



# Heddlu • Police

## DYFED-POWYS

*Diogelu ein Cymuned - Safeguarding our Community*

### Female Genital Mutilation Guidance Document

Version 1 (October 2015)

Version 2 [April 2020]



Endorsed by the Regional Safeguarding Board 13/05/2020

## VERSION CONTROL

Version	Date	Author	Reason for Change
1	16/10/2015	Ds Paul Jones	Version1
2	TBA	T/DI Huw Watson	To update and include addition of National FGM Risk Assessment Tool

## EQUALITY IMPACT ASSESSMENT

Section 4 of the Equality Act 2010 sets out the **protected characteristics** that qualify for protection under the Act as follows: Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; Sexual Orientation.

The **public sector equality duty** places a proactive legal requirement on public bodies to have regard, in the exercise of their functions, to the need to:

- eliminate discrimination, harassment, victimisation, and any other conduct that is unlawful under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The equality duty applies to all protected characteristics with the exception of Marriage and Civil Partnership, to which only the duty to have regard to the need to eliminate discrimination applies.

Carrying out an **equality impact assessment** involves systematically assessing the likely or actual effects of policies on people in respect of all the protected characteristics set out above.

An equality impact assessment should be carried out on any policy that is **relevant** to the public sector equality duty. An equality impact assessment has been completed on this policy, click [here](#).

## HUMAN RIGHTS ACT CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its content and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Name:

Department: Legal and Compliance Directorate

Signed:



## CODE OF ETHICS

### CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Code of Ethics and has been reviewed on the basis of its content and the supporting evidence and it is deemed compliant with that Code and the principles underpinning it.

Name: T/DI Huw Watson

Department: CID at Force Headquarters

Signed: T/DI Huw Watson

## Freedom of Information Act 2000

Section 19 of the Freedom of Information Act 2000 places a requirement upon the Force to publish all policies on the Force website. Policies are why we do things and procedures are how we do them. A case-by-case review of procedures must be undertaken to protect law enforcement and health and safety considerations. Where a combined policy and procedure document is being produced the Force is legally required to publish the policy section and assess the procedure part to ensure no sensitive information is published.

There is a requirement therefore to review this document to establish its suitability for publication. Please identify below whether the document is suitable for publication in its entirety or not. Where it is believed that disclosure will be harmful please articulate the harm that publication would cause and highlight the relevant sections within the document. Where it is perceived that there is harm in disclosure the document should be forwarded to the FOI Unit for review.

### Suitability for publication

Suitability for publication	Yes/No	Date	Signature
Document is suitable for publication in its entirety	Yes	TBA	Huw Watson
Document is suitable for publication in part, I have identified those sections which I believe are not suitable for disclosure and have articulated below the harm which would be caused by publication.			
<b>Harm – in publication</b>			

### FOI review – to be completed by FOI Unit

Suitability for publication	Yes/No	Date	FOI Decision Maker
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Document is suitable for publication in its entirety			
Document is suitable for disclosure in part and relevant redactions have been applied. A public facing version has been created.			
Once review has been undertaken FOI decision maker to return document to policy author and following sign-off document to be published within Force Publication Scheme. Any future changes to the document should be brought to the attention of the FOI Unit, as appropriate.			

## **1. POLICY STATEMENT**

Dyfed Powys Police is committed to giving victims of Female Genital Mutilation (FGM) a level of service that gives them the confidence to report incidents, so the protection and safety of victims are at the forefront of subsequent police actions. Female Genital Mutilation is a serious form of abuse in particular involving children. When dealing with incidents, officers and staff must always keep this at the forefront of their minds and deal with incidents taking cognisance of this policy, authorised professional practice and the Honour Based Violence and Forced Marriage policy. In any case involving a child under 18 will be considered a child protection matter, including of historical reports.

Dyfed-Powys Police will deal with FGM in a robust and transparent manner as it is a fundamental breach of an individual's Human Rights.

Female Genital Mutilation can impact on individuals in numerous ways which can result in serious assault or death. Dyfed Powys Police is committed to developing responses that keep people safe and hold perpetrators to account without stereotyping, stigmatising or making assumptions about any given individual or community.

All practitioners working with victims of Female Genital Mutilation need to be aware of the “one chance” rule. That is, they may only have one chance to speak to a potential victim and thus they may only have one chance to prevent serious injury or save a life. This means that all practitioners working within statutory agencies need to be aware of their responsibilities and obligations when they come across such cases. If the victim is allowed to walk out of the door without support, that one chance might be wasted.

## **2. Aim and Lawful Authority**

The purpose of this policy is to provide guidance to police personnel in responding to reports of Female Genital Mutilation. The legal basis for the exercise of powers and duties outlined in this policy are:

- Human Rights Act 1998
- Police and Criminal Evidence Act 1984 (together with associated Codes)
- Criminal Procedure & Investigations Act 1996
- Youth Justice & Criminal Evidence Act 1999



Dyfed-Powys Police consider that these actions are necessary in a democratic society in the interest of, and in order to safeguard:

- Public safety
- The prevention of disorder or crime
- The protection of public order
- The protection of rights and freedoms of others

### **3. Police Code of Ethics**

The public would expect police to safeguard victims and potential victims of Female Genital Mutilation and investigate these practices in accordance with the Force's Mission, Vision and Values. These are underpinned by the principle values of the code of ethics, namely: -

- Accountability
- Fairness
- Honesty
- Integrity
- Leadership
- Objectivity
- Openness
- Respect
- Selflessness

### **4. POLICY AIM**

The purpose of this policy is to provide procedural guidance and set minimum standards in dealing with reports of Female Genital Mutilation in accordance with national guidance and best practice.

The priorities of Dyfed-Powys Police in responding to reports of Female Genital Mutilation are:-

- To investigate all reports effectively, to bring offenders to justice and hold them accountable for their actions.
- To develop responses that keep people safe and hold perpetrators to account without stereotyping, stigmatising or making assumptions about any given individual or community.
- To give victims the confidence to report incidents and keep them safe from further risk of harm.
- To deal with victims of Female Genital Mutilation effectively and by conducting thorough risk assessment processes with victims to reduce the likelihood of harm, including death or serious injury.

## **5. DEFINITIONS**

The World Health Organisation (WHO) states that female genital mutilation (FGM):

“Comprises of all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons”

FGM is also known as Female Circumcision (FC) and Female Genital Cutting (FGC). The reason for these alternative definitions is that it is better received in the communities that practice it, who do not see themselves as engaging in mutilation. (Source – Manchester Safeguarding Children’s Board)

Legislation/Offences relating to FGM are found in Appendix A.

## **6. MANDATORY REPORTING**

A mandatory reporting duty for FGM was introduced on 31<sup>st</sup> October 2015 via the Serious Crime Act 2015, following a public consultation.

The duty will require regulated health and social care professionals and teachers in England and Wales to report known cases of FGM in under 18-year-olds to the police.

UK Government has published procedural guidance on this duty, giving relevant professionals and the police an understanding of the new female genital mutilation (FGM) mandatory reporting duty. Full guidance can be accessed via:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/469448/FGMMandatory-Reporting-procedural-info-FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/469448/FGMMandatory-Reporting-procedural-info-FINAL.pdf)

Reports can be made orally or in writing. The recommended course of action is to make the report orally by calling 101, the single non-emergency number.

Where there is a risk to life or likelihood of serious immediate harm, professionals should report the case immediately to police, including dialing 999 if appropriate.

## **7. WHAT IS FGM?**

### **a. Female Genital Mutilation is classified into four major types.**

1. Type I - 'Clitoridectomy which is the partial or total removal of the clitoris and, in rare cases, the prepuce (the fold of skin surrounding the clitoris);
2. Type II - Excision which is the 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); Type I and II account for 75% of all worldwide procedures;



3. Type III - Infibulation which is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner, and sometimes outer, labia, with or without removal of the clitoris; Type III accounts for 25% of all worldwide procedure and is the most severe form of FGM;
4. Type IV - All other types of harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterising the genital area.

**b. Who practices it?**

FGM is practised around the world in various forms across all major faiths. Today it has been estimated that currently, about three million girls, most of them under 15 years of age, undergo the procedure every year. The majority of FGM takes place in 29 African and Middle Eastern countries, and also includes other parts of the world; Middle East, Asia, and in industrialised nations through migration which includes; Europe, North America, Australia and New Zealand. Globally the WHO estimates that between 100 and 140 million girls and women worldwide have been subjected to one of the first three types of female genital mutilation.

There are substantial populations of people in the UK from countries where FGM is endemic; in London, Liverpool, Birmingham, Sheffield, Cardiff and Manchester. It is estimated that there are around 74,000 women in the UK who have undergone the procedure, and about 24,000 girls under 16 who are at risk of type III procedure and a further 9000 girls at risk of Type I and II.

It should be noted that FGM is not purely an African issue, although there is greater prevalence there. In the UK FGM has been found among Kurdish communities; Yemins, Indonesians and among the Borah Muslims.

It is important to recognise that the migrant populations may not practice FGM to the same level as their country of origin; a migrant's reason for being in the UK may well be avoidance of FGM and second and third generation migrant populations may have very different attitudes towards FGM than their parents. However that same second or third generation may often be the children or adults at greatest risk of having the procedure carried out. (Source – Manchester Safeguarding Children's Board)

## **8. RISK FACTORS**

- The family comes from a community that is known to practice FGM;
- Any female child born to a woman who has been subjected to FGM must be considered to be at risk, as must other female children in the extended family;
- Any female who has a relative who has already undergone FGM must be considered to be at risk;
- The socio-economic position of the family and the level of integration within UK society can increase risk.

## **9. POLICE ACTION**

### **a. Initial actions by Police in all cases of FGM**

Incidents or concerns of FGM received within the FCC should immediately be brought to the attention of the Force Incident Manager and correctly recorded on police systems.

FGM markers must be placed on Dyfed Powys Police Systems so a potential victim of FGM is clearly identified.

Consider Human Trafficking Issues. If there are such concerns consider Dyfed Powys Police 10 point plan for dealing with incidents of suspected human trafficking. (See [PVP intranet website](#))

Initial ownership of any FGM investigation/concern must be undertaken by the on duty or on call Detective Inspector and an immediate safety plan considered.

Initial assessment of any risk to the victim must be undertaken and appropriate actions undertaken to safeguard the victim and secure and preserve any evidence.

Sufficient information must be obtained and a referral made to the CRU utilising the online web based "MARF" referral form. All officers will be expected to utilise this form to refer any cases for review by CRU for further action or joint investigation by CID

. Officers will be responsible for completing this form by the end of their shift.

### **b. Actions in relation to Children**

If any officer believes that any child could be at immediate risk of significant harm they should consider the use of police protection powers under section 46 of the Children Act 1989.

Relevant safeguards should be put in place immediately in order to prevent any risk of harm to the female victim. Also consider the risk to any other children especially siblings and any concerns must be acted upon immediately.

If a female child is at risk of undergoing or has already undergone FGM, the CID must be made aware and support sought with the CID Detective Inspector or CID Detective Sergeant informed.

Eventual ownership will be the responsibility of the respective County CID Detective Inspector who will have oversight and supervision of FGM within their area.

The CID or officers dealing will liaise with the Central Referral Unit and the investigation will be managed on CATS and CMS if appropriate.

In relation to concerns involving children a Strategy Discussion with Social Services will be held to assess risk and arrange strategy meetings with Children's Services and relevant agencies. If it is believed or known that a female child has undergone FGM, a Strategy Meeting must be held as soon as practicable (and in any case within two working days) to discuss the implications for the child and for the coordination of any criminal investigation. (The investigation will be in line with Wales Safeguarding Procedures 2019)

A joint Police and Social Services investigation will take place in all reported incidents of FGM involving children.



Officers should use the online FGM Good Practice and Assessment Tool to assess FGM risk.

A medical examination should be conducted by a qualified paediatrician trained in identifying FGM and the All Wales Clinical Pathway developed by Public Health Wales 2018 should be followed.

In cases of medical emergencies where the wellbeing and safety of the child is paramount, there may be circumstances to go outside the policy and utilise available paediatricians where it is in the best interest of the child to do so. But in all cases involving children, an experienced paediatrician should be involved in setting up the medical examination. This is to ensure that a holistic assessment which explores any other medical, support and safeguarding needs of the girl or young woman is offered and that appropriate referrals are made as necessary.

Children and young people should be interviewed in line with Achieving Best Evidence in order to obtain the best possible evidence for use in any prosecution.

A second Strategy Meeting should take place within ten working days of the initial referral.

Civil orders such as Female Genital Mutilation Protection Orders should be considered and if obtained relevant information must be submitted on intelligence so all officers have access to information.

Cases should not be closed until the risk management plan is completed and all suitable measures have been put in place.

### **c. Actions in relation to adults**

When an Adult Female has undergone or is about to undergo FGM these incidents should be dealt with by the CID as a potential form of Domestic Violence and Abuse/Honour Based Violence incident.

If the adult female is a Vulnerable Adult the adult safeguarding process should be initiated and an urgent Strategy Meeting arranged.

Where cases of FGM involve family members a MARAC must be arranged with specialist support agencies such as BAWSO in attendance.

Any Vulnerable adult subject of Female Genital Mutilation should be interviewed in line with Achieving Best Evidence in order to obtain the best possible evidence for use in any prosecution.

The CID or officers dealing will liaise with the Central Referral Unit and the investigation will be managed on CATS.

Eventual ownership will be the responsibility of the respective County CID Detective Inspector who will have oversight and supervision of FGM within their area.

Civil orders such as Female Genital Mutilation Protection Orders should be considered and if obtained relevant information must be submitted on intelligence so all officers have access to information.

Relevant risk assessments and safeguards should be put in place and referrals to partner agencies made as appropriate in order to ensure the victim receives all relevant support.

Cases should not be closed until the risk management plan is completed and all suitable measures have been put in place.



## **10. Further considerations for Police**

The All Wales Protocol for FGM needs to be adhered to. (See [PVP intranet website](#))

Police should work with other agencies to obtain relevant support and guidance for the victim. Where relevant they can work with other professionals to prevent FGM by educating parents/carers about the legislation relating to FGM and possible consequences. Working with other agencies is critical in providing a holistic approach that addresses the victim's needs.

Officers to be aware that when the online web based "MARF" has been processed by the CRU supervisor an intelligence log will self - populate and be available via PNI and Information Assets. This will ensure that suspects or victims will be identified if further concerns/ incidents come to light.

## **11. Use of interpreters**

Officers should take great care in choosing an interpreter when speaking to a potential victim or witness regarding FGM. In particular, the interpreter must not be a family member, known to the individual, or an individual with influence in the person's community. Disregarding this may result in:

- Deliberately misleading information being provided to the police officer;
- The traditional views of the community being relayed to the witness as opposed to what the police officer is saying;
- Pressure being applied to the witness/victim to withdraw a statement;
- Information being fed back to suspects;
- Distress and humiliation being caused to the victim or witness;
- The victim or witness being ostracized from their community.

## **12 . The National FGM Centre Risk Assessment Tool**

The National FGM Centre Risk Assessment Tool is an online resource designed for use by social workers but it can also be used as a multi-agency resource. It can be accessed via a web browser and as such, can be completed in any location using any digital device. It is used to assist with assessing risk; highlighting areas for further exploration and suggesting safeguarding options where FGM is a concern. The tool has two elements: [Best Practice Guidance](#) and an [Online FGM Assessment Tool](#) which, based on the information provided, generates a suggested risk level and suggests safeguarding options to be considered. It is designed to inform decisions and provide recommendations and must not under any circumstances replace professional risk assessment.

Officers and staff should use the FGM Risk assessment Tool (FGM RAT) upon receipt of any safeguarding concern in relation to FGM and adhere to suggested best practice as follows:



- To be completed jointly by police and social worker at the point of or prior to the strategy discussion
- To be used to help inform decisions and make recommendations
- **It must *NOT* replace professional risk assessment.**
- Once completed the fact that the tool has been used and any subsequent decisions must be clearly documented on the Crime Investigation log and PROTECT record.
- A PDF of the FGM RAT must be printed and scanned to the crime as an external document using the following exact wording “FGM risk assessment /family name/date” For example “*FGM risk assessment Jones 12/06/19*”
- The printed risk assessment can be presented to the court and used to assist with an application for a FGM protection order if required.
- The RAT can be repeated at any time to reassess the risk as circumstances change (e.g. Following intervention) Each additional RAT completed must also be recorded appropriately (either by social services or by the police on the crime log and the PROTECT record as appropriate)
- The National FGM Centre website also contains useful information including an interactive country of origin map which gives useful and accurate information in respect of affected communities, prevalence rates and local terminology throughout the world.

### **13. Female Genital Mutilation Protection Orders (FGMPO)**

The Female Genital Mutilation Act was amended by [section 73 of the Serious Crime Act 2015](#) to include FGM Protection Orders. An FGM Protection Order is a civil measure which can be applied for through the Family Court or the High Court. The FGM Protection Order offers the means of protecting actual or potential victims from FGM under the civil law.

Breach of an FGM Protection Order is a criminal offence carrying a sentence of up to five years in prison. As an alternative to criminal prosecution, a breach could be dealt with in the Family Court as a contempt of court, carrying a maximum of two years’ imprisonment.

Who can apply for an order?

- The person who is to be protected by the order
- a relevant third party (such as the local authority); or
- any other person with the permission of the court (for example, teachers, health care professionals, police, family member).

FGM Protection Orders are unique to each case and contain legally binding conditions, prohibitions and restrictions to protect the person at risk of FGM. These may include:

- confiscating passports or travel documents of the girl at risk and/or family members or other named individuals to prevent girls from being taken abroad

- ordering that family members or other named individuals should not aid another person in any way to commit or attempt to commit an FGM offence, such as prohibiting bringing a “cutter” to the UK for the purpose of committing FGM.

The court can make an order in an emergency so that protection is in place straightaway. FGM Protection Orders came into force on 17 July 2015 and apply to England, Northern Ireland and Wales.

Any request should be made in consultation with the CID DI and Legal services.

## **14. WIDER CONSIDERATIONS**

### **Common Justifications for FGM (Culture)**

- Maintain family honour and a girl’s virginity;
- Improving a girls marriage prospects;
- Protecting perceived cultural and religious beliefs and traditions.

Female Genital Mutilation is usually instigated by female members of the girl’s family (including extended family). In relation to children unlike other forms of child abuse, a mother who agrees to her daughter being mutilated is likely to believe that she is acting in the best interests of the child. It may even be a cause for celebration within the family.

In some communities the bridal price for an uncircumcised girl is lower or non-existent, bringing an economic reason for keeping the custom. For these reasons alone, many mothers and grandmothers are the advocates of FGM for their young daughters or granddaughters.

FGM is a form of child and adult physical abuse. However, the issue is complex and despite its very severe health consequences, some parents and others who want their daughters to undergo this procedure do not intend it, or regard it, as an act of abuse.

FGM is a social norm and communities are socialised into accepting FGM as essential and those who fail to conform may be ostracised or stigmatised. In general FGM aims to promote acceptance and sense of belonging.

Traditionally, the procedure is carried out by a female ‘cutter’ who is a member of the female victim’s practicing community. The person may also be known as a circumciser or midwife. The ‘cutter’ may visit the UK from abroad for a short period specifically to carry out FGM, or they may be a permanent member of the community in the UK. A girl can also be taken abroad to undergo FGM, sometimes to her or her family’s country of origin or to another FGM practicing country. This may be done in an attempt to avoid detection and is most likely to take place during extended holiday periods. Where an officer suspects that a child may be taken out of the country to undergo FGM they should take appropriate steps to protect the child.

## **15. Links to Forced Marriage and Domestic and Abuse (Support)**

There can be a link between FGM and Forced Marriage, particularly in adults/teenagers when the woman may be mutilated shortly before the marriage. Police should be alert to this and consider a joint response to the Forced Marriage through local protocols alongside protection from FGM (see Dyfed-Powys Police Honour Based Violence and Forced Marriage policy).

A woman/girl who has been subjected to FGM may have numerous gynecological problems and this may make consummation of her marriage or sexual activity with her partner very uncomfortable/painful/impossible. This could cause tensions within the relationship and wider family community.

Women and girls may be raped within their relationship and suffer pain and re-traumatisation every time a partner demands sex. Some men may be more understanding and the couple may seek support. It is important to consider the wider support needs a woman may have including immigration, housing, debt, childcare and counselling support through community groups and domestic abuse specialist support. She may need to be referred to her local Multi Agency Risk Assessment Conference if the risk of forced marriage, serious injury or death is high.

## **16. HELPLINES**

### **National Society for the Prevention of Cruelty to Children (NSPCC) FGM Helpline 24**

–hour Helpline. Free phone 0800 028 3550

[www.nspcc.org.uk/fgm](http://www.nspcc.org.uk/fgm)

### **Black Association of Women Step Out (BAWSO)**

24-hour Helpline: 0800 731 8147

[www.bawso.org.uk](http://www.bawso.org.uk)

### **ChildLine**

24-hour Helpline for children: 0800 1111 [www.childline.org.uk](http://www.childline.org.uk)

### **National Domestic Violence Helpline 24-hour**

Helpline: 0808 2000 247

[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

### **Live Fear Free helpline 08088010800**

**National FGM Centre** <http://www.nationalfgmcentre.org.uk>

[For more organisations and local services, please visit https://www.gov.uk/female-genital-mutilation](https://www.gov.uk/female-genital-mutilation)

## **17. Governance structures**



## **National**

NPCC HBV Working Group has developed a National Policing Strategy for Female Genital Mutilation, which includes a national Action Plan.

## **Regional**

South Wales Police have the regional (Welsh) lead and provide regional representation at the national meeting and the Regional (Wales) Strategic FGM Leadership Group. Learning is shared through the Heads of Public Protection structure within Wales.

## **Force**

A DCI within Protecting Vulnerable People has strategic responsibility for the Force's response to Female Genital Mutilation.

## **18. RELATED POLICIES, PROTOCOLS, PRACTICES OR SERVICE AGREEMENTS**

This policy should be read in conjunction with the following documentation for further specific guidance regarding the investigation of Female Genital Mutilation:

- Wales Safeguarding Procedures [2019]
- All Wales Protocol in relation to Female Genital Mutilation 2011
- ACPO (2008) Honour Based Violence Strategy
- Home Office Multi-agency statutory guidance for dealing with forced marriage
- College of Policing APP Major Investigation and Public Protection – FGM <https://www.app.college.police.uk/app-content/major-investigation-and-publicprotection/female-genital-mutilation/>
- HM Government Multi-Agency Protocol Guidelines for FGM June 2014

## **19. MONITORING**

This policy will be reviewed for its effectiveness on a regular basis as stipulated in the review period. In addition, the policy will be reviewed when necessary with regard to the following

- The level of performance with regard to the Investigation of offences relating to Female Genital Mutilation and any deficiencies will be scrutinised against this policy, for amendments when necessary.
- The Protecting Vulnerable People Unit will maintain awareness of any changes to legislation and Home Office guidance.
- Challenges to this policy

## **20. REVIEW**

This policy will be subject of annual review by the Detective Chief Inspector with responsibility for Female Genital Mutilation within Public Protection.



## **21. WHO TO CONTACT ABOUT THIS POLICY**

HQ CID

### **Appendix A: Legislation on Female Genital Mutilation Prohibition of Female Circumcision Act 1985 as repealed by the Female Genital Mutilation Act 2003**

Female Genital Mutilation (FGM) has been a specific criminal offence since 1985, with the introduction of the Prohibition of Female Circumcision Act 1985. However a 'loophole' was identified in the legislation, in that taking girls who were settled in the UK abroad for FGM was not a criminal offence. It is this 'loophole' that the Female Genital Mutilation Act 2003 ('the Act') intended to close.

#### **Female Genital Mutilation Act 2003**

The Act was brought into force on 3 March 2004 by the Female Genital Mutilation Act 2003 (Commencement) Order 2004. The provisions of the Act only apply to offences committed on or after the date of commencement. For offences committed before 3 March 2004 the Prohibition of Female Circumcision 1985, as re-enacted in the Female Genital Mutilation Act 2003, continues to apply.

The Act affirms that it is illegal for FGM to be performed, and that it is also an offence for UK nationals or permanent UK residents to carry out, or aid, abet, counsel or procure the carrying out of FGM abroad on a UK national or permanent UK resident, even in countries where the practice is legal.

#### **Offence of Female Genital Mutilation**

Section 1 of the Act makes it a criminal offence to excise, infibulate, or otherwise mutilate the whole or any part of a girl's labia majora, labia minora or clitoris.

Although the Act refers to "girls", it also applies to women.

#### **Defence**

No offence is committed by a registered medical practitioner who performs a surgical operation necessary for a girl's physical or mental health. Nor is an offence committed by a registered midwife or a person undergoing a course of training with a view to becoming a registered medical practitioner or registered midwife, but only if the operation is on a girl who is in any stage of labour, or has just given birth, and is for purposes connected with the labour or birth (see section 1, subsection 2 of the Act).

This applies if the surgical operation is carried out:

- In the UK: or



- Outside the UK, by persons exercising functions corresponding to those of a UK approved person.

Section 1(5) makes it clear that in assessing a girl's mental health, no account is taken of any belief that the operation is needed as a matter of custom or ritual. An FGM operation, therefore, could not legally occur on the ground that a girl's mental health would suffer if she did not conform to the prevailing custom of her community.

There is no fixed procedure for determining whether a person carrying out an FGM operation outside the UK is an overseas equivalent of a medical practitioner etc. for the purpose of subsection (4). If a prosecution is brought, this will be a matter for the courts (in the UK) to determine on the facts of the case.

### **Assisting a girl to mutilate her own genitalia**

It is not an offence for a girl to carry out an FGM operation on herself. However, a person is guilty of an offence if he aids, abets, counsels or procures a girl to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris (see section 2 of the Act).

### **Assisting a non-UK person to mutilate overseas a girl's genitalia**

Section 3 of the Act makes it an offence for a person to aid, abet, counsel or procure the performance outside the UK of a relevant FGM operation (as defined by subsection (2)) that is carried out on a UK national or permanent UK resident by a person who is not a UK national or permanent UK resident (as defined by section 6).

So the person who, for example, arranges by telephone from his/her home in England for his/her UK national daughter to have an FGM operation carried out abroad by a foreign national (who does not live permanently in the UK) is guilty of an offence.

The exception for necessary surgical operations that applies for the purposes of section 1 of the Act also applies to section 3.

### **Extra-territorial acts**

The effect of the extension (see section 4) on section 1 is that it will be an offence for a UK national or permanent UK resident to carry out an FGM operation outside the UK. By virtue of section 8 of the Accessories and Abettors Act 1861, it will also be an offence for a person in the UK (or a UK national or permanent UK resident outside the UK) to aid, abet, etc. a UK national or permanent UK resident to carry out an FGM operation outside the UK. For example, if a person in the UK advises his UK national brother over the telephone how to carry out an FGM operation abroad, he would commit an offence.

The effect of the extension of section 2 is that it will be an offence for a UK national or permanent UK resident outside the UK to aid, abet etc. a person of any nationality to carry out an FGM operation on herself wherever it is carried out.

The effect of the extension of section 3 is that it will be an offence for a UK national or permanent UK resident outside the UK to aid, abet etc. a foreign national (who is not a permanent UK resident) to carry out an FGM operation outside the UK on a UK national or permanent UK resident. For example, a permanent UK resident who takes his permanent UK resident daughter to the doctor's surgery in another country so that an FGM operation can be carried out will commit an offence.

## Penalties for offences

A person guilty of an offence under sections 1, 2 and 3 of the Act is liable:

- On conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both);
- On summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

A person guilty of an offence under section 3A of the Act is liable:

- on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both),
- on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
- on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

□

## Definitions of Girl and UK National

The term 'girl' includes 'woman'.

A United Kingdom national is an individual who is:

- a. A British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- b. A person who under the British Nationality Act 1981 is a British subject; or
- c. A British protected person within the meaning of that Act.

A permanent United Kingdom resident is an individual who is settled in the United Kingdom (within the meaning of the Immigration Act

ENDORSED

