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My Marriage My Choice

Case Study Collection

Learning from case studies of forced marriage of people with learning disabilities



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My Marriage My Choice Case Study Collection

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¹ <https://www.gov.uk/guidance/forced-marriage>

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About this document²

This document tells the stories of people with learning disabilities who have been forced to marry, to raise the profile of a little understood issue and contribute to a shift in thinking that will improve safeguarding policy and practice. Forced marriage of people with learning disabilities is different to forced marriage of people without learning disability. As such, it is often not recognised as forced by families, faith leaders or professionals. Some professionals see it as a 'cultural issue' and fear being seen as racist or culturally insensitive. This all impacts upon safeguarding policy and practice.

Many factors that contribute to forced marriage (see later section entitled 'Context') need to be recognised in order to improve safeguarding policy and practice. Research shows that, despite small pockets of very good practice, in many areas adult social care practitioners and other agencies tasked with safeguarding vulnerable people (e.g. police, health, education) currently do not have the knowledge, skills or policies to adequately recognise who might be at risk and address how they might be best safeguarded. Nor do all Safeguarding Adult Boards have strategic plans in place to address the issue (Clawson 2013; Clawson, 2016; Clawson & Fyson 2017).

To date, very little has been known about the experiences of people with learning disabilities, or the perspectives of their families and social networks, including community/faith leaders. Their views are vital if the safeguarding community is to adequately understand the issue. Safeguarding functions can only be improved if the range of motivating factors and consequences involved in forced marriages are known. 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). Our research sought to address this. We have produced new understandings of the dynamics of power and abuse of forced marriage by examining data held by the UK Government's Forced Marriage Unit and by interviewing people with learning disabilities, their families, community/faith leaders and practitioners about the issue. The findings contribute, for the first time, to a comprehensive understanding of the experiences of all parties involved.

Each case study herein is a composite of various stories and reports from actual cases provided by the Forced Marriage Unit and gathered from participants during the interviews and focus groups conducted as part of the My Marriage My Choice research project. The people depicted in each case study are fictional though the experiences described have all been experienced by someone with a learning disability in the UK, at some time.

Change needs to happen to keep people safe. We hope that these composite case studies will provide practitioners and others with a greater understanding of the issues. We hope that by highlighting the experiences of people with learning disabilities who are forced to marry we will open up debates by and for practitioners so that change might happen more quickly and effectively.

² This document is part of a suite of resources, including a Summary of Findings (full, short and easy-read versions), an Awareness Film for use with stakeholder groups and Tool-kit and Guidance for Assessing Capacity to consent to marriage – see end of document for further resources

Introduction

The My Marriage My Choice project (a two-year study funded by the National Institute for Health Research, School for Social Care Research) has been conducted with a view to exploring forced marriage of adults with learning disabilities³ from a safeguarding perspective. Its aim was to develop knowledge, policy and practice to support professionals in their work of safeguarding vulnerable children and adults.

Forced marriage is defined by the UK Government Forced Marriage Unit (a joint Home Office/Foreign and Commonwealth unit) as a marriage without the consent of one or both parties and where duress is a factor. Forced marriage is different to arranged marriage where both parties have the right to say no if they so choose. In a forced marriage one or both spouses do not, or cannot, due to lacking capacity, consent to the marriage.

Since June 2014 forcing someone to marry has been against the law (Anti-social Behaviour, Crime and Policing Act 2014), punishable by up to seven years in prison and an unlimited fine. Forced marriage happens to people with learning disabilities who may or may not have capacity to consent to marriage. It happens in a range of communities, the FMU have dealt with cases from over 90 countries. It is not possible under UK law for anyone to make the decision to marry on another's behalf, as such, any marriage of a person who does not have capacity to consent is against the law.

“So anyway she went ahead. She got her married, and then the people they just didn't care about her. Because at the time they knew we were in the UK, so they could get her husband over here....So anyway they took her to the village....and they didn't used to look after her properly, not cleaning her and just messy here and there, dirt everything. And once my mum went over to visit by surprise, and she caught them out. She had all her hair like this, and over there in summertime it's very hot. You're looking about over 40s, and she's sat outside in the hot weather where everybody else is sleeping, which is wrong”

(From a relative who advised against marriage for a family member with a learning disability)

³ The term 'learning disability' is used throughout this document as this is the term most frequently used by practitioners in the UK. Learning disability is defined as:

- A significantly reduced ability to understand new or complex information, to learn new skills (impaired intelligence) with;
- A reduced ability to cope independently (impaired social functioning);
- Which started before adulthood, with a lasting effect on development.

[*Valuing People' White Paper 2001- Dept. of Health*]

However, we know that people with learning disabilities are being forced to marry and are experiencing physical and sexual assault, pregnancy and childbirth, emotional harm and abandonment as a result. In some cases, both the person with the learning disability and their spouse are victims and experience abuse from extended family members. Sometimes the spouse does not know they are marrying a person with a learning disability and will be expected to care for them and their family.

Context

People with learning disabilities and their autonomy

Data from the Forced Marriage Unit (FMU) demonstrate the increase year on year (2009-2015) of cases being reported in respect of people with learning disabilities, which is in line with increased reporting in all cases. Some key differences have been highlighted however in terms of age and gender of those cases reported in respect of people with learning disabilities and those in respect of all reported cases. There appears in particular to have been a reversal in trends related to gender, with more cases of males with learning disabilities being reported than those of females with learning disabilities as compared with all cases being reported. The ages of people with learning disabilities being reported as being at risk of or having been forced into marriage are higher than in all cases reported. There is evidence therefore to suggest that the profile of a 'typical' person who may be at risk of forced marriage is notably different in each of the wider population and the population of people with learning disabilities. This has implications for everyday practice in terms of recognising potential cases and in turn in terms of the safeguarding of people with learning disabilities.

Most of the people with learning disabilities we spoke to as part of this project recognised that they have the right to choose if they get married and to whom, though the degree to which they might be able to exercise these rights was variable and was largely determined by individuals' own capacity to understand marriage and their family and daily-living circumstances. Whilst some people with learning disabilities demonstrated a strong conviction and willingness to vocally exercise their rights to choose for themselves, there remained a strong deference to others (particularly parents) over such decisions.

There's lots of people who I know who wouldn't be able to say no to their Mums and Dads. If their Mum and Dad said, you've got to go out with such and such a body, or you've got to go and marry that person, I think that person would do it, because they would be worried about upsetting their Mum and Dad, of saying no to their Mum and Dad.

(From a young adult with learning disabilities)

When presented with specific scenarios about forced marriage people with learning disabilities became less sure of the rights and wrongs of particular situations and more likely to acquiesce with persuasive suggestions and solutions. Those who expressed the most willingness to say no to unwanted marriages were those with observable (during interview) capacity, those who expressed a fairly wide frame of reference on marriage and those who regularly accessed varied social opportunities. This suggested that less autonomy and a greater vulnerability to forced marriage may exist for those who experience limitations in any or all of these.

Motivations for and consequences of marriage

As noted above, forced marriage of people with learning disabilities differs from those without. This creates huge complexities in both understanding and responding to cases. One of the key differences is the reasons for marriages taking place. By far the most common reason cited by families and professionals was securing a long term carer for a son or daughter.

...if they think oh no, there is no care, nobody is going to look after my son or daughter, then maybe they will force their son or daughter to get married because of their future

(From a parent carer)

Most families believe they are doing the 'right' thing and would not view encouraging (coercing) someone with capacity or organising the marriage of someone without capacity as 'forced marriage'. In many cases the family have good intentions.

Most people interviewed were unaware of the law making forced marriage illegal. Some marriages take place in the UK but most take place abroad, some are marriages recognised under UK law whilst others are religious ceremonies not recognised as a legal marriage in the UK but still fit the definition of a forced marriage. In marriages that take place abroad the UK citizen will often return home alone and await the outcome of a visa application for their spouse. There can be negative implications for the spouse without the learning disability, particularly if moving to the UK from another country. Some (particularly women) are treated as servants within the home and themselves become victims of emotional, physical and sexual harm. Understanding how to access support to escape a forced marriage is therefore an issue for both parties. There are also consequences for both parties of a failed marriage. In some circumstances the spouse without the learning disability will be ostracised by his/her family should they return to their home country as family 'honour' has been diminished in what is often attributed as a personal failure by the returning spouse. Additionally, if a marriage takes place abroad and children are born as a result of the union, the UK citizen may face significant challenges in returning home with them.

In communities where marriage is held in high regard, additional impacts were cited such as the stigmatising effect on subsequent siblings of an older brother or sister not being married (they become less of a 'good' marriage prospect) and complexities involving money and financial arrangements. Some people reported being married abroad, returning to the UK and then sending money 'home'. Stigma was cited by people interviewed as being a reason for arranging a marriage. Many people feel ostracised by their community and unable to take part in day-to-day social activities. Being married is seen to lessen stigma for the whole family and marriage is seen as 'normalising' the person with a learning disability. Additionally, in some communities the notion of having a 'girlfriend' or 'boyfriend' is not accepted, therefore the only way to enter a relationship is by being married. Some people with learning disabilities may appear really happy about the prospect of being married but may not have the capacity to consent and for some the distinction between a 'wedding' and a 'marriage' is not clear.

Where marriage takes place there is often pressure to have children. For some women with learning disabilities this means being repeatedly raped until they become pregnant. For men with learning disabilities it can mean invasive procedures to test virility. For people without the capacity to consent to a sexual relationship the experience of sex and child birth can be traumatising. Some will not be able to keep children born to them. For some families the birth of children means the long term care of the person with the learning disability is further secured as children will take on a caring role when old enough. Though our research focused on adults with learning disabilities, we were also told of children who had been married as young as 12 who then went on to have their own children. Early pregnancy is known to carry risks for both mother and baby.

Faith and community leaders interviewed, suggested that parents were a very strong driving force in decisions about marriage and made assumptions that parents knew what might be best for their child.

“I think parents know [if someone] is ready to marry or not”

“So you become like one voice among many. So yes they will listen to your advice, but your certainly won’t be the main influence in their decisions”

(From faith/community leaders)

Leaders saw their own role as preparing people for marriage, supporting them in marriage, and stated that it was often the case that they only became involved when relationships were experiencing difficulty and required mediation. Many leaders also suggested that risks of forced marriage were low as the form of, and preparation for marriage, within their faith, would mean that any issues of risk would be identified during that time of preparation. The idea that there is a low risk of forced marriage is concerning as data suggests that forced marriage among people with learning disabilities is on the increase and as the following case studies will demonstrate the consequences for individuals can be profound.

Issues relating to choice and capacity

One of the key issues raised by people with learning disabilities was that of making a choice. People recognised that they should be able to choose who and if to marry but also said it would be difficult to go against their parent’s wishes if this was what they wanted them to do. Practitioners also highlighted the issue of parents and extended family members being key players in decision making about their sons and daughters, including decisions about who to marry, where and when although, as noted above very often they believed they were doing the ‘right’ thing in arranging someone to provide care. There were some generational differences in perspectives with younger members of some families seeing marriage of a sibling as wrong usually as they believed their brother or sister would not understand what marriage entailed and feared they might not be properly looked after by a spouse who didn’t understand their needs.

The issue of choice therefore seems to extend beyond the person with learning disabilities and into the domain of the whole family and what is often overlooked is whether the person has the capacity to consent for themselves to a proposed marriage. The issue of capacity is central to the application of the law and to preventing risks for all involved, so this can be a highly significant omission in families' considerations of marriage for their family member.

The issue of assessing capacity to consent to marriage is hugely complex (and this has formed the basis for the production of a toolkit to assist practitioners with this aspect – see 'further resources' at the end of this document). Many practitioners revealed the difficulties involved were due to a lack of tools and resources; potential tensions in relationships with family members; working with interpreters, and also people with learning disabilities being 'coached' and coerced to give the 'right' answer. Practitioners talked about the difficulties encountered in the undertaking of capacity assessments and the impact it can have for ongoing relationship with the family. Capacity assessments carry a huge weight of responsibility to make a fair and accurate assessment, the implications for either a positive or negative outcome from the family perspective can mean the possible abandonment of their projected plans and a need to look for more far-reaching solutions, in the face of enduring uncertainty about the future. There are thus, very high stakes for all concerned. Practitioners gave examples of families seeking the views of (paid) independent health professionals to 'prove' their son or daughter had capacity to consent, some talked about independent practitioners colluding with families to add more weight to the 'right' decision being made.

"I had one case where we assessed the young woman as not having capacity, and the family went behind our backs and went and found a paediatrician who said that she did have capacity. And they took that to the registrar, and the registrar married her...it was a disaster and ended up in Court of Protection.... But I think this family were determined that it was the right thing to do. And even having a capacity assessment and social workers involved, they just kind of found a way round it."

(From an experienced health practitioner)

All of these issues produce challenges for practitioners who have a duty to safeguard individuals from forced marriage whilst being required to provide defensible decisions as to why situations may not proceed as originally envisaged by families.

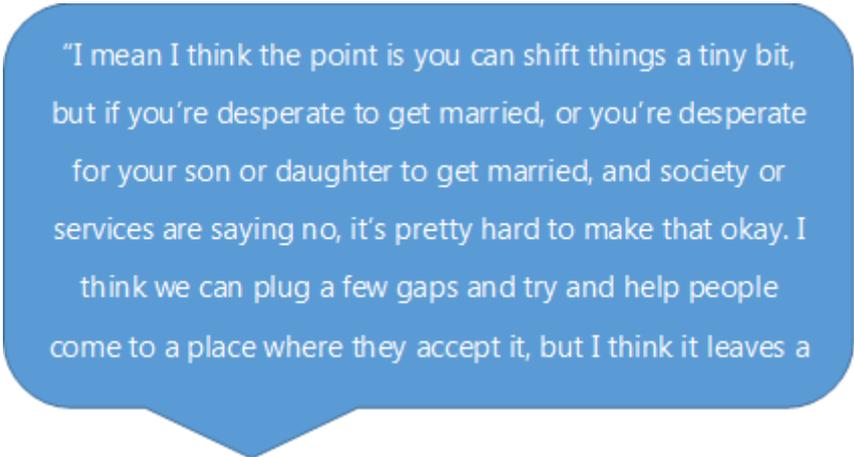
Safeguarding policy and practice/role of professionals

Our research revealed that although we found small pockets of excellent safeguarding practice, responses to and understanding of forced marriage varies. Excellent practice tended to take place where a professional had an interest in the issue and had supported others to develop expertise rather than a more formal approach undertaken by agencies to address the issue. Most practitioners saw the work being done as reactive rather than proactive (or at least starting from this position). Misunderstandings about the sharing of information and 'data

protection’* issues impeded safeguarding practice as did the unwillingness of some local authorities to engage with the Forced Marriage Unit (FMU) and UK Visas and Immigration (UKVI) where concerns were raised. Some professionals reported not knowing what to do about cases of forced marriage and being unaware of both the Statutory Guidance (Forced Marriage and Learning Disabilities: Multi-agency Practice Guidelines, 2009) and the law relating to forced marriage. This sometimes led to professionals being unsure about whose responsibility it was to follow up cases, often leaving the FMU to chase up with local authorities to ascertain whether or not safeguarding action had been taken. In these cases there was a lot of time slippage which meant assessments took a long time to complete and decisions relating to whether or not a person had capacity to marry or not were delayed.

Geographical distance also poses challenges. From FMU data we are aware that in many cases people are taken abroad to marry. Data shows most marriages involve Pakistan, Bangladesh and India although the FMU have dealt with cases from over 90 countries. Cross-border cases provide an additional layer of complexity for all involved and a sense that the person requiring protection is out of reach (at least temporarily).

Recognising forced marriage as a safeguarding issue tended to present dilemmas for practitioners, some feared being perceived as racist or culturally insensitive, others recognised the difficulties in ‘changing role’ with a family from that of support to that of investigator with the added potential of damaging existing relationships when it is not possible to deliver what the family had hoped for.



“I mean I think the point is you can shift things a tiny bit, but if you’re desperate to get married, or you’re desperate for your son or daughter to get married, and society or services are saying no, it’s pretty hard to make that okay. I think we can plug a few gaps and try and help people come to a place where they accept it, but I think it leaves a

Some reported difficulties in getting to see the person with a learning disability alone. In some cases legal orders were sought and a number of cases had been referred to the Court of Protection and FMPOs granted.

We have provided an overview here of the landscape against which the following case studies might be viewed. We have given a flavour here of some of the overarching issues that impact choices and decisions made by people with learning disabilities and their families. We have recognised the involvement of faith and community leaders and reported the role they believe they have in matters of marriage. We have acknowledged the huge challenges that practitioners face in trying to safeguard adults at risk and some of the barriers that hinder their endeavours.

Each of the following case studies has at its heart an individual with learning disabilities who at some point has been at risk. We reflect on the issues in each case and suggest questions that

practitioners may need to ask. We ask in each case “***How can we prevent this from happening again or to someone else?***”

We invite you to use these to reflect on your own practice and to unpick some of the complexities that can exist in forced marriage cases involving people with learning disabilities in the hope that we can do that very thing – prevent what has happened in these cases from happening to others.

(*Note: In May 2018, the Data Protection Act (DPA) will be replaced by the EU's General Data Protection Regulation (GDPR) with new rules around the storage and handling of personal data)

Case Studies

Zeba's story

Zeba was born in the UK to parents from Pakistan. When she started school, Zeba was recognised as having mild learning disabilities and although she remained in mainstream education, at secondary school she attended a special in-school unit for children with high educational support needs. When Zeba was just 13 years old she told her friends that she was going on holiday to Pakistan to visit her extended family 'for a wedding'.

Once in Pakistan, and back in her parents' home village, Zeba was introduced to a man aged 30, to whom her parents had promised her in marriage at the age of 3. Zeba said that she did not want to marry the man, but her parents insisted that the marriage should go ahead because it had been agreed for all those years and because the man was a second cousin and the marriage would keep ownership of family farming land intact. Zeba's parents returned to the UK and left her with her husband in Pakistan. Unused to the household duties that were expected of her, Zeba endured years of abuse from her husband and other family members. She became pregnant for the first time at 14 years old and by the time she was 18 had three children aged 4, 3 and 18 months.

Following the birth of her third child, the stress of her living conditions resulted in Zeba experiencing severe depression and self-harm, as a result of which she was rejected by her husband and his family and forcibly returned to the UK without her children. As her marriage had failed, Zeba's parents believed that she had brought shame on the family and they refused to support her. Zeba is currently living in a hostel for homeless women. She still hopes to be reunited with her children, but has no access to legal aid.

Reflections and concerns

The family have assumed it is ok for them to make the decision on behalf of Zeba.

Zeba was expected to fulfil a long held family promise. She was a child and so not able to exercise choice when she was taken abroad and forced to marry a man much older than herself.

Zeba experienced physical, sexual and emotional abuse as well as forced pregnancies at a young age.

Zeba experienced further isolation as a result of the marriage failing. Her experiences contributed to her mental ill health.

Zeba's vulnerability and immigration status led to her being estranged from her children.

Questions for Discussion

Who might have been able to intervene when Zeba was a child?

Who was responsible for ensuring Zeba knew where to go for help both as a child and adult?

What support does Zeba need now? Who is responsible for providing this?

How can we prevent this from happening to someone else?

Tiash's story

Tiash was born in the UK, the eldest of four children born to parents of Bangladeshi heritage. His father died when he was just 11 and his mother, who spoke little English, struggled to support the family.

At school Tiash struggled academically and often truanted. The school made a referral to an educational psychologist who assessed Tiash as having mild learning disabilities. Tiash's mother did not accept the diagnosis and decided that the best option was for him to be married as this would 'make him settle down'.

The summer Tiash turned 18, he was sent to visit his uncle in Bangladesh. Four days after arriving, Tiash was told that he would be married the next day, to a girl he had not met. When Tiash protested, his uncle told him that he must go through with the marriage as a matter of family honour.

After the marriage ceremony, Tiash returned to the UK and was given a job as a cleaner/warehouseman at his cousin's cash-and-carry business. Each month, Tiash sent £500 of his £800 wages to his wife in Bangladesh, believing that this was to support her and pay for her visa to join him in the UK.

After three years, having sent almost £20k to his wife, Tiash received a court document informing him that his wife had been granted a divorce on the grounds of abandonment. Tiash was devastated and his mother is fearful that his younger sisters will be unable to find suitable husbands because of the shame of the divorce and having no money for a dowry.

Reflections and concerns

Tiash has capacity to consent to marriage.

He did not have a choice about who to marry or whether or not to marry. His family believed they could make the choice for him, their choice was prompted by a lack of understanding about his learning disability and wanting to change/control his behaviour.

He was taken abroad to be married, his wife did not return to the UK with him.

Tiash sent a lot of money to his wife in Bangladesh to support her in applying for a visa and for her air fare to the UK. The money was not used for its intended purpose.

Tiash is seen as responsible for reducing his younger sisters' chances of marrying, as the family think he has brought shame on the whole family.

Questions for Discussion

How could Tiash's family be better supported to understand his needs arising from his learning disability?

How can his family be better supported to understand the concept of forced marriage and the law?

How could Tiash have been better supported before and after the marriage, particularly in relation to his finances?

How can we prevent this happening to someone else?

Shahid's story

A much-loved only child, Shahid has autism, severe learning disabilities and limited verbal communication. As a child, he attended a special school; after leaving school he continued to live at home, attending a day centre five days a week. Shahid's parents are in poor health and are struggling to care for him. They decide that the best option is for Shahid to marry, so that his wife can care for him and provide support to his parents in their old age. They come to an arrangement with a family from their home village in the Punjab and begin to make arrangements for a wedding to take place in Pakistan.

At the day centre, Shahid tells his key worker that he is going on holiday to Pakistan for a 'big party', which is 'just for him'. Worried that this may be a sign of an impending forced marriage, his keyworker contacts adult social services and a social worker visits the family. The social worker tells his parents that she doesn't think Shahid has the capacity to decide to marry and that this would need to be properly assessed before he could be married.

Not understanding the concept of 'capacity' Shahid's parents take him to a private medical practitioner who conducts invasive tests of virility to prove that Shahid has the ability to bear children. Shahid reacts badly to the test, which amounts to medicalised sexual assault, and this is reflected in his behaviour at the day centre. His key worker again raises concerns and another social worker visits the family. This time, the social worker – who speaks Punjabi – is able to get a clearer picture of the family dynamics. She undertakes a full Care Act assessment of Shahid's needs, and the needs of his parents as carers. Additional support is provided to the family and a longer-term plan is developed for Shahid to move into supported accommodation within three years. The wedding plans are dropped.

Reflections and concerns

Shahid does not have capacity to consent to marriage.

Shahid's parents want him to be married to ensure he will be well cared for. Their intentions are good.

His parents do not view this marriage as a forced marriage and do not accept that he lacks capacity to make the decision.

Shahid has been subjected to an invasive and abusive practice by a private medical practitioner who is sympathetic to the family and colludes with them.

The key worker plays a pivotal role in recognising a potential forced marriage.

A skilled social worker works with the family to sensitively explore alternative options, the marriage is prevented and long term care plans made.

Questions for Discussion

How could Shahid's family have been better supported earlier to prevent them from seeing marriage as an option?

How can his family be better supported to understand the concept of forced marriage and the law?

What action could be taken in relation to the medical intervention and by whom? What support might Shahid need as a result of this experience?

How can we prevent this happening to someone else?

Fareeda's story

Fareeda is a young woman of South Asian heritage; she has severe learning disabilities, limited verbal communication and is paralysed on one side of her body. As a child, Fareeda attended a school for children with special educational needs. After leaving school, Fareeda initially attended a day centre, but this stopped after her parents objected to a mixed-sex dance class. Shortly after being withdrawn from the day centre, Fareeda travelled to India with her family, where she was married.

On her wedding night Fareeda had sex and became pregnant. As she was not able to consent to sex the act of having sex was rape. After the wedding, Fareeda and her family returned to the UK and applied for a spousal visa for her husband to move to the UK. When UKVI (UK Visas and Immigration) officials received the visa application they were suspicious because Fareeda was in receipt of disability benefits. The UKVI referred the case to the FMU (Forced Marriage Unit), who made an adult safeguarding referral to the local authority where Fareeda lived. However, the local authority was slow to respond and when it did, they refused to confirm whether or not Fareeda was disabled – wrongly claiming that sharing such information would breach data protection regulations.

Having failed to treat the referral as an adult safeguarding issue, the local authority closed the case. Fareeda's pregnancy only came to light following a routine visit to the GP, by which time she was six months pregnant and had no option but to carry the baby to term. Social workers and health visitors became involved with the family and tried to prepare Fareeda for the birth, but she was unable to comprehend what was happening to her body. Following a traumatic birth, the baby was subject to a care order and adopted; Fareeda moved into a residential care home but continues to ask when she can see her child.

Reflections and Concerns

Fareeda did not have capacity to consent to marriage or sex. As a result the marriage was forced and she was raped.

Fareeda's parents did not agree with practices in day services and wanted her to be married.

The UKVI recognised that Fareeda might be a vulnerable visa sponsor and raised concerns with the FMU.

The local authority were slow to respond and misinterpreted data protection law. As a result Fareeda's safeguarding needs were not recognised. The situation was not viewed as a safeguarding concern.

Fareeda experienced great physical and psychological trauma during child birth and in her child being removed from her care.

Questions for Discussion

Why did Fareeda's parents see marriage as a viable option for her?

Why did the local authority not recognise this as a potential safeguarding referral?

How can Fareeda best be supported to come to terms with the removal of her child?

How can we prevent this happening to someone else?

Jason's story

Jason is a white British man with moderate learning disabilities. He is an only child and as his parents have become increasingly elderly, his relationship with them has become one of co-dependent carers.

Jason's life revolved around his parents' routines – shopping with his mother, going to the local pub with his father. When Jason was 47 his father died, followed just 18 months later by his mother. Jason inherited their house and a substantial sum of money, he was not known to services.

Struggling to cope emotionally and practically after the death of his parents, Jason was befriended by a woman he had met on an internet dating site. Over time, the woman became gradually more controlling, she moved into his home, took control of his finances and suggested that they marry.

The wedding took place in a registry office and when Jason told the registrar he was not the 'marrying type', she assumed he was joking.

After the marriage, Jason's wife put the house on the market without his knowledge. When a referral was finally made to adult social care he was homeless and penniless and was in a relationship with another woman.

An assessment revealed it was unlikely that Jason had had the capacity to consent to the marriage. The social worker working with Jason undertook some work with him on sex and relationships and was satisfied that on completion of this he did have capacity to consent to sex and marriage should he choose to marry again.

Reflections and concerns

This case differs from others as the party forcing the marriage is the potential spouse rather than an extended family member.

Jason was not known to support services as he had lived with his parents all his life.

No-one questioned whether or not Jason would need support after his parents died.

Jason was vulnerable to being exploited and abused, he was left without a home and money.

The registrar did not recognise Jason as an adult at risk and did not question his capacity to consent to marriage.

This marriage was potentially a forced marriage as it was unlikely Jason had capacity to consent at the time.

Questions for Discussion

Who could have questioned whether or not Jason needed support after his parents died?

What support could have been offered at this time?

Should practitioners have found out more about who Jason was forming relationships with?

With support from the social worker could Jason have developed the capacity to understand marriage and in the future be able to consent to marry?

Why did the registrar not recognise Jason as an adult at risk?

How can we prevent this happening to someone else?

Maaryam's story

Maaryam was born in Bangladesh and moved to the UK as a very young child. She is now 25 years old and lives at home with her parents. She has a younger sister and two younger brothers all of whom live at home. Maaryam has a learning disability, she attended special schools and requires support with daily living. She communicates verbally and can understand some basic concepts. Maaryam's parents are keen for her to get married. As the eldest child it is the expectation of the extended family and community that she should be married soon. Her parents have told her about their plan to introduce her to a man they have chosen for her. The man currently lives in Bangladesh and is known by the extended family. He is thought to be a very kind man who will look after Maaryam well.

Maaryam is really excited about her upcoming wedding and has chosen her wedding outfit and jewellery. She is looking forward to the party and being married like her older cousin. Maaryam's younger sister is not happy about her getting married. She tells her parents that Maaryam needs a lot of looking after and probably doesn't really understand what getting married is all about. She questions whether the prospective husband knows about the support Maaryam needs and what will happen if he can't cope or doesn't want to provide care. The sister speaks to Maaryam's social worker who is unconcerned as he knows a lot of people from the Bangladeshi community with learning disabilities who are married. He has also seen how excited Maaryam is about the wedding. He tells Maaryam's psychologist about how excited she is at the prospect of getting married. The psychologist tells him Maaryam is at risk of forced marriage and urges him to undertake an assessment of her capacity to consent to marriage.

Reflections and concerns

It is unlikely that Maaryam has capacity to consent to marriage. Her capacity would need to be assessed. If she does not have capacity to consent, this is a forced marriage.

Maaryam is presenting as excited about the wedding, this may make it more difficult for professionals involved to recognise it as a potential forced marriage.

The family believe they have chosen a 'good' partner for her who will look after her well and as she is excited think they are doing the right thing.

For them, Maaryam is doing what is expected in their culture. They may also perceive that the marriage will lessen any stigma they experience.

There are generational differences in understanding what might be 'right' or not, Maaryam's sister does not agree with the plan.

The social worker clearly does not have a good understanding of forced marriage as a safeguarding issue and may be concerned about being perceived as racist or culturally insensitive. He has made an assumption about culture and what is appropriate.

Questions for Discussion

What support does the social worker need to improve his practice in relation to forced marriage?

What are the possible consequences of the marriage going ahead for Maaryam and her family?

Why might Maaryam's sister have different views to her parents? Could this be helpful in addressing the situation with the family? How?

How can we prevent this happening to someone else?

Hassan's story

A UK Visas and Immigration (UKVI) officer in Islamabad has contacted the UK Government Forced Marriage Unit (FMU) to alert them of a visa application made by a man named Hassan, whom they suspect may not have capacity to consent to marriage.

The marriage has already taken place in Pakistan and a visa application made to enable Hassan's wife to move to England to take care of him. The FMU contacted the local Adult Social Care team to ask if Hassan was known to them. They said they could not share this information due to data protection and asked the FMU to make a Freedom of Information request. The FMU attempted a number of times to persuade the local authority that Hassan was potentially a victim of forced marriage and told them that the visa application had been put on hold pending the outcome of an assessment of his capacity to consent to marriage.

After some weeks the local authority eventually disclosed that Hassan was not known to them and concluded that it was not therefore their responsibility to undertake an assessment of his capacity to marry. Concerned that Hassan had been a victim of forced marriage and may potentially require safeguarding, the FMU made a safeguarding referral to the local authority. The referral was passed to the Freedom of Information team rather than the safeguarding team. After a number of weeks of chasing the referral the FMU were eventually informed that a social worker would be visiting Hassan to assess his capacity. He was assessed as not having capacity to consent to marriage 11 months after the original request was made by the FMU. The family were extremely upset by the outcome and appealed the decision, seeking the input of an independent practitioner who stated that Hassan did have capacity. The Immigration Judge dismissed the appeal and the local authority made the decision to refer the case to the Court of Protection to seek a Forced Marriage Protection Order to protect him.

Reflections and concerns

The UKVI have recognised Hassan as a potential victim of forced marriage. The FMU have recognised Hassan as potentially requiring safeguarding from harm.

The local authority are not clear about what is and is not their responsibility.

There is confusion surrounding data protection law*.

Hassan had to wait a number of months before his capacity to consent was assessed, this left him and his family enduring uncertainty.

The family were not happy about the outcome of the assessment and engaged the services of an independent practitioner. The practitioner potentially colluded with the family.

The Court of Protection was used to ensure Hassan was safeguarded.

Questions for Discussion

What can be done to better support families who disagree with the outcome of a capacity assessment?

What are the implications of the local authority's response for policy and practice? What is the impact on potential victims of forced marriage?

What can individual practitioners do if they are not in agreement with the local authority response? (For example if senior management do not agree that the case is potentially forced marriage).

What can be done to address the role the independent practitioner plays?

How can we prevent this happening to someone else?

Laila's story

Laila is a 19 year old young woman from Afghanistan who was brought to the UK 18 months ago to care for her husband, Tamim. Tamim is 27 years old and has a significant learning disability. He has lived in the UK all his life. He attended special schools and requires support to meet all his daily living needs. His parents wanted him to marry as they do not trust support services in the UK to look after him properly. They also believe being married will help him be better integrated into their local community and may even help cure him of his learning disability. It is expected that Laila will provide him with intimate personal care and support with dressing, eating and drinking. Laila had not met her husband prior to their wedding day and was not aware of his care needs. The couple live with Tamim's parents and uncle and Laila is expected to cook and clean for the whole family in addition to caring for Tamim. The family are expecting her to have children with Tamim and are becoming increasingly impatient as she is not yet pregnant. Tamim's mother makes him watch pornography so he will know how to have sex. She instructs him about when to have sex with Laila though she does not want to have sex. Laila is not allowed to eat with the family and is the victim of both physical and emotional abuse from Tamim's mother. She speaks very little English and is not allowed to leave the house unaccompanied. Laila is very frightened and does not know where to go to get help. She is wary of the police, because of her experiences in Afghanistan and is concerned that they will take the side of her in-laws. The only person she sees outside of home is her GP but Tamim's mother is always present at appointments. Laila is also worried what may happen to her if she leaves. Due to her visa status she faces deportation if her marriage breaks down and she fears the consequences of returning to Afghanistan. Her parents in Afghanistan viewed moving to the UK as a great opportunity for Laila and would blame her for the breakdown of the marriage. She fears they would ostracise her and she would be left with nowhere to live.

Reflections and concerns

Both Tamim and Laila are victims in this marriage. Tamim does not have the capacity to consent to marriage and Laila was unaware of what she was consenting to.

Both the marriage and having children are viewed as important by Tamim's family. This is what is expected by their wider community and they believe it will help Tamim be better accepted. They hope it might even cure him of his learning disability as he takes on the role of husband.

Tamim is being encouraged to have sex by his mother, it is Laila's view that she is being forced to have sex.

Laila is vulnerable because she speaks little English, is rarely alone and does not know where to go to seek support. She is also trapped by the fear of the consequences of the marriage breaking down.

Laila is also vulnerable because of her immigration status.

The Court of Protection was used to ensure Hassan was safeguarded.

Questions for Discussion

What needs to happen to ensure people like Laila know where to access help?

Both Tamim and Laila are invisible to services. What can services do to address this?

How can both Tamim and Laila be supported to end the marriage?

What support do Tamim's parents need now? Have they broken the law?

Could support in the past have helped change their perception of services?

How can we prevent this happening to someone else?

Kali's story

Kali is a 27 year old woman with a learning disability. Her parents moved from India to the UK before she was born and she has lived here all her life. Kali has four older siblings all of whom are married. Her parents are very keen for her to marry and they consider it their duty to ensure she is married. They love their daughter very much and want what they see as best for her. They begin to search for a potential husband in India and discuss their plans with Kali's social worker. They are astounded when the social worker informs them that as it is unclear whether or not Kali understands what marriage is, her capacity to consent will need to be assessed. The social worker makes clear that if Kali does not have capacity, any marriage would be against the law. Kali's parents disagree and state they have the right to make a decision on behalf of their daughter.

Recognising this as a safeguarding issue the social worker makes an application to the Court of Protection for a Forced Marriage Protection Order to be invoked. The order prevents Kali's parents from taking her out of the country to be married. Although the parents are angry with the social worker they agree to a capacity assessment being undertaken. The social worker works closely with a psychologist, a speech and language therapist and an occupational therapist to ensure a comprehensive and fair assessment is completed. She recognises the implications of the outcome for Kali and her family and works sensitively throughout the process. Kali is found not to have capacity to consent to marriage and her parents come to understand and accept this. They agree not to get Kali married and work with the social worker to plan for her future.

Reflections and concerns

Kali's capacity to consent to marriage is not clear and an assessment needs to be undertaken.

Kali's parents have her best interests at heart. They believe they can make decisions that they perceive as benefitting her, on her behalf. They did not know the marriage would be against the law.

The social worker recognised this as a potential safeguarding issue. She also recognised the huge significance of assessing Kali's capacity and engaged professionals from a range of disciplines to ensure a fair and comprehensive assessment of capacity was undertaken.

The Forced Marriage (Civil Protection) Act 2007 law was used here to prevent Kali's parents from taking her abroad to be married.

Once they understood Kali could not consent to marriage Kali's parents worked with the social worker to plan her future care.

The Court of Protection was used to ensure Hassan was safeguarded.

Questions for Discussion

What are the benefits of working in a multi-disciplinary way to assess capacity?

What skills and knowledge did the social worker need to work effectively in this situation?

How can professionals be supported to develop the skills and knowledge required in your place of work? Do you have a forced marriage champion?

How can we ensure that similar interventions are always made?

Safina's story

Safina is a 30 year old woman with a significant learning disability. Her parents make plans for a holiday in Pakistan to see their extended family, she is excited at the thought of going on holiday. Once there, Safina is married to her cousin who is 35. He has been married previously but this marriage ended.

The family are aware that he has a history of violence but he has assured them he will take good care of Safina as she is 'like a child'. Safina and her husband spend their wedding night together and the marriage is consummated, as Safina is not able to consent to sex she is, in fact, raped. The couple spend two weeks together during which time they continue to have a sexual relationship.

Safina's husband makes it clear that she should return to England and he will apply for a visa to come to the UK. He does not want her to stay with him in Pakistan as is suggested by the family. Safina returns to the UK and her family discover some months later that she is pregnant. Her marriage comes to the attention of the midwife who reports this to the local authority Adult Safeguarding Team.

Adult services make an application to the Court of Protection for a Forced Marriage Protection Order whilst simultaneously a social worker from Children and Family services assesses who will care for the baby when he or she is born. (This marriage took place before the law criminalising forced marriage was introduced so no legal proceedings were pursued).

Safina's parents are extremely upset with the way things have turned out. They state they wish they had never got Safina married and they now recognise the trauma she has experienced. The wider family are supportive and Safina's cousin becomes the legal guardian for the baby. The family have no further contact with the husband but Safina remains married to him.

Reflections and concerns

Safina does not have the capacity to consent to sex or marriage. The wedding takes place abroad and as a result of the marriage she is raped and becomes pregnant.

Safina's parents believe they are doing the right thing for their daughter. Following the trauma experienced by Safina they recognise that getting married was not in her best interest and that it has profoundly affected her.

Safina remains married but has no contact with her husband.

Professionals need to work together to safeguard both Safina and her unborn child. The Court of Protection was used to ensure Hassan was safeguarded.

Questions for Discussion

Why did Safina's parents think this marriage was a good option for her?

What support might Safina and her family have needed following the removal of the baby from her care? What are the benefits and difficulties with the baby being placed with her cousin?

What are the implications for Safina of:

- remaining married to her husband
- seeking to end the marriage?

How can we prevent this happening to someone else?

What we would like to see change

Each of the case studies in this document identifies a range of concerns and dilemmas drawn from interviews with each of the stakeholder groups. A number of issues have emerged that will require change to policy and practice:

Issue that requires addressing What needs to happen

Forced marriage of people with learning disabilities often presents differently to forced marriage of people without learning disabilities

Careful vigilance is needed by practitioners and others who support people with learning disabilities in order that potential risk situations are recognised and acted upon appropriately to ensure that people are safeguarded

Motivators for forcing someone with a learning disability to marry often differ from those for forcing people without learning disabilities. Obtaining a carer for a son or daughter is a key motivator in families seeking marriage for their relative with a learning disability

If alternatives to marriage are to be encouraged, family carers in particular will require more information about services to support their family members if they should no longer be able to care for them. Service provision must be culturally sensitive and appropriate in meeting the individual's needs

Differences between assisting someone to find a partner (arranged marriage) and forcing someone to marry is often not understood. People from all stakeholder groups are unclear (or do not know about) the law on forced marriage

The differences between arranged and forced marriage require unpacking further for families and faith/community leaders in particular. The importance of people having the capacity to consent and being given the choice whether or not to consent needs to be reinforced within communities. Younger people within families may be able to assist in efforts to reinforce key messages that will hopefully keep vulnerable people safe

Issues around capacity to consent to marriage and assessment of capacity needs clarification

The roles and responsibilities of various practitioners and agencies needs to be clearer and better understood by all parties. A multi-agency approach to the assessment of capacity to consent is required to ensure that all of those involved in the support of adults at risk are working to the same guidelines. Pathways for requesting and obtaining assessments and support to conduct assessments needs to be made clear

Some people with learning disabilities have capacity to consent to marriage (some may need support to acquire this) and some do not.

Thought needs to be given to ongoing practical and emotional support for people with learning disabilities and family members if an assessment reveals that the person lacks capacity to consent to marriage. The significance of outcomes in relation to cultural views of marriage needs to be taken into account. All measures should be taken to support someone to achieve capacity if that is deemed appropriate

Practitioners need to be aware of the potential for collusion between family

Practitioners should have access to a clear and robust pathway for referring people to assessment services and for receiving

members and 'independent' practitioners. The intervention of 'independent' practitioners can place adults at risk of emotional and physical harm and may produce inappropriate decisions about capacity to consent

decisions and feedback. This ought to include a list of named known practitioners, so that the appearance of any unknown assessors might alert practitioners to 'non-standard' and potentially collusive intervention

People with learning disabilities and their families are often stigmatised. Forced marriage can be a direct consequence of such stigma, as families attempt to mitigate this through marriage; as marriage might be viewed as 'normalising' or even 'curing' the person with the learning disability

There needs to be outreach and development work within all communities to prevent stigma associated with learning disabilities. This should comprise awareness-building and education around the idea that 'labels' associated with learning disability should not rule people out of communities or wider society but can actually serve to enable people to access support services and networks that can enhance their life experiences

The risks to spouses of people with learning disabilities forced to marry are not always acknowledged

There is need for greater awareness of the risks that non-learning-disabled spouses face in forced marriages and steps should be taken to protect spouses as adults at risk too. Though they may have capacity to consent they may require support to make choices that are otherwise being curtailed or removed by third parties. Such cases will need to be treated as safeguarding alerts too

There is need for further aware-raising of the issue of forced marriage among all stakeholder groups

Awareness initiatives should:

- empower people with learning disabilities to express their own choices about marriage and to be supported to follow their wishes rather than those of others
- make families aware that people with learning disabilities must be able to consent to marriage for themselves and must have the capacity to do so or they may be at risk of breaking the law in allowing or making someone marry
- clarify for families that they cannot make decisions on behalf of their son or daughter even if they believe they are doing so in their best interest
- ensure consistency across faiths and communities of the rights of people with learning disabilities and of the need for capacity to consent to marriage on the part of both parties
- ensure that all practitioners might recognise potential cases of forced marriage and be able to act accordingly to safeguard adults at risk

Practitioners' ability to respond speedily and sensitively to concerns about forced marriage needs to be supported

Support should include:

- dedicated training for all to recognise potential forced marriage and to know the pathways to reporting and progressing cases
- culturally specific training to enable shared understandings of diverse tradition and culture that impacts marriage, with a view to diffusing tensions when the law and what is right to safeguard people are at odds with traditional and cultural practice

- clear lines of reporting and a 'safe space' where concerns can be raised, discussed and a plan of action agreed and supported
- resources to support the process of assessing capacity to consent (including support to deliver sometimes 'undesirable' outcomes)
- access to resources to support ongoing education for people to marry if deemed appropriate
- the identification of 'champions' who can offer support and expertise by experience of forced marriage

Change needs to happen to keep people safe. Forced marriage is first and foremost a safeguarding issue. It is everybody's business. People with learning disabilities will remain at risk of forced marriage and of any abuses that can result from this, unless change is effected by the people and in the systems that support them.

Key priorities

- Awareness-raising among all stakeholder groups of forced marriage, associated risks and the law
- Community engagement on the subject of forced marriage of people with learning disabilities
- Dedicated training for the police and health and social care practitioners
- Clear pathways for recognising, reporting and progressing potential and actual forced marriage cases
- Access to resources to support effective assessment of capacity to consent
- Multi-agency approaches to safeguarding in the context of forced marriage

Further Resources

This document is part of a suite of resources which includes the following:

Summary of Findings ([full](#), [short](#) and [easy read](#) versions)

[Case Studies Collection](#) (real life experiences and challenges)

[Film](#) to raise awareness of the issues

[Toolkit](#) (guidance to support assessment of capacity to consent to marry)

These were all developed as part of the **My Marriage My Choice** project led by Rachael Clawson with the research team, Dr Anne Patterson, Dr Rachel Fyson, Dr Michelle McCarthy and Dr Deborah Kitson at the universities of Nottingham and Kent.

For further information contact rachael.clawson@nottingham.ac.uk or visit the My Marriage My Choice project website:

<http://www.nottingham.ac.uk/research/groups/mymarriagemychoice>

Other sources of information

Forced Marriage Unit (FMU)

<https://www.gov.uk/stop-forced-marriage>

Ann Craft Trust (ACT)

<https://www.anncrafttrust.org/>

Sharan Project

<http://www.sharan.org.uk/>

RESPOND

<http://www.respond.org.uk/>

Local Adult Social Services - search for your local service here: <https://www.nhs.uk/Service-Search/Local%20Authority%20Adult%20%20Social%20Care/LocationSearch/1918>

Local Community Learning Disability Team - find out what support is available here:

<https://www.nhs.uk/conditions/social-care-and-support/>

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