Female genital mutilation

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This authorised professional practice (APP) provides guidance on the prevention and prosecution of female genital mutilation (FGM).

Effective ways of policing FGM are still being established. This content draws on material from international organisations, third sector and statutory partners and police practitioners to support officers and forces in developing their response to FGM.

The Female Genital Mutilation Act 2003, as amended by **Sections 70 to 75** of the Serious Crime Act 2015, introduced the following measures:

- extra-territorial jurisdiction over offences of FGM committed abroad by UK nationals and those habitually (as well as permanently) resident in the UK
- lifelong anonymity for victims of FGM
- an offence of failing to protect a girl from the risk of FGM

FGM protection orders which can be used to protect victims and girls at risk of FGM and a mandatory reporting duty which requires specified professionals to report known cases of FGM in under 18 year olds to the police.

Go to College e-learning on '**honour'-based abuse**, forced marriage and FGM (you will need to log in to College Learn):

- **Public Protection: Family Disturbance**
- **Vulnerability: Saima – a case study**
- **Public protection support services for victims (and professionals)**

This APP should be read in conjunction with **Child abuse APP**.

Introduction

FGM is illegal in England and Wales under the **Female Genital Mutilation Act 2003** (FGM Act). FGM is a procedure where the female genital organs are injured or changed and there is no medical reason for this. It is a traumatic and often violent act that has no known health benefits, instead carrying the risk of immediate or longer term health problems such as mental health issues, difficulties in childbirth and/or death. It may also constitute an assault occasioning actual or grievous bodily harm.

FGM is recognised as a form of violence against women and girls. The age at which FGM occurs varies depending on the community and a number of socio-economic factors. It can take place shortly after birth, during childhood or adolescence, just before marriage or during a woman's first pregnancy. It is primarily, though not exclusively, carried out on minors and is, therefore, child abuse.

When responding to any report of FGM having occurred or a risk of FGM being identified, the safety and well-being of a child is paramount and action should be taken in the interests of the rights of child. Adult safeguarding issues can also arise where for example, where a woman's vaginal opening is sealed after childbirth (re-infibulation) or she is pressurised by her immediate family or the wider community for FGM to take place in connection with her marriage.

Officers have a duty to safeguard women and girls from FGM. Officers must take effective action to protect victims and those at risk of FGM, without being inhibited by fear of doing or saying the wrong thing or being concerned about accusations of racism. Effective action means making victims and those at risk of FGM safe, investigating offences and bringing offenders to justice. Go to **talking about FGM**.

All officers, particularly **senior officers** who have contact with influential community members, should work closely with all communities within their policing area to challenge the practice of FGM. They should ensure that communities are aware that FGM is a crime which is punishable by up to 14 years imprisonment. In addition, parents and guardians failing to protect a girl from the risk of FGM may also be liable to up to 7 years' imprisonment.

As emphasised in the Home Office's Multi-agency statutory guidance on female genital mutilation, the **Female Genital Mutilation Act 2003** contains no specific exemption for cosmetic surgery or

female genital cosmetic surgery (FGCS).

If a procedure involving any of the acts prohibited by section 1 of the 2003 Act is not necessary for physical or mental health or is not carried out for purposes connected with childbirth, then it is an offence (even if the girl or woman on whom the procedure is carried out consented).

The Royal College of Obstetricians and Gynaecologists is clear in its guideline (**Female Genital Mutilation and its Management (Green-top Guideline No. 53**), published on 10 July 2015) that 'All surgeons who undertake FGCS must take appropriate measures to ensure compliance with the FGM Act'. This may result in mandatory reporting of potential offences.

It is for the police to record allegations as required by Home Office Counting Rules (HOCR) and investigate any alleged offence. The Crown Prosecution Service (CPS) decides whether a prosecution under the 2003 Act is appropriate. A criminal court would then determine, as and when the point arises for decision in a particular case, if non-medically indicated genital surgery constitutes mutilation and is therefore an offence under the 2003 Act.

Where the police receive a report of a case involving genital mutilation as a result of cosmetic surgery, officers should:

- record a crime (HOCR)
- consider whether immediate action is required to make anyone safe and take appropriate action
- seek advice from a supervisor or specialist support about the best way to deal with the allegation
- seek early investigative advice from the CPS

A complex investigation of this type should be carried out by a suitably trained investigator.

The practice of FGM

Definition and classification of FGM

The **World Health Organisation** (WHO) defines female genital mutilation as comprising all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. It has no health benefits and harms girls and women in many ways.

The WHO has classified FGM into four different types.

- Type I – Clitoridectomy: Partial or total removal of the clitoris and in rare cases the fold of skin surrounding the clitoris.
- Type II – Excision: Partial or total removal of the clitoris and labia minora, with or without excision of the labia majora (the lips that surround the vagina).
- Type III – Infibulation: Narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner, or outer labia, with or without the removal of the clitoris.
- Type IV – Other: All other harmful procedures to the female genitalia for non-medical purposes, such as pricking, piercing, incising, scraping and cauterising the genital area.

The consequences of FGM

FGM can have serious health consequences for the girl or woman upon whom it is carried out. These can include the following.

Immediate health consequences

- Severe pain.
- Shock.
- Haemorrhage (excessive bleeding).
- Wound infections.
- Urinary retention.
- Injury to adjacent tissues.
- Genital swelling.
- Death.

Longer-term health consequences

- Genital scarring.
- Genital cysts and keloid scar formation (scars that grow lumpy and larger than the wound they are healing).
- Recurrent urinary tract infections and difficulties passing urine.
- Possible increased risk of blood infections such as hepatitis B and HIV.

- Pain during sex, lack of pleasurable sensation and impaired sexual function psychological concerns such anxiety, flashbacks and post-traumatic stress disorder.
- Difficulties with menstruation (periods).
- Complications in pregnancy or childbirth (including prolonged labour, bleeding or tears during childbirth, increased risk of caesarean section).
- Increased risk of stillbirth and death of child during childbirth.

A woman or girl who has undergone Type III FGM (infibulation) may be left with a vaginal opening that is the size of a matchstick or a grain of rice. Consequently she may:

- have difficulty passing bodily fluids, for example, menstrual blood and urine
- need to be cut open on her wedding night in order to have sexual intercourse
- experience considerable complications during childbirth

Medical help may be available to alleviate some of the harmful effects but they cannot be entirely overcome or reversed. Officers who become aware of a person at risk of FGM should always take steps to **protect** that person from harm.

Girls and women at risk of FGM

FGM is carried out on women and girls of all ages, including newborns, and adult women in association with marriage or re-infibulation (narrowing of the vaginal opening through the creation of a covering seal) following childbirth.

The practice is most prevalent in the western, eastern and north-eastern regions of Africa and in some parts of Asia and the Middle East. Increased migration, however, means that FGM-practising communities can be found worldwide, including Europe, North and South America and Australasia. Officers should not, therefore, assume that FGM is not happening in the area where they work.

UNICEF have produced **profiles of countries** where FGM is concentrated. This list is not exhaustive. Officers should not assume that because a country is not on the list, or because a person does not come from one of the listed countries, there is no risk of FGM. Officers should also be aware that travel routes into the UK may be indirect and therefore, not a reliable indicator of the person’s country of origin.

The prevalence of FGM in these countries also varies. In some countries, FGM is almost universally practiced with rates of over 90% in Somalia, Guinea, Djibouti and Egypt. Other countries may only have tiny practising communities, for example, India.

In the UK, **it is estimated** that:

- around 137,000 women have undergone FGM
- some 60,000 girls under 15 years old are at risk

The prevalence of FGM varies between countries and regions. The reported prevalence is over 90% in some countries and age groups. Go to **Female genital mutilation (FGM): migrant health guide - GOV.UK**.

The NHS collect data on FGM by healthcare professionals in England, go to **FGM enhanced dataset**.

Why is FGM practised?

FGM is a complex issue, with a variety of explanations and motives given by individuals who support the practice. However, FGM is a crime and child abuse, and no explanation or motive can justify it. Published reports and experts working in the area suggest that the motives underlying the practice of FGM include:

- it brings status and respect to the girl
- it preserves a girl's virginity or chastity
- it is part of being a woman
- it is a rite of passage
- it gives a girl social acceptance, especially for marriage
- it upholds the family 'honour'
- it cleanses and purifies the girl
- it gives the girl and her family a sense of belonging to the community
- it fulfils a religious requirement believed to exist
- it perpetuates a custom or tradition
- it helps girls and women to be clean and hygienic
- it is aesthetically desirable
- it is mistakenly believed to make childbirth safer for the infant and

- it rids the family of bad luck or evil spirits

Taken from **cultural underpinnings and motives of FGM** (HM Government - Multi-agency statutory guidance on Female Genital Mutilation).

FGM is a traditional practice often carried out by a family who believe it is natural and beneficial and is in the girl's or women's best interests. It stems from concepts of chastity, family 'honour' and the importance of marriage in societies where security and survival depend largely on making a good marriage. In some communities only a woman who has undergone FGM is deemed suitable for marriage. Mothers from practising communities may allow or actively require their daughters to undergo FGM therefore as a way of protecting their future.

Despite the harm it causes, many women from FGM practising communities consider it normal and a means of protecting their cultural identity. As a result of the belief systems of the cultural groups who practise FGM, many women who have undergone FGM believe they appear more attractive than women who have not undergone FGM. In other cases, FGM is carried out to counteract concerns that girls are becoming too westernised or used as a threat to curb behaviour.

Women who have attempted to resist FGM by exposing their families have been ostracised by their community and told that nobody would marry their daughters. In some cases, women were deemed to have shamed the family 'honour' and were subjected to **'honour'-based abuse**.

FGM is not advocated in any religion or referenced fully in any religious text. FGM is practiced by those from a variety of religions, which suggests its origins are more cultural than religious.

Men may not be directly involved in the practice but contribute to its continued existence in other ways. In practising communities, many only choose marital partners who have undergone FGM and expect it to be carried out on daughters and other female relatives. Some male community leaders may use their influence expressly to support the practice. Men may also have a role as perpetrators, whether directly or indirectly.

Effective **prevention** of FGM can only be achieved by working with communities to challenge these underlying beliefs and expectations. Officers, particularly **senior officers**, should take steps to raise community awareness of the illegal act of FGM and the liability to prosecution of those performing or facilitating the practice.

FGM perpetrators

FGM is usually instigated by female members of the girl's family (including extended family). Unlike other forms of child abuse, a mother who agrees to her daughter being mutilated is likely to believe that she is acting in the best interests of the child. It may even be a cause for celebration within the family.

Parents may be under considerable pressure from members of their family and/or community to allow their daughter to undergo FGM. It may also be instigated by the grandmother, aunt or other relative without the consent or knowledge of the parent(s). This has implications for the parents' ability to protect their child and should be a factor for officers when assessing the need for protective measures. Under **section 3A** of the FGM Act, where a girl under 16 undergoes FGM, parents and guardians may be liable to prosecution for not protecting her from the risk of genital mutilation.

FGM is usually carried out by an older women (a `cutter') in a practising community, for whom it is a way of gaining prestige and can be a lucrative source of income. The person may also be known as a circumciser or midwife. The 'cutter' may visit the UK from abroad for a short period specifically to carry out FGM, or they may be a permanent member of the community in the UK. A girl can also be taken abroad to undergo FGM, sometimes to her family's country of origin or to another FGM-practising country. This may be done to avoid detection and most likely takes place during extended holiday periods. Where an officer suspects that a child may be taken out of the country to undergo FGM, they should take appropriate steps to **protect** the child.

Some who support the practice of FGM have sought to eliminate the risks of infection by, for example, carrying it out in a medical environment in order to legitimise it. However, in addition to the immediate risks associated with FGM being carried out, it can have serious and long-term psychological and physical effects, regardless of how the procedure was done.

Men can also be perpetrators. They may directly carry out the procedure as medical professionals. They may also commit offences under the FGM Act by assisting others to carry out FGM, for example, by paying for the procedure or providing other logistical support.

How FGM is carried out

FGM is usually carried out without medical expertise, attention to hygiene or anaesthesia. The instruments used may include unsterilized household knives, razor blades, broken glass and stones. It may also be conducted by using a finger nail to remove or damage a newborn's clitoris immediately following her birth, a method known as pinching. Thorns and herbs may be used to suture the wound, with further risk of infection. Not all forms of FGM involve cutting, for example elongation is performed by using herbs and stones to pull the labia into a different shape.

A girl may be held down by a group of women while the cutting is carried out. These women are often members of the girl's own community or even her own family. The girl may struggle violently and suffer additional injuries as a result, eg, broken and fractured bones.

In some cultures cutting is an event to be celebrated, with special dress and ceremony. It can be held for an individual or a group. Occasions where many girls are brought and mutilated in quick succession are sometimes referred to as 'cutting parties'. FGM may also be more commonly practised at certain times of the year, known as the 'cutting season'. The exact time period for this varies between communities.

In other cultures the practice may be expected but not celebrated or discussed in public.

The WHO confirms that the practice of FGM is increasingly being carried out by medically qualified professionals, including in hospitals. This applies not only to primary FGM but also to re-infibulation (reclosing) following childbirth. This trend towards medicalisation should not be seen as legitimising the practice in any way. It is internationally opposed as set out in the **Global strategy to stop health-care providers from performing female genital mutilation**. The health consequences for the girl, including the psychological impact, can still remain significant regardless of method.

Advice for officers working with communities affected by FGM

The term FGM

Officers should be culturally and faith aware in their dealings with victims or those at risk of FGM, but should never hesitate to take appropriate and effective action to enforce the law and/or safeguard children. FGM is a crime in the UK.

Terminology for referring to FGM varies between communities. FGM is known by a number of names, including ‘female genital cutting’, 'circumcision’, 'cut’ or 'initiation’. Victims and witnesses may only recognise the terminology used within their own community. Officers should bear in mind that people living in communities where FGM is practised do not necessarily view the procedure as a form of mutilation. They may not understand the term FGM or recognise it as applying to their own practice, for example, elongation, which does not involve cutting. They may also consider the term offensive.

Victims and witnesses may refer to holding a ceremony, celebration or party in their ‘honour’, or ‘becoming a woman’. Officers should take note of and adopt the terminology used by the person as it is likely to make them feel more comfortable. If an officer is unsure of the relevant term to use, it is acceptable to ask a potential witness or victim which they would prefer.

Examples of terminology that may be better understood and may avoid alienating a potential witness include:

- circumcision – ‘Have you been circumcised?’ ‘Is circumcision practised in your community?’
- cut – ‘Have you been cut down there?’
- ‘Have you been closed?’

These approaches to questioning are not exhaustive and alternative language may be more prevalent in some communities. Some culture-specific terms for the practice can be found in the **Multi-agency practice guidelines on FGM**. Annex G sets out the terms by country and language and are a useful resource for officers preparing to conduct a victim or witness interview on the subject.

Officers should recognise that, for victims, FGM is a complex subject with a lifelong impact on many levels. Officers should never show shock or revulsion and must be mindful that although some communities may celebrate the practice, others consider it a taboo subject which should not be openly discussed.

Talking to victims, potential victims and witnesses

Supporting women and girls who have undergone or are at risk of FGM demands sensitivity and compassion. When talking to potential victims or those at risk of FGM, officers should open conversations in a sensitive and appropriate way. These include:

- take reasonable efforts to make them safe
- ensure that a female officer conducts the interview wherever possible
- consider that the person may not wish to see a police officer from their community
- create an opportunity for the individual to disclose by speaking to them alone and in private – this may require making arrangements for the person to speak to an officer in a safe setting on a later occasion
- Consider if it is appropriate for a family member to be an appropriate adult for a child or whether they may be involved in the investigation make no assumptions
- give the individual time to talk
- be sensitive to the intimate nature of the subject
- be sensitive to the fact that the individual may be loyal to their parents, family or community
- be nonjudgmental (pointing out the illegality and health risks of the practice but not blaming the girl or woman)
- use simple language and ask straightforward questions
- avoid loaded or offensive terminology such as ‘mutilation’
- adopt a victim-centred approach – offer accurate information about the person’s choices and rights and respect their wishes where possible

Further guidance on **talking about FGM** is included in Annex C of **Multi-agency statutory guidance on female genital mutilation.**

Using interpreters

Officers should take great care in choosing an interpreter when speaking to a potential victim, someone at risk of FGM, or a witness. The interpreter must not be a family member, known to the individual, or an individual with influence in the person’s community. Disregarding this may result in:

- misleading information being provided to the police officer
- the traditional views of the community being relayed as opposed to the factual information provided by a police officer
- pressure being applied to the victim, person at risk or witness to withdraw their statement
- information being fed back to suspects
- distress and humiliation being caused to the victim, person at risk or witness
- the victim, person at risk or witness being ostracised by their community

Where the victim's cultural and/or community group is particularly small or close knit, officers should recognise that even those living elsewhere in the UK may be known to the victim, person at risk, witness or other members of the same cultural and/or community group.

Officers should make every effort to source an accredited interpreter. Accredited interpreters are required to comply with professional codes of conduct and may be held accountable for any breach. Obligations include disclosing any conflict of interest, acting impartially at all times, and ensuring they understand the context in which they are working, including any special terminology. Interpreters should undergo awareness training on FGM.

A female witness may not feel able to speak freely to a male interpreter because of the intimate nature of the subject matter. It is, therefore, appropriate to request a female interpreter.

Where no accredited interpreter is available to attend in person or if there is an urgent need to speak to the victim, officers could consider using a telephone interpreting service. If doing so, however, officers must not disclose details that would reveal the identity of the witness or where she or her family lives in the UK or their country of origin.

For further information, go to:

- **National Register of Public Service Interpreters Code of Conduct**
- **Association of Police and Court Interpreters Code of Practice**

The role of the police in tackling FGM

Depending on the circumstances, there are three ways in which the police can tackle FGM:

- prevention
- protection
- prosecution

Prevention and protection must be a key focus of the police response to FGM. Reaching the prosecution stage means either that someone has already undergone FGM or that they are at risk of FGM (in other words, preparatory steps have been taken for FGM to occur) This will require thorough investigation by officers.

FGM is a hidden crime type and is under reported to the police. People practising or carrying out the procedure may have recently arrived in the UK and are not aware that it is illegal here. If a woman or girl has come from a community where all the girls have been subjected to FGM, she may believe that any health problems she is experiencing as a result of the procedure are a normal part of female life.

If FGM was committed when the victim is a child, she may have little memory of it or be unaware it is illegal. Police and other organisations should work together with statutory and third-sector partners, other agencies and communities affected to raise awareness of the health risks and increase knowledge of the law relating to FGM, for example through work undertaken at the Health and Wellbeing Board.

The people and organisations that the police can work with to raise awareness within practising communities include:

- community members or community and faith leaders who are advocates in favour of ending violence against women and girls
- educational establishments – nurseries or pre-schools, schools, colleges, universities
- health services, such as hospitals, maternity services, health visitors and doctors' surgeries
- housing services
- local government
- social services
- youth groups
- community engagement officers
- outreach workers
- non-governmental organisations

The methods used to raise awareness will vary according to language and the way in which certain communities prefer to receive information. For example, word-of-mouth is an important means of communication in Somali communities, so printed literature and hand-outs alone may have less impact. It may be more effective to give an oral presentation supported by written information which can be read later in private.

To eliminate FGM, change needs to be driven by from within communities where FGM cases are being reported. This means supporting communities to take the lead in challenging the practice.

Trusted community leaders and other role models, both men and women, from within the communities affected, should be encouraged to speak out against FGM. The central message must be that FGM is a crime. People who commit or facilitate this practice may be arrested, prosecuted and imprisoned, as may parents or guardians who fail to protect a girl under 16 years from the risk of FGM. To achieve lasting change, this message should be supplemented by working with men and boys to alter their attitudes and expectations when choosing girls and women for marriage. For example, that a girl who has not been cut is also clean.

The Home Office has produced a statement that girls and women travelling abroad can keep with their passport and take with them to inform family members of the potential criminal penalties for those who allow or arrange for FGM to take place overseas. It is **available in several languages**. It can be distributed by the police as an awareness-raising and safeguarding measure, to inform and equip women and girls who may be at risk of FGM while abroad. For more information go to HM Government **Female genital mutilation: help and advice**

Although key partners may have an awareness of FGM, they may not have a good understanding of ongoing safeguarding issues where someone has already undergone FGM, is at risk of FGM, or of the role they can play in tackling FGM more generally. Regulated health and social care professionals and teachers in England and Wales are under a **mandatory duty** to report known cases of FGM in girls under 18 years to the police. Once a report has been made to the police, it is the responsibility of the police to initiate a multi-agency response, in line with local safeguarding arrangements.

Protection

Legal intervention to protect someone at risk of FGM can include police protection, emergency protection orders, FGM Protection Orders (FGMPOs) and/or other orders or applications. Consideration should be given, on a fact specific basis, what is most appropriate. In some cases, an FGMPO may be sufficient to protect someone at risk, in others, it may be more appropriate for a combination of orders to be sought (for example an FGMPO and making a girl a ward of court).

If an officer becomes aware of a girl or woman at risk of FGM, they should:

- take immediate steps to make that person safe – **safeguarding action** may be appropriate, including taking a child into emergency protection
- take immediate steps to secure evidence of an **offence**, including a preparatory offence under the Serious Crime Act 2007 ss 44–46
- consider arresting suspects
- seek advice of a supervisor

FGM is illegal and a serious form of **child abuse**. It should therefore be treated as such. Reports of the risk of FGM occurring on girls or women may reach officers from a range of sources. Local policing teams and **senior officers**, may already established contacts with these agencies and individuals and should encourage them to pass on any information about FGM. Officers should take appropriate action based on the nature of the information they receive. Potential sources include:

- teachers and nursery or pre-school staff who fear a child may be taken abroad to be mutilated during school holidays – transition periods, between nursery and primary school and between primary and secondary school, can be a particularly vulnerable time because the child and family are not yet known to teachers
- midwives responsible for the pre-natal care of a woman who has undergone FGM (in this case, victims may be at risk of re-infibulation after the birth)
- midwives who have delivered a baby girl from a woman who has undergone FGM and are concerned that the daughter may also be at risk of FGM
- a girl or woman who feels under threat of FGM
- friends or peers to whom disclosure may have been made by a girl or woman fearing she is at risk
- a community member or professional, male or female, who believes they know that a girl or woman is under threat of FGM
- children's or social services
- police investigating other offences, for example, 'honour'-based violence, forced marriage, domestic abuse or sexual offences
- reports of known cases of FGM on girls under 18 years made by regulated health and social care professionals and teachers in England and Wales under the **mandatory reporting duty**, allowing other girls at risk to be identified
- local charities

Although many referrals may be circumstantial in the first instance, a thorough investigation should take place. Parents are unlikely to admit that they are in favour of FGM when asked, so officers should look for other indications that a child may be at risk.

Where a concern is raised, a strategy meeting should be held with relevant partners (such as children's social care, health, education) to form an accurate picture of the family by bringing together all relevant information. This could include school and GP records, maternity notes showing FGM of the mother, medical records for the mother or child. For example, records showing a pattern of recurrent urinary tract infections could be indicative of FGM having occurred.

If an officer believes a girl or woman may be at risk of or may have undergone FGM, they must also consider the risk to other female members of the family and household. A girl or woman who has already undergone FGM may remain at risk of further FGM in the form of re-infibulation following childbirth. This can occur multiple times.

Parents may be under considerable pressure from other family or community members for their daughter to undergo FGM. In such circumstances, officers need to consider if the parents are able to protect their child. They should ask questions about beliefs and the likelihood of extended family and community pressure and whether any travel arrangements have already been put in place to take the child abroad (for action to be taken to prevent the child from being taken abroad).

When a child is at risk of FGM, officers should act in the same way as they would in any other child protection case. Go to APP on child abuse, **police response to concern for a child**. They must comply with local child protection procedures and refer to local authority children's social care. They should initiate a strategy discussion/joint investigation and ensure their child protection unit is actively engaged.

Girls at risk of FGM may have additional vulnerability issues which should be addressed according to local procedures. For further information on vulnerability, go to **Vulnerability-related risk guidelines**.

In situations where a parent is suspected of abducting a girl for the purposes of FGM, go to APP on **child abuse, initial response to suspected parental abduction**. This is most likely to apply where the girl is subject to some form of court or protective order.

For further information, the **NSPCC** runs a free 24-hour helpline for people who fear they, or someone they know, may be in danger of being subjected to FGM. The helpline may also be used by professionals needing advice. The telephone number is 0800 028 3550 and should be included on any literature disseminated.

FGM protection orders

Section 5A and Part 1 of Schedule 2 to the FGM Act 2003 provides for the making of an FGM Protection Order (FGMPOs) in England and Wales. An FGMPO is a civil law measure which may be made for the purposes of protecting a girl at risk of FGM or protecting a girl against whom an FGM offence has been committed. The term 'girl' is used here and in the legislation to refer to either a girl or a woman.

An application for an FGMPO can be made to the High Court or the family court. There are 23 **designated** FGM family court centres across England and Wales. An application can be made by:

- the girl herself
- a relevant third party without leave of the court (currently, only local authorities have been designated in this category)
- any other person with the leave of the court, which includes the police.

Although the police can seek the leave of the court to apply for an FGMPO, it is anticipated that such applications would normally be made by local authority protective services.

In order to address safety concerns for the girl or other persons involved in making the application, the system allows for:

- an FGMPO to be made without notice on the respondent where the court considers it just and convenient, for example where the girl would be at risk of harm or removal from the jurisdiction if notice were given
- the possibility of giving evidence by video link from another court centre
- the possibility of applying to redact or withhold portions of evidence on a hearing-by-hearing basis where disclosure would place a person at risk

An FGMPO can also be made, during some family court proceedings, at the court's own initiative. Similarly, an FGMPO can be made in criminal proceedings where the defendant in the proceedings

would be the respondent in the civil application for the order. This risk of FGM may be in relation to the victim of the offence before the court or any other girl, for example, a female family member or member of the community.

A court considering imposing an FGMPO must have regard to all the circumstances, including the need to secure the health, safety and well-being of the girl. The court has broad and flexible powers to impose whatever terms it thinks necessary to protect the girl, whether prohibitions, restrictions or requirements. These might include:

- the surrender of passports and any other travel documents of the girl to be protected to prevent her from being taken abroad and subjected to FGM
- prohibiting specified persons from entering into any arrangements in the UK or overseas for FGM to be performed on the person to be protected by the order
- terms relating to the conduct of the individuals named in the order both inside and outside of England and Wales; and
- terms which cover individuals who are, or may become involved in other respects and who may commit or attempt to commit FGM against a girl
- The terms can include persons not named as respondents in the application, recognising that the wider community may be involved.

An FGMPO may be made for a specified period or until varied or discharged, allowing for long-term protection where the girl at risk is very young.

For further information go to:

- Serious Crime Act 2015 **Section 73: Female genital mutilation protection orders explanatory notes**
- **Multi-agency statutory guidance on female genital mutilation**
- **Female Mutilation Protection Orders: A guide to the court process**

The role of the police

Forces should agree referral routes with their local authority children and adults' services. When developing these referral routes, regard should be had to the possibility of wider community involvement in FGM and building in safeguards to protect employees from being pressured to disclose information by members of their own community.

A police investigation into FGM offences and subsequent prosecution can take place in parallel to an FGMPO application or a current order.

1. When there is a need for an FGMPO

Where police officers or staff become aware that at girl is at risk of FGM, they should notify the local authority through the agreed referral route. They should flag any specific risks they are aware of which may assist the local authority to prepare the FGMPO application. For example, if they are aware that the family are intending to take the child out of the UK for FGM.

2. When an FGMPO has been made

A system should be established with the courts and local authority to ensure that a copy of any FGMPO issued is lodged with the police as soon as practicable.

The police should:

- enter the order on the Warnings Index, especially where there is an imminent threat of the girl being taken abroad
- notify His Majesty's Passport Office (HMPO) of any FGMPO that specifies surrender of a passport or restricted travel, to prevent duplicate passports being issued
- follow any guidance issued by HMPO on this matter
- inform HMPO if the order is varied or revoked
- notify Border Force and ensure systems for travelling are flagged
- inform Border Force if the order is varied or revoked
- link with the local authority to ensure the girl is offered continuing support after the order is issued
- monitor compliance with the FGMPO to identify any breaches

3. When an FGMPO has been breached

Breach of an FGMPO is a criminal offence under paragraph 4 of Part 1 to Schedule 2 of the FGM Act. A person guilty of an offence under this paragraph is liable to:

- a fine, imprisonment (the maximum penalty for which is up to 5 years) or both on conviction on indictment; or

- a fine, imprisonment (the maximum penalty for which is 12 months) or both on summary conviction.

As an alternative to prosecution, a breach of an FGMPO may be dealt with by the civil route as a contempt of court, punishable by up to 2 years; imprisonment, a fine or both. Paragraph 7 of Part 1 to Schedule 2 of the FGM Act makes provision for the arrest, under warrant, of someone who is alleged to have breached the terms of the FGMPO. An interested party (for example, the victim or girl at risk of FGM, the applicant or any other person ((with the leave of the court)) can apply to the relevant judge in the family court for a warrant of arrest.

Where a breach is reported directly to the police, the police can arrest a person who breaches an FGMPO without the victim or person at risk apply to the relevant judge for an arrest warrant.

Where there is reasonable cause to believe that an FGMPO has been breached, the police should:

- investigate and consult the CPS for a charging decision on any offences as appropriate
- liaise with the victim to establish her views on proceeding with the breach either as a criminal or civil matter
- review risk management arrangements to protect the victim and others affected

If the person is charged, the investigating officer should:

- ensure any sensitive information likely to be disclosable is redacted in consultation with the CPS
- consider special measures for the girl or any other witness if giving evidence is likely to place them at risk, for example, they may be able to give evidence via video link from another court centre

If the person is not charged because the case does not meet the Full Code Test, the breach may still be pursued as a civil contempt of court.

4. When there is a prosecution for FGM offences: FGMPO as an ancillary order

When preparing a case file for prosecution of FGM offences, the investigating officer should

- flag if an FGMPO, and/or any other protection orders, should be considered on conviction or acquittal, along with any proposed terms.

Emergency powers

Emergency protection powers can be used when a child or children are at risk of FGM. The relevant powers are:

- Police protection powers under **section 46** of the **Children Act 1989**, go to APP on **child abuse, police protection**. This allows a child at risk of 'significant harm' to be removed to a place of safety for up to 72 hours and is a police decision. Go to **child abuse APP**.
- Emergency protection orders under the **Children Act 1989 s 44**. These are issued by a court where a child is in 'imminent danger', usually on application by the local authority, although a designated police officer could also apply.

Care orders and associated applications

Emergency protection orders can be followed by an application from the local authority for a care order under **section 31** and **section 38** of the Children Act 1989. If granted, such an order gives the local authority parental responsibility for the child. It is then a criminal offence to remove the child from the UK without the express consent of the local authority (and any other person with parental responsibility) or the court. In addition, the local authority can apply for further court orders as necessary to protect the child, for example, that there be no contact with the family or that the child's passport be surrendered so that they cannot leave the country. A care order can only be made in respect of a young person under 17 (or -16 if child is married). For further information on care orders and supervision orders. More information **on Care Orders and Supervision Orders**

Other options, if a care order is not available or appropriate, include asking the court to exercise its inherent jurisdiction or applying to make a child or young person under 18 years a ward of court.

The court may exercise its inherent jurisdiction to protect a child or young person on request of a social care department, where there is a real risk that they may be subjected to FGM. This can include an order to surrender the person's passport and not to remove them from the country without the court's permission. The court can also order the immediate return of the child or young person.

Applications for wardship can be made even after a child has been taken out of the country. If granted, the authorities in the country to which the child has been taken can be asked to assist with locating and returning the child. The application can be made by any interested party, including

CAFCASS/CAFCASS CYMRU legal services, although a local authority wishing to make the application would need to seek permission from the court to make it, under **the Children Act 1989 s 100**.

For further information, go to **HM Government multi-agency practice guidelines: female genital mutilation**

Prosecution

The law

For ease of reading, the following terms are used throughout:

- ‘assisting’ to refer to ‘aiding, abetting, conspiring, counselling, encouraging or procuring’
- ‘UK person’ or ‘UK girl’ to refer to a ‘UK national or any UK resident’
- ‘non-UK person’ to refer to a person who is not a UK national or any UK resident

A UK national is defined by section 6(2) of the FGM Act. A UK resident is an individual who is habitually resident in the UK. This term refers to a person’s ordinary residence, as opposed to a short temporary stay in a country. Whether a person is habitually resident in the UK is for determination by a court on the basis of the facts of a case. It may not be necessary for all, or any, of the period of habitual residence to be lawful.

FGM is illegal under the **Female Genital Mutilation Act 2003**. FGM is **defined** as excising, infibulating or otherwise mutilating the whole or any part of a girl’s labia majora, labia minora or clitoris. A person who is found guilty of an offence under the FGM Act may receive up to 14 years’ imprisonment, a fine, or both.

The FGM Act creates 3 basic offences:

- carrying out FGM (**FGM Act s 1**)
- assisting a girl to mutilate her own genitalia (**FGM Act s 2**)
- assisting a non-UK person to carry out FGM on a UK girl outside the UK (**FGM Act s 3**)

Anyone engaging in one of these prohibited acts in the UK, regardless of their nationality or immigration status, is committing an offence.

Where one of the three basic offences is committed against a girl under 16 years, each person who is responsible for her at the time the FGM occurred will be liable for failing to protect her from the risk of genital mutilation, under **section 3A** **o**f the FGM Act. This offence carries up to 7 years' imprisonment, a fine, or both.

A person responsible for a girl is either:

- a person with parental responsibility who has frequent contact with the girl
- a person over 18 who has assumed responsibility for caring for the girl in the manner of a parent, for example, a family member with whom the girl is staying for the summer holidays

In order to establish a defence, the responsible person would need to be able to show that, at the time the mutilation took place, they did not think there was a significant risk of FGM being committed and could not reasonably have been expected to be aware that there was such a risk, or that they took reasonable steps to protect the girl from the risk of FGM.

Section 4 of the FGM Act also allows a UK person to be prosecuted when they commit one of the prohibited acts or omissions abroad. An offence under section 3A can be committed wholly or partly outside the UK by a UK person.

Section 4A and **Schedule 1** of the FGM Act make provision for the lifelong anonymity of victims of FGM in England and Wales (and Northern Ireland). This means that there is a prohibition on the publication of information likely to lead members of the public to identify the victim. Publication is interpreted widely and includes less traditional formats such as social media.

There are two limited exemptions to the prohibition, where the court could lift the restriction on publication. These exemptions are where the court finds that:

- a person being tried for an FGM offence could have their defence substantially prejudiced if the restriction to prevent identification of the alleged victim is not lifted
- preventing identification of the victim could be seen as a substantial and unreasonable restriction on reporting of the proceedings and it is in the public interest to remove or relax the restriction

Breach of the prohibition is an offence punishable by an unlimited fine. There are two possible defences, which must be made out on the balance of probabilities by the person seeking to rely on them. These are where:

- at the time of the alleged offence, the defendant was not aware, and did not suspect or have reason to suspect, that the publication included content likely to identify the victim or that a relevant allegation had been made
- a victim aged 16 years or over had freely given written consent to the publication

Paragraph 4 of Schedule 2 of the FGM Act makes it a criminal offence to breach an FGMPO. A person who is found guilty of breach of FGMPO may receive up to 5 years' imprisonment, a fine, or both. The breach may also be dealt with as a civil contempt of court which is punishable by up to two years' imprisonment, but the two jurisdictions are mutually exclusive. If a police investigation into a potential breach is to be pursued, this should be concluded and a decision made by the CPS as to the potential for prosecution prior to initiating any civil proceedings.

A person assisting in the commission of any of the above offences is also committing an offence by virtue of **Accessories and Abettors Act 1861 (AAA) s 8**, which states that a person who assists in the commission of an offence is guilty of the same offence as the main offender and liable to the same penalties.

Sections 44-46 of the Serious Crime Act 2007 create a number of offences arising from acts 'capable of encouraging or assisting the commission of an offence', which can apply even where the offence encouraged or assisted is never actually committed. These provisions are complex to apply, go to **CPS legal guidance on inchoate offences** for further information.

In circumstances not covered by the FGM Act, other criminal offences may be committed. The CPS guidance on **Offences/Behaviours experienced by victims of FGM** advises on alternative offences, such as:

- grievous bodily harm, under **section 18** or **section 20** of the Offences Against the Person Act 1861
- conspiracy, child cruelty, false imprisonment and causing or allowing serious physical harm or death of a child

The **CPS FGM Legal Guidance** provides further information on FGM and associated offences. Officers are encouraged to seek early investigative advice from the CPS to help build the strongest possible case and choose the most appropriate charge.

Related offences

The Health and Care Act 2022 makes it illegal to carry out, offer or aid and abet virginity testing or hymenoplasty in any part of the UK. It is also illegal for UK nationals and residents to do these things outside the UK.

- Virginity testing – refers to an inspection of the female genitalia, intended to determine whether a woman or girl has had vaginal sexual intercourse. The World Health Organization and the Royal College of Obstetricians and Gynaecologists (RCOG) believe that virginity tests have no scientific merit or clinical indication. This is because there is no known examination that can prove whether a woman has had vaginal intercourse.
- Hymenoplasty –a procedure undertaken to reconstruct a hymen. It generally involves stitching hymenal remnants together at the vaginal opening, or surgically reconstructing a hymen using vaginal tissue. The aim of the procedure is to ensure that a woman bleeds the next time she has intercourse to give the impression that she has no history of vaginal intercourse. There is no guarantee that this will fully reform the hymen or cause bleeding when penetration is attempted.

For further guidance go to:

- **Virginity testing and hymenoplasty: multi-agency guidance**
- **'Honour'-based abuse APP**

Exemptions

As there is little to distinguish some of the procedures involved in carrying out FGM from those involved in carry out legitimate surgery, **Section 1**(2) of the FGM Act contains general exemptions for:

- a surgical operation performed by a registered medical practitioner which is necessary for a girl's physical or mental health; or
- an operation performed by a registered medical practitioner or midwife (including a person undergoing training with a view to becoming a medical practitioner or midwife) on a girl who is in labour or has just given birth, for purposes connected with the labour or birth.

Section 1(5) of the FGM provides that when determining if an operation is necessary for a girl's mental health, it is immaterial whether she or any other person believes that the operation is required as a matter of custom or ritual. FGM could not legally occur on the grounds that a girl's mental health would suffer if she does not follow the prevailing custom of her community.

The Royal College of Obstetricians and Gynaecologists issued guidelines on **Female Genital Mutilation and its Management** which clarify that:

"Re-infibulation refers to the resuturing (usually after childbirth) of the incised scar tissue in a woman with FGM type 2 or 3. Previously there was uncertainty as to whether re-infibulation was covered by the FGM Act. However, it is now accepted that re-infibulation is illegal and should not be performed in any circumstances."

Evidence gathering in FGM cases

Although FGM has been unlawful since 1985, the first prosecution for FGM in England and Wales did not take place until 2014. A key challenge to successful prosecution is evidence gathering.

Reluctance of victims and witnesses to report or assist a prosecution

People in a position to give information to pursue a prosecution are likely to be members of the FGM-affected community. They may be unwilling to report and inform on community or family members as to do so may result in being ostracised. They may believe that the FGM was done in the best interests of the child. They may also be reluctant to draw unwanted attention from the authorities.

Victims may also be unwilling to assist as in most cases it will require giving evidence against their own family and/or parents. If the victim is a child, they may fear that they or their siblings could be put into care, especially if the prosecution is successful and results in imprisonment of a parent, or family breakup. They may also have no memory of the act if the FGM took place at a young age, or they may not know who was responsible. They may also not know that it is illegal.

If a person does choose to cooperate with a prosecution, they will need support to deal with both the court process and the potential consequences for them within their community, including their personal safety. Information on relevant third-sector support can be found below and in the **CPS Female Genital Mutilation Legal Guidance, Annex A**.

Section 4A and **Schedule 1 of the FGM Act** make provision for the lifelong anonymity of victims of FGM. This means that publication of anything likely to lead members of the public to identify an alleged victim of FGM is prohibited, subject to two limited exemptions. Breach of this prohibition on

publication is an offence punishable by an unlimited fine. It is hoped that this provision will encourage more victims to come forward.

A victim will require medical assistance and advice to deal with the physical and mental trauma associated with FGM. There are a number of specialist clinics in England and Wales. A list is provided on the **NHS Choices** website. Go to the **APP on Child abuse, pre-trial therapy and counselling**.

The complex issues linked to victim evidence in FGM cases mean that officers should try to move away from relying on the victim's testimony when building the case.

Considerations for investigators

Officers are largely reliant on other professionals, particularly in education, health and social care, to identify signs that FGM may be about to take place or may already have occurred. Some professionals may be unsure how to deal with the cultural aspects of the subject, which can lead to a lower level of reporting. Regulated health and social care professionals and teachers in England and Wales are now subject to a **mandatory duty** to report known cases of FGM on girls under 18 years to the police.

The CPS legal guidance on FGM sets out the **evidential considerations** for prosecutors dealing with such cases, which should inform investigators when gathering evidence.

Investigators should build a case by bringing together information from across different professional sectors which have contact with a girl and her family, along with any circumstantial or other evidence that supports the case. For example, a report from a teacher suspecting that a girl has been taken out of the country for FGM to take place could be supplemented with passport information, GP notes and other intelligence.

Investigations should not only target direct perpetrators of FGM but also those assisting or arranging the procedure – they too are perpetrators under the law.

The nature of the offending and associated difficulties with gaining the support of victims and witnesses mean that intelligence opportunities and covert tactics can have an important role to play.

For further information, go to **A protocol between the Crown Prosecution Service, police and local authorities in the exchange of information in the investigation and prosecution of child abuse cases**.

Covert tactics

The use of covert tactics should be considered in all FGM investigations. More traditional investigative methods may not always be effective in identifying the person who has been instrumental in organising FGM for the child.

Available covert options in any particular case will depend on the information already available and that which is sought. Advice concerning covert methods should be sought from a covert specialist within force at the earliest opportunity. Investigators should not delay seeking such advice until after arrest or notification to parents or others who may be suspected of an offence. Such experts are likely to be located in a force's department responsible for covert authorities.

Intelligence opportunities

Forces should develop local strategies to gather intelligence, develop problem profiles and intelligence requirements relating to at risk communities, cutters and facilitators, and to identify potential victims and perpetrators. This could include identifying opportunities to engage with relevant communities, and regular travel routes used by victims and perpetrators to enter or leave the country.

Forces should also include obtaining community intelligence as a significant part of their intelligence strategy.

Mandatory reporting duty

The mandatory reporting duty under **section 5B** of the FGM Act applies to all regulated health and social care professionals and teachers in England and Wales. They are under a duty to report to the police any known case of FGM on a girl who is under 18 at the time of making the report. A known case is one where a professional:

- is informed by a girl under 18 years that an act of FGM has been carried out on her; or

- observes physical signs which appear to show that an act of FGM has been carried out on a girl under 18 years and they have no reason to believe that the act was necessary for the girl's physical or mental health or for purposes connected with labour or birth.

For the purposes of the duty, the relevant age is the girl's age at the time of the disclosure/identification of FGM (in other words, it does not apply where a woman aged 18 years or over discloses she had FGM when she was under 18 years).

The duty is personal to the professional, who must report the case directly to the police as soon as possible after a case is discovered, and best practice is for reports to be made by the close of the next working day. Failure to comply with the duty is not a criminal or civil matter, but is to be dealt with as a disciplinary matter under existing performance procedures in place for each profession.

Where a professional believes that a girl is at risk of FGM, this does not fall under the mandatory reporting duty, but should be dealt with through established safeguarding procedures.

Forces should develop a response for dealing with reports made under the duty. This should include:

- identifying a relevant team to deal with all mandatory reports
- establishing internal force processes to:
  - ensure that all professionals making a mandatory report are issued with a reference number, including where the report is made otherwise than via 101
  - correctly channel reports received under the mandatory reporting duty to the relevant team, whether received via 101, via established relationships with safeguarding teams or via any other officer or police staff
  - consult with children's social care to identify any immediate safeguarding needs and initiate a multi-agency response following receipt of a report
- ensuring that control room staff are familiar with the specific response required on receipt of mandatory FGM reports via 101, in particular the **minimum details** to be recorded for referral to the relevant team
- ensuring that all officers and staff are made aware of the mandatory reporting duty and its associated processes

A report of FGM made under the duty is a professional third party report for crime recording purposes. Unless there is information casting doubt as to the professional's status and/or position or the veracity of their report, a crime report or log should be opened in accordance with paragraph 3.6 (ii) of the **National Crime Recording Standard**.

For further information go to:

- Home Office (2015) **Mandatory reporting of female genital mutilation – procedural information**

The role of senior officers

Senior officers should take the lead in strengthening the police response to FGM.

They should raise the profile of FGM within the force and with partner agencies by:

- increasing officer awareness of FGM and their responsibility to take steps to make potential victims safe
- including FGM in force planning documents, such as strategic assessments
- ensuring it features on the agendas of multi-agency forums, such as the Health and Wellbeing Board and Multi-Agency Safeguarding Hub
- establishing processes with local agencies to ensure that relevant information received by professionals is where necessary passed on to the police, including reports made under the mandatory reporting duty
- developing a force response to the mandatory reporting duty in accordance with Home Office **Mandatory reporting of female genital mutilation – procedural information**

Senior officers should also use established contacts with influential and trusted community members to ensure that communities are aware that FGM is a crime and those who perform or facilitate the practice may face arrest, prosecution and imprisonment.

Further information

The following websites have some useful information on FGM, what it involves and where to go for help.

- **World Health Organisation (WHO) female genital mutilation, factsheet number 241**
- **HM Government Female genital mutilation: help and advice**
- **Home Office FGM unit** which includes training and campaign resources
- **HM Government multi-agency practice guidelines: female genital mutilation** Appendix D lists organisations working on related issues
- **CPS female genital mutilation legal guidance** Appendix A lists contact details for national support agencies and sources of information
- **NHS FGM enhanced dataset**

Helplines and support

NSPCC FGM helpline

0800 028 3550

Email: fgmhelp@nspcc.org.uk

- **Go to NSPCC website**

National Domestic Abuse Helpline

0808 2000 247 (24-hour)

- **Go to National Domestic Abuse Helpline website**

ChildLine

0800 1111

- **Go to ChildLine website**

Forward

0208 960 4000

- **Go to Forward website**

Tags

Female genital mutilation Victim care