

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2052](#): Ban child circumcision unless it is medically necessary with no less invasive solutions available, lodged by Taylor Rooney

Brief overview of issues raised by the petition

The petitioner is calling on the Scottish Parliament to urge the Scottish Government to give boys the same level of bodily autonomy and protection that was given to girls in the Prohibition of Female Genital Mutilation (Scotland) Act 2005 which banned all forms of female circumcision.

It is argued that boys deserve the same level of protection as girls do from female genital mutilation (FGM), regardless of the parents' religious/cultural beliefs or aesthetic preferences.

What is FGM?

FGM is a term used to describe all procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs, for non-medical reasons.

FGM has no health benefits for girls and women, and procedures can cause immediate and long term physical and psychological harm.

FGM is a form of violence against women and girls, and it is recognised internationally as a violation of their human rights.

FGM is also referred to as 'cutting' or 'female circumcision', as well as a wide range of traditional terms in different languages.

For further background, see [World Health Organisation page on FGM](#).

The law on FGM in Scotland

FGM has been a criminal offence in the UK for nearly 40 years, since the Prohibition of Female Circumcision Act 1985.

The [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#) repealed and re-enacted the existing offences in the 1985 Act. It also made it an offence to have FGM carried out abroad, and increased the maximum penalty from five to 14 years imprisonment. The aim was to ensure equal legal protection in Scotland with the rest of the UK which had made similar changes under the Female Genital Mutilation Act 2003. The 2005 Act also changed the terminology from circumcision to FGM, removing any form of acceptability the term 'circumcision' might imply.

The [Female Genital Mutilation \(Protection and Guidance\) \(Scotland\) Act 2020](#) aims to strengthen the legal protection for those at risk of FGM. It does this by making provision for:

- FGM Protection Orders, a form of civil order that can impose conditions or requirements on a person, with the aim of protecting a person from FGM, safeguarding them from harm if FGM has already happened, or reducing the likelihood that FGM offences will happen. It will be a criminal offence to breach an FGM Protection Order.
- Statutory guidance on matters relating to FGM, as well as statutory guidance on FGM Protection Orders.

To date, these provisions have not been brought into force.

What is male circumcision?

The BMA have guidance for doctors on [Non-therapeutic male circumcision \(NTMC\) of children](#) (2019).

It provides that:

- NTMC is the “removal of part or all of the foreskin (prepuce) that covers the penile glans.” If undertaken for any reason other than clinical need, it is termed non-therapeutic circumcision. (The NHS provides some detail on the [limited circumstances](#) for medical male circumcision.)
- NTMC is common among the Jewish and Muslim religions and is seen as a defining feature of their identity and/or faith. However, it should not be assumed that because a child is born into a practising community, the parents will automatically seek NTMC and are supportive of the practice.
- The circumcision of male infants and children has been practised across the globe for centuries. The WHO estimates that 30% of males aged 15 years and over are circumcised worldwide.

The World Health Organisation describes FGM as a harmful practice and is strongly opposed to it. There is no similar opposition to male circumcision. Voluntary medical male circumcision is [promoted](#) as a strategy for the

prevention of heterosexually acquired HIV in men where the prevalence of heterosexually transmitted HIV is high.

Prevalence

The BMA guidance says that prevalence in the UK is unknown. Hospital Episodic Statistics showed in 2016-17 that just under 10,000 males under the age of 18 underwent circumcision on the NHS in England. But it is not known how many of these were for non-therapeutic reasons.

The rate of circumcisions carried out privately or by religious practitioners is not recorded. WHO estimates that 99% of Jewish males in the UK have undergone NTMC and the rate is likely similar for Muslim males.

Who carries out NTMC?

The BMA guidance states that male circumcision does not require a medical professional, and “is often done by special practitioners within religious groups who are not medically qualified.”

Doctors do carry out NTMC. The BMA states that this is rarely done on the NHS but is done privately or primarily as a religious practitioner. All doctors who do perform NTMC must adhere to professional standards.

However, information from the [RefHelp](#) website of NHS Lothian suggests that circumcision for religious reasons is currently funded by NHS Scotland. The procedure will not take place before six months of age and there is a waiting list.

The [Royal Hospital for Children in Glasgow](#) undertakes NTMC, and provides two different services, depending on whether an infant is under eight weeks old or over eight weeks. If over eight weeks, the procedure is only undertaken when the child is over the age of one. The former involves a process using local anaesthetic, the latter uses a general anaesthetic.

The law

The BMA guidance for doctors provides some background on the law.

NTMC is generally assumed lawful if:

- It is believed to be in the child’s best interests. Where a child lacks competence, there is a presumption that the parents will have the child’s best interests at heart. As well as health interests, social and cultural interests will be taken into account. Where a child has competence, their views should be taken into account. The BMA cannot envisage a situation where it is ethically acceptable to circumcise a child, with or without competence, where the child refuses the procedure, irrespective of the parents’ wishes.

- There is valid consent. Where it is agreed that NTMC is in the child's best interest, consent can come from the parents, the child if they have competence, a court, or an appointed proxy.
- It is performed competently. The GMC makes clear that where a doctor agrees to perform any procedure for religious or cultural reasons, they must meet the same standards of practice required for therapeutic procedures.

Views on male circumcision

[Humanists UK](#) and the [National Secular Society](#) (NSS) oppose non-therapeutic male circumcision. They argue that people should be able to maintain bodily autonomy and make their own choices about permanent bodily modifications. They do not see any medical benefits and suggest there are risks that could lead to psychological and sexual problems. NSS states:

“When performed on babies, little to no anaesthesia is used. Even when performed under anaesthesia on older children, the recovery entails weeks of pain and discomfort.”

The BMA guidance refers to overseas medical organisations that have updated their statements on NTMC which illustrate a diversity of opinion. For example:

- The Danish Medical Association (Lægeforeningen) 2016 statement outlines its view that NTMC is ethically unacceptable if the procedure is performed without the informed consent of the person undergoing it.
- The American Academy of Pediatrics (AAP) 2012 statement notes that the current evidence suggests that the health benefits of NTMC outweigh the risks. Although, the analysis of the benefits and risks has been heavily criticised by some.
- The Royal Dutch Medical Association's (KNMG) 2010 statement outlines its view that NTMC 'conflicts with the child's right to autonomy and physical integrity'. It seeks to minimise NTMC in minors.

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31 October 2023

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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