

# **Anti-social Behaviour, Crime and Policing Bill**

## **Fact sheet: Forced marriage (clauses 107 to 109)**

### **Background**

1. Forced marriage is recognised in the UK and elsewhere as a form of violence against women and men, domestic abuse, a serious abuse of human rights and, where a minor is involved, child abuse. A forced marriage is a marriage in which one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage but are coerced into it. The coercion can include: physical, psychological, financial, sexual and emotional pressure. Victims of forced marriage can be both women and men, and the marriages may take place in the UK or overseas.
2. The Government is committed to tackling the serious harm caused by forced marriage in a way that puts the needs of victims and potential victims first. The provisions in the Bill strengthen the legal protections available and are a key part of this work, which also includes working directly with those affected.
3. We know that the introduction of legislation alone is not enough and we will deliver a wide and varied package of work aimed at victims, communities and professionals alike, as a way of supporting the implementation of the new law. The Government's Forced Marriage Unit ("FMU"), a joint Home Office and Foreign and Commonwealth Office unit, provides direct assistance to victims and potential victims of forced marriage. In 2012 the FMU gave advice or support in 1,485 cases. We will also run a nationwide engagement programme of regional road shows and debates, focusing on prevention and education.

### **Current law**

4. There is already a range of criminal offences that cover the behaviour typically associated with forcing someone to marry, for example kidnapping, false imprisonment, assault, harassment, child cruelty, child abduction and various sex offences. However, there is no specific offence of forcing someone to marry.
5. The Forced Marriage (Civil Protection) Act 2007 ("the 2007 Act") inserted a new Part 4A in the Family Law Act 1996 ("the 1996 Act") which provides a civil remedy for victims and potential victims of forced marriage. Under this legislation, the court may make an order – a forced marriage protection order (FMPO) – for the purposes of protecting: (a) a person from being forced into a marriage or from any attempt to be forced into a marriage; or (b) a person who has been

forced into a marriage. A FMPO may contain such prohibitions, restrictions or requirements and any other such terms as the court considers appropriate for the purposes of the order. This could include, for example, provisions not to threaten, harass or use force; to surrender a person's passport or any other travel document; and not to enter into any arrangements for the engagement or marriage, whether civil or religious, of the person to be protected (the victim) in the UK or abroad.

6. Breach of a FMPO is currently dealt with in England and Wales as a civil contempt of court which is punishable with a fine or up to two years' imprisonment, or both. If a FMPO is issued with a power of arrest attached, a police officer may arrest without warrant a person whom the officer has reasonable cause to suspect is in breach of any of the provisions in the order. However, if a FMPO is issued without a power of arrest attached the person being protected by the order, the person who applied for the original order or any other person with the leave of the court may apply to the court for the issue of a warrant for the arrest of a person if they consider that the person has failed to comply with the order or is otherwise in contempt of court in relation to the order.
7. Between November 2008, when the 2007 Act came into force, and December 2012, 538 orders were made to prevent marriages from taking place and assist in repatriating victims. Proceedings for breach of a FMPO were recorded in 12 cases during the same period.

### **New offence of forced marriage (England, Wales and Scotland)**

8. Part 10 of the Bill creates two new offences of forced marriage, so that a person commits an offence if he or she:
  - (a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and
  - (b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without the free and full consent.
9. Additionally, a person commits an offence if he or she:
  - (a) practices any form of deception with the intention of causing another person to leave the United Kingdom, and
  - (b) intends the other person to be subject to coercion for the purpose of making him or her enter into a marriage without free and full consent.
10. The penalties for the new offences in England and Wales will be a fine or imprisonment for a term not exceeding six months, or both, on summary conviction; and imprisonment for a term not exceeding seven

years for a conviction on indictment. In Scotland the penalties for the new offences will be imprisonment for a term not exceeding 12 months or a fine, or both, on summary conviction; and imprisonment for a term not exceeding two years for a conviction on indictment, or a fine or both.

11. The new offence will allow the CJS to target their powers better against those who force someone to marry. Victims of forced marriage, their families, and society may feel better served by a specific criminal offence. There may also be a deterrent effect, which could reduce the number of offences and benefit potential victims of forced marriage.

### **New offence of breaching a FMPO (England and Wales)**

12. Part 10 of the Bill creates a new offence of breaching a FMPO. The offence is modelled on the provisions in Part 4 of the 1996 Act which makes breach of a non-molestation order an offence. As a result, it makes arrest without warrant possible for breach of a FMPO.
13. This means that an offence will be committed if a person, without reasonable excuse, does anything that he or she is prevented from doing by a FMPO. The offence of breaching a FMPO will be triable either way. The maximum penalty on conviction on indictment will be five years' imprisonment, or a fine, or both; and the maximum penalty on summary conviction will be six months' imprisonment, or a fine, or both.
14. Making the breach of a FMPO an offence for which arrest without warrant is possible means that the police will always be able to arrest for the breach of an FMPO. So there will be no need for the courts to attach a power of arrest, or for the victim to apply to the civil court for an arrest warrant.
15. The two provisions in Part 10 will together enable cases of forced marriage to be tackled more effectively and provide greater protection for victims and potential victims of forced marriage.

### **Enforcement of the new offences**

16. We fully recognise that some victims may be reluctant to pursue criminal proceedings. The civil remedy (FMPOs) will continue to exist alongside the new criminal offence of forced marriage. Equally, a person who applied for a FMPO will have a choice of how a breach is dealt with. He or she can either call the police to have the breach dealt with in the criminal courts, or make an application to the originating county court to have the breach dealt with as a civil contempt of court.

17. The two jurisdictions are mutually exclusive so if someone has been convicted of the breach in a criminal court they cannot be punished for civil contempt and vice versa. As a result, victims can choose how they wish to be assisted – adopting a non-criminal resolution as an alternative to entering the criminal justice system – and this will be one of the key messages of the engagement work we are undertaking.

Home Office/Ministry of Justice  
October 2013