

Changes to Female Genital Mutilation Act 2003 Arising from the Serious Crime Act 2015

Overview

On the 3rd May 2015, a number of the amendments to Female Genital Mutilation Act 2003 contained in the Serious Crime Act 2015 came into force.

They are:

1. Changes to the extra-territorial reach of Female Genital Mutilation (FGM) offences – previously the Act only covered acts done outside the UK by UK nationals and permanent UK residents. It now covers any UK resident. A UK resident is defined as “an individual who is habitually resident in the UK”. The term “habitually resident” covers a person’s ordinary residence, as opposed to a short, temporary stay in a country which is not covered by the Act. This now means that the FGM Act can capture offences of FGM committed abroad by or against those who are at the time habitually resident in the UK;
2. Anonymity for victims of FGM - the changes prohibit the publication of any information that could lead to identification of the victim. Publication would cover all aspects of media including social media. The injunction will last for the lifetime of the alleged victim. Although details may have to be disclosed in certain cases in the course of criminal proceedings;
3. A new offence of failing to protect a girl under 16 from the risk of female genital mutilation has been introduced. - A person is liable for the offence if they are “responsible” for a girl at the time when an offence is committed. This will cover two types of people, someone who has “parental responsibility” for the girl and has “frequent contact” with her and any adult who has assumed responsibility for caring for the girl in the manner of a parent. This could be for example family members, with whom she was staying during the school holidays.

On the 17th July 2015, Female Genital Mutilation Protection Orders came into force. The Ministry of Justice had wanted this part of the law to be in place in time for the summer holidays as this is the period when vulnerable girls are most at risk of being taken abroad.

Female Genital Mutilation Protection Orders are obtained in the Family Court like Forced Marriage Protection Orders. If you are concerned that someone may be taken abroad for FGM you can apply for a Protection Order. The terms of the order can be flexible and the court can include whatever terms it considers necessary and appropriate to protect the girl or woman.

From October 2015, the new duty for professionals working in the “regulated professions”, to notify the police if they discover that an act of FGM appears to have been carried out on a girl who is under 18 will come into force. Regulated professionals will cover healthcare professionals, teachers and social care workers. A failure to report the discovery in the course of their work could result in a referral to their professional body.

The Government has just issued Draft Multi-Agency Statutory Guidance on Female Genital Mutilation (<https://www.gov.uk/government/consultations/consultation-on-the-draft-statutory-multi-agency-practice-guidance-on-female-genital-mutilation-fgm>) for consultation.

The consultation is specifically focused on ensuring statutory guidance captures the full range of advice and support to frontline professionals and organisations who have responsibilities to safeguard children and protect adults from the abuses associated with FGM.

Previously published as guidelines, this guidance will be statutory to improve compliance with good practice with the aim of increasing referrals and reports to the police. It will mean that public sector organisations at a senior level, will be clear on their responsibilities to support staff, develop services and provide training to ensure that staff have the expertise to identify and report these problems. It sends a clear message following on from the recent enquiries into CSE that this is an important area of safeguarding practice that needs to be addressed and where effective multi-agency working is required.

Published the same day is a cross-government declaration outlining the “UK’s progress on the issue of female genital mutilation and forced marriage since the Girl Summit 2014” (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447578/160722_Cross-Govt_declaration_GS_one_year_on_final__2_.pdf). In the letter they are reinforcing their commitment to safeguard children from harm, through the strengthening of the law, improving the law enforcement response, supporting frontline professionals especially within the health sector, and working within communities with an aim to end female genital mutilation (FGM) and child, early and forced marriage (CEFM) within a generation.

Additional Information

Female Genital Mutilation Act 2003
<http://www.legislation.gov.uk/ukpga/2003/31/contents>

Tri.x Policy Brief #141: Female Genital Mutilation
http://www.trixonline.co.uk/website/news/pdf/policy_briefing_No-141.pdf

Tri.x Policy Brief #139: Serious Crime Bill
http://www.trixonline.co.uk/website/news/pdf/policy_briefing_No-139.pdf

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