

## **FORCED MARRIAGE**

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# 1 Introduction

This annex gives guidance on the handling of immigration applications which involve an alleged forced marriage between a British national or person settled in the United Kingdom and a third country national, either in the United Kingdom or overseas.

This annex has been compiled following the publication of 'Marriage Visas: the Way Forward (July 2008)', which highlighted the need for a clear strategy for spotting risks in cases where a person may be vulnerable to a forced marriage.

This annex is intended to give practical guidance for the specialist teams dealing with forced marriage cases – both entry clearance officers overseas and in-country case working teams. The aim of this is to assist applicants and/or sponsors who may be victims of forced marriage, and ensure that:

- staff have guidance on how to identify a person who may be at risk of a forced marriage;
- staff have an understanding of the process for dealing with such cases; and
- cases are dealt with consistently and appropriately.

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## 2 Action to Tackle Forced Marriage

### 2.1 Marriage Visa Consultation

A consultation 'Marriage to partners from overseas' was launched in December 2007 on the reform of the marriage visa system. The consultation proposed a number of measures centred around the key principles that no-one should be pressurised into sponsoring a marriage visa and that those who wish to sponsor a marriage partner from overseas should be encouraged to establish an independent adult life here first and to see that as an important way of helping their partner to integrate.

Following the consultation the government response document 'Marriage Visas: The Way Forward' was published. This outlined several key policies to tackle the problem of forced marriage including raising the marriage visa age from 18 to 21 and introducing a sponsor declaration requirement.

### 2.2 Raising the Age

The age at which someone can sponsor or be sponsored as a spouse was raised from 18 to 21 on 27 November 2008. This change was important to protect young people from being forced into relationships which they do not want at a time in their lives when they could be establishing a degree of independence as an adult through further education or through work.

Raising the age provides an opportunity for individuals to develop maturity and life skills which may allow them to resist the pressure of being forced into a marriage. It provides an opportunity to complete education or training. It will delay sponsorship and allow the victim an opportunity to seek help and advice giving them extra time before making a decision about whether or not to sponsor.

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The highest number of forced marriage cases dealt with by the [Forced Marriage Unit](#) (FMU) in the period 2005 to June 2008 involved those aged 18 (10%), followed by those aged 17 and 19 (9.5% for both ages) and those aged 20 (8.5%) (This does not include cases where the age was unknown).

### 3 Definitions

There is a clear distinction between a forced marriage and an arranged marriage. Arranged Marriages and Forced Marriages are quite different. It is important that officers dealing with applications understand the differences between the two.

#### 3.1 Arranged Marriage

In an Arranged Marriage, the family of both spouses take a leading role in arranging the marriage, but the choice of whether or not to accept the arrangement remains with the prospective spouses. This form of marriage is an acceptable cultural tradition in many countries and **is acceptable** within the UK as both parties are free to decide whether to proceed with the marriage.

#### 3.2 Forced Marriage

A forced marriage is a marriage in which one or both spouses do not (or, in the case of some vulnerable adults, cannot) give free and full consent to the marriage and duress is a factor. Duress can include physical, psychological, financial, and emotional pressure, and sexual abuse. This form of marriage **is unacceptable** within the UK.

The United Kingdom government regards forced marriage as a form of domestic abuse and where it affects children or young people, child abuse. Both women and men can be forced into marriage although the statistics indicate that most cases involve young women and girls between the ages of 13 and 30. There is no “typical” victim of forced marriage. Some may have a disability, some may have young children and some may be spouses from overseas.

Forced marriage does not always involve physical violence. It can be emotional and psychological pressure from either the family, the wider community or the spouse. There can be cases where the prospective spouses are complete strangers to one another and both parties are victims of forced marriage. Although forced marriages can occur in the UK they often involve marriages to partners from overseas which is why this is an issue for the immigration system.

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### 4 Reluctant Sponsors

A reluctant sponsor is a British citizen or permanent resident who has been forced into marriage and is subsequently forced into sponsoring an immigration application for their partner.

Reluctant sponsors might face physical or emotional pressure if they do not support the application or appeal. Therefore, it is very important that we work sensitively with reluctant sponsors, ensuring that they are aware of the risks of making a public statement saying they were forced into a marriage. We must respect their individual wishes and take into

consideration their personal safety. Confidentiality is important. The sponsor's reluctance should not be mentioned to their family, community members or the applicant. Doing so may put the reluctant sponsor at serious risk.

#### **4.1 Example Scenario**

Every case is different so while there is no 'typical' scenario involving reluctant sponsors, a forced marriage-related immigration case will generally involve some of the following points. Not all of these points will be present with reluctant sponsors and therefore these factors should only be used as guidance:

- A British citizen or someone who is 'present and settled' in the UK has been forced to marry a foreign national, which may, in some cases, be a relative (e.g. cousin).
- The settled spouse is then forced to sponsor an immigration application for their spouse to come and join them in the UK or to be allowed to remain in the UK as their spouse.
- Although the sponsor may inform the FMU or the UK Border Agency officer that they have been forced into a marriage, he/she is unable to 'go public' with a statement saying that they do not support the application.
- The sponsor can have a variety of reasons for not being able to make a disclosable statement, but in the majority of cases the sponsor fears reprisal, including physical harm, from their family who have usually forced them into the marriage.
- The FMU explains to the sponsor their options including informing them they can make a public statement saying they do not support the visa application, but also outlines the benefits and risks of all the options. However, they may decide not to make a statement.
- The FMU informs post of the application and flags up that it is a forced marriage case involving a reluctant sponsor.
- If the visa application is refused, the applicant may appeal against the refusal.

Other examples of Forced Marriage cases can be found on the FMU website -

<http://www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/info-for-professionals>

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## **5 The Forced Marriage Unit (FMU)**

The joint Foreign and Commonwealth Office (FCO) and Home Office Forced Marriage Unit (FMU) was launched in January 2005. The role of the Unit is to provide support and information to victims of forced marriage and to those at risk of being forced into marriage, and to provide advice to professionals handling cases. The Unit also works closely with other government departments to develop policy on forced marriage. In the first nine months of 2008 alone, over 1300 incidences of suspected forced marriage were reported to the FMU. Cases also come to the attention of the police, social care services, health, education and voluntary organisations. Many others go unreported. Of these incidents, the majority involve families of South Asian origin. This is partly a reflection of the fact that there is a large established South Asian population in the UK. However, it is clear that forced marriage is not solely a South Asian problem and there have been cases involving families from the Middle East, Europe and Africa. 15% of cases are men and 30% are minors, some as young as 10 years old.

The FMU works closely with UK Border Agency to ensure, where possible, that foreign nationals are not granted entry to the UK on the basis of a forced marriage.

Officers, at any stage of the immigration process, should contact the FMU for advice about any case where they suspect a forced marriage has or is about to take place. Additionally FMU can offer general advice and briefing. Their details can be found on the Foreign and Commonwealth website - <http://www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/> or they can be contacted directly on **0207 008 0151**

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## **6 Curtailment**

Where a UK settled sponsor notifies the UK Border Agency of the breakdown of their marriage during the period when their spouse still has only limited leave to enter or remain in that capacity, it is possible to consider whether that leave should be curtailed. This is irrespective of whether the marriage was forced or not. Curtailment is not, however, automatic and there is a right of appeal against any curtailment decision. The Agency will not be able to curtail leave on the grounds that the marriage has broken down unless the UK settled spouse is prepared to make a disclosable statement confirming that the marriage no longer subsists and that they do not intend to live with their estranged spouse in the future. This is because reference will be made to the statement in the reasons for refusal letter which will be sent to the foreign spouse if leave is curtailed. A copy of the statement will be sent to them if they appeal against the decision. The sponsor would not need to refer to the fact that they had been forced into marriage in that statement.

Further details on Curtailment are available in the IDI [Chapter 9, Section 5, Variation of stay - Curtailment](#)

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## **7 Additional Assistance for Forced Marriage Victims – the Forced Marriage (Civil Protection) Act 2007**

The UK Border Agency will not be using the powers in this Act on behalf of the victims of Forced Marriage, but this information is supplied for additional reference as it offers another means of preventing forced marriages.

The Forced Marriage (Civil Protection) Act 2007 for England and Wales came into force on 25 November 2008 and in Northern Ireland (commencement date to be confirmed). The Act aims to protect individuals against being forced into marriage without their consent, and to also protect individuals who have already been forced to enter marriage.

Under the Forced Marriage (Civil Protection) Act, where a forced marriage has or is about to take place, courts are able to make orders to protect the victim or the potential victim and help remove them from that situation. The courts have a wide discretion in the type of orders which they are able to make to enable them to respond effectively to the individual circumstances of the case and prevent forced marriages from occurring.

Furthermore, courts will be able to attach powers of arrest to orders so that if someone breaches an order they can be arrested and brought back to the original court to consider the alleged breach.

The Act will also:

- Enable people to apply for a forced marriage protection order at the county courts, rather than just the high courts;
- Enable third parties to apply for a protection order on behalf of somebody else.

If officers dealing with a case become aware that a protection order has been issued under the Act, because the sponsor has told them or via other means, they should contact the police for advice in cases where an order (such as one not to remove the sponsor from the UK) may or has been breached. The Forced Marriage Unit can also be contacted for advice in such cases.

Where the sponsor has made a public statement the existence of a protection order can also be taken into account in deciding whether to refuse a visa as it may support a refusal on the grounds that each party does not intend to live permanently with the other and/or that the marriage is not subsisting.

Further details on the Forced Marriage (Civil Protection) Act can be found on Office of Public Information Sector (OPIS) website -

[http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga\\_20070020\\_en.pdf](http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070020_en.pdf)

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