

Policing and Crime Bill

Anonymity for victims of forced marriage

Background

1. A forced marriage is a marriage in which one or both spouses do not (or, in the case of some adults with learning or physical disabilities or mental capacity, cannot) consent to the marriage and violence, threats or any other form of coercion is involved. Coercion may include emotional force, physical force, or the threat of physical force and financial pressure. Both women and men can be victims of a forced marriage, and the marriages may take place in the UK or overseas. Forcing someone into marriage is a criminal offence in England and Wales under section 121 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”) and carries a maximum penalty of seven years’ imprisonment. To date, there has been one successful prosecution under the new offence.
2. In addition, the Family Law Act 1996 (“the 1996 Act”) provides a civil remedy for victims and potential victims of forced marriage. Under this legislation, the court may make a Forced Marriage Protection Order (“FMPO”) for the purposes of protecting a victim or an individual at risk. 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. The 2014 Act further amended the 1996 Act introduce a new offence of breach of an FMPO, with maximum penalty of five years’ imprisonment. To date, over 1,000 FMPOs have been made.
3. The Government’s Forced Marriage Unit leads on forced marriage policy, outreach and casework, and runs a dedicated helpline and email inbox to provide advice and support to professionals, victims, and those at risk. In 2015, the Unit gave advice or support related to a possible forced marriage in 1,220 cases¹.

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4. Reluctance to be identified as a victim of forced marriage is believed to be one of the reasons for the low incidence of reporting of this offence. It is anticipated that providing for the anonymity of victims of alleged offences of forced marriage will encourage more victims to come forward.
5. Clause 143 of the Bill amends the 2014 Act to prohibit the publication in England and Wales of any information that would be likely to lead to the identification of a person against whom a forced marriage offence is alleged to have been committed. This is broadly similar to the anonymity given to alleged victims of sexual offences by the Female Genital Mutilation Act 2003 (as amended by the Serious Crime Act 2015).

¹ <https://www.gov.uk/government/statistics/forced-marriage-unit-statistics-2015>

6. Anonymity will commence once an allegation has been made and will last for the duration of the victim's lifetime.
7. There are two limited circumstances where the court may disapply the restrictions on publication. The first is where a person being tried for a forced marriage offence could have their defence substantially prejudiced if the restriction to prevent identification of the person against whom the allegation of forced marriage was committed is not lifted. The second is where preventing identification of the person against whom the allegation of forced marriage was committed could be seen as a substantial and unreasonable restriction on the reporting of the proceedings and it is considered in the public interest to remove the restriction.
8. Breach of the prohibition to publish/broadcast is a summary offence punishable by an unlimited fine.

Home Office
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