

Female Genital Mutilation (FGM) Protection Orders

A guide to the court process

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FGM and the Law?

1. FGM is a criminal offence in the UK. It is a form of child abuse and violence against women and girls, involving procedures which include the partial or total removal of the external female genital organs for non-medical reasons. The practice is extremely painful and has serious health consequences, both at the time the mutilation is carried out, and later in life.
2. The age at which girls undergo FGM varies enormously. The procedure may be carried out when the girl is new born, during childhood or adolescence, just before marriage or during the first pregnancy. However, the majority of cases are thought to take place between the ages of 5 and 8.
3. Section 73 of The Serious Crime Act 2015 (the 2015 Act), which received Royal Assent on 3 March 2015, inserts a new section 5A into the Female Genital Mutilation Act 2003 (the 2003 Act). This makes provision for a new civil law remedy - the Female Genital Mutilation (FGM) Protection Order (at Schedule 2 of the 2003 Act). The FGM Protection Order will apply in England, Wales and Northern Ireland and offers a means of protection to girls and women who are victims, or may be at risk, of FGM.
4. The rules relating to the court process on FGM Protection Orders are contained in Part 11 of the Family Procedure Rules 2010 ("FPR 2010"). They are based on the existing rules for Forced Marriage Protection Orders.

What is a FGM Protection Order and who can apply?

5. An FGM Protection Order is a civil measure which offers the means of protecting victims or potential victims from FGM under the civil law.
6. Applications for an FGM Order can be made by:
 - the girl or women to be protected (in person or with legal representation);
 - a Relevant Third Party (RTP) (a person or organisation appointed by the Lord Chancellor. Currently, only local authorities have been classified as relevant third parties); or
 - any other person with the permission of the court (for example, this could be the police, a voluntary sector support service, a healthcare professional, a teacher, a friend or family member).

Applications to the court

7. An application for a FGM Protection Order can be made to any of the designated FGM court centres in England and Wales. A list of those court centres is attached at **Annex A**.
8. A court can also make an FGM Protection Order without an application being made to it in certain family proceedings before the court. The family court can consider that an FGM Protection Order should be made to protect a girl (even if she is not "a party" to the family

proceedings) or where a person who would be a respondent to any proceedings for the FGM Protection Order is a party to the current family proceedings. In addition, where there are criminal proceedings for a genital mutilation offence, a court can make a FGM Protection Order, without an application being made to it, as long as a person who would be a respondent to any proceedings for the Order is a defendant in the criminal proceedings. An order can be made to protect a girl at risk, whether or not the girl is a victim of the offence in relation to the criminal proceedings, for example an order could be made to protect the younger sister of the victim of a FGM offence. An FGM Protection Order could therefore be made by the court to ensure protection for the victim or potential victim. For example, where a defendant may not be convicted of an FGM offence but there is a risk that they will carry out, procure, abet or assist in FGM against the victim (or a person other than the victim) or, if convicted, that risk still remains.

9. The court centres listed at **Annex A** should have one or two officers who deal specifically with applications for FGM Protection Orders. These officers will also deal with any subsequent queries or arrangements relating to the case. For example, where an application is made to the court by a victim or person at risk, court staff would act as the conduit between the respondent(s) and the applicant or the applicant's representative.
10. Where an application or query is received at a family court not listed at **Annex A**, the court will assist that person (as far as possible) in identifying the best place for them to make their application. Court staff should also advise applicants of the name of the key contact at their chosen court centre, including providing advice as to who could help them further to process the application at that court and to make any special arrangements for the hearing(s) as necessary.
11. A solicitor instructed by, or on behalf of the girl or woman to be protected by the FGM Protection Order, should lodge the application at one of the court centres listed at **Annex A**. Where the court centre is located in an area outside the area of residency of the applicant or person to be protected, a solicitor could appoint a local agent if this was preferred or more convenient.

Making an order

12. If the court makes an order, it can impose prohibitions, requirements and restrictions, the aim of which are to protect the girl or woman at risk. By way of example, the terms a court might impose could include:
 - to order that a person surrender his or her passport or any other travel documents and/or the passport of the girl/woman to be protected to prevent them from taking the girl or woman at risk abroad with the purpose of committing FGM; or
 - to order that family members or other named individuals should not aid, abet, counsel, procure, encourage or assist another person to attempt to commit, commit or conspire to commit an FGM offence.
13. An FGM Protection Order can also include terms which relate to conduct which occurs both within and outside of England and Wales. For example, it is an offence for an individual to arrange, by telephone from their home in England, for their UK national daughter to have an FGM operation carried out abroad by a foreign national (who does not habitually live in the UK). The terms of the Order can also cover other persons who are involved, or who may become involved, as well as named respondents.

Enforcement and breach

14. Breach of a FGM Protection Order is a criminal offence under the 2003 Act. A person guilty of an offence under the Act is liable to:
 - a fine, imprisonment (the maximum penalty for which is five years) or both on conviction on indictment; or
 - a fine, imprisonment (the maximum penalty for which is 12 months) or both on summary conviction.
15. As an alternative to prosecution, breach of an FGM Protection Order may be dealt with by the civil route as contempt of court. The maximum penalty for contempt of court is up to two years imprisonment.
16. Paragraph 7 of Part 1 to Schedule 2 of the Female Genital Mutilation Act 2003 makes provision for the arrest, under warrant, of someone who is alleged to have breached the terms of the FGM Protection Order. An interested party (i.e. the victim or girl at risk of FGM, the applicant or any other person (with leave of the court)) can apply to the relevant judge in the family court for a warrant of arrest. The relevant judge is classified in paragraph 17 of Part 1 to Schedule 2 of the Female Genital Mutilation Act 2003.
17. Alternatively, where a breach is reported directly to the police, the police can arrest a person who breaches an order without the victim or person at risk applying to the relevant judge for an arrest warrant. Following a police investigation, the Crown Prosecution Service will decide whether to proceed with a prosecution applying the two-stage test in the Code for Crown Prosecutors: whether there is sufficient evidence to provide a realistic prospect of conviction; and, if so, whether a prosecution is in the public interest.
18. For a victim who does not want to pursue criminal proceedings, or if the CPS decides not to prosecute, the option will still remain of using the family court to make an application for an arrest warrant for breach of an order. The relevant judge will not issue a warrant on an application unless the application includes a statement of truth and there are reasonable grounds for believing that the person to be arrested has failed to comply with the order or is otherwise in contempt in relation to the order.
19. The person who applied for the original order can, therefore, either call the police to have the breach dealt with in the criminal courts, or they can make an application to the originating family court to have the breach dealt with as a contempt of court.
20. The two jurisdictions are mutually exclusive. If someone has been convicted of a breach of a FGM Protection Order in a criminal court they cannot be punished for contempt of court in the family court and vice versa.
21. There are three ways a person may be brought before the court for breach:
 - arrest under a warrant issued by the court on an application made by the applicant or an interested party to the family court;
 - on application for a committal order for breach of the court order; or
 - when a criminal prosecution is brought against the person who has breached the FGM Protection Order. Prosecutions for breach proceedings will occur in a criminal court, rather than the High Court or family court.

22. Where civil contempt proceedings are pursued for breach, a relevant judge in the High Court can deal with the breach of an order, whilst in the family court, any Circuit or District Judge who has been nominated for public or private family work and any Recorder nominated for public work can deal with the breach. It is considered good practice, and where practicable, for contempt proceedings to be dealt with by the court that made the order and, if possible, by the judge who issued the order.

Confidentiality

23. There may be circumstances where there is a requirement to keep information from the respondent in order to protect an applicant. The issue of confidentiality and withholding information from court documents will be considered at the outset in all cases. Applicants for FGM Protection Orders should make use of Form C8 to provide confidential details to the court.
24. Courts will take account of how confidential information is stored and who has access to it. Issues of disclosure may arise where the victim or person to be protected (or another associated person, for example, a female sibling) could be placed at risk if it is discovered by the respondents that they have given evidence to the court or if they are identified as the person who made the application for the FGM Protection Order. In circumstances such as this, it may be possible for applicants to apply to redact or to withhold certain portions of their evidence from the respondent(s) named in the Order on a hearing by hearing basis.
25. Where an application has been made by someone on behalf of a girl or woman who has been a victim or is at risk of being a victim of FGM, the filing of a legal aid certificate or a Notice of Acting could unwittingly provide information to the respondents on who made the application. Those seeking to protect a victim or prevent someone from becoming a victim of FGM might need the protection of a non-molestation order to safeguard them throughout the proceedings, particularly if the FGM Protection Order does not offer them any protection, for example in the case of a sibling trying to protect a younger sister.
26. The court's own local protocol may not necessarily be displayed but can be made available on request to advise vulnerable parties and their representatives who to speak to about arrangements in advance of their hearing date. Courts need to ensure that all practitioners are aware of such protocols and of the arrangements that can be made.

Safety issues

27. There may be a risk of reprisal for victims or potential victims of FGM who apply for a FGM Protection Order or those who apply for such orders on their behalf. Sometimes the risk to the applicant may be too much and they may try to withdraw from pursuing a legal remedy. Where legal action is pursued, however, their legal representative and the court will need to consider their safety while attending the hearing(s).
28. All courts provide a level of security to mitigate any risk against a court user, judge or member of staff but it is recognised that not all courts will be able to provide all of the special facilities mentioned in this guidance. Priority will, however, be given to safeguarding the security of all victims or potential victims. Courts will endeavour to make facilities available where they can and adopt a flexible approach to requests for special facilities.
29. In some cases it may be desirable or essential for the victim, the person to be protected or a witness to give his/her evidence from another location by video link if it is available. Requirements for this facility should be raised with the court at the earliest possible opportunity.

- 30 Courts will endeavour to consider the provision of any special facilities and/or arrangements where possible. Information on who to contact at the court to make special arrangements should be displayed clearly at the court (see court notices CN24 – Intimidation in the court).

Court Fees and Legal Aid

31. No court fees apply to those applying for an FGM Protection Order.
32. Civil Legal aid will be available to victims, potential victims and third parties seeking to make, vary, discharge or appeal a FGM Protection Order, subject to meeting the relevant means and merits criteria. A legal aid solicitor will be able to provide more information on what is meant by means and merits.
33. Where breach of a FGM Protection Order is dealt with as contempt of court in the family court, the applicant/person to be protected would get legal aid to commence these proceedings. Legal representation for the individual alleged to have breached the FGM Protection Order is provided under the criminal legal aid scheme.
34. Alternatively, where breach of an FGM Protection Order is dealt with in a criminal court, as prosecution would be taken forward by the Crown/CPS, there would be no requirement for the victim to receive legal aid. Criminal legal aid, would, however, be available to defendants in criminal proceedings, subject to meeting the criteria to qualify for criminal legal aid.

Relevant Legislation

Female Genital Mutilation Act 2003

<http://www.legislation.gov.uk/ukpga/2003/31/contents>

Serious Crime Act 2015

<http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted>

Annex A - List of court centres where applications for FGM Protection Orders can be made

Applications for FGM Protection Orders are dealt with by the family court. An application should be sent to the family court sitting at one of the court centres below. These court centres are usually open Monday to Friday between 10am and 4pm. Counter services usually operate from 10 am to 2 pm, however some Centres are by appointment only. Please highlight to the Court on arrival that you are here for urgent business.

<p>Birmingham Civil and Family Justice Centre Priory Courts, 33 Bull Street, Birmingham, West Midlands, England B4 6DS</p> <p>Tel No: 0300 123 1751 family@birmingham.countycourt.gsi.gov.uk or e-filing@birmingham.countycourt.gsi.gov.uk</p>	<p>Bradford Combined Court Exchange Square, Drake Street, Bradford, West Yorkshire, England BD1 1JA</p> <p>Tel No: 01274 840274 family@bradford.countycourt.gsi.gov.uk or e-filing@bradford.countycourt.gsi.gov.uk</p>
<p>Brighton Family Court Hearing Centre 1 Edward Street Brighton East Sussex BN2 0JD</p> <p>Tel No: 01273 811 333 sussexfamily@hmcts.gsi.gov.uk</p>	<p>Bristol Civil and Family Justice Centre 2 Redcliff Street Bristol BS1 6GR DX 95903 Bristol 3</p> <p>Tel No: 0117 366 4880 family@bristol.countycourt.gsi.gov.uk</p>
<p>Cardiff Civil and Family Justice Centre 2 Park Street Cardiff South Wales CF10 1ET</p> <p>Tel: 029 2037 6400 enquiries@cardiff.countycourt.gsi.gov.uk</p>	<p>Central Family Court First Avenue House, 42-49 High Holborn, London, England WC1V 6NP</p> <p>Tel No: 020 7421 8594 cfc.privatelaw@hmcts.gsi.gov.uk</p>

<p>Derby Combined Court, Morledge, Derby, Derbyshire, England DE1 2XE</p> <p>Tel No: 01332 622600 family@derby.countycourt.gsi.gov.uk</p>	<p>East London Family Court 6th and 7th Floor 11 Westferry Circus London E14 4HD</p> <p>Tel: 020 3197 2886 eastlondonfamilyenquiries@hmcts.gsi.gov.uk</p>
<p>Leeds Combined Court, The Court House, 1 Oxford Row, Leeds, West Yorkshire, England LS1 3BG</p> <p>Tel No: 0113 306 2800 leedsdfcprivatelawgeneralenquiries@hmcts.gsi.gov.uk or leedspubliclawissue@hmcts.gsi.gov.uk</p>	<p>Leicester County Court and Family Court 90 Wellington Street, Leicester, Leicestershire, England LE1 6HG</p> <p>Tel No: 0116 222 5700 family@leicester.countycourt.gsi.gov.uk</p>
<p>Liverpool Civil and Family Court Hearing Centre 35 Vernon Street Liverpool Merseyside L2 2BX Tel No: 0151 296 2607 family@liverpool.countycourt.gsi.gov.uk</p>	<p>Luton County Court and Family Court 2nd Floor, Cresta House, Alma Street, Luton, Bedfordshire, England LU1 2PU</p> <p>Tel No: 0300 123 5577 enquiries@luton.countycourt.gsi.gov.uk</p>
<p>Manchester County Court and Family Court 1 Bridge Street West, Manchester, Greater Manchester, England M60 9DJ</p> <p>Tel No: 0161 240 5420 familyapplications.manchester@hmcts.gsi.gov.uk</p>	<p>Newcastle upon Tyne Combined Court Centre The Quayside Newcastle-upon-Tyne Tyne & Wear NE1 3LA</p> <p>Tel No. 0191 201 2000 COPNewcastle@newcastle.countycourt.gsi.gov.uk</p>

<p>Norwich Combined Court and Family Hearing Centre Bishopgate, Norwich, Norfolk, England NR3 1UR</p> <p>Tel No: 0344 892 4000 family@norwich.countycourt.gsi.gov.uk or e-filing@norwich.countycourt.gsi.gov.uk</p>	<p>Oxford Combined Court and Family Court Hearing Centre St Aldates, Oxford, Oxfordshire, England OX1 1TL</p> <p>Tel No: 01865 264 200 family@oxford.countycourt.gsi.gov.uk</p>
<p>Plymouth Combined Court 10 Armada Way, Plymouth, Devon, England PL1 2ER</p> <p>Tel No: 01752 677 400 family@plymouth.countycourt.gsi.gov.uk</p>	<p>Portsmouth Combined Court Centre Winston Churchill Avenue Portsmouth Hampshire England PO1 2EB</p> <p>Tel No: 02392 893 000 family@portsmouth.countycourt.gsi.gov.uk</p>
<p>Preston Family Court Sessions House Lancaster Road Preston Lancashire PR1 2PD</p> <p>Tel No: 01772 844 700 prestonSFCissue@hmcts.gsi.gov.uk</p>	<p>Reading County Court and Family Court Hearing Centre 160-163 Friar Street Reading Berkshire England RG1 1HE</p> <p>Tel No: 0118 987 0500 family@reading.countycourt.gsi.gov.uk</p>
<p>Sheffield Combined Court Centre 50 West Bar Sheffield South Yorkshire England S3 8PH</p> <p>Tel No: 0114 2812400 family@sheffield.countycourt.gsi.gov.uk</p>	<p>Teesside Combined Court Russell Street Middlesbrough Cleveland TS1 2AE</p> <p>Tel No: 01642 340 000 family@middlesbrough.countycourt.gsi.gov.uk</p>
<p>West London Family Court Gloucester House 4 Dukes Green Avenue Feltham Middlesex TW14 0LR</p> <p>Tel: 020 8831 3500 westlondonfamilyenquiries@hmcts.gsi.gov.uk</p>	

Annex B – Forms & Leaflets

All relevant court forms can be accessed on the HMCTS website at <http://hmctsformfinder.justice.gov.uk>

These include:

Form Number	Form	Languages available
FGM001	Application form for a Female Genital Mutilation (FGM) Protection Order	English and Welsh
FGM003	Application to vary, extend or discharge a Female Genital Mutilation (FGM) Protection Order	English and Welsh
FGM005	Application for a warrant of arrest for a Female Genital Mutilation (FGM) Protection Order	English and Welsh
FGM006	Application for leave to apply for a Female Genital Mutilation (FGM) Protection Order	English and Welsh
FGM007	Application to join/cease as a party to a Female Genital Mutilation (FGM) Protection Order	English and Welsh
FGM700	Female Genital Mutilation (FGM) Protection Order – Court Leaflet	Amharic, Arabic, English, Farsi, French, Somali, Swahili, Tigrinya, Turkish, Urdu, Welsh

Annex C - Useful contacts

Further information

Information on organisations and services which may be able to assist:

POLICE SERVICE

Metropolitan Police Service/Project Azure
020 7161 2888

UK GOVERNMENT

<https://www.gov.uk/female-genital-mutilation>

HELPLINES

National Society for the Prevention of Cruelty to Children (NSPCC) FGM Helpline
24 –hour Helpline. Free phone 0800 028 3550
<http://www.nspcc.org.uk/fgm>

Black Association of Women Step Out (BAWSO)
24-hour Helpline: 0800 731 8147
<http://www.bawso.org.uk>

ChildLine
24-hour Helpline for children: 0800 1111
<http://www.childline.org.uk>

National Domestic Violence Helpline
24-hour Helpline: 0808 2000 247 www.nationaldomesticviolencehelpline.org.uk

NSPCC British Sign Language Helpline for deaf or hard-of-hearing callers
ISDN videophone: 020 8463 1148
Webcam: nspcc.signvideo.tv (available Monday – Friday, 9am – 5pm, in English language only)
Text: 0800 056 0566

OTHER ORGANISATIONS

28 Too Many

<http://28toomany.org/>

Africans Unite Against Child Abuse (AFRUCA)

<http://www.afruca.org/>

Agency for Culture and Change Management UK (ACCM UK)

<http://www.accmuk.com/>

Birmingham & Solihull Women's Aid

<http://bswaid.org/>

Foundation for Women's Health Research & Development (FORWARD)

<http://www.forwarduk.org.uk/>

Halo Project

<http://www.haloproject.org.uk/>

Manor Gardens Health Advocacy Project

<http://www.manorgardenscentre.org/>

The Maya Centre

www.mayacentre.org.uk

The New Step for African Community

<http://www.nestac.org/>

Women's Aid

<http://www.womensaid.org.uk/>

Women's Aid Manchester

<http://www.manchesterwomensaid.org/>

Women's Domestic Abuse helpline

<http://wdachoices.org.uk/>