MUSLIM WOMEN'S NETWORK UK
RESPONSE TO HOME OFFICE CONSULTATION:

INTRODUCING MANDATORY REPORTING FOR FEMALE GENITAL MUTILATION

January 2015

Introduction

1. Muslim Women's Network was formally established in 2003 with the support of the Women's National Commission (WNC), to give independent advice to government on issues relating to Muslim women and public policy. In 2007, Muslim Women's Network decided to establish itself as an independent organisation to ensure its autonomy from Government. We renamed the group 'Muslim Women's Network UK' (MWNUK) and became a Community Interest Company in 2008. In December 2013 we formally became a registered charity[1].

2. Our aim is to gather and share information relevant to the lives of Muslim women and girls in order to influence policy and public attitudes, to raise the profile of issues of concern to Muslim women and to strengthen Muslim women's ability to bring about effective changes in their lives.

3. At the time of writing, MWNUK has a membership of over 600 that includes individuals and organisations with a collective reach of tens of thousands of women. Our membership is diverse in terms of ethnicity, age, religious backgrounds, lifestyles, sexual orientation and geographic location. Members are also from a range of employment sectors including: higher and further education; voluntary sector and support services including services workers; health and legal professionals; the police and criminal justice sectors; and local and central government. Our members are mainly Muslim women living and working in the UK while our non-Muslim members work with or on behalf of Muslim women.

4. Supporting actions to addressing female genital mutilation is part of our overall commitment to changing attitudes to abuse against women and girls, which is one of our six current priority areas. As the only national Muslim women's organisation in the UK we have been very aware of the issue of FGM within Black Minority Ethnic (BME) communities with an overlap into the Muslim community, albeit issue of FGM is much wider. In turn we have carried out a range of activities to tackle the issue including creating fact sheets and podcasts raising awareness and educating others as well as talking in the media and at a grassroots level. For example, in 2013 we included FGM as an abuse within our national postcard campaign directed at mosques and also spoke to the residents of East London on the matter and have been building on such grassroots work and projects throughout 2014; from speaking at

[1] Charity Registration Number: 1155092

events, presenting workshops to liaising with key stakeholder organisations and undertaking research. We are also launching the Muslim Women's Network Helpline on 14th January 2015; volunteers have been provided with training on FGM so as to provide a further means by which potential victims and survivors can seek support. We will be undertaking further in this area throughout 2015 in the hope of effecting change.

5. In order to ensure the inclusion of a diverse range of voices in connection with this Consultation, we sought the views of our members in relation to the proposal to introduce mandatory reporting of FGM and where relevant, have included comments received.

Response

6. MWNUK's constant concern has been that whilst FGM is a complex issue prevalent within a wide cross-section of communities of varying faiths and ethnicities, there are particular hurdles and barriers as well as systematic failures which as a collective are contributing towards the continued existence of FGM in UK.

7. We believe that victims/survivors, including potential victims, are at particular risk of being overlooked by service providers and support agencies due to a lack of will, understanding and/or ability. In turn, it leads to an inability to deter perpetrators through legislation, and these issues will continue until properly addressed whether or not civil law measures are pursued. We attempt to address these matters within the following questions of the Consultation and hope our comments are taken into consideration with regard to your proposal to introduce mandatory reporting.

8. At this stage, we would like to clarify that MWNUK strongly disagree with any suggestions that FGM is an Islamic practice; on the contrary we consider FGM to predate Islam with no authentic basis to validate any such connection. We consider it to be a form of violence inflicted upon women and girls, which must be eradicated throughout the whole world, not just the UK. For further information please see our website.[2]

PART A

Do you agree with the government's proposal that the mandatory reporting duty of FGM should apply to cases of 'known' abuse?

9. We are pleased to note that the government is reviewing the introduction of various provisions by which to tackle FGM. We have already provided our thoughts on the introduction of civil orders to prevent FGM[3], which we agree to in principle provided that it is combined with additional supportive measures. Similarly, we agree in principle to the government's proposal in respect of the introduction of a mandatory

[2] http://www.mwnuk.co.uk//go_files/factsheets/518708-FEMALE%20GENITAL%20MUTILATION%20factsheet.pdf
[3] http://mwnuk.co.uk/resourcesDetail.php?id=115

duty to report FGM to cases of 'known' abuse but hold concerns in respect of the practical effects therein.

10. It appears from the Consultation that the result of reporting is to see immediate and automatic action taking place. We note that para. 1.13 of the Consultation states that the hope is for mandatory reporting of FGM will lead to a greater number of victims and potential victims being identified, whilst para. 1.15 refers to the risk of trust between victims and service providers being undermined. We also note the considerations at para. 2.21 in respect of the appropriate moment within a time period of when disclosure should take place. We feel however that all these considerations have the potential effect of causing confusion and undermining the whole procedure; in order to ensure the usefulness of the strategy we believe it is necessary to revisit the aims in this regard.

11. It must be remembered that the reason mandatory reporting is being considered is in order to allow identification of potential victims and survivors. From the Consultation it appears however that the focus is being placed on achieving prosecutions than on prevention and in actually assisting victims and survivors of FGM. We find this approach concerning and feel it will go towards undermining the efforts to tackle FGM.

12. The approach should be to introduce mandatory reporting to an appropriate body so that all disclosures can be recorded within a central system. It is to be then assessed what the next steps should be; that is, whether the police should be involved immediately or whether more time needs to be given to the relevant individual to deal with the victim and/or survivor further. This would also ensure that any trust or relationship built is not undermined unless necessary and at the same time allows monitoring by all relevant agencies in order to ensure prevention, protection and/or prosecution depending on the urgency of the situation.

13. In turn, we must question why only cases of "known" abuse should be reported; surely if the aims are to tackle and prevent FGM it would assist to include reporting of suspected cases? Based on our proposed model the next step would be to monitor the situation and take appropriate action when necessary; this appropriate action should not always mean pursuing a prosecution. We appreciate the concerns in respect of identifying where a risk exists, as per para. 2.5 of the Consultation; however, surely it is better to have more reporting even of suspected cases rather than to limit reporting and miss opportunities to protect victims?

14. If the aim of mandatory reporting is only to allow for criminal prosecutions then we do not agree with the introduction of this measure.

15. Indeed we feel that the additional reporting will allow patterns to be established and if professionals are reporting based on stereotypes and targeting of certain communities

this will in turn highlight the gaps in training and knowledge to be addressed. It is better to know what the problems are within the professions and tackle them to assist in the preventing FGM; otherwise this will be akin to turning a blind eye to the failings of health care professionals and service providers. All this will do is maintain the current barriers faced in tackling FGM.

16. The important factor is to increase reporting so as to tackle FGM, not to jeopardise the emotional wellbeing of individuals and place distrust in professionals trying to assist. It is also unfair to place service providers and professionals in a dilemma where they feel the reporting and immediate police involvement therein will negatively impact service users. We believe it is also reduce engagement with health professionals and other agencies. Mandatory reporting should not lead to mandatory prosecution; indeed to do so would undermine the government's other proposal to introduce a civil protection order.

17. We would also like to stress that for such measures to work it would also be necessary to have a dedicated support network together with a means by which to assist in educating perpetrators and accomplices in a bid to re-educate the communities involved. Just as introducing a criminal offence has not been sufficient to address FGM, mandatory reporting will not assist without a multi-agency collective approach. We note of course that such discussions were included within the Girl Summit announcements but wish to repeat the importance of considering the impact of the collective package rather than individual measures in isolation.

Do you agree with the government's definition of 'known' abuse, as something which is visually confirmed and/or disclosed by the victim?

18. We agree with the government's definition of "known" abuse. We also agree with the government's definition of "suspected" and "at risk" abuse. However as explained at para. 13 of our Response, we do not agree that disclosure should be limited to only cases of "known" abuse in so far as there are more options to mandatory reporting than just pursuing a prosecution.

Do you agree with the government's proposal that the duty be limited to FGM in under 18s?

19. Given our recommendation that mandatory reporting be used as the first step to allow an assessment of the situation and subsequent monitoring where necessary rather than to be immediately pursued with prosecution, we do not see the need for the duty to report to be limited to FGM in those under the age of 18. This is especially the case given that those over the age of 18 may still require assistance; those who have undergone FGM may still be suffering in silence who require assistance.

20. In our previous Response of August 2014 in respect of the introduction of a Civil Protection Order, we mentioned that such an Order may be of assistance even where

additional medical procedures would assist to reduce discomfort. Mandatory reporting would therefore allow such individuals to be identified.

21. We completely disagree that "a blanket mandatory reporting of FGM duty for adults and children would serve no such purpose for survivors without children and risks placing a disproportionate burden on healthcare professionals". Please bear in mind that for example, the 19 year old adult may have a 9 year old sister or a 4 year old niece at risk. We must admit that we find the limited vision of the proposal within this Consultation highly concerning; there is no limit as to who may be at risk and who may require assistance. It appears that the Consultation has only focused on what would be useful in order to secure a prosecution, not what would actually assist victims and survivors.

22. We appreciate the concerns expressed at para. 2.9 and 2.10 of the Consultation in respect of confidentiality; however, what then is the point of introducing a duty of mandatory reporting if it only affirms the status quo?

Do you agree with the government's proposal that the duty should be placed on health care professionals, teachers and social care professionals?

23. Yes; however, due consideration needs to be given to the fact that delicate relationships of trust are at stake and it is vital that a situation is properly evaluated before a decision is made in respect of next steps to be taken. For example, where a student has informed a teacher that she has had FGM performed on her it may be necessary to allow time for the teacher to continue discussions with the student so as to not further impact on the child through a breach of trust, or deter other students from coming forward to speak. On the other hand, if the student has a sibling who is at risk it may be necessary to act immediately. It is necessary to assess the situation and consider the best interests of the victim or potential victim as the ultimate priority.

24. We must also highlight the importance of allowing for proper training of such professionals to ensure that they are adequately prepared to assess each situation of known abuse, as well as be able to identify suspected cases. It would be unfair to introduce a duty to report without providing professionals with the knowledge, skills and resources to be able to fulfil their duties in this regard.

Do you have views on any necessary differentiation between different professional groups on whether the duty should cover disclosure and/or visual identification?

25. It does appear that we envisage a very different process of mandatory reporting than that of the government. The Consultation appears to propose that as soon it is clear that FGM has been performed, either through disclosure or visual identification, this is passed on to the police. We envisage a process where a report is made so that all the relevant agencies can assess the situation and take what steps are deemed necessary; this may or may not include prosecution. We do not therefore deem it necessary to

differentiate between different professional groups based on our suggested process, and would even consider that this be extended to voluntary organisations known to work on issues of FGM.

26. However, we do not recommend any duty at all being placed on professionals should the process be that police are immediately involved and expected to take action without a consideration of the best interests of the victim. Indeed, we will feel to do so will only go towards placing barriers between victims/survivors and professionals – and will continue the current evidential problems faced by the police when trying to pursue a prosecution.

27. In turn, we would seriously object to voluntary sector organisations such as Muslim Women's Network UK being subjected to mandatory reporting as it would deter any FGM survivors and victims from coming forward. We must highlight that from our cases that have been dealt with by MWNUK most individuals have expressed that their preference would be to deal with, and disclose to, a third sector organisation which is independent to other professional services. Where ready, they would rather remain involved with the third sector organisation in dealings with the police. However, it is important to highlight that a constant issue raised is that of anonymity, which will be undermined by mandatory reporting. We therefore strongly urge that the procedure in respect of mandatory reporting be re-evaluated in light of our concerns.

28. Perhaps it would be better for voluntary sector organisations such as MWNUK to initially disclose to an FGM Office that a case has been brought to them but that names will not be disclosed yet due to reasons of anonymity and the situation will be kept under review until the individual is ready to liaise with the police. Alternatively, anonymity could be guaranteed by the FGM Office; in other words, it would be for the FGM Office to not pass on information and review the situation in liaison with the relevant organisations. At the very least such disclosures will allow us to obtain accurate data which highlights the extent of the issue and identify what is required to tackle FGM.

How do you think mandatory reporting of FGM should apply in the early years sector?

29. Yes; we are admitted confused by this question. Given that the Consultation is seeking to introduce mandatory reporting only in situations involving under 18s why would the duty not then apply to the early years sector? If it does not apply to this sector would this not further limit who actually has a duty?

30. We believe that it would be useful to have the duty applicable to the early years sector provided that proper training and guidance is provided to all tasked with the duty; and provided that the matters are dealt with sensitivity and proper assessment.

Do you agree with the government's proposal that all reports should be made to the police?

31. No, we disagree. A procedure of immediate involvement of the police will only go towards deterring individuals from seeking the assistance of healthcare professionals and other service providers and will do more harm than good. Bearing in mind that the problem we currently face is that individuals are unwilling to implicate family members, naturally knowing that their doctor, teacher or even charity worker, is under a duty to report to the police will only silence victims and survivors further. This will be especially concerning should those in need of medical attention be deterred.

32. We also believe it is inappropriate to have reports to be made to the police as we do not consider police forces to be properly equipped to deal with such matters. We have ample case studies where police response to cases of violence against women has been inadequate. It is apparent that proper training and guidance is required. There is also the issue of lack of resources available to police officers which needs to be addressed.

33. We believe a part of the reason for not having been able to secure a criminal prosecution as yet is due to an inability to properly pursue criminal measures. Evidential issues are consistently put forward as key hurdles in achieving prosecution despite the very physical and visual proof that FGM has occurred on the victim, which notably what the proposal of this Consultation relies on. We are aware of the complexities involved including the fact that perpetrators may be family members themselves, the age of the victim, and issues of stigma within the community. However, we suggest that there is a misguided overemphasis on needing victims/survivors to shoulder a case – if this approach was taken towards all violence against women and girls offences, would this not naturally affect prosecutions? In turn, there is a serious need to consider alternative evidence gathering strategies. This would not only include better policing strategies such as surveillance of serial perpetrators who carry out FGM on behalf of family members but also an evaluation of any circumstantial evidence available which may help strengthen a case.

34. As per para. 12 of our Response, we suggest the creation of a Female Genital Mutilation (FGM) Office to oversee all cases of mandatory reporting. Healthcare professionals, teachers, social workers and other related sectors working with FGM victims and survivors would report to the FGM Office with the relevant information for review. It will then be decided as to whether more time should be given to establish a relationship between the victim and the individual disclosing whilst the police simultaneously gather evidence. In the meantime all relevant organisations will provide updates on the situation to the FGM Office.

35. We would also like to highlight an obvious deterrent in victims/survivors and also any witnesses coming forward; that is, a lack of protection and support available. As well as a need for better training and understanding of the complexities involved, we ask that consideration be given to legal mechanisms available such as witness anonymity or pre-recorded evidence. Such measures may not only assist in preventing external factors such as social stigma or threats but will also take account of the very personal difficulties involved in recounting such experiences.

Do you agree that reports should be made at the point of initial disclosure/identification?

36. Yes, but as mentioned throughout this Response we would suggest that time is provided to review the matter and take the steps as necessary rather than to immediately move to police involvement and a prosecution.

If an individual is in contact with multiple organisations, should they be reported once, once from within a sector, or repeatedly throughout life?

37. We are admittedly confused by this question. Why should it matter how many times a report is received? Surely it is better to have an overlap of reporting rather than to have a situation where no one has reported on the assumption that this has already been done by another individual or sector? We do not believe there should be a limit on reporting. Further, we believe a central organisation such as an FGM Office would assist in collating all reports and ensure proper administration.

PART B

By what mechanism do you think sanctions should be placed upon individuals who fail to report FGM under the new duty?

38. We have considered the options proposed within the Consultation and believe that both the options of a barring list and disciplinary sanctions would be appropriate in this regard. Disciplinary sanctions in particular would be most effective provided that the relevant professional bodies appreciate the importance of tackling FGM and allow for appropriate sanctions for failings in this regard.

39. It would of course need to ensure that individuals were provided with the relevant training, guidance and resources which would make it possible for them to carry out their duties in respect of mandatory reporting. Where a case of FGM has been missed, due consideration needs to be provided as to why it was missed so as to ascertain what steps can be taken to plug the gaps in knowledge.

40. It is possible however that in some situations mandatory reporting is not forthcoming due to reasons of wishing to protect community interests; for example, where a doctor is a part of the practising community and offenders are known. In such situations we

would propose considering additional civil sanctions, such as a fine, so as to make clear that tackling and preventing FGM should be the ultimate aim and cultural or any other affiliations must be ignored.

What level of sanction do you think should be placed upon individuals who fail to report FGM upon the new duty?

41. We would suggest that the level of sanctions to be applied are assessed on a case by case basis depending on the circumstances. Where professional bodies are involved we believe disciplinary sanctions should be an automatic consideration but additional civil sanctions may be needed to highlight the seriousness of the matter, such as a low level fine.

PART C

Do you agree that all persons exercising public functions in relation to tackling FGM should be under a duty to have regard to the statutory guidance?

42. Subject to the qualifiers we have mentioned throughout this Response, yes we agree in principle.

Are there substantive amendments which could be made to the guidelines, which would help to prevent FGM and protect and support victims?

43. Whilst we appreciate the convenience of the matter, we do have concerns over the fact that the FGM guidelines are being modelled on the Forced marriage guidelines. We worry that by doing so key aspects of FGM may be overlooked or not given due consideration. In order to ensure justice is done, FGM should be considered as a stand-alone subject without any other issues overshadowing the work to be undertaken. Only by allowing undivided focus on FGM will we be able to ensure that we follow the correct means by which to tackle FGM.

44. We believe it would also be useful to allow better analysis of FGM from a faith and cultural perspective so as to tackle the myths surrounding the issue. For example, there are individuals both within and outside the Muslim community who believe FGM is an Islamic practice based on patriarchal interpretations; however, we have highlighted through our work that this is in fact untrue. Such information would be useful so as to assist potential victims and survivors as well as to tackle FGM. More information is better than less.

ADDITIONAL QUESTIONS

What evidence or information do you have on the expected increase in reports to the police or social services from introducing reporting of FGM and how do you think they will vary with the different proposals?

45. We believe that at present there is no coordinated approach in tackling FGM nor is there any adequate multi-agency approach which has led to the various hindrances thus far. By following our proposed model of mandatory reporting we believe there will be an increase in reports by virtue of the fact that a procedure has been put in place which allows for a multi-agency approach and takes into consideration the best interests of victims and survivors.

46. However we believe the increase will be limited if there is insistence on referrals to police by virtue of the fact that mandatory reporting to the police will act as a barrier to individuals coming forward and seeking help.

What evidence or information do you have on the cost of referring FGM to the police or social services? For example, information on the length of time it takes to file a report or the length of time the police spend investigating a case will enable us to better establish the costs of the policy.

47. Where adequate training, guidance and resources have been provided, such as a dedicated service as the FGM Office as we suggest, this should not increase costs but rather should streamline the means by which to allow for proper investigation. The key issue is to ensure the correct procedures are put in place at the outset. It is also necessary to remember that in many situations the relevant health care professionals, social workers and even voluntary sector workers would have already collated all the facts making it easier for investigations to take place. This is also another reason why it is important to allow adequate time to assess the situation and gather the relevant facts.

48. We must question as to why the costs of referrals are a consideration? We hope that the commitment to tackling FGM is not to be determined by the costs entailed therein.

What do you think the expected impact of mandatory reporting of FGM would be on the prevalence of FGM and would this change with the different proposals?

49. Please refer to our comments at para. 42 and 43 in this regard.

Final Comments

50. As a point of clarification, we must explain that our comments and examples have been limited to BME and/or Muslim victims due to the nature of our organisation and its work. As a national Muslim women's organisation our work predominantly deals with Muslim and BME women albeit we also work with individuals of other faiths and are therefore also aware of issues of relevance to other faith communities. In turn we wish to clarify that where we ask for faith and culturally sensitive support packages and mechanisms we do so on behalf of victims of all race, ethnicity, religion and faith.

51. We also wish to reiterate that we do not consider FGM to have any basis within Islam and therefore from our perspective it is not a practice justified through the Islamic faith; we consider it to be violence against women and girls and ask that it be treated accordingly.

52. As a national women's organisation committed to combatting FGM, Muslim Women's Network UK would like to express its willingness to assist through training, support, information or advice or any other means in order to ensure that any cases are prosecuted accordingly and preventative measures put in place for the future.

53. We would like to thank you for providing us with the opportunity to respond to your Consultation and hope that our Response proves to be helpful in your considerations.

On behalf of Muslim Women's Network UK,
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