

Safeguarding people with learning disabilities at risk of forced marriage: Issues for inter-agency practice

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Abstract: *The issue of forced marriage is often located within debates on violence against women, immigration control and cultural difference and rarely considers the very specific needs of children and adults with learning disabilities. Motivating factors for forcing people with learning disabilities to marry can differ from those frequently seen in forced marriage per se; most commonly they include obtaining a carer and can typically be related to the perceived stigma of disability in some communities. Many families, and indeed some practitioners, would not necessarily recognise a forced marriage as such; this has implications for inter-agency safeguarding practice. This paper considers the complexities involved in safeguarding people with learning disabilities who might be at risk and considers the factors impacting upon adequate safeguarding policy and inter-agency practice. Recommendations are made for future policy and service development in this complex and largely neglected area of practice.*

Keywords: *Forced marriage; learning disability; safeguarding*

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Introduction

This paper seeks to explore some of the complexities raised for frontline practitioners across the statutory, voluntary and independent sectors when working with people with learning disabilities at risk of forced marriage. Forced marriage is defined by the UK Home Office/Foreign and Commonwealth Office as a marriage without the consent of one or both parties and where duress is a factor. In a forced marriage one or both spouses do not consent to the marriage, or cannot consent due to a lack of capacity to make such a decision. Research and evidence from practice tells us that people with learning disabilities are being forced to marry (HM Govt, 2010; Rauf et al 2012; Clawson, under consideration). People with learning disabilities may or may not have capacity to consent and in some cases capacity will need to be assessed by single or multi-agency practitioners. The definition of learning disability adopted in this paper is that used in the 2001 White Paper 'Valuing People' as this is the definition most widely used by services and recognised by practitioners within the safeguarding arena. It is acknowledged by the author that there are a range of definitions of learning disability and indeed debates on terminology which are beyond the scope of this paper.

The issue of forced marriage is of UK and international interest, it is often understandably set within a context of domestic abuse, violence against women, immigration and cultural 'otherness' (for example, Philips & Dustin, 2004; Gill & Mitra-Khan, 2010). Whilst these factors are all pertinent, for people with learning disabilities forced marriage must also be set within the context of safeguarding and inter-professional working to ensure risks are minimised and people are protected from harm. Forced marriage is known to be associated with a range of physical, sexual and emotional abuses; as such it falls within the definition of child and adult abuse provided by *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* (2013) and *No Secrets* (2000) and requires a multi-agency approach as recognised explicitly in practice guidelines published by the UK Government Home Office/Foreign and Commonwealth Office Forced Marriage Unit (FMU):

As it is unlikely that any single agency will be able to meet all the needs of someone affected by forced marriage, this document sets out a multi-agency response and encourages agencies to cooperate and work together closely to protect victims. (HM Govt, 2009, p6).

The FMU is tasked with supporting both victims/potential victims and offering guidance to frontline professionals involved in cases of forced marriage. Established in 2003, it evolved from the Foreign and Commonwealth Community Liaison Office founded in 1999 alongside the Working Group on Forced Marriage, a time when forced marriage first began to be viewed as a public policy issue (Gill and Mitra-

Khan, 2010). The FMU also collates statistics relating to the cases of forced marriage reported to them which are referred to later in the paper.

Forced marriage differs from the practice of arranged marriage in which families take the leading role in arranging a marriage but the final decision lies with both prospective spouses, it could be argued however that there is a 'grey' area as some individuals may feel coerced and not want to upset parents but may not be under duress to marry. This thinking is summed by Demos (the think tank focused on power and politics) in a recent publication which states:

'Forced marriage is a complex, nuanced and difficult problem. It is burdened with perceptions of cultural difference and misunderstandings ...; it is sometimes hard for public officials and concerned friends and family to discern the differences between what is forced and what is arranged. (Wind-Cowie et al, 2012, p21)

Forced marriage is a form of domestic abuse and an abuse of human rights, the consequences of which contravene a number of the Universal Declaration of Human Rights for example: Article 3 - Everyone has the right to life, liberty and security of person; Article 5 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and Article 16.2 - Marriage shall be entered into only with the free and full consent of the intending spouses (United Nations website, 2012).

The giving of consent by both parties is a legal requirement to all marriages and importantly, there is no legislative or religious basis for this not being the case. Forced marriage is not a 'cultural tradition' nor a religious practice; indeed all formal religions require valid consent of both parties for a marriage to be properly recognised and most religious and community leaders publicly condemn the practice of forced marriage. However, research shows issues of domestic abuse and forced marriage may not be well understood in all communities. Gangoli et al found in their research in the UK's North East that some leaders had a simplistic view of the dynamics involved; some argued for non intervention in personal matters or stated 'families and communities should intervene if a woman had chosen an unsuitable partner' (2006, p31), thus adding to complexities in ensuring those at risk are adequately safeguarded from harm.

How widespread is the problem?

The exact number of UK citizens forced into marriage per se is not known for a range of reasons: many cases of forced marriage are often not reported for fear of consequences for self or others; many marriages take place abroad and do not come to the attention of UK authorities and there is no one central point for collecting data on known cases. The number of cases reported to the FMU has risen from 400 in

2005 to 1485 in 2012, highlighting a rise in awareness of forced marriage as an issue and willingness to report and also the need for the casework the Unit undertakes. However, the number of actual cases is likely to be much higher with Philips & Dustin stating 'The lack of reliable data made it impossible to determine the scale of the problem' (2004, p534). Some practitioners and campaigners working in the field, for example Karma Nirvana an NGO working with victims, estimate that there could be as many 8000 to 10, 000 cases per year.

Forced marriage can and does occur within any community group. Although the commonly held belief frequently perpetuated in the media is that it happens only to women South Asian families (as marriage and honour are particularly strong concepts within these cultures), there is growing evidence of forced marriage happening to men (accounting for 22% of cases reported to the FMU in 2011) and in other community groups. For example FMU figures from in 2008 suggest that 12% of victims were women originating from East Asia, the Middle East, Europe and Africa (Refuge 2009) and other research indicates forced marriages are known to have occurred in Eastern European, Chinese and Irish Traveller communities (Hester et al, 2008). In 2012 the cases reported to the FMU dealt with 60 countries (FMU website). Forced marriage happens to adults and children with the FMU reporting cases varying in age from two years old to someone in their 80's. It happens to disabled and non-disabled people.

The number of people with learning disabilities being forced into marriage is not known. The FMU started collecting statistics of the number of cases reported to them in 2010 with 53 cases reported in 2011. However, given that all types of abuse of disabled children and adults with learning disabilities are under reported it is possible to deduce that those cases of forced marriage that are reported represent the tip of the iceberg. In addition, many cases of forced marriage involving a person with a learning disability are not recognised as such and the person may not have means to report (HM Govt 2010; Clawson under consideration). It has been argued by Khanum (2008) that the definition of forced marriage should be widened out to include 'false marriages', where people are tricked into giving consent by for example being given false information. This is particularly pertinent for marriages where the non disabled spouse has not been informed that their partner has a learning disability and they will be their full time carer. There are also indications that unlike forced marriage of non-disabled people the ratio of men and women with learning disabilities forced to marry may be more equal (Clawson, under consideration).

The lack of data relating to numbers of forced marriages of people with learning disabilities (and hence an understanding of experiences of victims) has an impact on the ability of agencies with a responsibility for assessing risk and safeguarding to plan a response - both in terms of potential numbers of people requiring support or indeed in terms of resources put into training the workforce on the issue. Despite this however, there is evidence of a growing awareness in agencies tasked with safeguarding and an increase in the number of dedicated professional roles for example police officers with a specific remit of forced marriage in various Forces and indeed the FMU

now has a case worker specifically working with people with learning disabilities. There are examples of good practice across England and Wales of Local Authorities establishing multi-agency protocols, although there are also Local Authorities that believe forced marriage of people with learning disabilities is not an issue in their area (Clawson and Kitson forthcoming).

Motivators and consequences

Agencies and frontline practitioners require an awareness of the role that concepts of disability play in the everyday lives of people in a range of cultures. In a number of communities having a disabled child carries huge stigma and associations of former wrongdoing or witchcraft (DCSF, 2006). As such disability is viewed as negative or shameful, people with learning disabilities have low social status and are viewed as having few rights thus increasing their likelihood of social isolation and dependency on family members to provide care. This in turn may influence families making the decision that marriage is the best option to meet everyone's needs.

It is well documented that some of the motivating factors for forcing someone to marry include preserving family honour, land or wealth, maintaining family ties, preventing perceived undesirable behaviour for example issues around sexuality, having a relationship, substance misuse etc (HM Govt, 2009). Whilst these factors may also hold true for people with learning disabilities, research has indicated that by far the most common factor in forcing someone with a learning disability to marry is parents wanting to obtain a long term carer for their child – parents seek to ensure that their child will be cared for physically and financially when they are no longer able to provide the level of care required themselves (HM Govt, 2009; HM Govt 2010; Clawson, under consideration).

There is a need for agencies to have a greater understanding of cultural traditions with regard to family care and although a strong message needs to be sent out that forced marriage is unacceptable, families should not be demonised, practitioners need try to understand why decisions are made and work with community and faith leaders to raise awareness of both the consequences of forced marriage and alternatives. There is concern however that some families would be extremely unlikely to choose support from 'outside' agencies whatever the circumstances. Singh and Orimalade state 'Cultural and religious attitudes are important in how care is sought, delivered and accepted' (2009, p405), they cite a study by Fatimilehin and Nardishaw (1994) which found that many South Asian families want care to be provided by a relative rather than outside agencies when parents are no longer able to provide it themselves. When coupled with a strong tradition towards marriage attitudes may be even more difficult to shift, the Judge in the case of DD (outlined later in this paper) stated 'I doubt whether an effective support scheme would have led to any different approach

by the family to the need to provide support for DD from a spouse.’ ([2012] EWHC 2183 (COP)) para 96 (181)).

Other motivators for forcing someone with a learning disability to marry include obtaining physical assistance for ageing parents and some communities believing the marriage will somehow ‘cure’ the disability. Indeed Singh & Orimalade state ‘There is also a belief amongst several ethnic minority cultures that a learning disability can be cured’ (p406). Others view marriage as a ‘rite of passage’ for all young people including those without capacity to consent. There is evidence of parents openly informing professionals that in their culture consent from the individual is not required; some parents believe they can provide consent on their child’s behalf (HM Govt, 2010; Clawson, under consideration). This was borne out in the case of DD where the Judge stated ‘Professor... in his opinion told the court that Bangladeshi Islamic law allows for a valid marriage of minors and by extension, persons without the mental capacity to consent, providing that the guardian has the capacity to consent’ (para 14 (174)). Further motivators include mistrust of the ‘system’ and external (for example, social care/health) carers; fear that younger siblings may be seen as undesirable if older sons or daughters are not already married and marriage being seen as the only option or the right option (or both). Indeed families sometimes believe there is no alternative to forced marriage (HM Govt, 2010; Clawson, under consideration).

The consequences of forced marriage are varied and can include emotional abuse such as taunting, a range of physical and sexual violence, including being raped until pregnant and being abandoned by the spouse. Other consequences include curtailment of freedom and being treated as the family servant - both of which can occur to the person with the learning disability or indeed their spouse (HM Govt, 2010; Clawson, under consideration). In addition to this the non-disabled spouse may not be aware that having sexual relations with a person who does not have capacity to consent is an offence under the Sexual Offences Act 2003.

The range of motivating factors and consequences all have implications for frontline practitioners and multi-agency practice. Wind-Cowie et al state that

The fundamental problem underlying the inconsistency in the UK’s response to forced marriage comes from a lack of understanding among frontline workers and commissioners ... (2012, p57)

Children and adults with learning disabilities frequently require support from a range of health, social care, education and third sector services. Lack of co-ordination, information and skills can place people at risk. There are elements of dealing with cases of forced marriage per se which if applied to people with learning disabilities could place them at further risk – the way forced marriage is understood and viewed has huge implications for frontline practice (Clawson, under consideration).

Inter-agency approaches to safeguarding disabled children and vulnerable adults

Key factors differentiate forced marriage of people with learning disabilities from those without and this understanding needs to underpin safeguarding practice and policy. The key differences, outlined in 'Forced Marriage and Learning Disabilities' (2010) are:

Person without a learning disability	Person with a learning disability
Duress always a factor	Duress not necessarily a factor or may manifest itself differently. Person may even appear happy about forthcoming marriage.
Victim often reports themselves that they may be or have been forced into marriage.	May report themselves or may need support to report. May be reliant on others to recognise what is happening and report or take action. By far the majority of cases come to the attention of statutory agencies through a third party.
More females than males reported to be forced into marriage. Most support services for forced marriage focused on meeting needs of females	Research showed proportions of males and females with learning disabilities being forced into marriage may be similar. Services need to address needs of males and females.
Capacity to give or withhold informed consent to marriage	May lack capacity to give consent to marriage. May not understand they are being forced into marriage. May be more easily coerced into marriage.
May be able to obtain support themselves if leave family or community (to find work, apply for benefits, housing, medical needs and so on), though they are often supported in accessing accommodation and other support services, particularly in the short term.	Often need ongoing support from a range of professionals in order that daily living needs are met (may include personal care, helping to eat, shopping, finances, social and leisure activities, work and so on). May need specific and specialist support if placed in a refuge. Males may find it difficult to obtain place of safety given limited availability of refuges to meet needs of males with or without a learning disability

(Source: HM Govt, 2010, p25)

In 2010 the UK Government recognised the need for better equipped and more knowledgeable practitioners and a multi-agency approach to forced marriage of people with learning disabilities. The FMU Domestic Programme Fund financed research

to consider best practice in this area (Clawson, under consideration). One output of the research was the publication of 'Forced Marriage and Learning Disabilities: Multi-agency practice guidelines' by the FMU in Dec 2010 which states that

Strategic bodies should ensure that their member agencies work effectively to be sure that existing policies and procedures include ways of meeting the specific needs of children and adults with learning disabilities. (p7)

There are already in place a number of mechanisms for ensuring greater co-operation between agencies in the safeguarding arena, for example Sec.11 of the Children Act 2004 places a range of duties on agencies to make 'arrangements which set out clearly the processes for sharing information, with other professionals and with the Local Safeguarding Children Board ' for children considered to be at risk of harm (*Working Together*, 2013, p.48), and *Working Together* (2013) stipulates that

all professionals share appropriate information in a timely way and can discuss any concerns about an individual child with colleagues and local authority children's social care. (p7)

It is also envisaged that the Care and Support Bill will make roles and responsibilities around adult safeguarding clearer and will encourage a more co-ordinated approach between local authorities, NHS organisations and the police. In addition, Government policies and guidance firmly place forced marriage within the multi-agency safeguarding arena; for example, although no such mention is made in the new version, *Working Together to Safeguard Children* (2010) stated that:

all those with a duty to safeguard and promote the welfare of children should have regard to the statutory guidance *The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage*. (p.198)

The statutory guidance this statement refers to is however rather aimed at Chief Executives, Directors and Senior Managers, it sets out 'the duties and responsibilities of agencies with the aim of protecting children, young people and adults facing forced marriage' (p7). The guidance seeks to ensure all agencies are clear about their own role and the requirement for joint working to protect clarifying 'There are policies and procedures in place so organisations can work effectively together to protect people facing forced marriage' (p17), thus sending a clear message that as is required in other forms of safeguarding, protecting children and adults from forced marriage requires a multi-agency and inter-professional approach. *The Forced Marriage and Learning Disabilities: Multi-agency guidelines* made clear that:

All cases of forced marriage should be tackled using existing structures, policies and

procedures designed to safeguard children and vulnerable adults. However, existing structures may not always meet the needs of children and adults with learning disabilities; it may be that existing policies and procedures require adaptation to ensure the safeguarding needs to tackle this issue are met. (p7)

It is not yet clear whether agencies have changed existing policies and procedures to meet the needs of people with learning disabilities – the FMU Domestic Programme Fund is currently funding a follow-on research project to help establish this (Clawson and Kitson forthcoming).

There is not, as yet, a criminal offence of ‘forcing a person to marry’ although many offences can be committed in the act of forced marriage including physical and sexual assault, rape, kidnap and murder. The legislative position will change by the end of 2013 as new legislation, announced by the Coalition Government in June 2012 is introduced. The protection of those threatened with or already in forced marriages is currently dealt with through civil law. In England and Wales, Forced Marriage Protection Orders can be obtained by the individual themselves or a relevant third party (including Local Authorities) under the Forced Marriage (Civil Protection) Act 2007. How the new legislation will work in practice remains to be seen, there are many arguments for and against putting such in place and any new legislation needs to run alongside a robust plan for safeguarding.

Arguments for and against making ‘forcing someone to marry’ a criminal offence	
For	Against
<ul style="list-style-type: none"> • Sends out a strong message that forced marriage will not be tolerated • Criminalises perpetrators who could be subject to ongoing supervision after sentencing • Helps to clarify the position for many practitioners 	<ul style="list-style-type: none"> • Legislation exists but is not consistently applied • Lack of understanding of current legislation by professionals • Criminalisation could discourage victim reporting • Could prevent future reconciliation • Could be seen to ‘deal’ with the issue of forced marriage, without addressing longer-term matters such as support, education/awareness-raising in communities and professionals

(Rauf et al, 2013)

Clawson (under consideration) found in her research that there are a range of reasons as to why people with learning disabilities at risk of forced marriage were not adequately safeguarded, for example: frontline practitioners and managers are not always clear about what constitutes a forced marriage - indeed Gangoli et al found ‘very few statutory or voluntary agencies have an understanding of forced

marriage' (2006, p10) and a report from the grassroots organisation Imkaan which supports victims of forced marriage found 'despite there being adequate guidelines and materials available about harmful practices, these tend not to be well integrated into local government and NHS policies, priorities and strategic plans' (Wind-Cowie et al, 2012, p56). Frontline practitioners also fear being perceived as racist or culturally insensitive. Families might use this as a way of resisting input from professionals as Wild points out there is 'use of accusations of racism by parents to disarm and destabilise professionals' (Wild, 2010, cited in Tuck, 2013, p9). However Mandy Sanghera an independent campaigner on forced marriage of people with learning disabilities is clear that safeguarding 'is about protection, not political correction' (personal correspondence) and that practitioners need to find a way a working through this.

Clawson's research found that many frontline practitioners believed that they and their agencies lacked the knowledge and skills required to work with people with learning disabilities forced into marriage. She also found that senior managers are perceived by frontline workers as viewing maintenance of relationships with hard to reach communities as a higher priority than safeguarding in individual cases of forced marriage. In addition, forced marriage is not always understood as a local safeguarding issue at a strategic level. For example in 2012 following consultation between the FMU and Association of Directors of Adult Social Services (ADASS) a working information document was jointly published clarifying the role of the FMU and expectations of local authorities in the undertaking of capacity assessments of people referred by the UK Border Agency. The document states

In December 2010, the FMU published multi agency practice guidelines around forced marriage and people with learning disabilities, which very much focused on preventing forced marriages of adults with learning disabilities... They have been extremely useful in tackling such cases. However, it has become clear that their existence is not well known across all adult social care and safeguarding staff. (ADASS, March 2012)

thus indicating that there continue to be difficulties in agencies both understanding their function and working together to protect victims. Indeed it is widely recognised that often where things 'go wrong' this is a result of a lack of information sharing or agencies working together. The situation with forced marriage is no different; as the Government Statutory Guidance outlines, there are

specific arrangements that may inadvertently place a victim at risk of harm. These include failure to share information appropriately between agencies, the danger of involving families, breaches of confidentiality and all forms of family counselling, mediation, arbitration and reconciliation. (*The Right to Choose : Multi agency statutory guidance for dealing with forced marriage*, p.7).

Research and evidence from practice has demonstrated that children and adults with learning disabilities have an increased risk of being abused for quite complex reasons including being isolated, having impaired communication and being dependant on carers for support (NSPCC, 2003; Stalker & McArthur, 2012; Sullivan & Knutson, 2000). They are also less likely to be safeguarded from harm than their non-disabled peers (NSPCC 2003; Cooke and Standen 2002). There are a range of reasons cited for this which are pertinent to the way in which forced marriage of children and adults with learning disabilities is planned for and managed by those agencies and individuals tasked with safeguarding, these include: the practitioner not recognising a safeguarding issue; over identifying with a parent or carer; the professional lacking confidence or knowledge/skills to either recognise a protection issue as such or to act upon it; accepting what are perceived to be 'cultural norms' and reliance on parents/carers to speak for the person with the learning disability (adapted from Edwards and Richardson in NSPCC 2003). These issues and others including immigration status, capacity to consent and issues pertaining to the legal ending of such a marriage were highlighted in a recent case taken to the Court of Protection ([2012] EWHC 2183 (COP)) :

Case example: DD

DD is an adult with a very significant degree of learning disability. She was married to her cousin in Bangladesh in 2003. Following two failed attempts to enter the country her husband gained entry (with DD as sponsor) in 2009 at which time he moved in with the extended family and slept in the same bed as DD.

The Judge stated 'It does seem to me also that there was effective lack of communication between medical and Social Services over a number of years'(para 96 (182)). DD however eventually came to the attention the Local Authority Learning Disability Team and the police sought a Forced Marriage Protection Order in recognition of the fact that she could not have consented to the marriage. The husband remained in the family home but was ordered not to have sexual relations with her; he was subsequently removed from the home and ordered not to have contact with her. In a Court of Protection hearing DD was deemed not to have capacity to consent to marriage or sexual relations.

The Judge stated 'It is unfortunate that the social services department of XCC had not been previously alerted to the fact that a woman with severe learning difficulties had been married abroad, and that she had needs with which she and her family required assistance...For their part, DD's parents did not perceive that there was any problem with DD being married and neither had the family's GP, whose advice had been sought on at least three occasions about marriage and pregnancy for DD over the years'. (Para 6)

This case highlights some of the complexities in forced marriage of people with learning disabilities including forced marriage being recognised as such and being

acted upon following multi-agency safeguarding policy and procedure. This case is also interesting as much debate centred on the likely outcome of dissolving the marriage. The family argued (and Social Services agreed) that it would lead to stigma and shame for DD and the family, however the Judge clearly viewed the needs of DD to be safe as being paramount:

[If this] argument is to be followed, then the beliefs and views of DD's family would extend to the court condoning sexual relations, and the risk of pregnancy; and create implicit recognition of a marriage which has been forced on her within the definition of the Forced Marriage (Civil Protection) Act 2007. (para 66)

The issue of DD's capacity was central to this case.

Assessing capacity to make complex or serious decisions

The question of mental capacity is fundamental in safeguarding people with learning disabilities from harm. Many people with learning disabilities have the capacity to consent to marriage and should be supported to do so if this is their wish, however some people with profound learning disabilities will not ever have the capacity to consent and there is a large group for whom capacity will need to be assessed. One of the key issues relating to frontline practice in terms of forced marriage is that of assessing capacity – this can be a complex process involving a range of professionals. However, it is not so simple as to say that those without capacity are more vulnerable as many people with capacity are more easily coerced into marriage or may not fully understand the implications of entering into marriage.

All individuals have the right to make their own decisions (including unwise decisions); indeed the Mental Capacity Act 2005 starts from a presumption of capacity unless it can be proved otherwise. The Act can be used to make 'best interest' decisions for an individual deemed to lack capacity to make a decision on a specific issue (under the Act capacity is assessed to make a specific decision at a specific time). However the Act places restrictions on the areas of an individual's life where 'best interest' decisions can be made by a third party, the decision to marry is not included – a third party cannot decide that a marriage is in the best interest of someone else, hence *all* marriages involving one or more person who cannot consent must be considered forced, this was borne out in the case of DD as the Judge stated 'Force' in the context of a person who lacks capacity must include inducing or arranging for a person who lacks capacity to undergo a ceremony of marriage, even if no compulsion or coercion is required as it would be with a person with capacity' (para 30 (186)).

The Forced Marriage and Learning Disability: Multi Agency Guidelines offer guidance to practitioners to support them in assessing capacity to marry:

To assess a person's capacity to make more complex or serious decisions ask:

Is there a need for a more thorough assessment (perhaps by involving a doctor or other professional expert)?

These are possible questions to ask when assessing capacity to consent to marriage (this list is not exhaustive and should be used as a guide only):

What is a husband/wife?

What is a marriage?

What is different about being married or unmarried?

Can you name your body parts including intimate parts of the body?

Do you know what different body parts are used for?

Which are sexual or non-sexual parts?

(HM Govt, p22)

The safeguarding task becomes all the more complex as many families do not view what they are doing as wrong and often believe they have the right to make a decision on behalf of their child (Clawson, under consideration), indeed in the case of DD the judge said

I found that DD is a loved and valued member of her family and that her parents are devoted to her. The family is bewildered and disconcerted that they are seen as having done anything wrong, and that what they have done may be seen as contrary to DD's best interests. (para 9)

As such, frontline professionals can begin to question their own beliefs, values and practice and become more concerned with being perceived as acting in a culturally insensitive manner thus impacting upon their ability to adequately safeguard those at risk.

Working with families

Unlike cases of forced marriage per se, cases involving people with learning disabilities often come to the attention of frontline professionals through a family member talking about their intention to support their child to be married – particularly as many view the arrangement as acceptable and indeed securing their son or daughters future care needs. The Multi-agency practice guidelines *Handling Cases of Forced Marriage* understandably stipulates 'Mediation can ... place someone at risk of further

emotional and physical abuse' (p25), indeed the risk to the individual of undertaking family mediation should not be underestimated as victims can be seriously harmed or killed. However practitioners working with people with learning disabilities will have occasion to talk to family members where they have freely given information. In these cases

action to involve the victim's family in this way should only be taken by professionals with specialised knowledge, in exceptional cases and not routinely, as the victim could be put at increased risk of harm, which could result in a serious threat to their life. (HM Govt, 2010, p15-16)

Practitioners can work with families to help them understand issues of capacity and possible consequences of their actions as the case study of Navin demonstrates:

Navin's parents tell his social worker that they are planning to take him to India in the summer for him to be married; he is 22 and has a severe learning disability. When the social worker questions Navin's capacity to consent to marriage his parents state that in their culture this is not necessary and they can consent for him. The social worker spends time with the parents and involves them in the process of assessing Navin's capacity; they eventually agree that the marriage should not take place.

(adapted from HM Govt, 2010, p24)

Practitioners require an understanding of the 'one chance rule' in that they may only have one opportunity to safeguard the person from harm (including being killed) or being removed from the country to be married. This means that all those working with people with learning disabilities need to understand their role and duty in recognising and reporting any potential or actual victims. Care needs to be taken to ensure the person with the learning disability is protected from harm and the family are not disguising compliance whilst actually intending to go ahead with the marriage. Inter-professional working and the sharing of information can help mitigate this risk, practitioners need to 'understand the importance of sharing information with other agencies at the earliest opportunity' (HM Govt 2007, p17).

Potential warning signs need to be understood by all practitioners, in addition to being told by a family member that a marriage is planned for people with learning disabilities these can include:

- Person talking about marriage, jewellery or wedding clothes.
- Family member raising concerns that a relative may be, or has been forced into marriage, or informing a professional that their relative is to be married.
- Family member asking frontline professional to sign a passport application form or visa immigration form.
- Being taken away from the school or day centre, or out of the country, without explanation.

- Change in emotional or behavioural presentation, for example, becoming anxious, depressed, frightened and emotionally withdrawn or exhibiting joy or excitement. (HM Govt, 2010, p 15)

In some cases the forced marriage of a person without capacity comes to light years after the marriage took place and children may have been born. Additional complexities can arise in meeting the needs of those who cannot safely stay with their own family or within their own community, not least because of the lack of refuge provision for people with learning disabilities (Beverley Lewis hostel in London being the only UK refuge for women with learning disabilities and no such service exists for men). These cases can be extremely complex and assessment of risk and quality of the relationships and must be central to work undertaken.

Conclusion

Forced marriage of people with learning disabilities is a complex area requiring an inter-professional response at strategic and frontline practice levels. All too frequently forced marriages of people with learning disabilities are not recognised as such and there is a fear from frontline practitioners working with BME families that they might 'get it wrong' or appear at best culturally insensitive or at worst racist. Government policies and guidance provide for a multi-agency approach to forced marriage, however improving recognition of cases involving people with learning disabilities needs to be given a higher priority. There is a need for multi-agency training and improved sharing of good practice (Clawson, under consideration). Multi-agency protocols, planning and working should be central to ensuring the improvement of safeguarding this group of extremely vulnerable people.

Note

The author established and chairs the National Steering Group on Forced Marriage and Learning Disability on which the FMU and a range of statutory and voluntary organisations are represented.

References

- ADASS/FMU information letter published March 2012 http://www.adass.org.uk/images/stories/Policy%20Networks/Safeguarding_Adults/ForcedMarriageMar12.pdf accessed 19.03.13
- Clawson, R (under consideration) *Forced Marriage of People with Learning Disabilities: The nature of the problem and complexities of safeguarding those at risk*
- Cooke, P and Standen, PJ, (2002) 'Abuse and disabled children: Hidden needs?' in *Child Abuse Review*, 11, 1, 1-18
- DCSF (2006) Child abuse linked to accusations of spirit possession and witchcraft. *Research report RR750*.
- Department of Education (2010) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. London: HM Government
- Department of Education (2013) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* London: HM Government
- Dept of Health (2000) *No Secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse* London: HM Government
- Dept of Health (2001) *Valuing People: A New Strategy for Learning Disability for the 21st Century*. TSO: London
- HM Government (2009) *Multi-agency practice guidelines: Handling cases of Forced Marriage* London : Forced Marriage Unit:
- HM Government (2010) *Forced Marriage and Learning Disabilities: Multi-agency practice guidelines* Forced Marriage Unit
- Forced Marriage Unit website – statistics for 2012 accessed 18.03.12 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/141823/Stats_2012.pdf
- Gangoli, G., Razak, A. and McCarry, M (2006) *Forced Marriage and Domestic Violence among South Asian Communities in North East England*. Bristol: University of Bristol
- Gill, A and Mitra-Khan, T (2010) 'Moving toward a 'Multiculturalism without culture': Constructing a Victim-Friendly Human Rights Approach to Forced Marriage in the UK' in Thiara, R, K and Gill, A (eds) *Violence Against Women in South Asian Communities: Issues for Policy and Practice*. London : Jessica Kingsley
- Hester, M., Chantler K., Gangoli, G., Devgon, J., Sharma, S., and Singleton, A (2008) *Forced Marriage: The risk factors and effect of raising the minimum age for a sponsor, and of leave to enter the UK as a spouse or fiance(e)* (University of Bristol Research Summary)
- Khanum, N. (2008). *Forced Marriage, Family Cohesion and Community Engagement: National learning through a case study of Luton*. Luton: Equality in Diversity
- NSPCC (2003) *It Doesn't Happen to Disabled Children: Report of the National Working Group on Child Protection and Disability*. London: NSPCC Publications
- Phillips, A and Dustin, M (2004) 'UK initiatives on forced marriage: Regulation, dialogue and exit' in *Political Studies*, 52, 531-551
- Rauf, B., Saleem, N., Clawson, R., Sanghera, M., and Marston, G (2013) Forced marriage: Implications for mental health and intellectual disability services. *Advances in Psychiatric Treatment*, 19, 135-143

- Refuge (2010) *Forced Marriage in the UK: A scoping study on the experience of women from Middle Eastern and North East African Communities*. London: Refuge publications
- Singh, I and Orimalade, A (2009) Ethnic minority groups, learning disability and mental health, *Psychiatry*, 8, 10, 405-407
- Stalker, K and McArthur, K (2012) Child abuse, child protection and disabled children: A review of recent research. *Child Abuse Review*, 21, 1, 24-40
- Sullivan, P. M. and Knutson, J. F. (2000) Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse and Neglect*. 24, 10, 1257-1273
- Tuck, V (2013) Resistant parents and child protection: Knowledge base, pointers for practice and implications for policy. *Child Abuse Review*, 22, 5-19
- United Nations website – Universal Declaration of Human Rights <http://www.un.org/en/documents/udhr/> accessed 19/03/13
- Wind-Cowie, M., Cheetham, P and Gregory, T (2012) *Ending Forced Marriage*. London: Demos