



**METROPOLITAN
POLICE**

TOTAL POLICING



CPS

A Protocol between the Police and the Crown Prosecution Service in the investigation and prosecution of allegations of FGM

Parties

- 1 The Parties to this Protocol are the Metropolitan Police Service (MPS) and the Crown Prosecution Service (CPS), London.

Background

2. The Female Genital Mutilation Act 2003 (the 2003 Act) came into force on 3 March 2004, and repealed and replaced the Prohibition of Female Circumcision Act 1985. The 2003 Act made it an offence for the first time for UK nationals, or permanent UK residents to carry out female genital mutilation abroad, or to aid, abet, counsel or procure the carrying out of FGM, even in countries where the practice is legal. To reflect the serious harm that this practice causes, the 2003 Act also increased the maximum penalty from 5 to 14 years' imprisonment.

3. FGM involves procedures which include the partial or total removal of the external female genitalia for cultural or other non-therapeutic reasons. The practice is medically unnecessary, is extremely painful and has serious health consequences, both at the time when the mutilation is carried out, and in later life.
4. There are a number of factors which affect investigations and prosecutions relating to FGM. Cultural taboo and reluctance to report the crime to the police is a major factor and concern. However, criminal justice agencies are working closely to raise awareness and to ensure that whenever these cases are reported, they are thoroughly investigated and victims and witnesses are supported throughout the criminal justice process.

Communication

5. The MPS Sexual Offences, Exploitation and Child Abuse Investigation Command will work with the CPS lawyer to ensure that the investigation and prosecution of FGM is coordinated between agencies.

First Response

6. The MPS first response officers are sufficiently trained and knowledgeable about FGM practices and cultural awareness.
7. They will take an initial account where possible from victims and/or witnesses.

Investigation

8. The investigative team will include an officer with enhanced knowledge of FGM practices and cultural awareness who will remain attached to the case until the conclusion of the enquiry and any subsequent court proceedings. Key witness statements will be taken by the investigative team.
9. Any medical examination of the victim should take place in a dedicated examination suite. This ensures both victim care and the integrity of evidence are maximised. The specific requirements of victims with special needs will always be considered. This may involve assistance with transportation or the use of hospital facilities for the medical examination if appropriate.

10. The medical examination of the victim should be carried out by an appropriately FGM trained Forensic Physician (FP), Forensic Nurse (FN) or paediatrician. Where practicable the wishes of the victim will be taken into account and adhered to in terms of the gender and or ethnicity of the FP or FN.
11. Where an expert opinion is sought the officer in the case will, as soon as is reasonably practicable, provide the FP with all prosecution evidence including the suspect's initial account, and with the defence statement when received.
12. The CPS will usually include the FP in the conference with the prosecutor, trial advocate and the investigating officer (IO) unless there are particular reasons for not doing so.
13. The CPS will usually call the FP as a live witness at trial unless there are considered reasons for not doing so.

Forensic Submissions

14. The police will provide the forensic service provider with a copy of the victim's statement or a note of their visually recorded interview (MG15 ROVI) and with any MG3 provided by CPS to inform the analysis of forensic submissions.

Full and Early Consultation

15. Early consultation between the police and CPS is essential both for the investigation and to ensure the early development of a joint strategy for the prosecution.
16. The IO will arrange an early consultation with the CPS lawyer (allocated to the case) for early advice and case building.
17. The CPS lawyer will provide a provisional assessment of the case, lines of further enquiry, identification of the likely charges and of the evidence required to support them. They will be proactive in identifying, and where possible rectifying, evidential deficiencies and in bringing to an early conclusion those cases that cannot be strengthened by further evidence.
18. Where the CPS lawyer considers there is not enough evidence to proceed to charge but that further evidence could be obtained, they will provide investigative advice identifying all steps and evidence that may be undertaken to provide a realistic prospect of conviction, including the completion of a detailed action plan with agreed action dates on form MG3.

19. Early consultations need not be restricted to cases where there is already an identifiable suspect or that pass the threshold test. They may take place in any case where the early involvement of a prosecutor would assist in the gathering of relevant evidence, the questions to be asked of suspects, any pre-charge court procedures and any strategy for a likely prosecution. A brief written record of the consultation will be made by the prosecutor.

Charging

20. The CPS lawyer and the IO will work closely together to build cases, ensuring that all possible avenues of evidence are explored and that the correct charge is identified.
21. The police will ensure that any statements supplied to the prosecutor at the pre-charge stage contain the witness's details on the reverse of the MG11 and where required will be accompanied by a completed MG2 to ensure that any requirement for special measures receives early informed consideration. Where a witness has provided a visually recorded interview, an MG2 will be completed and supplied to the prosecutor as a matter of course.
22. Unless the circumstances require the application of the threshold test, the police will provide the CPS lawyer responsible for making the charging decision with an evidential report containing the following:
 - All key witness statements including medical and forensic;
 - Visually recorded witness interviews and accompanying ROVIs;
 - All key documentary exhibits;
 - Record of suspect's interview;
 - Any unused material which undermines the prosecution case or may assist the case for the accused including items relating to the complainant's credibility;
 - Any third party material that is available including social services' records;
 - Previous convictions of any suspect, complainant and witnesses.
23. The CPS will ensure that every MG3 provided by the CPS lawyer contains a full record of the decisions taken with reasons.
24. The CPS will ensure that every MG3 provided by the CPS lawyer will contain an Action Plan unless there is no additional or outstanding work required from the Police. To ensure cases are managed efficiently action dates will be agreed between the CPS and the Police on the Action Plan.

25. Any decision not to prosecute an allegation of FGM or to prefer a lesser or another charge will be confirmed by the Chief Crown Prosecutor (CCP) or Deputy Chief Crown Prosecutor (DCCP).

Disclosure

26. The IO or disclosure officer and the CPS lawyer will handle unused material in accordance with the Criminal Procedure and Investigations Act 1996 as amended, the relevant Code of Practice, the Attorney General's guidelines on disclosure and the [Disclosure Manual](#).
27. The MPS will ensure that the IO or disclosure officer is adequately trained on CPIA procedure.
28. The IO or disclosure officer and the CPS lawyer will be proactive in identifying relevant third party material at the pre-charge stage. Access to third party material will be sought by the police prior to the decision to charge wherever possible.
29. The CPS lawyer will make an application to the Court for a witness summons in respect of third party material where appropriate.

Review and Case Preparation

30. A conference with the trial advocate, the CPS lawyer, the IO, CPS caseworker and the FP (where appropriate) should be held in every FGM case as soon as practicable after the advocate has received instructions.
31. When a victim asks the police not to proceed or withdraws the complaint the police will take a written statement that will:
 - Explain the reasons for withdrawing support;
 - Say whether the original complaint was true;
 - Say whether the complainant has been pressurised to withdraw by any person.
32. In addition the police will provide a report that will:
 - a. Say what they think about the case, in particular the reasons for the withdrawal and its impact on the case;
 - b. Say if the victim is supported by any specialist support service;
 - c. Assess the risks to the victim and any other person's safety;
 - d. Assess how the victim might react if required to attend court.
33. If it is suspected that the victim has been pressurised or is frightened the police will investigate further and assess if prosecution for intimidation is possible and assess any support that has been offered and whether the

intervention of a local specialist support service could make a difference. The CPS will, if appropriate, ask the court to delay any hearing to enable this to be done.

34. If the victim confirms that the complaint is true but still wants to withdraw the police and CPS will consider the feasibility of continuing without the victim's evidence and whether to do so against the wishes of the victim.
35. A decision to proceed and call the victim to give evidence against his or her wishes will only be taken by the CCP or DCCP after consultation with the police and the CPS lawyer.
36. Where the CPS lawyer proposes to discontinue the case, the police will be consulted with to ensure that there is no further action that can be taken. The decision must be in writing and recorded on CMS (the CPS case management system).

Victims and witnesses

37. At the start of any FGM investigation the police will ensure that victims are referred to local specialist support services.
38. In every case that is subject to charge an individual should be identified to provide a single point of contact with the victim and, whether this is the IO, a member of the investigation team, a witness care officer, CPS caseworker, specialist support service, or another, the files of the police, CPS and Witness Care Unit (WCU) should be conspicuously marked so that it is clear to all parties who is responsible for communicating with the victim and keeping records of any actions.
39. There will be an early special measures meeting between the IO and the CPS lawyer in every case to cover the requirements of witnesses for special measures and to enable the IO to inform the prosecutor of the views of the witnesses. Prior to this meeting, the IO will contact the specialist support service for an update on the victim's situation and any recent developments.
40. In every FGM prosecution, the police and the CPS lawyer will consider whether a special measures meeting should be held with the witness.
41. In every FGM prosecution the WCU will arrange a court familiarisation visit for the victim. Where the victim requires additional assistance such as an interpreter or help in gaining access to the premises due to disability such assistance will be provided. In the interests of the victim and efficient case management wherever possible efforts will be made to coordinate the visit

with the conference with counsel and the victim's special measures meeting.

42. The police will ensure that the victim in every FGM case has the opportunity to provide a victim personal statement, the purpose of which is to assist the court by enabling the victim to describe the effect the offence has had and to express an opinion on bail and other issues.
43. The police and the CPS will comply with their responsibilities as set out in the [Victims' Code](#).

They include:

- a. When a decision to substantially alter or drop a charge of FGM is made the CPS will notify the victim of the decision within one working day and offer to meet the victim;
 - b. When other than in the course of a face to face consultation with the police following receipt of a full evidential report for a charging decision the CPS lead decides not to bring any proceedings the CPS will notify the Victim within one working day and offer to meet the victim;
 - c. When the decision by CPS to take no further action was taken in the course of a face to face meeting with the Police, the Police will be responsible for notifying the victim of the decision.
44. When a case is to be dropped or a charge reduced and the police and CPS decide it is appropriate to do so, the police will personally deliver an explanatory letter to the victim.

Trial

45. The CPS will select an advocate with the necessary skills and expertise to prosecute every FGM case whether from the CPS Panel of approved advocates from the self-employed Bar or from within the Service.
46. The trial advocate will attend the plea and case management hearing save in exceptional circumstances, reasons to be recorded on the file.
47. The CPS will remind the prosecuting advocate to introduce themselves to the victim at court prior to the start of the trial. This is especially important if a special measures meeting with the victim has not taken place.

Sharing Lessons Learned

48. Both the MPS and CPS will monitor these cases through regular meetings between the police and the CPS lawyer and provide feedback about good

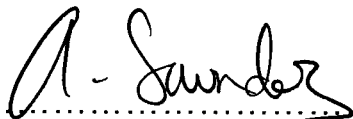
practice and aspects for improvement on a quarterly basis to Strategy and Policy Directorate and the ACPO lead on FGM so that national lessons can be learnt¹.

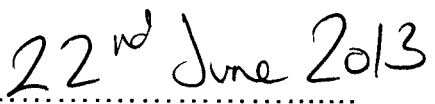
Implementation

49. This protocol will take effect in respect of all MPS FGM investigations commencing on or after 1 June 2013 for a period of eighteen months.

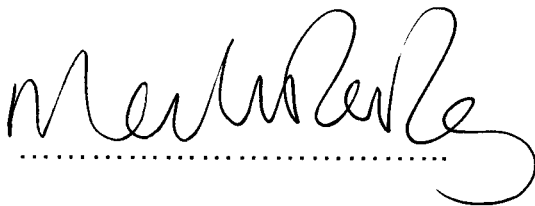
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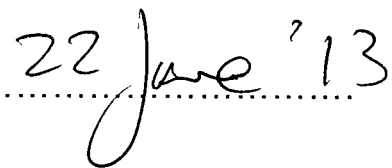
Date:


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Alison Saunders CB
Chief Crown Prosecutor
Crown Prosecution Service
London


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Mark Rowley QPM
Assistant Commissioner
Head of Specialist Crime and Operations
Metropolitan Police
London

¹ This will feed into the CPS VAWG Assurance Scheme.