

Enhancing Civil Protections and Remedies for Forced Marriage **Summary of consultation with the Commonwealth Attorney-General's Department**

24 September 2024

Introduction

The Australian Government is working with the states and territories to tackle the issue of forced marriage; conducting consultations to inform this important work.

Responses to the Government's [consultation paper](#) on 'Enhancing Civil Protections and Remedies for Forced Marriage' will inform further work to tackle the issue of forced marriage, including by developing a model to enhance civil protections and remedies for individuals in or at risk of forced marriage. One way that the Government is meeting this objective is to build a shared understanding of forced marriage as a form of family and domestic violence. Specifically, the Government was seeking views from practitioners who may be frontline responders to family and domestic violence and the recommendations provided are from the perspectives of those with frontline experience and modern slavery expertise.

The University of Sydney's Modern Slavery Unit (MSU, within the Office of the Provost and Deputy Vice-Chancellor) and Safer Communities Office (SCO, within the Office of the Deputy Vice-Chancellor Education) have reviewed the public consultation materials and identified five main questions (out of 29) to consider for the public submission. Due to time constraints, the MSU in collaboration with SCO, participated through a verbal consultation session on the 24th of September 2024.

Consultation Summary

Part 1: Building a shared understanding of forced marriage as a form of family and domestic violence to improve victim-survivors' access to family and domestic violence services

2. Should forced marriage be recognised as a form of family and domestic violence? Why?

Yes, forced marriage (FM) should be recognised as a form of family and domestic violence (FDV) due to the intersection of violence such as coercion, control and abuse of power often within the family.

Embedding FM within the current FDV framework allows the victim-survivor to utilise support services and will result in early intervention and screening of risks associated with forced marriage (e.g., FDV screening that is occurring within hospitals). Forced marriage should be incorporated within the 10-year **National Plan to End Violence against Women and Children**.

Aligning FM with FDV means that people with lived experience of FM may access more support services through FDV eligibility criteria. Survivors of FDV do not need to go through the criminal justice system to access support and this would open up channels for people with FM lived experience. Until very recently (July 2024), people with FM lived experience were required to report to the Australian Federal Police (AFP) and engage in the criminal justice process to access support - the Red Cross Support for Trafficked People's Program (STPP). Most FM survivors do not report due to fear of authorities prosecuting their family. While acknowledging the Salvation Army's [Additional Referral Pathway](#) pilot program which allows access to STPP without AFP involvement, ideally if FM is seen as FDV, FM survivors may have greater access to available remedies and compensation without needing to report to the AFP.

4. What enhancements or additional guidance might be needed to help family and domestic violence services more consistently recognise forced marriage as a form of family and domestic violence?

While it is a similar approach in supporting people with FM lived experience, often young people experiencing FM require additional life skills support due to the limitation of autonomy they've had

from the family's control. This includes simple life skills training for young people such as cooking, cleaning, keeping safe, and catching public transport.

The enhancements and additional guidance for FDV staff may include:

- Definition of forced marriage
- Difference between forced marriage and arranged marriages
- The continuum of exploitation that ranges to low, medium and then high risk of modern slavery with forced marriage at the 'modern slavery end' of the continuum
- An understanding that risks increase with age for people at risk of forced marriage
- Tailoring the Duluth Model of Power and Control Wheel to include FM specific indicators
- Including indicators of FM into routine FDV safety and risk assessments for frontline services.

Part 2: Enhancing education and awareness raising

7. Which groups in the community require education and increased awareness of forced marriage (e.g. frontline workers such as police, child protection and/or specific cohorts within the community)?

Within the University, students in leadership roles (e.g. Peer Support Advisors, Student Life Ambassadors, Peer Learning Advisors etc.) as students may sometimes seek support from their peers instead of professional staff. For staff, frontline professional staff who frequently encounter students such as those working in the Student Centre.

Within the community, all community organisations that assist and support women and children e.g., homelessness services and counselling services. It is also important that the government consult with key cultural and religious community groups and peak bodies to roll out this work.

Part 3: Strengthening civil protections and remedies

Grounds for Orders

11. What evidence or other types of actions, risks or harms connected to forced marriage should be considered as grounds for seeking a civil protection order for forced marriage?

Control and abuse, and the same behaviours that would constitute a protection order in cases of FDV.

Consideration needs to be given to the fact that FM may involve a number of alleged perpetrators in a family context.

Additionally, including respondent/s undertaking coercive behaviour to prevent a divorce/nullify a marriage. In some FM cases where one or both parties want to divorce/nullify a marriage, it would be important to include respondents who are using violence to prevent this process.

Risk factors and barriers to seeking support

26. What are the risks and barriers for seeking support for people at risk of or in a forced marriage? What strategies could be considered to address these?

People with lived experience of FM often do not report due to the fear of consequences that their family may experience such as prosecution. They may also have a visa tied to the person pressuring the person with FM lived experience to marry. There may be implications to their status, reputation of the family in the community, religious and spiritual implications as well as limited knowledge of support available and little awareness that forced marriage is illegal. Additionally, there may be language barriers, feelings of shame and not being believed by loved ones/authorities, social isolation and/or financial constraints.

There needs to be a victim-survivor-centred approach and working collectively with the victim-survivor and family to address these, which may include using a family mediation approach to work alongside the family and/or community, rather than in silo with the victim-survivor only. As FM is a family/community issue, it requires a family/community approach to address the issue.