Ethics Department

Victims of forced marriage

Guidance for health professionals

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BMA

Introduction

Health professionals in the United Kingdom may occasionally be consulted by individuals who are either victims of forced marriage, or who may fear that they are going to be forced into marriage at some time in the future. Currently somewhere in the region of 250 cases of forced marriage are reported to the Foreign and Commonwealth Office (FCO) each year. Many more cases come to the attention of the social services and other governmental and voluntary agencies, including health workers.[1] Forced marriages, and attempts by the individuals concerned to avoid them, can often be linked to 'honour'-based violence. Resisting, or trying to escape from, a forced marriage can be seen as bringing 'dishonour' to both families and can result in extreme violence or even murder. Where individuals of either gender indicate that they may be at risk of forced marriage, it is therefore vital that they are taken seriously. This should include referral to a specialist agency.

This brief guidance is addressed to health professionals who may encounter victims or potential victims of forced marriage. It looks at the responsibilities of health professionals in these circumstances, particularly in relation to the handling of confidential information. Many of the victims of forced marriage are children and young people, and the BMA has published detailed separate guidance for health professionals on both child protection and domestic violence and abuse.[2],[3] Where health professionals come across either child or adult victims of forced marriage, we recommend that they consult the appropriate sections of these more detailed documents. Reference to these and to other useful sources of advice is given at the end of this guidance.

What is forced marriage?

It is important to draw a distinction between arranged marriages and forced marriages. In arranged marriages, the families of both prospective parties take an active role in arranging the marriage, but the choice of whether or not to accept lies with the two people concerned. In forced marriages, by contrast, one or both partners do not consent to the marriage and some form of coercion, whether physical, emotional or a combination of both is used. Forced marriage is primarily, but not exclusively, a question of violence against women. The majority of victims are young women and girls between the ages of thirteen and thirty. Where the young person is under eighteen it is also a case of child abuse. There is some evidence to suggest, however, that as many as fifteen per cent of victims may be male.[4] The majority of cases of forced marriages in the UK occur among the South Asian population, and health professionals working in these communities should be alert to the issue. Forced marriages are not restricted to this group, however, and there have been cases involving families from East Asia, the Middle East, Europe and Africa. Although forced marriages are more prevalent in some cultures than in others, they are both unlawful and a fundamental abuse of human rights.

In Autumn 2008 the new Forced Marriage (Civil Protection) Act 2007 for England, Wales and Northern Ireland comes into force. The Act provides statutory protection for individuals who have been, or who may be, forced into a marriage. It creates a new instrument, a forced marriage protection order, which the courts can flexibly adapt depending upon the circumstances of the case.[5]

Why is forced marriage a health issue?

There are several ways in which health professionals may come into contact with victims of forced marriage. Some of these individuals will also be victims of domestic abuse. This can come from the spouse, or be a result of violent coercion to marry from within the victim's immediate or extended family. The family of the victim's spouse can also be abusive. The victim may therefore present to the health professionals with direct signs of physical or psychological abuse that has been perpetrated by others. Alternatively, the victim may present with psychological or emotional problems, such as depression or self-harm. These may result either from being in a forced marriage, or from fear of an impending forced marriage. Studies have shown, for example, that young women from the South Asian community are two or three times more likely to commit suicide.[6] Non-consensual sex within marriage is rape, and health professionals may also be consulted by individuals showing physical symptoms of forced intercourse. Some victims who present with unrelated health problems may also disclose to doctors because they are seen as people they can trust. Health professionals may also be contacted by the police or social services investigating cases of forced marriage.

Focussing on the victim

Although the needs of the victims, or potential victims, of forced marriage will vary widely, depending, for example, on whether they wish to avoid a forced marriage, to escape from one that has already occurred, or, in the case of competent adults, to be supported in a marriage in which they have decided to remain, they are clearly a particularly vulnerable group whose needs must be addressed with particular sensitivity. An awareness of the social, familial and cultural context in which forced marriages operate is a considerable advantage, and health professionals may

consider contacting a fellow professional with particular expertise in this area.

One of the key issues that health professionals must address when working with patients who may be the victims of forced marriages is the personal safety of the individual. Where some individuals have tried to escape from forced marriages they have subsequently been the victims of 'honour' killings, and it is important to recognise the potential severity of the threat. As already mentioned, many victims of forced marriages will be children and young people, and in these cases, appropriate child protection procedures should be engaged. These child protection procedures would also need to be considered in relation to any children that the victim may have. Clearly the risk is not restricted to children and young people. Adult men and women victims may also be at risk of serious harm. It is important to recognise that if the families of victims become aware that they have sought assistance from health professionals or other agencies, it can put them at risk. Risks can include physical harm, as well as the possibility that individuals may be taken out of the country or have the date of the forced marriage bought forward. Confidentiality is therefore a very significant issue, and this is discussed at greater length in the final section of this guidance note.

Health professionals have no statutory powers with which to deal with issues of forced marriage. It may therefore be necessary, taking into account the wishes, feelings and needs of the individual, along with the guidelines on confidentiality given below, to enrol the police or social services.

Special precautions

Although much of the BMA's general advice relating to child abuse and domestic violence can be usefully applied to victims of forced marriages, there are a number of specific issues that health professionals will need to take into account. The FCO has issued guidance for social care professionals on working with young people facing forced marriage and this section has been adapted from this guidance.

- Many of the victims of forced marriage, particularly if they come from ethnic minorities, may be extremely dependent upon their families. They may have had very little experience of life on their own. Leaving their family, or approaching a statutory agency for help, may be seen as bringing shame to the person and to the family. For many, this is something they are unwilling to do.
- Young people living within a forced marriage, or those under threat of one, may face significant harm if their families become aware that they have sought assistance from others. It is essential that young people are not returned home without due consideration being given to their safety. Consideration must also be given to whether there are any other children at risk of harm.
- In the past, the families of individuals who have escaped forced marriages have gone to considerable lengths to track them down. Where an individual has left a forced marriage, she or he may be extremely sensitive to contacts with other people from the same cultural or ethnic background. Health professionals must be sensitive to this when considering the use of interpreters or the exchange of information.
- Where doctors or other health professionals suspect abuse, it must not be overlooked. Concerns must be recorded and appropriate action taken in accordance with accepted protocols.

Another issue that must be taken into account in relation to individuals who may be at risk of 'honour'-based violence as a result of a forced marriage, is that the number of potential perpetrators of violence can be extremely wide. In cases of domestic violence there is ordinarily only a single perpetrator. In relation to 'honour'-based violence, members of large extended families, and even contract killers, can be involved. It is also unlikely that potential perpetrators will be criminally active in other areas and may therefore be unknown to the police or to other services.

Child protection

Where doctors have concerns about a child who may be at risk either of an intended forced marriage, or of abuse or neglect stemming from an existing forced marriage, it is essential that these concerns are acted upon, in accordance with established guidance such as local and national protocols. The BMA has produced detailed guidance on doctors' responsibilities in relation to child protection, and it is recommended that doctors consult this and other professional guidance. This section outlines some basic principles behind a child protection approach.

Working with children and families where there are concerns about neglect or abuse is difficult and demanding. No two cases are identical, and the needs of children and families vary from case to case. Decisions about how best to respond when there are concerns about harm to a child necessarily involve a degree of risk – at the extreme, of leaving a child for too long in a dangerous situation, or of removing a child unnecessarily from its family. In each case, these risks need to be weighed and advice should be taken from other professionals and local agencies such as the Area Child Protection Committee (ACPC). To protect patient confidentiality in cases where the evidence for suspicion may be uncertain, doctors can discuss their

concerns with colleagues on a no-name basis. Further information about confidentiality and disclosure of information is given at the end of this document.

Best interests

The best interests of the child or children involved must guide decision-making at all times. Where suspicions have been raised, doctors must ensure that their concerns and the actions they have either taken or intend to take, including any discussion with colleagues or professionals in other agencies, are clearly recorded in the child's or children's medical records. Where doctors have raised concerns about a child with colleagues or with other agencies and no action is regarded as necessary, doctors must ensure that all individual concerns have been properly recognised and responded to. When working with children who may be at risk of forced marriage, doctors should seek the assistance of a specialist agency. Disclosure of information between professionals from different agencies should always take place within an established system and be subject to a recognised protocol, taking into consideration the specific risks and sensitivities in relation to identifying individuals who may be victims of forced marriage. Where a child is identified as being at risk of forced marriage, the parents must not be informed of the child's disclosure. In the past, tragically, this has led on occasion to the killing of the child.

General principles

- In child protection cases, a doctor's chief responsibility is to the well being of the child or children concerned. Therefore, where a child is at risk of serious harm, the interests of the child override those of parents or carers.
- All doctors working with children, parents and other adults in contact with children should be able to recognise, and know how to act upon, signs that a child may be at risk of abuse.
- Efforts should be made to include children and young people in decisions which closely affect them. The views and wishes of children should therefore be listened to and respected according to their competence and the level of their understanding. In some cases translation services suitable for young people may be needed, taking into consideration the potential risks of using interpreters from within the victim's community.
- When concerns about deliberate harm to children or young people have been raised, doctors must keep clear, accurate, comprehensive and contemporaneous notes.
- All doctors working with children, parents and other adults in contact with children must be aware of, and have access at their place of work to, their local Area Child Protection Committee's Child Protection Procedure manual.

Adult victims

Where the victim of forced marriage is eighteen years or over, child protection procedures are no longer appropriate, and consideration has to turn to supporting an adult who may be vulnerable. If the adult has children, however, child protection procedures might still be appropriate, and this would need to be taken into account.

Some adult victims of forced marriages will be particularly vulnerable. They may have learning disabilities, emotional or psychiatric difficulties, and their capacity to consent may be challenged. Where adults lack the capacity to consent to decisions on their own behalf, decision-making has to be governed by relevant legislation. In England and Wales this would be the Mental Capacity Act 2005. In Scotland it would be the Adults With Incapacity (Scotland) Act 2000. The BMA has produced separate guidance on these pieces of legislation which are referenced at the end of this document. In Northern Ireland, decision-making on behalf of adults lacking capacity is governed by the common law. Where an adult lacks the capacity to make a decision, consideration will in most instances turn to making decisions on the basis of an assessment of his or her best interests, in accordance with the above legislation.

As mentioned earlier, the BMA has published separate extensive guidance on responding to victims of domestic abuse. Below we give a brief outline of this guidance, including a six-stage approach for health professionals.

Actions that should be considered following a disclosure of forced marriage

If adult patients reveal that they are a victim of forced marriage, it is important that health professionals feel confident in responding. The patient must feel that they can trust the health professional to help them in working through and, as far as possible, resolving the issue. In these circumstances, the role of the health professional is to provide support and information to help the individual make a decision about what to do next, encourage them to develop a plan to ensure their own safety, and to help them assess the risk both to themselves, and, if applicable, any children. The Department of Health (DH) recommends that health professionals refrain from advising the individual to leave immediately. This can put the victim at increased risk of harm.[7] The following staged approach brings together guidance both from the DH and the BMA.

1 Respect and validation

A health care professional's response to victims of forced marriage is of great importance as it may be significant in determining whether they choose to disclose further information and seek further help, or whether they feel that they cannot trust the health care professional. This may lead them to remain in an abusive situation, to try and leave without support, or, in some cases, to self-harm and even attempt to commit suicide. The victim may have been in an abusive situation for a long time before seeking help and it is therefore important that he or she is treated with a supportive, sympathetic and non-judgmental response. Rights to confidentiality should be discussed at this stage (see following section). As a matter of priority, when confronted with a patient who is, or who may be, at risk of forced marriage, an offer should be made to refer the individual to a specialist agency. Addresses of these are given in the appendix.

2. Assessment and treatment

Victims of forced marriage may present with physical injuries which require an immediate response. In these circumstances, the doctor should, where appropriate, refer the patient to the relevant specialist service. Although doctors do not have statutory powers in relation to such abuse, they should nonetheless try to encourage the victim to talk about ways in which they can be supported, bearing in mind the nature of the risks involved. This could extend to the drawing up of a safety plan. There are specialist organisations that can assist in developing a safety plan, and these are given at the end of this guidance. The victim of the abuse is the only person who is likely to be able reliably to predict the risks to which they are susceptible.

3. Record keeping

It is essential that health professionals keep accurate contemporaneous records of any discussion with an individual who is a victim of forced marriage or who may be at risk of such a marriage. The DH advises that health care professionals should use the patient's own words as far as possible and document any injuries in as much detail as possible. Careful consideration should be given to the keeping of such records, as confidentiality is of paramount importance.

4 Information giving

It is not the responsibility of health professionals to give definitive advice to victims of forced marriage. Given the complexity of the situation, and the nature of the risks involved, ill-informed advice could clearly have serious consequences. Health professionals should, however, be in a position to provide victims with information about where they can go for help and how they can contact local agencies such as social services or the police.

5. Information sharing

The law and ethics of sharing confidential information in this area are complex. The main elements are given at the end of this document.

6. Follow up and support

Patients who are victims of forced marriage are likely to have repeat consultations with the same health professional over time. Health professionals should provide continuing support as this will allow them to monitor the patient for signs of increased abuse or other deterioration in the patient's condition. Ideally, following the original disclosure, a safety plan should be in place and, during subsequent appointments, this could be revisited to check whether it needs updating, and to support the individual in following the plan and utilising available specialist services and support.

Confidentiality and information sharing

As mentioned above, victims, or potential victims, of forced marriages who approach public agencies such as GP practices are potentially exposing themselves to serious harm and even death. As such, it is absolutely essential that the highest possible respect for confidentiality is maintained. Without a strong presumption that confidentiality will be respected, victims of forced marriage are unlikely to make contact with health professionals, and any opportunity to assist them will be lost. It is certainly likely that forced marriages are significantly under-reported, and this may be linked to fears about confidentiality. Having said this, a right to confidentiality, while an essential requirement for the preservation of trust between patients and health professionals, is not absolute. Where the rights of third parties to be free from harm are seriously jeopardised, it may be necessary to breach confidentiality without consent. Similarly, where there is a threat of serious harm to a child or young person, his or her decision to refuse disclosure of information may be qualified. The risk to the young person must, however, be carefully assessed, as disclosures may put him or her at increased risk of harm. All health professionals must, therefore, both understand and be honest with patients about the limits of confidentiality. Where an individual consents to the disclosure, there is less likely to be a problem, although the consequences of disclosure must be carefully thought through. Disclosure without consent requires a careful weighing of factors, including the risk to the individual and third parties, the extent to which a disclosure can lessen the relevant risks, and the impact of disclosure on trust. It is vitally important that patients are involved in all stages of the decision-making process and that they retain as much control as possible over disclosures of information.

Disclosures in the public interest

When working with a patient who is or who maybe a victim of forced marriage, the presumption will always be that his or her confidentiality will be respected, and disclosure of information will be governed by consent. In the absence of consent, any decision to disclose information must be made on a case-by-case basis, and any disclosure must be justifiable on the basis of an assessment of the 'public interest'. Traditionally, disclosures in the 'public interest' are made where disclosure is necessary to prevent a serious or imminent threat to public health, national security, the life of an individual or a third party or to prevent or detect a serious crime. In its guidance on confidentiality the General Medical Council (GMC) states:

> *Disclosure of personal information without consent may be justified in the public interest where failure to do so may expose the patient or others to risk of death or serious harm. Where the patient or others are exposed to a risk so serious that it outweighs the patient's privacy interest, you should seek consent to disclosure where practicable. If it is not practicable to seek consent, you should disclose information promptly to an appropriate authority or person.*

Where a decision has been made to disclose information, the individual should usually be informed of the decision before disclosure, and subsequently kept closely informed of any developments.

Where young patients lack the ability to give valid and un-pressured consent to disclosure, the following guidance from the GMC should be followed:

> *If you believe a patient to be a victim of neglect or physical, sexual or emotional abuse and that the patient cannot give or withhold consent to disclosure, you should give information promptly to an appropriate responsible person or statutory agency, where you believe that the disclosure is in the patient's best interests. You should usually inform the patient that you intend to disclose the information before doing so. Such circumstances may arise in relation to children, where concerns about possible abuse need to be shared with other agencies such as social services.*

Although the GMC goes on to say that doctors should consider informing those with parental responsibility where it is appropriate to do so, in relation to forced marriage it would only be in exceptional circumstances that doctors would consider informing somebody with parental responsibility. Advice in this matter should always be sought from a specialist agency.

Balancing benefits and harms

The decision to disclose is based partly on a balancing of several moral imperatives, including the risk and likelihood of harm if no disclosure is made and the need to maintain the trust of the patient. There is no broad consensus on how harm to people should be evaluated or from whose perspective it should be judged. For the victim who suffers harm, it may be perceived in very different terms from those perceived by the decision-maker outside the situation. The BMA's advice is that, where feasible, health care professionals should try to envisage the seriousness of the potential harm from the viewpoint of the person likely to suffer it.

Where a health care professional becomes aware that a patient has been a victim of forced marriage or associated abuse and is at risk of serious harm or death, he or she may decide, after considering all the available evidence and the wishes of the patient, to disclose this information to an appropriate third party. The health care professional should ensure that the patient will not be put at an increased risk following disclosure. Ultimately, the decision as to whether to disclose information about abuse to a third party rests with the health care professional responsible for the patient's care.

Further sources of published advice

- British Medical Association. *Domestic abuse*. London: BMA, 2007. www.bma.org.uk/ap.nsf/Content/HubDomesticAbuse.
- British Medical Association. *Doctors' responsibilities in child protection cases*. London: BMA, 2004. www.bma.org.uk/ap.nsf/Content/childprotection.
- British Medical Association. *The Mental Capacity Act 2005: Guidance for health professionals*. London: BMA, 2007. www.bma.org.uk/ap.nsf/Content/mencapact05.
- British Medical Association. *Medical treatment for adults with incapacity: guidance on ethical and medico-legal issues in Scotland.* London: BMA, 2002. www.bma.org.uk/ap.nsf/Content/AdultsincapacitySC.
- British Medical Association. *Confidentiality and children under 16*. London: BMA, 1999. www.bma.org.uk/ap.nsf/Content/Confidentialityunder16.
- Department of Health. *Domestic violence: a resource manual for health care professionals.* London: DH, 2000.
- Department of Health. *Responding to domestic abuse: a handbook for health professionals*. London: DH, 2005.

- Foreign and Commonwealth Office. *Young people and vulnerable adults facing forced marriage: practice guidance for social workers.* London: FCO, 2004.

Useful contacts

Karma Nirvana
http://www.opsi.gov.uk/acts/acts2007/ukpga_20070020_en_1

Southall Black Sisters
www.southallblacksisters.org.uk
Southall Black Sisters is a not-for-profit organisation established to meet the needs of black (Asian and African-Caribbean) women. It provides information, advice, advocacy, practical help, counselling and support to women and children experiencing domestic and sexual abuse (including forced marriage and 'honour' crimes).

Ashiana
www.ashianahelp.org.uk
Ashiana is an Asian women's refuge, located in South Yorkshire.

National Domestic Abuse Helpline
Women and children: 0808 2000 247
Men's Advice Line: 0808 801 0327

For women

Women's Aid
www.womensaid.org.uk
Women's Aid is the national domestic abuse charity that helps thousands of women and children every year.

Scottish Women's Aid
www.scottishwomensaid.co.uk
Helpline: 0800 027 1234

Welsh Women's Aid
www.welshwomensaid.org
Helpline: 0808 8010 800

Women's Aid Federation Northern Ireland
www.niwaf.org
Helpline: 0800 917 1414

Refuge
www.refuge.org.uk
Refuge offers a range of services which increase women's choices and give them access to professional support whatever their situation.

For men

Men's Advice Line (MALE)
www.mensadviceline.org.uk
The Men's Advice Line helpline provides a range of services aimed primarily at men experiencing domestic abuse from their partner. They also provide a range of services to professionals from both the statutory and voluntary sector.

Men's Aid
www.mensaid.com
Provide free practical advice and support to men who have been abused. Men's Aid operates a helpline from 8am to 8pm, 7 days a week;
087 1223 9986.

Survivors UK
www.survivorsuk.org
The UK's only charity dedicated to helping the survivors of male rape and sexual abuse. Survivors UK operate a National Helpline on 0845 122 1201 (opens Mondays, Tuesdays and Thursdays 7pm to 10pm).

Men's Health Forum
www.menshealthforum.org.uk
Provide an independent and authoritative voice for male health.

For specific groups

Action on elder abuse
www.elderabuse.org.uk
A UK charity working to protect, and prevent the abuse of, vulnerable older adults.

Broken rainbow
www.broken-rainbow.org.uk
Support for LGBT people experiencing domestic abuse. LGBT people staff a helpline on 08452 604460 (Mondays to Fridays 9am to 1pm and 2pm to 5pm).

Powerhouse
www.thepowerhouse.org.uk
Set up the Beverley Lewis House which is a safe house for women with learning difficulties.

Refugee Council
www.refugeecouncil.org.uk
Provide support and help to refugees and asylum seekers and make information and advice available to them directly.

UK Disability Forum
www.edfwomen.org.uk/abuse.htm
The Women's Committee is working to raise awareness of abuse against all disabled women.

For children

The Hideout
www.thehideout.org.uk
Women's Aid website for children and young people providing information about domestic abuse that is easy to read and understand.

ChildLine
www.childline.org.uk
ChildLine is the free helpline for children and young people in the UK. Children and young people can call on 0800 1111 to talk about any problem, including domestic abuse.

Legal advice

National Centre for Domestic Violence
www.ncdv.moonfruit.com
Charity specialising in helping victims of domestic abuse obtain non-molestation and other orders (injunctions) from court to protect them from further abuse. Their service is completely free and available 24 hours a day, 7 days a week, 365 days a year.

Northern Ireland Legal Services Commission
www.nilsc.org.uk
Provide publicly funded legal services to help people who are eligible for legal aid to protect their rights in civil matters.

Other organisations

Respect
www.respect.uk.net
Respect is the UK membership association for domestic abuse perpetrator programmes and associated support services. The Respect Phoneline 0845 122 8609 offers information and advice to domestic abuse perpetrators, their (ex)partners, friends and family and to frontline workers who come into contact with perpetrators in their work.

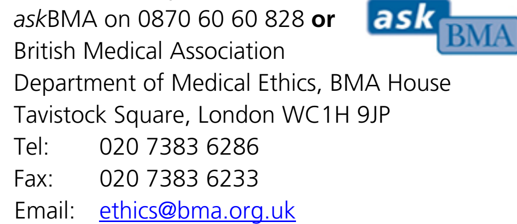
Samaritans
www.samaritans.org.uk
Samaritans is available 24 hours a day (telephone 08457 909090) to provide confidential emotional support for people who are experiencing feelings of distress or despair.

Victim Support
www.victimsupport.org
Victim Support is the national charity which helps people affected by crime. They provide free and confidential support (Victim Supportline 0845 30 30 900) to help victims deal with their experience, whether or not they report the crime.

Further information

For further information about these guidelines BMA members may contact:

*ask*BMA on 0870 60 60 828 **or**



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Further information for BMA members about fees is available from the BMA's website and *ask*BMA 0870 60 60 828.

Non-members may contact:

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Tavistock Square, London WC1H 9JP
Tel: 020 7387 4499
Fax: 020 7383 6400
Email: info.public@bma.org.uk

Health and Protection
Association of British Insurers
51 Gresham Street
London EC2V 7HQ
Tel: 020 7600 3333
Fax: 020 7696 8999
Email: info@abi.org.uk
Web: www.abi.org.uk

References

1 Foreign and Commonwealth Office et al. *Young people & vulnerable adults facing forced marriage: practice guidance for social workers*. London: FCO, 2004. 2.

2 BMA. *Doctors' responsibilities in child protection cases*. London: BMA 2004. www.bma.org.uk/ap.nsf/Content/childprotection

3 BMA. *Domestic violence*. London: BMA 2007. www.bma.org.uk/ap.nsf/Content/domesticabuse?OpenDocument&Highlight=2,DOMESTIC,VIOLENCE

4 Ibid. 2

5 Forced Marriage (Civil Protection) Act 2007. www.opsi.gov.uk/acts/acts2007/ukpga_20070020_en_1.

6 Ibid. 4

7 Department of Health. *Responding to domestic abuse: a handbook for health professionals*. London: DH, 2005.