



My Marriage My Choice

Summary of Findings

(Short Version)



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My Marriage My Choice

Summary of Findings

Authors: Anne Patterson, Rachael Clawson, Michelle McCarthy, Rachel Fyson
& Deborah Kitson

*This report is based on independent research commissioned/funded by the NIHR School for Social Care Research.
The views expressed are those of the authors and not necessarily those of the NIHR School for Social Care
Research or the Department of Health, NIHR or NHS.
www.sscr.nihr.ac.uk*

Introduction

The My Marriage My Choice project (a two-year study funded by the National Institute for Health Research, School for Social Care Research) has been conducted with a view to exploring forced marriage of adults with learning disabilities¹ from a safeguarding perspective. Its aim was to develop knowledge, policy and practice to support professionals in their work of safeguarding vulnerable children and adults.

Forced marriage is defined as a marriage without the consent of one or both parties and where duress is a factor (UK Government Forced Marriage Unit). In a forced marriage one or both spouses do not consent, or due to lacking capacity, cannot consent to the marriage.

The research project has also been conducted to raise awareness of forced marriage in order that all of those who are involved in the education, care and support of individuals who cannot effectively consent to any such undertaking, might be empowered to recognise forced marriage as such and respond appropriately.

Forced Marriage Unit (FMU) statistics show there has been a rise year on year in the number of people with learning disabilities being reported who may be at risk or have been the subject of forced marriage. A law introduced in 2014 makes such marriages unlawful and so not only are people with learning disabilities at risk of being married when they know little about marriage and what it involves, but families and other people around them are at risk of getting into trouble with the law if they encourage people to enter into such a marriage.

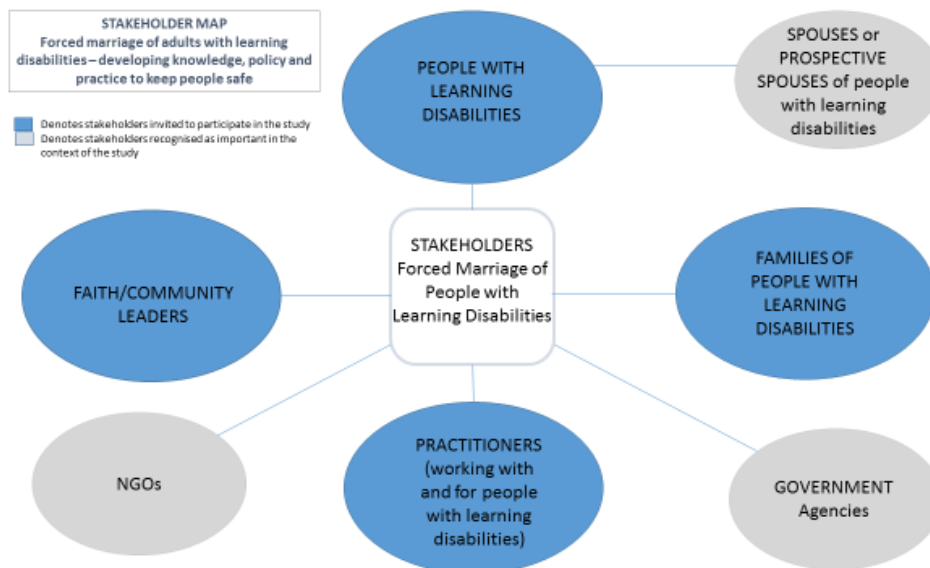
Working in partnership with the Forced Marriage Unit (FMU) the research team has been given unprecedented access to statistics collected between 2009 and 2015 with a view to understanding more about the incidence of forced marriage in the population of people with learning disabilities. This study of the FMU data was undertaken in Phase One of the research study and these data helped to identify the geographical areas in which the research team would conduct their interviews and focus groups with a set of key stakeholders. These areas were identified as London and the South East, West Midlands, North West and Yorkshire and Humberside. Further details from Phase One of the research are reported below in the main report.

A range of stakeholders were identified prior to the research as indicated in the following stakeholder map.

¹ The term 'learning disability' is used throughout this document as this is the term most frequently used by practitioners in the UK. Learning disability is defined as:

- A significantly reduced ability to understand new or complex information, to learn new skills (impaired intelligence) with;
- A reduced ability to cope independently (impaired social functioning);
- Which started before adulthood, with a lasting effect on development.

[*Valuing People' White Paper 2001- DOH*]



The research team were keen to hear the voices of people with learning disabilities themselves and also the voices of people who support them and/or may have an influence on their life decisions, including marriage. The four groups of people highlighted above were invited to talk to us either as a group or in an individual interview. Their views and perspectives are reported in the Phase Two findings section of the following report.

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Phase One Findings

Forced Marriage Unit² (FMU)-held data (2009-2015)

Summary of Key Findings

- The data from the Forced Marriage Unit (FMU) demonstrate the increase year on year (2009-2015) of cases being reported in respect of people with learning disabilities, which is in line with increased reporting in all cases.
- Some key differences have been highlighted however in terms of age and gender of those cases reported in respect of people with learning disabilities.
- There appears in particular to have been a reversal in trends related to gender - with more cases of males with learning disabilities being reported than those of females with learning disabilities as compared with all cases being reported.
- The ages of people with learning disabilities being reported as being at risk of or having been forced into marriage are higher than in all cases reported.
- There is evidence therefore to suggest that the profile of a 'typical' person who may be at risk of forced marriage is notably different in each of the wider population and the population of people with learning disabilities. This has implications for everyday practice in terms of recognising potential cases and in turn in terms of the safeguarding of people with learning disabilities.
- The areas of the United Kingdom identified from the FMU data as having the highest incidence of reported cases: London & South East; West Midlands; North West, and Yorkshire & Humberside have informed the ongoing research in Phase Two of the research. The interviews and focus groups of the four key stakeholder groups (identified earlier as people with learning disabilities, family carers, faith and community leaders and finally practitioners) were concentrated in these areas.

²FMU website: <https://www.gov.uk/guidance/forced-marriage>

FMU annual statistics can be found at:

<https://www.gov.uk/guidance/forced-marriage#statistics-on-forced-marriage-collected-by-fmu>

Phase Two Findings

What People with Learning Disabilities told Us

We talked to nineteen people with learning disabilities – we held three focus groups and three individual interviews.



Summary of key findings

- Most people with learning disabilities recognised that they have the right to choose if they get married and to whom – though the degree to which they might be able to exercise these rights was variable and was largely determined by individuals' own capacity to understand marriage and their family and daily-living circumstances.
- Whilst some people with learning disabilities demonstrated a strong conviction and willingness to vocally exercise their rights to choose for themselves, there remained a strong deference to others (particularly parents) over such decisions.
- When presented with specific scenarios about forced marriage people became less sure of the rights and wrongs of particular situations and more likely to acquiesce with persuasive suggestions and solutions.
- People with learning disabilities who expressed the most willingness to say no to unwanted marriages were those with observable capacity, a wide frame of reference on marriage and wide social opportunities suggesting that a greater vulnerability to forced marriage may exist for those who have less of any or all of these.

What family carers of people with learning disabilities told us

We spoke to 23 family carers in all, through two focus groups and six individual interviews. Those we spoke to were mainly mothers although one was a sibling, and another an aunt. Most family carers were female though two were male family members. They were all directly involved in the care of a family member with a learning disability.

"I was very isolated, I didn't think our community was that understanding of it [learning disability]"

"...if they think oh no, there is no care, nobody is going to look after my son or daughter, then maybe they will force their son or daughter"

"I think the carer knows the person better than anybody else"

"He really does want to have a girlfriend or maybe a partner... which makes it really difficult. He does miss all that and I feel a bit sad for him"

"It's something that every parent wants for their child is for them to be happily settled in life with someone who's going to look after them when we're not around...I think anyone's nightmare is being lonely"

"Some social workers are just interfering. They just come in, throw their weight around and they take the child away from the family, put them into some sort of care and they think they know better than the child's parents..."

"I must admit I did influence..., and her support team did too, to just slow the pace down and just have the friendship"

"...like [the] partner if he is good, they understand the person's situation, that is okay..."

Summary of key findings

- Family carers reported mixed experiences of being a family that includes someone with a learning disability. At one end of the spectrum families felt a high level of acceptance in their close social circles and wider community. At the other end some families experienced isolation and a sense of stigma.
- Distinctions between arranged and forced marriage appeared blurred for many families. Further awareness-raising about capacity to consent and the law on forced marriage may help to resolve any existing confusion.
- Family carers acknowledged that people with learning disabilities had differing levels of capability but there were some fundamental mis-understandings about capacity, how it might be assessed and how important capacity to consent was in decisions about the appropriateness of marriage. Some carers were aware of the law though many were not. The law on forced marriage and the importance of establishing capacity to consent as a central part of applying the law requires greater publicity and opportunities for focused learning by family carers.
- Family carers reported dilemmas over whether their family member should get married. They overwhelmingly desired contentment for their family member which for some included expectations of marriage, although this could lead to incorrect assumptions that this would always be possible, especially if one could find the 'right' partner. Often the concerns of such a partner to be able to cope were put above any risks or concerns that may exist for the person with a learning disability in entering a marriage.
- It was evident that for many families' their motivations for considering marriage were intertwined with concerns about future care. They thus require further information about the services that may be available to them to support them in forward planning for when they are no longer able to care. Younger family members seemed to be more receptive to the family and individual with learning disabilities accessing support and services and so may be a good 'vehicle' for introducing new ideas.

What faith and community leaders told us

We spoke to sixteen faith and community leaders through two focus groups and five individual interviews. These people came from a range of faiths and denominations including Muslim, Jewish and Christian (this included Baptist, Roman Catholic and West African churches).

[Disability]...“we find it taboo, we find it shameful ...we try to hide it ..., we don’t want social service[s] to deal with it. We find we can’t talk about it openly”

“So you become like one voice among many. So yes they will listen to your advice, but you certainly won’t be the main influence in their decisions”

“I think in the past, it [disability] was a big issue, there was a lot of stigma.....I don’t think it’s as much as before”

... in our society, in our faith as well we’re expected for everyone to get married. And obviously when they don’t, ...it’s not a big issue... but you still hear ..negative whispers here and there”

“If you have proper marriage preparation, because marriage preparation...happens with the couple. And a good preparation and a good team would recognise some of these issues I think... If the preparation is going over six months it would soon become apparent if there are problems with capacity”

“I usually involve families in the process [marriage] but I would do it much sooner in someone with learning difficulties”

“They may be more sympathetic if it’s a person with special needs, but they may also feel that [religious] services aren’t the space for them...I would like to think that they are the small minority, but it only takes one or two people to say something for a family to feel we’re not welcome”

“Every parent understands their child more than anyone else can understand”

Summary of key findings

- Individual faiths held different perceptions of learning disability. In some faiths people with learning disabilities were treated very much as equals whereas in others there existed a level of stigma at having such a 'label'. Even within the same faith community there were mixed reports about the experience of people with learning disabilities ranging from some people being marginalised and poorly treated to being fully included in faith and home life.
- The prevalent view across faiths was one of compassion and tolerance of diversity among individuals though this sometimes meant the denial of difference and the possibility therefore that life expectations (such as marriage) may be considered even when it may not be appropriate for reasons of capacity.
- Issues of capacity and consent and the assessment of capacity to consent were sometimes problematic, on both a language level (where first language was not English) and also on what demonstrated capacity or lack of it and what constituted consent or lack of it. This has profound implications for who may or may not be able to get married legally and so is a key area for concern.
- Many faith leaders were aware of the law relating to forced marriage and that forced marriage was wrong though the application of it relies largely on capacity and consent around which there was much confusion and many contradictions.
- Faith leaders felt that generally their ongoing teaching and the preparation for marriage within their faith would uncover any doubt about capacity and capacity to consent. Given the confusions reported in these areas there appears to be a case for greater awareness-raising of these very central issues and of learning disability itself.
- Most faith and community leaders felt they had little influence in decisions about whether people should get married and who to and saw their role largely as one of preparing people for marriage, conducting marriages and supporting people in marriage. They also reported becoming involved more often as mediators when relationships might be breaking down.
- Many faith leaders alluded to the strong influence that families have in marriage matters and also the vested interests there may be in bringing families together through marriage. Some made assumptions that parents know best for their offspring suggesting limitations to their role in influencing marriage decisions.

What practitioners told us

We spoke to thirty seven practitioners through five focus groups and six individual interviews. The practitioners we spoke to worked in social work services, health services, the police service and learning disability services.

"I think if their perception is my son or daughter would be cared for [if they marry] , then part of me feels well then we're not doing a good enough job for them to think well actually services will care"

...for some people, especially I think some people from different cultures ... the capacity and consent weren't something that was an issue ... or on their radar really. And I think that's where you can get differences ...generational, maybe younger siblings do have some concept of that"

..."if somebody actually thinks oh gosh I can't say anything because somebody's going to say that I'm racist and I don't know, I just think that about a lot of things"

"it would be very uncomfortable and very unpleasant. And you're not always backed up are you when you report things"

"it was extremely difficult, and I think the problem is it damages your relationship with that family. And it's not like oh they can go to a different learning disability service"

"they may be reluctant to reveal any information...someone with a learning disability may be even more frightened of revealing anything, and ..., well they probably don't even realise it's wrong do they? They just know that their circumstances have changed. They might not be so happy but they may not know why"

"it's a very tight knit community ...families talk. So even if they've had an okay experience, but actually the person down the road has had a terrible experience...the whole community is affected by those things. Communities hold those bad things that have happened"

"I had one case where we assessed the young woman as not having capacity, and the family went behind our backs and...found a paediatrician who said that she did have capacity. And they took that to the registrar, and the registrar married her...hopefully that wouldn't happen now, because I think even registrars are a bit wiser as well. But I think some families are very determined that it's the right thing to do"

"I think the point is you can shift things a tiny bit, but ifyou're desperate for your son or daughter to get married, and society or services are saying no, it's pretty hard to make that okay. I think we can plug a few gaps and try and help people come to a place where they accept it, but I think it leaves a scar in families, is my experience across the board"

Summary of key findings

- Practitioners reported a mixed range of experiences and life expectations for people with learning disabilities based upon their varied engagement with families. Some led very full lives – accessing day services and enjoying membership of social groups whilst others’ experiences were more limited. They acknowledged that this was based upon families with whom they engaged and reported that there were possibly many who were not known to services at all. Furthermore they perceived that patterns of engagement with services varied along cultural lines.
- Practitioners reported tensions in maintaining effective relationships with families and talking with them on more emotive matters such as marriage and possibly forced marriage. They identified family and parental concerns over who will care in the future as possibly the most prevalent motivation for families considering marriage for their family member.
- Practitioners perceived that there were genuine misunderstandings among families about what constituted forced marriage and about the importance of capacity, consent and the assessment of capacity to consent. This was consistent with what family carers themselves said.
- Practitioners’ awareness of forced marriage varied greatly in line with the incidence in their area and their everyday experience of forced marriage in their working lives. This awareness ranged from none, through to having well-developed systems for recognising, reporting and progressing cases. This was also true about their awareness of statutory guidelines and the law relating to forced marriage.
- Amongst the challenges faced by practitioners in recognising, reporting and progressing cases, were the lack of resources generally and the lack of infrastructure to support the speedy progression of cases, collusive activities within families and between families and other practitioners, and the delicate balancing of maintaining existing relationships with families whilst delivering sometimes ‘disagreeable’ outcomes to them.
- The assessment of capacity to consent to marriage was misunderstood by some practitioners who had thought such matters could be considered through best interest decisions. This was largely amongst practitioners with no experience of forced marriage cases, suggesting that pre-emptive training may be of great benefit.
- Practitioners also reported cultural barriers and a general lack of trust of services as barriers to effective working with families on matters of forced marriage. Greater engagement with communities – in particular to raise awareness and build trust – would thus greatly enhance the ability of practitioners to respond speedily and sensitively.
- Practitioners also expressed a need for dedicated training and resources – specifically on forced marriage and particularly to support the assessment of capacity to consent to marriage. This should be alongside a clear line of reporting and support for practitioners to recognise, report and progress potential cases.

What registrar practitioners told us

In response to suggestions from other stakeholders during our main period of data collection (that registrars may have a pivotal role in helping to safeguard people from forced marriage) we conducted an additional five interviews, specifically with registrars. The five participants undertook registrar duties at differing 'levels' of the registry service. Some of the participants undertook Superintendent (supervisory) roles and others more junior roles.

"And, you know, we're not social workers. And how do we know the level of their incapacity to understand, you know"

"Or you might not have seen either of them, you know. If they lived at the other end of the country but they wanted to get married at your office because the family lived in the town, you might never have met them until the day they come to get married"

"It would be hard on the day to call a halt to a ceremony. You'd have to be really sure. So it's having the tools in place that would help you to be really sure that would make a difference"

"I think for a typical registrar it would simply be the fact that they don't want to cause problems. They may not feel confident enough in their own judgement to speak out against it [case of concern]"

"We couldn't really do it [consult another professionals] because of confidentiality, because we're then at odds with breach of, well currently the Data Protection Act, and secondly GDPR is coming in in a week's time, and so we have to, things have to remain confidential. So we have no right to bring other professionals or anybody into it"

"...there's a terrific amount of pressure on the registrar who's being paid £8.50 an hour on a Saturday morning with a room full of people"

"...as long as they can speak the contracting words when they get married, that's all. And they've not got to read it; it's say and repeat. So the registrar would say the words and they'd repeat it. OK if they're a little bit slow or, you know, you would put it down into one word even"

"Mental capacity is just an add-on. It's not a lawful impediment; it's just something we have to be aware of"

"Basically the only grounds are that if the paperwork is not satisfactory and also basically if the person sitting in front of you is totally incapable of answering any questions. Now that doesn't stop them getting married. But then a report is sent within the 28-day notice period to the General Register Office to say I am raising the following concerns"

"We are not experts in the field of mental capacity. We can't be. We are experts in our field but obviously are aware that that comes into it. And it's only a few years ago that actually did add a bit about mental capacity into the handbook because before that was nothing"

"I'm very concerned about a lack of training in both forced marriage and safeguarding. All registrars are aware that they have certain responsibilities, but how confident any of them would be at implementing those things or reporting I don't know. It does worry me"

Summary of key findings

- Generally, registrars viewed forced marriage in terms of duress to marry on 'religious or cultural' grounds and in relation to immigration issues. Issues of capacity to consent were rarely cited as an element in a potential forced marriage though they considered it their role to ensure that people understood what they were entering into in getting married. Registrars perceived that (forced) marriage might be considered by families of people with learning disabilities on the grounds of securing future care and financial security.
- Registrars had some awareness of the law and statutory guidelines related to forced marriage though the legal framework to which registrars adhered did not include lack of capacity as a 'legal impediment' to marriage. Neither was lack of capacity perceived to be a 'prohibited degree of relationship' leading to refusal of marriage on legal grounds.
- Registrars identified several challenges/issues in recognising and reporting forced marriage. Most relied on a 'gut feeling' to recognise concerning cases and perceived that they did not have the expertise to assess (in)capacity nor was it their job to do so. Time allocations and the very structured nature of giving/taking notice of intention to marry could constrain further enquiry in concerning cases and systems of governance did not encourage collaboration with other colleagues who may be able to contribute to resolving concerns. Whilst registrars could report concerns to the General Register Office* (GRO), decisions were often pushed back to local officers with the advice to proceed (GRO has power to intervene, including annulment after the event, where it sees fit).
- Some procedural issues assisted in recognition and progression of potential cases of forced marriage. Deliberate separation of the giving of notice of marriage and the celebration and interviewing partners separately helps avoid coercion. There are thus opportunities for partners to voice any concerns. However as the giving of notice and the actual marriage can take place in different offices, registrars may only gain a short snapshot upon which to establish all is well, and opportunities for acting upon concerns is limited. Registrars felt a huge pressure to proceed on the day of the actual ceremony.
- Governance of the registry service sits with both the local authority as employers and GRO as the professional body that monitors registration law. This results in a disjointed system in which other relevant professionals (who could assist with assessing capacity and/or safeguarding issues) are inaccessible to registrars due to privacy and data-sharing complexities. Registrars look to the GRO for guidance and rely heavily on the Registration Handbook which contains limited guidance on capacity issues. Some registrars felt unsupported by GRO, though all said they could find support in their local team. They work within a culture of enablement, though in the context of forced marriage this may mean that lack of capacity to consent may get overlooked. Not all registrars/celebrants received the same training or rewards but often had to make significant judgement calls on concerning cases on the day of the marriage
- Training for registrars tended to be largely procedural and training on forced marriage and issues of (in)capacity to consent was minimal. Registrars felt they would like to have further 'indicators' in order to identify when capacity to consent might be lacking and additional questions to assist with establishing this and clear strategies for progressing concerning cases.

*The General Register Office oversees civil registration and holds records of births, deaths, marriages, civil partnerships, stillbirths and adoptions in England and Wales. It previously employed registrars and though these are now employed by local authorities it remains the professional body that provides the framework, guidance and support to registrars to carry out registration duties.

Implications for policy and practice

The differences in age and gender between all cases recorded by the Forced Marriage Unit and those case relating to people with learning disabilities, and the wide range of ages of those involved in cases, suggests that there may be no indication of a 'typical' profile of someone who may be at risk of forced marriage. However, it is clear that men with learning disabilities are just as much at risk as women, unlike forced marriage in the wider population. Thus careful vigilance is needed by practitioners and others who support people with learning disabilities in order that potential risk situations are recognised and acted upon appropriately to ensure that people are safeguarded.

There appears to be a need for further awareness-raising of the issue of forced marriage among all stakeholder groups to:

- empower people with learning disabilities to express their own choices about marriage and to be supported to follow their wishes rather than those of others
- make families aware that people with learning disabilities must be able to consent to marriage for themselves and must have the capacity to do so or they may be at risk of breaking the law in allowing or making someone marry
- clarify for families that they cannot make decisions on behalf of their son or daughter even if they believe they are doing so in their best interest
- ensure consistency across faiths and communities of the rights of people with learning disabilities and of the need for capacity to consent to marriage on the part of both parties
- ensure that all practitioners might recognise potential cases of forced marriage and be able to act accordingly to safeguard adults at risk

Obtaining a carer for a son or daughter is a key motivator in families seeking marriage for their relative with a learning disability. Family carers in particular will require more information about services to support their family members if they should no longer be able to care for them if alternatives to marriage are to be sought. Mechanisms and resources to reach as diverse a range of communities as possible will be required. Clear pathways for seeking out support will be beneficial for building trust and managing expectations in forward-planning for the future.

Differences between assisting someone to find a partner (arranged marriage) and forcing someone to marry require unpacking further for families and faith/community leaders in particular. The importance of people having the capacity to consent and being given the choice whether or not to consent needs to be reinforced within communities. Younger people within families may be able to assist in efforts to reinforce key messages that will hopefully keep vulnerable people safe.

Practitioners' ability to respond speedily and sensitively to concerns about forced marriage needs to be supported by:

- dedicated training for all to recognise potential forced marriage and to know the pathways to reporting and progressing cases
- culturally specific training to enable shared understandings of diverse tradition and culture that impacts marriage, with a view to diffusing tensions when the law and what is right to safeguard people are at odds with traditional and cultural practice
- clear lines of reporting and a 'safe space' where concerns can be raised, discussed and a plan of action agreed and supported

- resources to support the process of assessing capacity to consent (including support to deliver sometimes 'undesirable' outcomes)
- access to resources to support ongoing education for people to marry if deemed appropriate
- the identification of 'champions' who can offer support and expertise by experience of forced marriage

In particular, with regard to *registrar* practitioners, a greater level of awareness of forced marriage is required, particularly in the context of capacity to consent or lack thereof. Registrars will require increased training on forced marriage and have made very clear suggestions of what they would like to see – the types of indicators that might signal lack of capacity to consent and potentially some additional questions to be used in interviews about individuals' intentions to marry.

A more joined up approach needs to be developed to allow for collaboration with other professionals who can contribute to any concerning cases with appropriate expertise, especially that of assessing capacity to consent to marry. In this way potentially vulnerable individuals could be better safeguarded in the registration process, which by the same principle should not preclude marriage for those who have capacity to consent. Systems for sharing data will need to be developed in line with individuals' rights to privacy and data protection law – again this will need a more joined up approach than currently exists

The law related to forced marriage needs to be better integrated into the legal framework employed by registrars to adjudge legal right to marry and this needs to be consolidated in guidance and support provided by the General Register Office.

A multi-agency approach to the assessment of capacity to consent is required to ensure that all of those involved in the support of adults at risk are working to the same guidelines with the common goal of safeguarding people at risk of possible forced marriage. Awareness and understanding of the roles and responsibilities of various agencies needs to be raised so that practitioners are aware of the pathways for requesting and obtaining assessments or support to conduct assessments. This will also assist in preventing mixed messages (and possible collusion) among and between parties working with people with learning disabilities and their families. Thought needs to be given to ongoing practical and emotional support people with learning disabilities and family members might require should the assessment outcomes be that a person does not have the capacity to consent. The significance of outcomes in relation to cultural views of marriage also needs to be taken into account.

There will need to be practical attempts to prevent stigma associated with learning disabilities within all communities. In particular, all communities may benefit from awareness-building and education around the idea that 'labels' associated with learning disability should not rule people out of communities or wider society, but can actually serve to rule people in to support services and networks that can enhance the experience of people with learning disabilities and their families.

Resources

This document is part of a suite of resources which includes the following:

Summary of Findings ([full](#), [short](#) and [easy read](#) versions)

[Case Studies Collection](#) (real life experiences and challenges)

[Films](#) to raise awareness of the issues (in English, Hindi, Urdu and Sylheti)

[Toolkit](#) (guidance to support assessment of capacity to consent to marry)

[Workbook for families](#) to raise awareness of the issues

[Workbook for people with learning disabilities](#) to raise awareness of the issues

These were all developed as part of the **My Marriage My Choice** project led by Rachael Clawson with the research team, Dr Anne Patterson, Dr Rachel Fyson, Dr Michelle McCarthy and Dr Deborah Kitson at the universities of Nottingham and Kent.

For further information contact rachael.clawson@nottingham.ac.uk or visit the My Marriage My Choice project website:

<http://www.nottingham.ac.uk/research/groups/mymarriagemychoice>