Equalities and Human Rights Committee
24th Meeting, 2019 (Session 5)
Thursday 10 October 2019

Female Genital Mutilation (Protection and Guidance) (Scotland) Bill
Summary of Toolkit Responses

1. The Equalities and Human Rights Committee is committed to hearing the views of communities in its scrutiny of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill. To do so, Members have undertaken engagement activities, and worked with a group of women to enable them to tell their stories in a digital format. Notes of the visits and the digital stories are available on the Committee’s website.

2. The Committee has also worked with organisations to gather the views of their service users. A toolkit and questions for discussion were created and sent to a selection of organisations who work with individuals from affected communities. Organisations were invited to discuss the Bill with their service users and collate any thoughts, experiences, or questions.

3. Responses were received from two organisations: one gathered the views of 10 women originally from Somalia, Ethiopia and Yemen (in black). The second heard the views of five men (in green).

4. Comments received are summarised below.

General Principles

5. We asked the following questions for discussion:

   a) Do you think FGM Protection Orders will help women and girls?
   b) Could the Scottish Government do something else instead?
   c) What might stop FGM Protection Orders from working?
   d) How would a protection order work in your community? Would you know how to get one if you or someone you knew was at risk of harm?
   e) Do you have any experiences where you think a protection order might have helped you? Or where you think a protection order might have created a problem for you?
   f) How should different communities learn about the Bill?

6. Points raised are as follows:

   - Since we are not legal specialists we are not best placed to say whether FGM Protection Orders will be a more effective means of preventing FGM and safeguarding those at risk, compared to existing measures, but the existence of a specific protection order is generally welcomed because it highlights FGM as a specific risk to girls and women in Scotland.
Major and consistent themes in our discussions with women affected by FGM has been the need for active engagement with communities, community led education and activism, and the need for resources to support community led change.

Active engagement with communities is seen as essential to all work to end FGM and safeguard those at risk. One woman commented ‘It doesn’t matter what law you have if people don’t know about it’.

We are not convinced that the legislation can be effective unless it is accompanied by ongoing work in communities.

Not everyone is aware of the existing law on FGM. Whilst this would be understandable when people are newly settled in Scotland / UK, we have been disappointed to find out that some women who have been here for a number of years are also unaware. This included women who have given birth to children in Scotland.

One woman stated that she had had three children in Scotland and had never heard the expression ‘female genital mutilation’. This woman has type 3 FGM, which is most commonly associated with long term adverse health effects, yet discussion with health professionals was limited to her first pregnancy when she was asked if she wanted to be ‘opened’ during pregnancy, or once labour was started. She was not asked about any health issues associated with FGM, nor was she informed about the law, nor asked if she would arrange FGM for her children. This indicates that the ‘FGM question’ in the national maternity assessment is not being asked consistently, and not all midwives are raising the issue of protecting girls from FGM.

We would like to see the Scottish Government identify key points where information on FGM should be provided, and consideration given to how this could be implemented and then monitored and collated across Scotland. This could include
  - during national maternity assessment,
  - information provided to parents when a child starts nursery or school,
  - as part of the national smear test programme.

It is our understanding that people should receive information on FGM during early support for asylum seekers, and during the family reunion process but this does not always seem to be the case, or possibly some people don’t retain the information because it is a stressful time.

We have supported a number of women who fled their home country and are claiming asylum in order to protect their girls from FGM. Women highlighted the difficulty of their situation, where on one hand they are told that FGM is regarded as a serious offence and a child protection issue, whilst on the other hand the Home Office has refused their asylum claim. These women hoped
that a FGM Protection Order could help their situation and protect their daughters from FGM.

- The legislation will not be effective unless people are aware of its existence, and believe that it will be implemented. Public education and community engagement approaches need to be amended to work effectively within different communities. The key is to understand the beliefs underpinning the practice in each community. So for example if people carry out FGM because they mistakenly believe that it is a religious obligation, then their Church or Mosque must be a key partner.

- Bearing this in mind, opportunities for raising awareness in communities could include:
  - Resourcing and engaging with community leaders and service users from BME, asylum support and refugee support organisations, cultural organisations and community centres
  - Working with Churches, Mosques and faith based organisations
  - Providing information via African, Middle Eastern and Asian shops
  - Providing information via Nurseries, schools and FE colleges
  - Providing information via International student services at Universities

- These measures are a real contribution to the prevention strategy which provides a deterrent and not just the present tools of punishment of the practise which although necessary, is “closing the stable door” after the horse has bolted.

Protection orders

- Some women felt that an FGM Protection Order would help to protect their daughter, because they believed that although some family members might approve of FGM, they would respect the law, and therefore the girls would be safer.

- Other women felt that people in their family and / or community would not necessarily respect a UK law, and that therefore the Protection Orders would not be effective and would not reassure them. One commented “If the old women think it is the right thing to do, they won’t care what our law says”.

- Our discussions highlighted that it would be difficult for girls to speak out against their family in any case, and for some there is the possibility of family breakdown. The women questioned what support would be available for girls and young women throughout, and especially should they have to leave the family home, e.g. would fostering services have suitable families to care for the girls?

- Having read the guidelines for the new legislation, we understand how to get a Protection Order but clarification is required, e.g. “other person with permission of the court”
• Would there be guidance for 3rd sector organisations?

• If there were guidelines about types of behaviour that would trigger concerns which merited Protection Order, then it would help us to be clear about procedures. We have had one case which required social work involvement regarding Child Protection which would now be considered under the new procedures.

Anonymity for victims of FGM

7. On provisions that would create anonymity for victims, we asked, “is this issue important for you?” Points raised were:

• In our view, if legislation to protect anonymity is needed, this should cover any victim of any form of gender based violence, rather than specific legislation being introduced for FGM.

• People also questioned how effective such legislation could be in relation to information being shared online or in other countries. They doubted that any legislation would stop people sharing information by social media for example.

Duty to notify police of FGM

8. On the duty to notify, we asked whether Scotland should have a similar rule to England and Wales where healthcare workers, social workers, and teachers have a duty to tell the police if they find out FGM has been carried out on a girl who is under 18. Points raised were:

• We don’t support the introduction of a duty to notify the police. Women feel that this would be stigmatising and almost everyone questioned what difference it would make or what value it would bring.

• The general feeling is that workers know that they should act, and what steps to take, if they feel that a child or young person is at risk, or if they believe that an offence has been committed.

• Based on our experience of delivering practitioner training we don’t believe that there is support for this measure amongst practitioners. Some members of staff have stated that it could adversely affect their relationship with service users, and / or that a duty to notify might deter them from raising the issue.

• There is a strong sense that there should be consistency of approach to different forms of gender-based violence, not least because of the links between different forms. This begs the question why there should only be a duty to report around one form of abuse only. Again, some people felt that it would only stigmatisate their community.
9. We also asked what questions we should put to our witnesses about the duty to report. Questions received were:

- What benefits, if any, do you see from introducing a duty to report?
- Would you be concerned that this might adversely affect your relationship with service users?
- Are you confident that staff in your organisations would notify Police? If not, what might their concerns be?
- If a duty to report were introduced would your staff require training? Would you have the capacity to provide this training?
- If a duty to report were introduced how would you monitor this? Would you have the capacity to monitor it and ensure compliance?

**Failure to protect**

10. On this area, we asked “What do you think about making it an offence to fail to protect someone from FGM?” Replies were:

- We do not support this measure.

- Women felt that it might have unintended consequences and might serve to frighten and further silence some women.

- One woman said ‘Women in my community have no say. It’s not the women who are allowed to make decisions’.

- Other women described situations where their husbands had agreed things with other family members without their knowledge or consent, sometimes actively misleading the woman.

- Another woman spoke about a situation where an adult woman had been forcibly re-infibulated against her will by female relatives during a trip to her home country. She commented that if women are not able to protect themselves it would be unfair to punish them for failing to protect their child.

- Agree it should be made offence but with provision for level of involvement/failure/taking into account the social/family pressures involved.

**Other comments**

- The main point we would like to stress, and this was strongly voiced by all who took part in discussions, is that any protective legislation will only be effective so long as people know about the law and how to use it. This applies to community members, practitioners in education, health and social work, and those within the justice system.

- We regularly come across women who have experienced FGM who are not aware of the current law, nor of where to access health treatment if needed. Sadly this includes women who have been in the UK for a number of years. Continuing active community
engagement is vital, and this is most effective when led by women survivors and members of communities potentially at risk.

- A further point which came up in discussion is the need for improved treatment for women survivors, and for survivors to be better informed about where to access health treatment. Reports from women indicate the need for ongoing training for key health professionals, such as GP’s, Sexual Health nurses and Practice Nurses.

- A question on FGM is included in the national maternity assessment but figures are not collated nationally so there is no means of telling whether this opportunity to engage with women is being used effectively.

- One suggestion to improve access was to have a specific clinic for FGM, even if this was only occasional. Women felt that if such a clinic was available, and if it was supported by women from communities affected by FGM, then women would be much more likely to come forward for treatment.

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