

The Law and Police Procedure
relating to
Female Genital Mutilation

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The Police Visual Handbook



Female Genital Mutilation



3 Specific Offences

Female Genital Mutilation



Female Genital Mutilation

Sections 1 and 4(1) of the Female Genital Mutilation Act 2003

Points to Prove

Any person

1. being:
 - a. anyone in the United Kingdom,
 - b. a United Kingdom national or permanent United Kingdom resident, elsewhere,
2. who:
 - a. excises,
 - b. infibulates, or
 - c. otherwise mutilates,
3. the whole or any part of a female's genitalia.

Medical exceptions apply.

Female Genital Mutilation



Excises

- to remove by cutting.

Infibulates

- to fasten up.
 - this might include the use of stitches, or the application of heat to fuse the tissues.

Otherwise mutilates

It has been left for the courts to decide on the individual circumstances as to what will amount to an offence.

Genitalia

- the labia majora
- the labia minora, and
- the clitoris.

Female Genital Mutilation



United Kingdom national

- a British citizen,
- a British overseas territories citizen,
- a British National (Overseas)
- a British Overseas citizen,
- a person who under the British Nationality Act 1981 is a British subject or a British protected person.

Permanent United Kingdom Resident

- an individual who is settled in the United Kingdom (within the meaning of the Immigration Act 1971).

Female Genital Mutilation



Medical Exceptions to Offences under Sections 1 and 3 Sections 1(2) to 1(5) and 3(3)

Where:

- a. a registered medical practitioner performs a surgical operation on a girl which is necessary for her physical or mental health,
 - o except that in relation to an operation that is necessary for the mental health of a girl, it is immaterial whether she or any other person believes that the operation is required as a matter of custom or ritual, or
- b. a registered medical practitioner, a registered midwife or a person undergoing a course of training with a view to becoming such a practitioner or midwife performs a surgical operation on a girl who is in any stage of labour, or has just given birth, for purposes connected with the labour or birth.

Section 1(4) also extends this exception to persons who perform such surgical operations outside the United Kingdom in similar circumstances.

Female Genital Mutilation



Aid, Abet, Counsel or Procure Female Genital Mutilation

Sections 2 and 4(1) of the Female Genital Mutilation Act 2003

Points to Prove

Any person

1. being:
 - a. anyone in the United Kingdom,
 - b. a United Kingdom national or permanent United Kingdom resident, elsewhere,
2. who aids, abets, counsels or procures a girl
3. to
 - a. excise,
 - b. infibulate, or
 - c. otherwise mutilate,
4. the whole or any part of her genitalia.

Female Genital Mutilation



Aid

- to provide help or assistance to a principal offender, whether before or at the time of commission of the offence.

Whether the aider realises that the particular circumstances constitute an offence is immaterial.

To be convicted as an aider a person must have knowledge of all the circumstances which constitute the offence.

Abet

- to incite or encourage the principal to commit the offence.

To be convicted as an abettor a person must have knowledge of all the circumstances which constitute the offence.

Female Genital Mutilation



Counsel

- to advise or solicit the commission of an offence.

To show that a person counselled another to commit an offence it's unnecessary to show a causal link, but it must be shown that the principal offender was aware of the advice or encouragement given by that person. Such a person will be guilty as an accessory, even if the principal would have committed the offence anyway.

Procure

- to endeavour to instigate,
- to try to bring about or cause to be done.

A course of action is procured by setting out to see that it happens and taking the appropriate steps to produce that happening.

A causal link must be established between what the procurer did and what the principal did.

Female Genital Mutilation



Aid, Abet, Counsel or Procure Foreign National to Perform Female Genital Mutilation Sections 3 and 4(1) of the Female Genital Mutilation Act 2003

Points to Prove

Any person

1. being:
 - a. anyone in the United Kingdom,
 - b. a United Kingdom national or permanent United Kingdom resident, elsewhere,
2. who aids, abets, counsels or procures a person who is not a United Kingdom national or permanent United Kingdom resident
3. to perform an act, which constitutes an offence under section 1, on a United Kingdom national or permanent United Kingdom resident
4. outside the United Kingdom

Medical exceptions apply.

Female Genital Mutilation



Mode of Trial and Penalty

Triable either way. On indictment (Crown Court) - 14 years and/or a fine. Summarily (Magistrates' Court) - Fine not exceeding the statutory maximum (£5000).

Working With Children and Adults

Anyone convicted or cautioned of an offence against a child will be barred from working with children or adults, subject to the right to make representations.

Female Genital Mutilation



Extra-Territorial Jurisdiction Section 4 of the Female Genital Mutilation Act 2003

Where:

- an offence under this Act is committed outside the United Kingdom:
 - a. proceedings may be taken, and
 - b. the offence may for incidental purposes be treated as having been committed,
- in any place in England and Wales or Northern Ireland.

Note

1. It is not an offence for a girl to carry out an FGM operation on herself.
2. Very similar provisions apply to Scotland.

Female Genital Mutilation



Police Guidance

Female Genital Mutilation



The Police Response to Female Genital Mutilation

Officers are unlikely to personally encounter a case of Female Genital Mutilation. Most will be notified by health, education or social work professionals. Generally, such an investigation should be undertaken by officers and staff from Child or Family Crime Investigation Units (or your local equivalent).

Officers should not be reluctant to investigate alleged offences related to female genital mutilation for fear of being accused of racism. There is no religious or faith support for Female Genital Mutilation.

Any indication of that Female Genital Mutilation is about to take place or has taken place should be referred to the Child or Family Crime Investigation Unit (or your local equivalent) which deals with child abuse allegations. If the case involves a child or young person, the local duty inspector or critical incident manager must also be kept informed as they have a particular role with regard to children and young people who may be at risk of significant harm.

Do not assume that the victim is receiving specialist support. Ask those other professionals involved in the case to ensure that the person is receiving support from a specialist support organisation.

Female Genital Mutilation



Children at Risk of Mutilation

A strategy meeting should follow, with Police, local authority social services and any referrer, e.g. the victim's school, health services, as soon as practicable (and in any case within 48 hours) to consider the risks to the child based on the circumstances as known, and to determine whether additional information is required. Consider having someone from the local health authority attend.

When Female Genital Mutilation is believed to be about to take place, the professionals involved should determine whether parental co-operation can be achieved to ensure that Female Genital Mutilation does not occur, by providing the parents/carers with information about the law and the harmful effects of Female Genital Mutilation.

When a child appears to be in immediate danger of mutilation and the parent or carer cannot satisfactorily guarantee that they will not proceed with it, officers should consider the use of police protection. If there is sufficient time, a strategy discussion should take place during which the use of an Emergency Protection Order or a Prohibited Steps Order should be considered.

A child protection conference should be considered if there are unresolved child protection issues.

Female Genital Mutilation



Children Already Subject to Mutilation

If a child has already undergone the procedure, a strategy discussion should be held to assess the implications for the child and the coordination of the criminal investigation. Arrangements, which include medical and therapeutic assessments, should be made to safeguard the child.

Consideration should be given to the potential risk to other female children in the same family.

A strategy meeting should follow, with Police, local authority social services and any referrer, e.g. the victim's school, as soon as practicable (and in any case within 48 hours) to consider how and where the procedure was performed and any implication.

Consideration should be given as to whether to continue enquires or to assess the need for support services. A girl that has already been genitally mutilated should be offered counselling and medical help as appropriate. Consideration must be given of the risk to any female siblings.

A second strategy meeting should take place 10 working days of referral, in order to evaluate the information available and recommend whether a child protection conference is required.

Female Genital Mutilation



When an Adult Female Has Undergone Mutilation

A multi agency meeting should consider any risk based on whether there are other females in the immediate or wider family who may be at risk. Consider whether they should be examined to see if they have also been subject to Female Genital Mutilation. Support should offered as appropriate.

Female Genital Mutilation



Other Offences

Female Genital Mutilation



Causing or Allowing a Child or Vulnerable Adult to ... Suffer Serious Physical Harm Section 5 of the Domestic Violence, Crime and Victims Act 2004

Points to Prove

Any person

1. who was a member of the same household as a child aged under 16 years or vulnerable adult (the victim) and had frequent contact with them,
2. at a time when there was a significant risk of serious physical harm being caused to them by the unlawful act of such a person, and they died or suffered serious physical harm as a result of the unlawful act or omission of that person or another such person,
3. who caused ... serious physical harm to, that person or was, or ought to have been, aware that at that time there was such a significant risk, and failed to take such steps as they could reasonably have been expected to take to protect them from the risk, and the act occurred in circumstances of the kind that that person foresaw or ought to have foreseen.

Carries 10 years for causing serious physical harm. Not necessary to prove intent.

Female Genital Mutilation



member of the same household as a child aged under 16 years or vulnerable adult (the victim) and had frequent contact with them

- A person is to be regarded as a member of a particular household, even if they do not live in that household, provided they visit it so often and for such periods of time that it is reasonable to regard them as a member of it. Where the victim has lived in different households at different times, they must have been living in the same household as the suspects at the time of the act that caused their death. A paid or voluntary domiciliary carer or housekeeper or an au-pair or similar may be a member of the same household if it would be reasonable in the circumstances to regard them as such.
- Membership of the household will be for the courts to determine on a case-by-case basis, taking all the circumstances into account.
- A child is someone aged under 16 years. A vulnerable adult is someone aged 16 or over whose ability to protect themselves from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through old age or otherwise.

Female Genital Mutilation



serious physical harm

- serious physical harm is that which amounts to grievous bodily harm.

Examples of this are:

- injury resulting in permanent disability or permanent loss of sensory function,
- injury which results in more than minor permanent, visible disfigurement,
- broken or displaced limbs or bones, including fractured skull, compound fractures, broken cheek bone, jaw, ribs, etc.,
- injuries which cause substantial loss of blood, usually necessitating a transfusion,
- injuries resulting in lengthy treatment or incapacity, or
- psychiatric injury,
 - inflicting this does not require an act of physical force.

Female Genital Mutilation



Wounding Sections 18 and 20 of the Offences Against the Person Act 1861

Points to Prove

Any person

1. who unlawfully and maliciously,
2. wounds or inflicts grievous bodily harm on another,
3. (for the section 18 offence) with intent to do so.

unlawfully and maliciously

- without lawful authority and with a bad intention

grievous bodily harm

- As described for the previous offence

Intent may prove difficult for a jury, so may be better to charge section 20 offence. Section 20 carries 5 years imprisonment, section 18 – life.

Female Genital Mutilation



Main Learning Point

Health and social care staff must be prepared to inform the police of any cases they encounter.

Otherwise the police will be unable to take any action.