

Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020

Non-implementation of the Act

Police Scotland as a key stakeholder welcome the opportunity to provide comment on potential implications of delays in implementing the provisions from the Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020 (the Act).

Enhancements to Female Genital Mutilation (FGM) legislation in Scotland were made in March 2020, with the passing of the Bill to progress the introduction of the Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020. The primary focus of the Act is to ensure women and girls are better protected in Scotland by allowing courts to issue Protection Orders, specifically designed to safeguard those at risk from FGM.

Female Genital Mutilation Protection Orders (FGMPO) would provide a means under civil law of creating certain conditions that if breached would result in a criminal offence which could carry custodial and/or financial penalty. Police Scotland would have the facility to apply direct to the court for a FGMPO, which we feel could provide another level of protection to women and children deemed to be at risk. Police Scotland believe FGM is an underreported crime in Scotland, therefore the existence of these orders may provide reassurance to those women and children affected and help encourage them to come forward and engage with police and other agencies.

To support the provision of FGMPO, we would advocate that the correct statutory guidance and mechanisms need to be in place to ensure a consistent process for application. The delay in implementation has meant that a defined legal understanding pertinent to the conditions of FGMPOs has still not been established.

Furthermore, given the suggestion that a broad spectrum of individuals or organisations would be able to apply, it is imperative that clear guidance and processes are in place to ensure the existence of the order is known to the relevant organisations in order that any potential breach of the conditions is effectively and properly identified and managed.

The provision of FGMPO would further improve current statutory child protection procedures which can be invoked for children under 18 years of age. The Scottish Government National Guidance on Child Protection (2023) serves to enhance current multi-agency child protection structures. It is suggested this could provide an appropriate setting for providing clear parameters based on statutory guidance to professionals and practitioners. Necessary amendments in relation to the Act can only be made to our current child protection guidance once it is fully implemented.

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It is important to ensure all professionals fulfil their role in providing a consistent approach across Scotland in relation to FGM. Suitable governance and guidance in line with the Act will provide professionals with a comprehensive framework which outlines duties, advice and support to those who encounter victims and potential victims.

The implementation of the Act will provide Police Scotland with an additional tool and legislation to work with partners to ensure that children are protected from FGM and that women who have already been a victim have more confidence to report the matter.