



# My Marriage My Choice

## Understanding Forced Marriage – A Guide for Families

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## **Introduction**

This work book will help families and carers to understand that people with learning disabilities must be able to consent to marriage for themselves and must have the capacity to do so or they are at risk of breaking the law in allowing or making someone marry.

You can watch a short film that tells you more about forced marriage by clicking on the link below.

### **My Marriage My Choice project website:**

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

### **What is a forced marriage?**

A forced marriage is where one or both people do not, or cannot, consent or agree to the marriage and, for people with learning disabilities, forced marriage can take place in two ways:

- The person cannot consent to marriage because they don't understand what marriage is about.
- The person is forced to marry someone when they don't want to

In some situations, pressure is used to force them to marry but this is not always the case for people with learning disabilities.

Forced marriage of people with learning disabilities can be different to forced marriage of people without learning disability. This is because the family may think they are doing the right thing by choosing someone to care for their relative and the person with the learning disability may even seem happy about the marriage but not have enough understanding to consent for themselves. As such, forced marriage is often not recognised as 'forced' by families, faith leaders or professionals.

If your relative cannot consent to marry, this would be a forced marriage and against the law even if they appear happy about getting married or do not say no.

Many families are not aware that organising a marriage for someone who lacks capacity to consent would mean they are forcing them into marriage and this would be against the law.

### **Is this a forced marriage?**

Read these questions and consider if the situations would be a forced marriage

#### **Question**

My daughter doesn't understand what marriage is but she is looking forward to having a party and seeing her relatives.

Is this a forced marriage?

#### **Answer**

Yes, this is a forced marriage as the daughter cannot consent. Marriage is more than a party and the fact that the daughter is happy about the party does not mean that she understands about marriage. Family members cannot give consent on behalf of their relative to marry.

**You can also watch part 1 of the film to hear Shazia's story and her family's plans for her marriage.**

#### **Question**

My brother in law knows my daughter's needs and he has found someone who is willing to look after her, she cannot look after herself. I am not getting any younger and I need to know she will be safe.

Is this a forced marriage?

#### **Answer**

This IS a forced marriage if the daughter cannot consent even though the family have the daughter's best interest at heart.

### Question

My son is happy all the time, he never complains, he cannot communicate but he goes along with what we want. We have told him he is to get married, he will understand when we are there.

Is this a forced marriage?

### Answer

Yes, this is forced marriage as the son cannot consent and understand the implications of getting married.

### Question

We are taking our son abroad to get married. He has told us he doesn't want to get married but we think he should. We have found someone we know he will like and it is all arranged.

Is this a forced marriage?

### Answer

Yes, this is forced marriage, he is saying he does not want to get married.

**You can also watch part 1 of the film to hear Madar's story and his family's plans for his marriage.**

### **What does 'giving consent to marry' mean?**

The giving of consent means being fully aware of the decision that you are agreeing to, it is more than just saying yes. In terms of marriage it means the person saying yes must understand what marriage means and what the expectations of being married are.



You may believe you are not forcing your relative to marry because they are not objecting but if the person cannot fully understand the decision and the impact of that decision now and in the future, you cannot arrange for them to marry.

Your relative must understand the contract of marriage. This means that they must be able to understand the following:

- what marriage is
- what is likely to happen because of being married

They must be able to:

- remember this information
- use the information and weigh up if this is something they would like to do
- communicate their decision

They must have the freedom and choice to make the decision.

Capacity to consent to marriage can be assessed and tested using the principles of the Mental Capacity Act 2005 (MCA 2005). If your relative is assessed as not having the capacity to consent they can be supported to see if they can develop this.

**You can ask for an assessment – you can get in touch with your local social services, your health service or speak to your GP.**

**Parents and other family members cannot decide for someone else**

For people with a learning disability parents and extended family often play a key role in making decisions about their lives.

However, there are some decisions which cannot be made on behalf of another person and this includes the decision to marry.

The law does not allow this to happen. This includes marriage, civil partnerships or sexual relationships. This means you cannot decide on

behalf of a relative who lacks the capacity to make these decisions for themselves.

Forced marriage is against the law and cannot be justified on any religious or cultural basis. In the UK, forced marriage amounts to a form of abuse. It can affect women and men as well as girls and boys from any community and background.

### **What is the difference between a forced marriage and an arranged marriage?**

There are clear differences between a forced marriage and an arranged marriage. In arranged marriages, the family of both partners take a leading role in arranging the marriage but the decision to accept the arrangement or not remains with the people getting married.

A forced marriage and an arranged marriage are not the same.

In an arranged marriage, the people getting married are introduced to each other by their families, but it is still up to them if they get married or not. They are allowed to say no if they do not want to marry the person they are introduced to.

In a forced marriage one or both people getting married (the husband and wife)

- Do not or cannot consent to the marriage.
- In some marriages the non-disabled spouse may not have all the information they need to make an 'informed' decision.
- They might not have met their prospective spouse before the marriage ceremony and might not know they are marrying a person with a learning disability.

A forced marriage is against the law. An arranged marriage is not against the law if both people can consent and can say yes or no.

The consequences of forced marriage include physical, financial and sexual abuse and emotional harm and, in some cases, both the person with the learning disability and the person they marry are victims.

### **Why does forced marriage happen?**

**It might be helpful to watch part 3 of the film to hear why forced marriage happens.**

There are a range of reasons why family members may seek a husband or wife for someone with a learning disability who either does not want to marry or is unable to consent.

As a parent or relative you may feel that your actions are justified because:

- You want to protect your relative
- You want to preserve family traditions
- You want to make sure your son or daughter is cared for in the future
- You may be under pressure yourself to take action or go along with a forced marriage.

### **This is Shahid's story**

A much-loved only child, Shahid has autism, severe learning disabilities and limited verbal communication. As a child, he attended a special school; after leaving school he continued to live at home, attending a day centre five days a week. Shahid's parents are in poor health and are struggling to care for him. They decide that the best option is for Shahid to marry, so that his wife can care for him and provide support to his parents in their old age. They come to an arrangement with a family from their home village in the Punjab and begin to make arrangements for a wedding to take place in Pakistan. Shahid thinks he is going on holiday to Pakistan for a 'big party', which is 'just for him'.

## **Discussion Point**

Do you think Shahid's family are doing the right thing?

What could they do differently?

## **Answers**

### **Are his family doing the right thing?**

Shahid does not have capacity to consent to marriage. Shahid's parents want him to be married to ensure he will be well cared for and both his and their futures are secured. Their intentions are good. His parents do not view this marriage as a forced marriage and are not thinking about whether Shahid is able to decide this for himself. What they are doing is against the law.

### **What could the family do differently?**

The family would benefit from ongoing emotional and practical support, they are already in contact with day services who would be able to refer them on for further guidance. They could also talk to the GP or a social worker and ask for an assessment of Shahid's needs to see what further support they could get.

Shahid and his family need more information about services to support them, so they can think about Shahid's future.

They cannot make plans for Shahid to marry because he does not fully understand what this means.

### **Is forced marriage against the law?**

Since June 2014 forcing someone to marry has been against the law (Anti-social Behaviour, Crime and Policing Act 2014), punishable by up to seven years in prison and an unlimited fine.



This includes:

- taking someone overseas to force them to marry (whether or not the forced marriage takes place)
- making someone get married when they lack the mental capacity to consent to the marriage (whether they are pressured to or not)

The British courts have the power to stop someone from forcing someone else to marry against their will. An Act of Parliament called the Forced Marriage (Civil Protection) Act 2007 provides the courts with powers to make Forced Marriage Protection Orders to stop somebody from forcing another person into marriage. The law also allows the courts to protect victims who have already been forced into marriage, and help them to get out of that situation.

**For further explanation of why forced marriage is against the law please watch part 2 of the film.**

**If you are concerned that your relative does not have capacity to consent**

You cannot make a decision on their behalf

Ask your local social services team for an assessment of their ability to consent to marriage.

**If your relative is forced to marry**

You will be breaking the law; this action could mean your relative is exposed to other risks for example they may not have capacity to consent to a sexual relationship and facilitating or instigating this is against the Sexual Offences Act 2003. Your relative may not know or understand what rape is.

If a person lacks capacity to consent to sex then any sexual act with that person would be abusive, even if the person appears to agree.

### **Other risks linked to forced marriage**

Be aware that forced marriage can be linked to other forms of exploitation such as slavery. Children and adults who are trafficked for sex may also be sold into forced marriages.

People who are forced to marry can also be abused physically, emotionally and financially.

### **If you have concerns about your relative's future, you should:**

- Not break the law, forcing someone to marry is committing a crime and could be harmful to your relative
- Ask for help and support to ensure your son or daughter understands fully what marriage means
- Be open and honest about your intentions for their future
- Include your son, daughter or relative in the decision making
- Think about other ways of providing security for your relative
- Make enquiries about what help you might get with the future care of your relative

### **Key Messages from professionals and people with a learning disability**

- Ask for help
- Do not assume that your relative can or can't get married
- Recognise when the marriage could be classed as a forced marriage
- People who are forced to marry can get hurt both emotionally and physically
- Everyone has the right to choose.

**It might be helpful to watch part four of the film to find out more about who can help.**

## **ASK FOR HELP**

If you think that your relative or someone you know is in danger phone 101

If someone is in immediate or urgent danger phone 999

You can also ask for help from your GP or from social services

You can also contact the Forced Marriage Unit for advice and guidance

## **Useful contact numbers**

### Ann Craft Trust

The Ann Craft Trust (ACT) is committed to safeguarding disabled young people and adults at risk.

Telephone: 0115 9515400 Email: [ann-craft-trust@nottingham.ac.uk](mailto:ann-craft-trust@nottingham.ac.uk)

### Childline

Childline is a service provided by NSPCC. Call free on 0800 1111

### Forced Marriage Unit

The Forced Marriage Unit (FMU) is a joint Foreign and Commonwealth Office and Home Office unit. The FMU operates a public helpline to provide advice and support to victims of forced marriage.

Telephone: +44 (0) 20 7008 0151 Email: [fmu@fco.gov.uk](mailto:fmu@fco.gov.uk)

### Karma Nirvana

Karma Nirvana is a British human rights charity supporting victims of honour based abuse and forced marriage.

They have a helpline – 0800 599 9247 Email [info@karmanirvana.org.uk](mailto:info@karmanirvana.org.uk)

## Respond

Respond exists in order to lessen the effect of trauma and abuse on people with learning disabilities their families and supporters.

Telephone: 0207 383 0700 Email: [admin@respond.org.uk](mailto:admin@respond.org.uk)

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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

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

All are available free at

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

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