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| **Female Genital Mutilation**  |  |

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**Definition: What is Female Genital Mutilation?**

Female Genital Mutilation (FGM) sometimes referred to as female circumcision is defined by the World Health Organisation (WHO) as a range of procedures which involve the partial or complete removal of the external female genitalia or any other injury to the female genital organs whether for cultural or any other non-therapeutic reasons.

FGM is classified into four types. Type 1 and 2 involve excision of the clitoris and labia minora and are the most common forms of FGM. Type 3 involves infibulation where the clitoris and labia minora are completely removed and the vaginal opening is stitched or narrowed leaving only a small opening (1 - 2cm) for the passage of urine and menstrual blood. Type 4 includes all other procedures including pricking or piercing the clitoris, cauterisation by burning the clitoris and surrounding tissues or the introduction of corrosive substances into the vagina.

There are severe consequences, including psychological and emotional consequences and the medical consequences may include extreme pain, shock, infection, haemorrhage, infertility, incontinence, HIV and possibly death.

The procedure is, in most cases carried out by an older woman with no medical training although it may also be carried out by others. Anaesthetics are rarely used, and the practice is carried out using basic tools such as knives, scissors, pieces of glass and razor blades. Often iodine or a mixture of herbs is placed on the wound to tighten the vagina and stop the bleeding.

FGM is typically performed on girls between 4 and 15, although in some cases it is performed on new babies or to young women prior to marriage.

(Source: London Female Genital Mutilation Resource Pack – London Safeguarding Children Board)

**Where Does Female Genital Mutilation Take Place?**

The majority of cases of FGM are carried out, or originate in communities from 28 African countries. In some countries such as Egypt, Ethiopia, Somalia and Sudan, prevalence rates are alleged to be as high as 98% and in other countries such as Nigeria, Kenya, Togo and Senegal, the prevalence rates are said to vary between 20-50%. FGM also takes place in parts of the Arabian Peninsula such as Yemen and Oman and by Ethiopian Jewish Falashas, some of whom have recently settled in Israel. It is also reported that FGM is practised among Muslim populations in parts of Malaysia, Pakistan, Indonesia and the Philippines.

As a result of immigration and refugee movements, FGM is now being practiced by ethnic minority populations in other parts of the world, such as USA, Canada, Europe, Australia and New Zealand.

It is estimated that as many as 20,000 girls are at risk of FGM within the UK every year.

**Why is Female Genital Mutilation Practised?**

FGM is not motivated by hate. It is often carried out by otherwise loving parents who believe it is in the best interest of their daughters. In certain patriarchal communities where FGM takes place, marriage is seen as necessary for a woman’s honour and survival. A woman who has not undergone FGM will stand little chance of marriage and will not be accepted by her community. The practice is often carried out for misguided reasons, such as a belief that it is a means of purification and of ensuring a woman is clean.

Many of the communities that practice FGM are Muslim and religion is often cited as a reason, despite the fact that neither the Qur’an nor any other holy text advocates for FGM. FGM is also practiced by some Christians of the Coptic Church in countries such as Egypt.

FGM may be carried out at different times in a girls/woman’s life, for example at birth, adolescence or before marriage.

**The Law in the UK**

Any FGM procedure on a woman or girl is unlawful under the Female Genital Mutilation Act 2003. It is also an offence under this Act for UK nationals or permanent residents to carry out FGM abroad, or to aid, abet, counsel or procure the carrying out of FGM abroad, even in countries where the practice is legal. This legislation applies equally in Northern Ireland.

In July 2015 the Serious Crime Act 2015 inserted a new section 5 (A) and Schedule 2 into the Female Genital Mutilation Act 2003. The new schedule makes provision for Female Genital Mutilation Protection Orders (FGMPOs) in England and Wales (Part 1 of the new Schedule) and Northern Ireland (Part 2 of the new Schedule). The following paragraphs should be read in conjunction with the new schedule. They are not, nor are they intended to be, a comprehensive description or interpretation of the provisions in the Schedule.

FGM is a form of abuse and violence and is a grave violation of the rights of girls and women. In England, Wales and Northern Ireland, the practice is illegal under the 2003 Act. In Scotland it is illegal under the Prohibition of Female Genital Mutilation Act 2015. In the Republic of Ireland it is illegal under the Criminal Justice FGM Act 2012.

**Child Protection and Female Genital Mutilation**

FGM is considered to be a form of child abuse (it should be categorised under the headings of both physical abuse and emotional abuse) as it is illegal and is performed on a child who is unable to resist or give informed consent. The Health and Social Care Trust (HSCT) may exercise powers under Article 66 of the Children Order 1995, if there is reason to believe that a child is likely to suffer or has suffered significant harm through FGM.

Health care professionals GPs, HVs, Nurses and Midwives are the first line professionals who are likely to encounter FGM clinically. Education and schools play a hugely important role in becoming aware of children leaving the jurisdiction or in information made available in discussions that might indicate a risk of FGM:

* Any information or concern that a child/young person is at immediate risk of, or has undergone, FGM should result in a child protection referral to the HSCT;
* Every attempt should be made to work with parents on a voluntary basis to prevent the abuse;
* Any case should be handled in line with normal child protection processes including the implementation of the Joint Protocol and case conferencing;
* Community organisations and community leaders/faith leaders should be approached to assist in facilitating work with parents and families. Working with community leaders in terms of prevention, detection and oversight is widely considered positive and protective and should be actively considered as part of any Child Protection Plan;
* A UNOCINI Assessment may also be completed and an investigation carried out in line with the Protocol for Joint Investigation and the Child Protection Policy and Procedures;
* In an emergency the police or the HSCT will exercise normal emergency protection if is necessary to safeguard a child for example to prevent her removal from the jurisdiction for the purposes of FGM.

**Indications that Female Genital Mutilation May Take Place**

There are a number of possible indicators some of which may include:

* The family come from a community that are known to practise FGM;
* Parents state that they or a relative will take the girl out of the country for a period;
* A girl may talk about a holiday to her country of origin or another country where the practice is prevalent;
* The girl may confide that she is to have a “special procedure” or to attend a special occasion or celebration for her;
* Any female child born to a woman who has been subjected to FGM must be considered to be potentially at risk, as must other female children in the extended family.

This list is not exhaustive and a fuller assessment of the child/young person’s or family’s circumstances will be required. FGM should not be seen within the context of culture, religion or tradition and should be responded to within the context of Child Abuse.

**What Should I do if I am Concerned about Female Genital Mutilation?**

If Police Officers or other members of professional staff become aware that a child is likely to be at risk of FGM, it should result in an immediate referral to the Public Protection Unit (PPU) / Social Services. If it is outside normal working hours a referral can be made to the Central Referral Unit, PSNI, Antrim Road or the Regional Emergency Social Work Service (RESWS).

If any Officer or Social Worker believes that a child is in immediate risk of significant harm they should consult with legal services for immediate action and/or consider Police Protection Orders (PPOs).

If any professional member of staff is made aware that a child/young person has already undergone FGM in the jurisdiction or an overseas country an immediate referral should be made to the local Gateway Team within the relevant HSCT. If this is outside of core hours the referral should be made to the Central Referral Unit (CRU) or the Regional Emergency Social Work Services (RESWS) for further consideration.

If an Article 66 investigation is being considered the Protocol for Joint Investigation should also be considered and applied as appropriate in these circumstances.

As with all criminal investigations, children/young people should be interviewed under the relevant procedures and guidelines outlined in Achieving Best Evidence (ABE) and Protocol for Joint Investigation to obtain the best possible evidence for use in any potential prosecution. Consent should be obtained allowing the use of the interview in both, family and/or criminal courts and additional information gained from the interview process will enable a risk assessment to be conducted as to the risk to any other children/siblings within the family.

The reasons behind FGM are complex, and can vary from community to community. However despite the very severe health consequences, parents and others who have done this to their daughters do not intend it as an act of abuse. Often they genuinely believe it is in the girl’s best interest to conform to the prevailing traditional practice within the community.

If FGM is firmly embedded in the culture of the practising communities they may resent what they perceive as the imposition of western values on them. The act of FGM constitutes significant harm and is physically and emotionally abusive. FGM is not a matter that can be left to be decided by personal preference or tradition. It is an extremely harmful practice which violates the most basic human rights. **FGM is Child Abuse and against the law**. Professionals should not let the potential fear of offending a community weaken their investigative strategy. However, all professionals should be mindful of community issues and research cultural matters relevant to the community when investigating FGM. The FGM investigation must however conform to Protocol for Joint Investigation and ABE requirements.

**Female Genital Mutilation Protection Orders (FGMPOs)**

**What is an FGMPO and which Court can make them?**

Part 5 of the Serious Crime Act 2015 contains a number of provisions relating to FGM. One of these provisions Section 73 inserts a new schedule into the 2003 Act which allows for the making of FGMPOs. An FGMPO is an order which can be made by the High Court or a county court in Northern Ireland for the purpose of protecting a girl against the commission of a genital mutilation offence or protecting a girl against whom such an offence has been committed.  FGMPOs may be for a specific timeframe or for an indefinite period until varied or discharged.

In certain circumstances a Court which is dealing with genital mutilation offence can make an FGMPO. So if a defendant is found not guilty of such an offence, but there is a continuing risk that he or she will carry out, procure, abet or assist with FGM against a girl, a FGMPO could be made.

There is also a power to make an order which extends the jurisdictions to make an FGMPO to courts of summary jurisdiction. The Court may make an assessment of how long an order should be granted for and will take account of information made in the application.  If the Court believes the risks may extend into adulthood, they may be minded to make an order for an indefinite time period.

**What factors will the Court take into account?**

In deciding whether to make an FGMPO and, if so, in what manner, 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.

The order-making power is very broad and an FGMPO may contain such terms, prohibitions, restriction or requirements as the Court considers appropriate to protect the girl in question. For example, it is known that girls are taken abroad for the purpose of FGM and the court might direct the surrendering of a passport or other travel documents. The terms of an FGMPO may relate to conduct within or outside Northern Ireland and to people who may become involved in other respects, as well as the person who commits or attempts to commit a genital mutilation offence. Involvement could include aiding, abetting, counselling, procuring, encouraging or assisting another person to commit, or attempt to commit, a genital mutilation offence or conspiring or attempting to commit such an offence.

The FGMPO may be made for a specified period or may continue until it is varied or discharged by the Court. This ensures the long term protection from mutilation, particularly where the relevant girl is very young. The Court may also combine an FGMPO with another Court Order to ensure the child/young person’s well-being and afford the HSCT the powers to act in the girl’s best interest, for example, granting a Care Order/Wardship Order. Once the FGMPO is granted the Court may vary, extend or discharge the order at any time.

**Who can apply for an FGMPO?**

A Court may, without leave, make an FGMPO on an application by the person to be protected (“the victim”) or a relevant third party (i.e., a person or someone within a class of persons specified by regulations) or any other person may, with the leave of the Court, apply for an FGMPO. In deciding whether to grant leave, the Court must have regard to all the circumstances, including the applicant’s connection with the victim and his or her knowledge of the circumstances of the victim. A Court may also in certain circumstances, make an FGMPO without an application being made.

In accordance with paragraph 21 of the new schedule, to the 2003 Act, breach of the FGMPO without reasonable excuse, is a criminal offence. On indictment the offence carries a penalty of up to five years imprisonment and/or a fine. On summary conviction the penalty is up to six months imprisonment and/or a fine not exceeding the statutory maximum. A breach of an FGMPO may, alternatively, be dealt with as a contempt of Court.

**Can an FGMPO be made without notice?**

If the Court considers it just and convenient to do so it can make an FGMPO even if the respondent has not been given notice of the proceedings (i.e. on an ex-parte basis). In deciding whether to do so the Court must have regard to all the circumstances of the case, including:

* The risk to potential victims;
* The possibility that the applicant will be deterred or prevented from making an application if an order is not immediately; and
* Whether there is reason to believe that the respondent is aware of the proceedings, but is deliberately evading service and substituted service would cause serious prejudice to the victim or the applicant.

If an FGMPO is made without notice, the court must specify a date for a full hearing, where all of the parties have been given notice.

**Social Services**

Health and Social Care Trusts (HSCTs) must investigate any allegations related to FGM under Article 66 (Children Order). If a referral is received concerning one child, consideration must be given to whether siblings or other girls, who may be part of the household, are at similar risks.

Once a concern is raised about FGM there should be further consideration of possible risks to other children within the practicing community. However, staff must act on any safeguarding issue to protect the girl from possible abuse. Professionals should be alert to the fact that any one of the girls or children amongst those could be identified as being at risk of FGM and will need to be responded to as a child in need (Article 18) or a child in need of protection (Article 66) and the appropriate procedures followed:

* On receipt of a referral and following agreement that a joint investigation is required, a strategy meeting must be convened within 24 hours in line with Protocol for Joint Investigation;
* If the strategy meeting decides that the child/young person is in immediate danger of mutilation and parents cannot satisfactorily guarantee that they will not proceed with it, then an Emergency Protection Order (Article 63) or Police Protection Order (Article 65) should be actively considered in consultation with the Directorate of Legal Services (DLS) or PSNI. The HSCT should also consult with DLS to consider making an application for a FGMPO;
* A strategy meeting must also consider if the parents or the child/young person has access to information about the harmful aspects of FGM and the law within Northern Ireland (UK). If not the parents or the child/young person should be giving appropriate information regarding the law and harmful consequences of FGM;
* When necessary due to communication issues, an interpreter and if possible a community advocate, must be used in all interviews with the family. A female interpreter should be used who is not a family relation. If there are communication issues relating to disability, appropriate methods of communication should be used;
* Every attempt should be made to work with parents on a voluntary basis to prevent the abuse;
* It is the duty of the investigating teams to look at every possible way that parental co-operation can be achieved including the use of community organisations and/or community leaders to facilitate the work with parents and families. However, the child/young person’s interests remain paramount;
* If no agreement is reached the first priority is the protection of the child/young person and at the very least legal action should be considered to ensure the child’s safety and well-being;
* The HSCT may also assist the girl to make an application for an FGMPO and provide appropriate supports, advice and information to enable her to make a fully informed decision about the application;
* The primary focus is to prevent a child/young person undergoing any form of FGM rather than removing the child/young person from the family;
* If the child/young person has already undergone FGM a strategy meeting must be convened within the prescribed timelines outlined in Protocol for Joint Investigation. The strategy meeting will consider how, when and where the procedure was performed and the implications of this, including the implications for any other child of the family/household and the safely of other female siblings;
* If the child/young person has already undergone the FGM the strategy meeting will need to consider carefully whether to continue enquiries or whether to assess the need for support services;
* If any legal action has been considered, legal advice must be sought immediately;
* Subsequent strategy meetings should be recorded in PJI 2 and must at least include Social Services and PSNI but may also involve other professionals. This meeting must evaluate the information collected from the inquiry and may recommend that a Child Protection Case Conference is necessary in line with the SBNI Regional Policy and Procedures;
* A girl who has already undergone FGM should not normally be subject to a Child Protection Case Conference or made subject to a Child Protection Plan unless additional child protection concerns exists. However, she should be offered counselling, medical help and consideration must be giving to other female siblings at risk;
* A Child Protection Case Conference should only be considered necessary or if there are unresolved child protection issues once initial investigations and assessments have been completed.

**Additional Information**

NSPCC helpline on 0800 028 3550

http://www.nihrc.org/uploads/publications/FGMinUK-15.08.2016.pdf

**End.**