

## **Forced Marriage Protection Order**

In 2007 legislation by way of the Forced Marriage (Civil Protection) Act was put into force to offer protection to those who may be forced to marry against their will, often overseas. Although this will primarily apply to young woman forced to marry against their wishes, it is becoming more and more common for such issues to arise in regards to young men also. Since the Legislation has been in place over 50% of the applications made have been in relation to victims under the age of 18.

The Act enables the courts to make Forced Marriage Protection Orders (FMPO). These can be used to prevent forced marriages occurring or to protect victims who have already been forced into marriage.

Where a forced marriage has taken place, courts can make orders to protect the victim and help remove them from that situation. Where a person is in breach or contempt of an order made under the Act, the court will deal with them under its contempt of court powers which can include sending them to prison for two years.

Crucially, as victims of forced marriage may be unable to protect themselves, the Act also enables anyone to apply for an order on behalf of a victim if they obtain the permission of the court. The Act also creates the role of the Relevant Third Party (RTP) who may apply on behalf of a victim of forced marriage and does not require the permission of the court to make an application.

A relevant third party is someone appointed by the Lord Chancellor to make applications on behalf of others, such as organisations like the Police or a Local Authority.

A Forced Marriage Protection Order can last for a specified period of time or alternatively can effectively be made indefinitely i.e. until an Order is made to the contrary.

The Act does not make Forced Marriage a criminal offence. This is because the Government were worried that criminalising forced marriage would force the issue underground. Victims of forced marriage are often unwilling to take criminal action against their parents or other family members.

However, the police and courts can treat many of the practices associated with forced marriage such as kidnap and assault as criminal offences and deal with them accordingly. The Courts also have the power to make Orders requiring passports to be handed over, to stop intimidation and violence and to force someone to reveal the whereabouts of a person and to stop someone from being taken abroad.

### **Emergency Applications**

Due to the nature of situations involving forced marriages, time is usually of the essence. Therefore emergency applications can be made (called Ex Parte applications). The benefit of such applications is that no notice of the application is made to the Respondent in advance and hopefully a Forced Marriage Protection Order can be obtained to protect the victim at an initial hearing, without the Respondent being notified of the proceedings. Once an Order has been obtained this is then served on the

Respondent who will have a chance to have their say as to whether the Order should continue or not at a further hearing.

### **Enforcement of Orders Overseas**

There is a Forced Marriage Unit (FMU) in the UK which is a joint-initiative between the Foreign and Commonwealth Office and the Home Office. In 2009 FMU gave advice or support to 1682 cases. 86 percent of these cases involved females and 14 percent involved males. The unit works abroad with embassy staff to rescue victims who may have been held captive, raped, forced into a marriage. The Unit is able to offer advice and assistance to those who are concerned that they may be forced into marriage, or to friends or relatives of such victims. The Forced Marriage Unit can be contacted on 0207 008 0151

### **Evidence being given during Proceedings**

Understandably many victims of forced marriage may be intimidated or scared about telling someone, let alone having to give evidence at Court as part of an application for a Forced Marriage Protection Order. However steps can be taken to assist with such situations, such as:

- Separate Court Waiting Rooms to prevent the witness and Respondent coming into contact with one another.
- Witness Protection facilities may also be available in some Courts.
- Screens to ensure that witnesses cannot see the Respondents in Court- Screens are placed around the witness box within the Court so that the Respondents cannot see the witness whilst they are giving evidence.
- Video recorded evidence- This allows an Interview with the witness, which has been recorded before the hearing, to be shown as the witness' main evidence during the hearing i.e. the witness does not have to report again what they have already said, but they must still be available to be cross examined if necessary.
- Live TV/Video Links, allowing the witness to give evidence via a TV link from another room in the court building or from another building altogether. Although the witness does not come into the courtroom, those present in Court will see the TV monitors of the witness giving evidence.

### **Legal Aid**

Legal Aid may be available to cover legal advice and any application for a Forced Marriage Protection Order. Eligibility for Legal Aid will be determined on the circumstances of the applicant.

### **What do I do now?**

Oxley & Coward can offer confidential assistance and advice if you, or someone you know may be at risk of being subjected to a Forced Marriage and to take steps to obtain the relevant Orders to protect you. Call us now on 01709 510999 or email [family@oxcow.co.uk](mailto:family@oxcow.co.uk)