the use of 'missing persons' reports or reporting the victims for suffering mental health problems/lacking capacity in order to undermine their credibility and autonomy.
- Information about local and national BME specialist support services and clear referral pathways to services with a track record in supporting women. This also means being alert to the ways in which faith-based agencies use the issue of forced- marriage and honour-based violence to reconcile women back into abusive families or restrict their access to the formal justice systems.

It is also vital that the guidance is buttressed by mandatory training for statutory professionals.

Q21. 19: Are there any other factors which you believe should be considered in relation to the guidance on forced marriage?

No – we have set out our views above.

Page 5: About you

Q22. Please use this section to tell us about yourself. Completing this section is voluntary – in particular, you do not need to provide your name and address unless you wish to do so.

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