

## Female Genital Mutilation Protection Orders

### 1. FGM Statistics in London

- Report by the London Assembly dated April 2017:
- Its First Annual Report re Statistics of FGM: April 2015 – March 2016 = 5072 new cases in England.
- 52% of that figure were recorded in London
- At MPS Directorate of Legal Services – From 2015 – to date, we have obtained 12 FGM orders.

### The Law

2. The Female Genital Mutilation Act 2003 was amended by section 73 of the Serious Crime Act 2015 which enacted Female Genital Protection Orders or 'FGMPOs'.

- Under the Act, the court can make an order to protect a girl against (a) at risk of undergoing FGM (b) against whom FGM has already been committed.
- Therefore, just because FGM has already occurred does not mean that an order cannot be made.
- **THE LEGAL TEST** that the court applies to grant the Order: **the court must have regard to all the circumstances, including the need to secure the health, safety and well-being of the girl to be protected.**
  - ❖ MPS has sometimes intervened to make applications where other agencies who first become aware of FGM cases consider that there is not enough information to proceed with an application.
  - ❖ This may be due to an impression that the threshold for the Orders is very high.
  - ❖ In fact, the legal test is drawn in very wide terms meaning that the threshold for obtaining the orders is relatively low.

### **3. Issues to consider before making an application**

- Do a risk assessment – consider whether an order may cause greater harm to the victim e.g where victim refuses to leave family home due to fear.
- Be aware that the victim may oppose an Order and may actively seek to undermine it because of fear. This does not prevent an order being made.
- In DLS' experience – it is better to apply and fail than not to apply at all. The courts' approach has been generally supportive of making orders.

### **4. How to make an application**

- Application can be made in any Family Court in England and Wales.
- **Application for leave** – Police and some other organisations such as local authorities cannot apply for orders as of right under the Act. The court's permission is first needed.
  - ❖ This is done using Form **FGM006** available from the Court Service website. You explain who you are and briefly why you are applying on behalf of the person at risk.
  - ❖ Courts tend to grant permission without much legal analysis on criteria to be satisfied before permission is granted.
- **The Application Itself** – Done on Form **FGM001** – again available from the Court Service website. You set out:
  - ❖ Who you are
  - ❖ The name of the person at risk
  - ❖ Their address – **unless they live at an address not known to those who pose a risk. In that case, you write their address on form C8.**
  - ❖ The names and addresses of those posing a risk
  - ❖ Reasons for seeking the Order (Section 3 of Application)
  - ❖ Draft Order (Section 5)

## **5. The Statement**

- Not much space in section 3 to explain reasons for seeking the order. Better to do a statement and say in section 3 'see attached statement'.
- Statement should explain:
  - Who the maker of the statement is and their organisation
  - Who the victim is
  - The identities of those putting them at risk of FGM
  - The background facts which causes you to believe there is a risk of FGM
  - Why you think the order is necessary (refer to the legal test).

## **6. The Order**

- The court can impose prohibitions, requirements and restrictions to protect the girl or woman at risk.

### **Examples**

- Prohibitions about the taking of any steps to cause the victim to undergo FGM
- Prohibitions against violence and threats to force the victim to undergo FGM
- The surrendering of the victim's passports to the court
- The surrendering of the suspects' passports to the court
- In the case of children – requirement that they undergo medical examinations until the age of 18

## **7. Breach of a FGM Order**

- Breach of an order: criminal offence under the Act – up to 5 years imprisonment.
- Breach is also a contempt of court – up to 2 years imprisonment.

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