

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

# Female Genital Mutilation (Protection and Guidance) (Scotland) Bill

---

## Financial Memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, introduced in the Scottish Parliament on 29 May 2019.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 47-EN);
  - a Policy Memorandum (SP Bill 47-PM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 47-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.
4. The purpose of the Bill is to strengthen statutory protections for women and girls at risk of female genital mutilation (FGM). Specifically, the Bill creates a new FGM Protection Order which can impose conditions or requirements upon a person or persons for the purpose of protecting a person or persons from FGM or safeguarding them from further harm if FGM has already occurred, or for the general purpose of reducing the likelihood that FGM offences will occur. The Scottish Ministers must also

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

issue statutory guidance relating to FGM Protection Orders and the Bill also makes provision for the Scottish Ministers to choose to issue statutory guidance in relation to FGM. Relevant public bodies must have regard to Scottish Minister's guidance in the exercise of their functions.

## Background

5. Whilst survivors of FGM are found in some communities in Scotland, not all women and girls born in countries or communities where it is practised are at risk. In its report, "Tackling Female Genital Mutilation in Scotland: A Scottish model of intervention",<sup>1</sup> the Scottish Refugee Council analysed census, birth register and other data in an attempt to estimate the size and location of communities in Scotland which might be affected by FGM. It found that:

- In 2011, around 24,000 men, women and children living in Scotland were born in a country where FGM is practised to some extent.
- There are communities potentially affected by FGM in every local authority area, with the largest communities in Glasgow, Aberdeen, Edinburgh and Dundee respectively.
- Between 2001 and 2012, 2,750 girls were born in Scotland to women born in countries where FGM is practised to some extent.
- There is no data on ethnicity or other variables which influence the practice of FGM in local communities, so it is not known how many people in those communities are directly affected.

6. In looking at the prospective number of FGM Protection Orders in Scotland we can examine the number of applications for FGM Protection Orders in England since 2015 when the relevant provisions in the Serious Crime Act 2015 came into force.

---

1

[http://www.scottishrefugeecouncil.org.uk/assets/0000/9061/FGM\\_Report\\_FINAL\\_A4portrait.pdf](http://www.scottishrefugeecouncil.org.uk/assets/0000/9061/FGM_Report_FINAL_A4portrait.pdf)

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

7. The table below details the number of applications and FGM Protection Orders made in England and Wales from 2015.<sup>2</sup>

<b>Year</b>	<b>Applications</b>	<b>Total FGM Protection Orders Made</b>
<b>2015</b> (2 quarters)	47	32
<b>2016</b>	74	64
<b>2017</b>	103	109
<b>2018</b>	97	143

8. In making the estimates included in this memorandum, consideration has been given to the differences in population demographics between Scotland and England and Wales.

9. Scotland’s population as a proportion of England and Wales is approximately 9%. Therefore, the Scottish Government estimates that there will be up to nine applications for FGM Protection Orders in Scotland, based on 9% of 100, which was the average number of applications for FGM Protection Orders made in England and Wales in 2017 and 2018.

10. However, if estimates of the size of the communities originating from FGM-practicing countries is used then the population is likely to be a smaller proportion of the total population in Scotland compared to England. A 2015 study by City University London estimated that the number of women aged 15-49 who were permanently resident in England and Wales but born in FGM-practicing countries was 283,000.<sup>3</sup> In Scotland, the 2014

<sup>2</sup> <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2018>

<sup>3</sup> <https://www.trustforlondon.org.uk/publications/prevalence-female-genital-mutilation-england-and-wales-national-and-local-estimates/>

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

study conducted by the Scottish Refugee Council estimated that the size of the communities living in Scotland originating from FGM-practicing countries was 23,979. The Scottish data could not be broken down by age or gender. Assuming an even gender split then this would suggest that there are approximately 12,000 women and girls in these communities. This would represent approximately 4% of the size of the community as a proportion of that in England and Wales. Therefore there could be up to four applications for FGM Protection Orders in Scotland, based on 4% of the average number of applications for FGM Protection Orders made in England and Wales in 2017 and 2018.

11. As a result of this information, erring on the high side, an estimate of nine or fewer applications for FGM Protection Orders in Scotland has been used in this memorandum. It is difficult to forecast any change to the number of applications for FGM Protection Orders. The experience of England and Wales showed an increase in the first two years but the number of applications for FGM Protection Orders in 2018 is similar to the number in 2017.

## Costs on the Scottish administration FGM Protection Orders

### Scottish Legal Aid Board

12. The Scottish Legal Aid Board has advised that a reasonable estimate would be to use the costing levels for summary application procedures which are limited to £1,000 per case. Up to nine cases per year would be £9,000. This is the same procedure as is used for Forced Marriage Protection Orders.

### Scottish Courts and Tribunal Service

13. The Scottish Courts and Tribunal Service has advised that the costs relating to the FGM Protection Order process would be £105 per case. Up to nine cases per year would be £945. If the case is more complicated and would require evidential hearings then the costs are likely to be higher.

## FGM Protection Orders: Breach of an order

14. In addition to the cost of up to nine civil orders per year, there is the potential for additional costs in relation to the new criminal offence of breaching an FGM Protection Order. A breach of an FGM Protection Order

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

has the potential to have more than one accused involved and the cost would depend on the procedure under which a prosecution is brought and on how the defendant pleads. It should be noted that in England and Wales in the period up to December 2017 there were no breaches of an FGM Protection order dealt with in the criminal courts. A reasonable estimate, erring on the high side, on which to base costs in Scotland is for up to two cases per year to be brought to trial.

**Scottish Legal Aid Board**

15. There are potential costs to the Scottish Legal Aid Board relating to criminal prosecutions when an FGM Protection Order has been breached. Using the assumption of up to two trials per year the table below sets out the possible range using the average legal aid costs per procedure.

	Average legal aid costs per procedure
Sheriff Court Summary procedure	£590
Sheriff Court solemn procedure	£1,614
High Court	£3,228
Estimated range of costs of 2 additional trial procedures with 3 accused each	£3,540 to £19,368

*Source: Scottish Legal Aid Board*

**Scottish Courts and Tribunal Service**

16. There are potential costs to the Scottish Court and Tribunal Service relating to criminal prosecutions when an FGM Protection Order has been breached. Using the assumption of up to two trials per year the table below sets out the possible range using the average court costs per procedure.

	Average court costs per procedure
Sheriff Court Summary procedure	£441
Sheriff Court solemn procedure	£2,234
High Court	£14,980

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

Estimated range of costs of 2 additional trial procedures	£882 to £29,960
---	-----------------

*Source: costs of the Criminal Justice System in Scotland Dataset 2015-16, published May 2018*

### Crown Office and Prosecution Service Scotland

17. There are potential costs to the Scottish Crown Office and Prosecution Service relating to criminal prosecutions when an FGM Protection Order has been breached. Using the assumption of up to two cases per year the table below sets out the possible range using the average prosecution costs per procedure.

	Average prosecution costs per procedure
Sheriff Court Summary procedure	£421
Sheriff Court solemn procedure	£4,238
High Court	£64,031
Estimated range of costs of 2 additional trial procedures	£842 to £128,062

*Source: costs of the Criminal Justice System in Scotland Dataset 2015-16, published May 2018*

### Scottish Government

18. The Scottish Government will incur administrative costs relating to the implementation of the Bill. These costs include the production of statutory and practitioner guidance, community engagement and the development of data collection and monitoring and evaluation costs. Based on the preparation of other similar materials the costs can be estimated at:

- data collection, monitoring and evaluation – £60,000,
- guidance, including consultation and community engagement - £25,000.

19. These costs will be met from the Equalities budget.

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

## Costs on local authorities

20. The Scottish Government has consulted with the Convention of Scottish Local Authorities regarding the additional costs on local authorities as a result of the Bill.

21. An important feature of the Bill is that it will enable local authorities to make applications for FGM Protection Orders. It is estimated that the costs would be approx. £3,500 per case, this is a combination of social work and legal costs. Assuming up to nine FGM Protection Order applications in Scotland per year the range of costs would be from £0 to £31,500 per year, depending on how many applications are made by local authorities across Scotland. There are potentially affected communities living in every local authority area in Scotland, with the largest in Glasgow, Aberdeen, Edinburgh and Dundee.

22. There would be a cost across all local authorities which is the time required for relevant staff to familiarise themselves with the legislative requirements of FGM Protection Orders and for appropriate training. The most effective and efficient method of delivering accessible and specialist training will be discussed with local authorities during the implementation of the Bill. At this stage it is expected that the familiarisation and training costs associated with the Bill would be in the range of £50,000 to £100,000 across Scotland.

## Costs on other bodies, individuals and businesses

### Police Scotland

23. There will be costs to Police Scotland in monitoring FGM Protection Orders. This will sit alongside Police Scotland's existing crime prevention and investigative responsibilities and is not expected to add to staff costs. Police Scotland have highlighted that previous experience from Forced Marriage Protection Orders indicates that should an application be contested then resource costs can increase substantially to support the legal process.

24. There will be costs associated with the introduction of new legislation and guidance. It is likely that awareness training would need to be provided to all police officers, police staff and special constables. This would likely be delivered through e-learning, introductory videos and other materials to increase general awareness of the Bill. It is estimated by Police Scotland

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

that one to two hours' awareness training would be required for approximately 23,400 staff.

25. In addition, Police Scotland has estimated that approximately 14,000 officers and front line staff, as well as 1,100 special constables, may require dedicated training in the changes under the Bill. Police Scotland suggest the most viable option to disseminate training would be to have three Detective Constables working throughout Scotland. Classroom costs are estimated at £27,200 (604 courses x £45 per classroom per day) and printed documents at £15,100 (604 x £25). This provides an approximate total cost of £42,300 for venue and material costs. The cost for the three trainers at detective constable grade would be £34,737 each, with a total cost of £104,211. These costs will not be recurring, as training of new recruits will be updated to include the changes in the Bill.

26. There will be costs for Police Scotland associated with making an application for an FGM Protection Order. An application from Police Scotland is estimated to cost approximately £2,500. Assuming up to nine FGM Protection Order applications in Scotland per year the range of costs would be from £0 to £22,500 per year, depending on how many applications are made by Police Scotland. Police Scotland have highlighted that if a case is more complicated and would require evidential hearings then the costs are likely to be substantially higher due to increased legal costs. These additional costs would be dependent on the circumstances of the individual application.



This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

## Summary

27. The additional costs to the Scottish Administration, local authorities and other bodies as presented in this memorandum are summarised in the table below.

<b>Implementation Costs Financial Year 2020-21</b>	
Scottish Government: Consultation (Paragraph 18)	£25,000
Local Authorities (Paragraph 22)	£50,000 to £100,000
Police Scotland (Paragraph 25)	£146,511
<b>Total Range</b>	<b>£221,511-£271,511</b>
<b>Ongoing costs Financial Year 2021-22</b>	
<b>FGM Protection Orders: Applications Estimates based on a range between 1 and 9</b>	
Scottish Government: Evaluation (Paragraph 18)	£60,000
Scottish Legal Aid Board (Paragraph 12)	£1,000 to £9,000
Scottish Court and Tribunal Service (Paragraph 13)	£105 to £945
Local Authorities (Paragraph 21)	£3,500 to 31,500
Police Scotland (Paragraph 26)	£2,500 to £22,500
<b>FGM Protection Orders: Breach of an order Estimates based on a range of 2 breaches</b>	
Scottish Legal Aid Board (Paragraph 15)	£3,540 to £19,368
Scottish Court and Tribunal Service (Paragraph 16)	£882 to £29,960
Crown Office and Prosecution Service Scotland: (Paragraph 17)	£842 to £128,062
<b>Total Range</b>	<b>£72,369 to £301,335</b>

This document relates to the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill (SP Bill 47) as introduced in the Scottish Parliament on 29 May 2019

# Female Genital Mutilation (Protection and Guidance) (Scotland) Bill

## Financial Memorandum

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -

[www.scottish.parliament.scot](http://www.scottish.parliament.scot)

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.scot/documents](http://www.scottish.parliament.scot/documents)