

London Borough of Brent
Executive - 16 August 2004
Report from the Director of Social Services
Forced Marriages

For Action

Name of Wards Affected

FP REF: SS-03/04-18

1.0 SUMMARY

This report informs Members of the guidance on forced marriage issued jointly by The Foreign and Commonwealth Office, the Association of Directors of Social Services, the Home Office, the Department for Education and Skills and the Department of Health and of the steps that Social Services will take to implement the guidance for young people and vulnerable adults.

2.0 RECOMMENDATIONS

- (i) that Members agree that the guidance be implemented in Brent as part of the all London Child Protection Procedures;
- (ii) that members agree that local procedures and an inter-agency protocol be developed by the Policy and Procedures sub group of the Brent Area Child Protection Committee and agreed by the ACPC and Adult Protection Committees and reported back to the Executive for approval;
- (iii) that members note the proposal to consult with community groups.

3.0 FINANCIAL IMPLICATIONS

There are no financial implications

4.0 STAFFING IMPLICATIONS

There are no staffing implications

5.0 LEGAL IMPLICATIONS

Social Services have a duty to make enquiries into allegations of abuse and neglect under s47 Children Act 1989. Social Services have the power to apply for an Emergency Protection Order of Care Order under s44 and s31 Children Act 1989 if they suspect that a young person may be at risk in the circumstances described in this report.

Where the concerns relate to a vulnerable adult the Local Authority can apply to court for a declaration through a "next friend". In theory, the Court could

grant an injunction under its inherent jurisdiction which would prevent a vulnerable adult being taken out of the country."

6.0 DIVERSITY IMPLICATIONS

Forced marriage is a complex and sensitive issue. The guidance is clear that forced marriage cannot be justified on religious grounds – it is condemned by all the major faiths - or by arguments based on cultural relativity. Implementation of the guidance will impact more on some groups than on others and there may be a perception amongst some groups that the impact will be adverse. It is proposed that we consult with those communities where the guidance may impact. It is intended that the protocol developed for Brent will take into account the complex nature of the issue and will support all agencies in adopting a non discriminatory approach to working with the young people and their families.

7.0 DETAIL

- 7.1 A forced marriage is one where one or both spouses do not consent to the marriage and some element of duress is involved. Duress includes both physical and emotional pressure.
- 7.2 It is very important that forced marriage is not confused with arranged marriages, a tradition which has operated successfully within many communities and where the families of both spouses take a leading role in arranging the marriage but the choice whether or not to accept the arrangement remains with the young people.
- 7.3 The legal position is set out under The Marriage Act 1949 which gives the minimum age at which a person is able to consent to marriage, and the Matrimonial Causes Act 1973, Which states that a marriage shall be voidable if "either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise". Also, Article 16(2) of the Universal Declaration of Human Rights and Sections 3, 19, and 35 of the UN Convention on the Rights of the Child identify the rights of women and young people to be free of abuse and of the abuse of their human rights.
- 7.4 Forced Marriages are primarily, but not exclusively, an issue of violence against young women. Fifteen per cent of victims are male. Most cases involve young women and girls aged between 13 years and 30 years of age and include cases involving disabled young people and vulnerable adults. The guidance makes it clear that forced marriage is an abuse of human rights and should be dealt with within local child and adult protection procedures.
- 7.6 The offences that can be committed by adults, parents or caregivers involved in forced marriages include:
- Common Assault
 - Cruelty to persons under 16 (including neglect and abandonment)
 - Failure to secure regular attendance at school

- Theft (e.g. passport)
- Child Abduction
- Abduction of unmarried girl under the age of 16 from a parent or guardian.
- Abduction of a women by force or for the sake of her property
- Rape.
- Aiding and abetting a criminal offence.
- Kidnapping.
- False imprisonment.
- Murder.

7.6 **The role of Social Services**

Social Services will be the lead agency and play a key role in recognising that forced marriage is threatened or has taken place. An effective risk assessment will be necessary so that a judgement can be made as to the level of significant harm threatened. This will take into account the fact that a young person or vulnerable adult may face significant harm if families become aware that they have sought assistance but also the fact that intervention may have long term consequences for the young person or vulnerable adult within their family and community. It is essential that young people or vulnerable adults are not returned home without due consideration being given to their safety.

- 7.7 Social Services should have procedures and protocols to deal with cases where forced marriage is alleged or known about. As well as protecting the interests and rights of the young person they will offer advice, emotional support and practical help. Mediation, reconciliation and family counselling as a response to forced marriage are not recommended in the guidance as they may increase the young person or vulnerable adults vulnerability.

7.8 **Implications for the Council**

There are a number of implications for the Council as young people and vulnerable adults forced into marriage may come to the attention of several departments. These will include Education, Housing and Youth Services. Young people may talk to their teachers, youth workers or advisors, housing officers or duty social workers. Each department will be required to respond to the allegation by following the guidance under Working together to Safeguard Children 1999, and the London Child Protection Procedures which identify the process and procedure for investigating allegations of abuse against children and young people. Each department should work with Social Services and contribute to a multi agency risk assessment and child or adult protection plan.

- 7.9 All departments will be required to respond to the young person or vulnerable adult by recognising that they might be at risk of abuse, respecting their confidentiality, giving them accurate information about rights and choices and by taking into account their wishes, their personal safety and the level of risk to the young person or vulnerable adult.

7.10 The role of the Area Child Protection Committee and Adult Protection Committee.

The Area Child Protection Committee is required to adopt the practice guidance. The Brent ACPC has requested that the Policy and Procedures Sub Group of the ACPC leads on the development of local procedures for all agencies and develops an inter-agency protocol. Adult protection procedures are also being adapted to address cases of forced marriage.

- 7.11 The Forced Marriage protocol will be presented to the ACPC and Adult Protection Committee for agreement. The views of all agencies will be taken into account and community groups will be fully consulted. When the protocol has been agreed the ACPC Training Sub Group, with the support of the Adult Protection Committee, will take the lead on ensuring that procedures are in place in all agencies and that learning and development events take place to introduce the protocol across the Statutory Agencies, the voluntary and community sector and the Acute Health Trusts and Primary Care Trust. It is anticipated that the protocol will have been developed by October 2004.

8. BACKGROUND INFORMATION

Young people and vulnerable adults facing forced marriage – practice guidance for Social Workers
(www.adss.org.uk/publications/guidance/guidance.shtml)

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