

Honour-based abuse in the courts: shaping strategy for key issues

Dr. Mohammad Mazher Idriss
Manchester Law School
Manchester Metropolitan University
January 2024



Contents

Introduction	3	The Data	11
Background	4	Negative and Unsuccessful Outcomes in HBA and FM Cases – What is Not Working Well?	11
The Research Methodology	4		
The Participants	5	Criminal Cases – Inaccurate recording of HBA and FM: Home Office Counting Rules	11
The Data	6		
Positive and Successful Outcomes in HBA and FM Cases – What is Working Well?	6	Criminal Cases – High Attrition Rates and Discontinuance	13
Criminal Cases – Strong Engagement with Victims	6	Criminal Cases – Victimless and Evidence-Led Prosecutions?	15
Criminal Cases – Building Confidence with the Public and Safeguarding	6	Criminal Cases – Lack of Awareness and Training of Police Officers	19
Criminal Cases – Special Measures & Expert Witnesses	9	Family Cases – Lack of Awareness and Training of Local Authorities and Social Workers	22
Family Cases – Speed & Ease of FMPO Applications	9	Family Cases – Inefficiencies in the Family Courts	24
		Conclusion	27
		Recommendations	29
		Future Research	38
		Acknowledgements	38

Acronyms	
CPS	Crown Prosecution Service
FGM	Female Genital Mutilation
FGMPOs	Female Genital Mutilation Protection Orders
FM	Forced Marriages
FMU	Forced Marriage Unit
FMPOs	Forced Marriage Protection Orders
HBA	Honour-Based Abuse
NFA	No Further Action
SCHBA	So-Called Honour-Based Abuse
VAMB	Violence Against Men and Boys
VAWG	Violence Against Women and Girls

Honour-based abuse in the courts: shaping strategy for key issues

Introduction

1.
- This report is based on the findings of the HBA and FM in the Courts Project, undertaken in 2023 in collaboration with UK charities The Iranian and Kurdish Women's Rights Organisation (IKWRO) and The Sky Project.

Background

2.
- HBA and FM affects many individuals both within the United Kingdom and throughout the world. So-called 'honour'-based crimes are motivated by notions of 'shame' and 'dishonour', where family and community members feel that the actions of a girl or boy, woman or man, have brought 'dishonour' to their reputation in the eyes of the community. This can typically include, but is not limited to, having a boy/girlfriend, engaging in pre-marital sex or disapproval based on one's sexuality/sexual orientation, or even a combination of these. Cases are very difficult to detect as such abuse is often carried out within families and closely-tied communities – it is a hidden crime and is heavily underreported as many victims never report their abuse. There is uncertainty as to the true scale of the extent of HBA and FM, but it is believed that an average of 12-15 'honour' killings are carried out each year in the UK alone. Researchers and legal professionals alike believe that even this may be a significant underestimation. A lack of adequate flagging and recording of HBA incidents is admitted by Her Majesty's Inspectorate of Constabulary. As a result, many victims suffer in silence, and in some cases, this can prove life-threatening and fatal. Research identifies that there is a significant difference between HBA and domestic abuse, with an overriding need for professionals to identify and distinguish between the two, including the motivation and rationale behind such acts, the existence of multiple perpetrators both within immediate/extended family and community members, stalking by proxy even by persons unknown to victims, and identifying appropriate intervention in these cases.
3.
- HBA and FM studies are limited as the subject has only gained momentum and international recognition (both in terms of advocacy and research) over the last two decades. The last decade alone has seen a growing body and proliferation of empirical studies, to which Dr. Idriss and Manchester Law School have contributed to. However, there is a consensus that there remains a lack of legal research in the area, and lack of legal scholars

specifically contributing to this research area. There is an even greater absence of exploration into the legal perspectives of the issues faced by those who enforce and oversee the application of the law concerning HBA and FM. This also includes the civil justice system and the criminal justice system, the courts and legal actors (broadly defined) who are involved in this field.

4.
- In the year ending March 2022, there were 2,887 HBA-related offences recorded by the police; this was an increase of 6% compared with the year ending March 2021 (where 2,725 HBA-related offences were recorded). Similarly, the FMU in 2022 stated that it dealt with 302 cases where they actively provided advice and support to specific individuals at risk of or affected by FM; the FMU also responded to 545 general enquiries (847 responses in total). However, over the past decade, the FMU has consistently supported annually over a 1000 people of FM each year according to its historical statistics, whether this includes active support or general advice, with the exception of 2020 and 2021 due to the Covid pandemic. However, one detective stated that the numbers of reported cases is staggering within her police force area alone:

We've probably over. So what day are we on? Tuesday? So, at the end of last week, I identified about six [cases] that nobody else had identified the 'honour' element. Um, and it, and it is, we've had a particularly busy period and that's because we've come and up to the summer holidays, colleges breaking up, etc etc. We could quite easily, if we incorporate HBA and forced marriage, have 3-4 cases a day [for that force alone] (Police Officer, female, interview).

5.
- Cases of HBA and FM are therefore more common than understood and appreciated by state agencies, authorities and by government. It is also intriguing that these overall figures are not necessarily reflected within the civil and criminal courts, in terms of enforcing protective rights (in the civil courts) and prosecutions

(in the criminal courts). Although HBA-related offences run into just under three thousand as recorded by police every year, only a fraction of these cases are prosecuted by the CPS. In the CPS Report for 2018-2019, there were only 80 pre-charge decisions completed following referrals from the police for HBA-related offences; with only 49 suspects charged; 72 prosecutions completed in 2018-2019; and with 41 convictions, with a conviction rate of 56.9%. Similarly, since the criminalisation of forced marriages by the criminal law in 2014, there have been only a small number of successful prosecutions over a nine-year period. In 2018-2019, there were four offences of forced marriage charged; of these, there were four defendants prosecuted and three convicted; there were also eight prosecutions for breach of a FMPO offences, resulting in eight defendants prosecuted, three of which were convicted. Furthermore, there were 248 FMPOs issued by the Family Court in 2022 compared with previous years (200 in 2021; 235 in 2020; 340 in 2019; and 283 in 2018).

6. The analysis of this public data demonstrates a disparity between the number of cases being reported to the authorities, and the actual number of cases being disposed in the civil courts for civil protection, together with successful prosecutions and convictions in the criminal courts through the enforcement of criminal law. There appears to be a disconnect between the number of cases reported to and recorded by the police, and the numbers that eventually reach the criminal courts. Important research questions therefore emerge about civil protection and the enforcement of the criminal law:
- a. Why is there a low prosecution and conviction rate?
 - b. Is discontinuance an issue for both civil and criminal matters?
 - c. What more can be done to improve prosecution and conviction rates?
 - d. What more can be done to improve applications for FMPOs in civil courts?
 - e. How can we bring more perpetrators to justice and provide the necessary protection and support to victims?



The Research Methodology

7. Based on these research questions, the methodology chosen to conduct this research was a mixed methods approach: conducting an online survey using Qualtrics and one-to-one interviews with experts and professionals in the field of HBA and FM and who have experience of working within the legal system in England and Wales.
8. Conducting research using mixed methods was considered appropriate for this research because it provided a forum for participants (who met the inclusion criteria of an adult legal actor) to share their experiences of dealing with HBA and FM cases within the English legal system. Conducting online surveys provided participants with an opportunity to complete open-ended responses, where questions permitted. With their professional knowledge and first-hand experience, they would be able to provide invaluable views, perspectives, and suggestions for reforms and what needs to be done to improve this area and application of the law. Face-to-face interviews was the additional research method used to provide an opportunity to participants who were able to invest more time to discuss issues and who may have felt that the online survey alone inhibited further elaboration or discussion of issues pertinent to them.
9. Research participants included family lawyers, police officers, CPS prosecutors and victim support workers. Once participants had agreed to take part in the research (and formal approval had been granted by their respective organisations), the researcher provided participants with access to participation information sheets, consent forms and a link to the Qualtrics online survey. All consent forms had to be completed online before participants could participate in the Qualtrics survey. At the end of the survey, participants were also invited to take part in a one-to-one interview to elicit further responses and explanations to further contextualise their online responses. A separate consent form was then provided for one-to-one interviews conducted on MS Teams, which were recorded and transcribed automatically using the MS Teams feature.

10. In total, thirty-five participants took part in the online

survey, which asked questions specifically about their legal experiences of HBA and FM broadly related to the courts. This was followed up by thirteen detailed one-to-one interviews with participants who completed the survey to elicit further information and to allow them to expand upon their experiences. These interviews lasted at least one hour in most cases; in some instances, interviews lasted over one hour and thirty minutes. This qualitative project therefore allowed participants to contribute their own thoughts and views anonymously (using direct quotes to provide the reasoning and perspective of individual participants) through an interpretivist, social constructivist approach, which was deemed appropriate to address the aims and objectives of this study. Such a philosophical paradigm is insightful because all participants (the researcher included) have varying perspectives, understanding and knowledge about the various processes in law, all from the different experiences, professions, cultures, backgrounds, beliefs, ages and gender.

11. Of course, there are limitations to this study. Thirty-five participants took part in the online survey, while thirteen participants followed that up with face-to-face interviews. One might think that the sample is small and that any generalisations about what is and what is not working should therefore be approached with caution. However, the thirty-five participants (together with the thirteen separate interviews) do not just concern any individual who may be exposed to HBA or FM within their profession. This research project specifically targeted those involved with the civil and criminal law, the English legal system and HBA and FM. These can be described as legal actors, broadly defined in their various forms, involved with court and legal proceedings in both the civil and criminal courts. Individuals with such qualities and legal experience, who are willing to take part in research, are very hard to find and locate, given the subject-specific matter in question. There are not many specialists who are able to comment on HBA and FM from different legal perspectives, or who are able to provide discussion on legal reforms. To this end, obtaining forty-eight different sets of responses and contributions across mixed methods of research is something to be viewed positively. The quality of the data obtained is also rich and varied and yields important lessons from which we can all learn, from criminal and civil justice perspectives.

The Participants

12. Out of the thirty-five participants who completed the online survey, there were a variety of legal actors: solicitors (11); barristers (3); victim support workers (1); police officers (14); and other legal professionals (6). Other legal professionals included magistrates and family support/social workers, who work within the broad framework of the law. Their experience of working with the courts in various capacities was also varied. Twenty-one participants had 20+ years' experience of working with the courts; three participants had 16-20 years' experience; six participants had 11-15 years' experience; two had 6-10

years' experience; and three participants had 0-5 years' experience of working with the courts. Seventeen participants had experience of working in and/or dealing with both civil and criminal courts within their respective roles; eleven participants worked purely in the criminal courts; and seven participants worked purely in the family courts.

13. Those solicitors and barristers who worked in the criminal courts were CPS lawyers, responsible for prosecuting HBA and FM cases and reviewing those cases for prosecution, based on the public interest and evidential tests. Several CPS lawyers were also HBA/FM leads for their respective regions. One solicitor was a police lawyer responsible for applying for FMPOs on behalf of a police force in the family courts.
14. The police officers who took part in this study had a variety of experience of working within both the civil and criminal courts on HBA and FM cases, some going beyond two decades in their professional careers. They applied for an FMPO in the civil courts, and/or assisted with the investigation, gathering of evidence and prosecution of perpetrators suspected of having committed HBA or FM offences in the criminal courts. This includes rescuing and repatriating victims abroad. In several instances, these officers explained that they had safeguarding duties in relation to victims, supervised, investigated and were responsible for securing HBA and FM convictions. Others explained that they undertake HBA and FM lead duties in their respective police forces, including taking part in strategic work at a regional or national level, and providing training to professionals both within and externally to policing.
15. The lawyers who worked in the civil courts were responsible for family law proceedings. This includes securing injunctive measures in the family courts for victims in domestic abuse, HBA, FM and FGM cases. The injunctive measures include Non-Molestation Orders, FMPOs, care proceedings and Care Orders for children. Some family lawyers also acted on behalf of respondents, although most of their work involved acting for victims and clients applying for FMPOs. Some family lawyers also had experience of delivering multidisciplinary training and undergraduate training on family law issues relating to HBA and FM.
16. The family and social support workers managed initial responses to HBA and FM cases, providing support and guidance to practitioners with regards to their response to HBA and FM. They also sat on MARAC (Multi-Agency Risk Assessment Conferences) and represented their respective local authorities in these meetings, where multiple agencies believe that victims may be at risk of significant harm in these cases.
17. Of the thirteen participants who then took part in interviews conducted on MS Teams, seven were police officers; four were family lawyers; one was a CPS Barrister; and one was a support worker.

The Data

Positive and Successful Outcomes in HBA and FM Cases - What is Working Well?

Criminal Cases – Strong Engagement with Victims

18. There were many examples of positive and successful outcomes in HBA and FM cases cited by participants, both in the online survey and interviews. In relation to initial reporting of such crimes under the criminal justice system, participants stated that strong engagement with victims, good victim care from the outset, listening to their personal accounts, and reassuring/believing victims were vital towards securing a successful outcome. This includes providing specialist support to discuss safety advice and various other (legal) options available to victims. MARAC meetings with multi-disciplinary agencies was often cited as helpful to ensure a co-ordinated effort to ensure the safety of vulnerable victims considered to be at high risk. Effective case management once a high-risk victim has been identified was also cited as important to ensure the safety of victims. Police forces working closely with local authorities to obtain FMPOs for victims was cited as another example of securing a positive outcome for victims. The excellent work done to flag HBA cases, and the legislation passed over the last decade, have also firmly put HBA and FM on the map with state agencies:

There have clearly been a number of positive systematic institutional changes that have helped HBA victims, not only over the last few years, but perhaps over the last decade. Um, also, and these are from issues of flagging, whereas like a decade ago we never had HBA flagging, we never had annual data return, so we couldn't find out proper data sets, we never had, for example the forced marriage and FGM data sets. And intelligence, safeguarding solutions that provides an artificial intelligent response and, um provides better safeguarding to the victims who need protective orders both in this country and abroad, with legislation again only coming in the last decade, and these have extraterritorial power. We've seen an investment in HBA, we've seen greater media coverage of these issues, which has provided an impetus to policing and policing managers to ensure that HBA is dealt with properly, or they could be dealt with properly, um, public scrutiny and...we've seen risk assessments come and go with some talk of HBA, we have got some training manuals in place. We've now got the national policing role for HBA, that we perhaps didn't have 15 years ago on the back of Surjit Athwal, Banaz etc etc, So, there's been a number of positives in the last 10 to 15 years. Of course, it's been a slow journey and it goes

without saying that a lot more can and should be done. We're not patting ourselves on the back because we fully recognise that lots, lots more needs to be done to safeguard each and every individual out there who is at risk, and I think it would be fair to say in summary that we generally are moving in the right direction... we've now. For example, we had just this year, if I'm not mistaken, Parliament conducting an inquiry on HBA [referring to the Women and Equalities Committee Report into So-Called Honour Based Abuse, published in July 2023]. So, all of these things we've seen, HMICFRS and the Super Complaint [referring to the Report on the Police Response to Victims of Sexual Abuse from Ethnic Minority Backgrounds Who May be At Risk of Honour-Based Abuse, published in December 2022], which was last year, and The Depths of Dishonour, which was December 2015. So, in the last decade or so, there has been a number of positive interventions. We need to keep moving in that direction. There needs to be scrutiny on the public sector. We need to understand what really works (Police Officer, male, interview).

Criminal Cases – Building Confidence with the Public and Safeguarding

19. Successful intervention specifically by the police was another example cited as securing positive outcomes for victims. Investigating these offences as a criminal justice issue was seen to be important towards building confidence with the public and encouraging victims to report their cases to the police. Securing safe spaces for victims, including safehouse provision, in combination with the swift arrest of perpetrators, was also seen as securing positive outcomes. For example, some police officers explained how they relocated some of their victims away from family networks to prevent them from being intimidated in the run-up to a criminal trial, which may help with the progression of criminal trials and ultimately securing convictions and 'driving up' statistics.

20. However, the matter being taken to court for criminal prosecution is not always a priority for many of the police officers concerned, nor was a prosecution viewed as always in the 'best interests' of the victim. Various police officers said the following:

Taken to court – no, I have never had a victim who felt able to take a matter to court and circumstances prevented an evidence-led prosecution. But I feel our intervention with multi-agency partners have brought greater support, awareness and safeguarding (Police Officer, online survey).

...success might be a prosecution or conviction, but success might also be safeguarding (Police Officer, female, interview).

Safeguarding and staying safe is naturally the overriding concern for victims (Police Officer, online survey).

And that is always our priority [i.e. safeguarding]. So, we have very few cases that actually go to court and result in a prosecution or conviction. Although we have had them. Most of our cases are safeguarding cases, and I would say that we safeguard on the whole well and that our officers know how to do that. We are very good at, once we understand that it's honour-based abuse kicking in, "I need to do something different here. OK, I'm going to think about what I need to do" and they will take a family history and identify who we think are safe family members and those who aren't, and get as much information about the family and who we think poses the risk as possible. They understand the one chance rule to speak to somebody and make sure that we've got safe lines of communication, or able to do that immediate safeguarding. They will take fingerprints and photographs and DNA and get travel documents. They'll do all of those stuff. They'll also put markers [i.e. flagging] on PNC [i.e. Police National Computer] and so they, they know that they need to go a little bit further and do a little bit extra. They will contact the force leads or the subject matter experts and ask for advice. They'll always refer to partner agencies where we've got safeguarding thresholds met. We've had, you know, we've had some cases. I mean, one is a case for about three years ago, that ended up repatriating somebody from another country. And then I ended up moving them about 8 times. The risk was a significant threat to life. We did all sorts of stuff to protect that person from the perpetrator and the person who posed a risk of harm (Police Officer, female, interview).

I don't think the public realise how much of our job is safeguarding. And they don't see the amount of referrals that we put in and the amount of referrals that we receive from other agencies and then act on. And that all comes back to safeguarding. It's a huge word. It's thrown around a lot, but I see safeguarding as literally keeping people safe. And we're doing that constantly, every single job we go to, the priority is reduce the risk, protect people from further harm where we can. So yeah, I think it's hugely underestimated. Our job involves that, and the public, understandably, they only have access to the stuff that's in the media. They can do Freedom of Information requests and find out how many charges result from sexual offences. That's always a big one, isn't it? But what they don't know and what they don't see and what we can't measure is how many of those are prevented through education, through interventions, through perpetrator programmes. You can't measure that, can you? And I don't think, well, I would say, I know the public don't fully understand the role that we do (Police Office, female, interview).

21. The importance of safeguarding does not always lead to an arrest or a criminal prosecution, and not all HBA and FM cases therefore progress to the criminal courts and it was apparent from the research that priority is safeguarding first, with criminal justice outcomes secondary. This is, therefore, one explanation why prosecution and convictions rates are low for HBA and FM cases – the priority is safeguarding.

22. Another reason put forward for the low number of prosecution and conviction rates in the criminal courts is because victims are extremely reluctant to report their abuse – in many HBA and FM cases, their abusers are family members and loved ones, including parents. Ultimately, this was one of the most important considerations accounting for the low number of prosecutions and convictions. In these situations, while victims often want to escape their abuse, they are reluctant to prosecute loved ones given the 'dishonour' and 'shame' involved in pursuing a criminal case against family members. Furthermore, the natural love and affection they have for family members prevents many from leaving home and their abusers, let alone pursuing criminal prosecutions:

During court proceedings women and girls struggle to emotionally cope with the court journey (Police Officer, online survey).

Victim/witness engagement and confidence in taking these cases through to successful conclusion; witness fear of retribution from family/community; lack of support for victims not wanting to give evidence against family members; not wanting to move away from friends/family once they are prosecution witnesses and give evidence (CPS lawyer, online survey).

Victims often have to leave everything behind to escape HBA. They have to testify against people they love. They may feel they have nothing left. They also experience guilt re family members and siblings left behind (Police Officer, online survey).



Victims are torn between their own safety and well-being, and their love for their family and doing the ‘right thing’ by them. Often putting their needs and wishes first conflicts with what the family want. It is difficult for safeguarding plans to address this. Without victim support, most prosecution cases will fail as they do not meet the evidential test required to have a successful prosecution (CPS lawyer, online survey).

HBA victims do not wish for their parents to go to court. They do not wish for their parents to be ‘stained’. That in itself is a ‘dishonour’. It will be embarrassing, the whole family name, if it’s reported all over the national or regional media. All victims of HBA wish for, who I must, um, emphasise love their parents, is for the offending to stop...it’s not a question whereby victims are themselves saying “We wish to prosecute”, but the police did not wish to do so. More often than not, it’s the other way around. It is the State wishing to prosecute following the public interest test, and the victim saying “Oh no, no no, I’m not getting involved in this. This, I only wanted the forced marriage to stop, only wanted for the HBA offending to go away. It’s gone away now through the involvement of police or other partners, etc. etc., and I don’t want my parents, I don’t wanna go to court and give evidence again”. Can you imagine the psychological distress and the mental health issues that would cause to these very young children who’ve been nurtured, dare I say, properly by their parents, whose parents have properly provided every single need for them through their development, but have a different culture so they feel that they should get married at certain ages or to certain people? (Police Officer, male, interview).

Oh, I think there’s a number of factors and I think the one that always jumps out to me is. You probably, if you look at your domestic abuse stats among your white equivalents, you’re probably going to see really low conviction rates there as well, because actually the perpetrator in these cases are the nearest and dearest and actually a lot of the young people that we deal within, and majority females or males are brought up within communities where you respect your family, you trust them, you love them, and actually, community and families are everything. So, you’re not necessarily mixing with people outside your community, it’s friends and family. And if you work in, if you live in a Pakistani family, you know when cousins of married cousins, you, your, your family it’s all one and on the whole larger families as well. So, to then go against your mum and dad when you know. And young people tell us they just want “the best for us”. Here’s a really common term.

My mum and dad just want “the best”. “I don’t want to criminalise them” and the people that we’re dealing with on the whole are generally really good, decent people. We know previous convictions or cautions are not our normal level of criminality and you know the children go to school, they’re well fed and are well-presented, well cared for, and I, I, think there’s a danger sometimes for the police because we get measured on how many people we convict, that we try and force vulnerable victims into going to court and we don’t do that. That is not the way we go about it. And if you ask us how many people we safeguard, there are thousands. Every one of those reports will have been safeguarded. A specific safety plan would have been put in place, maybe Forced Marriage Protection Order. So, interventions are put in place. So, you’re dealing with really hard to reach communities who really don’t necessarily want to report offences about their parents. And that’s if they do report the whole story to us. Sometimes people will tell you a little part of the story, then realise the consequences of what they told you and what the implications are for the parents, and then withdraw and backtrack. And although we think we know you’re a victim in this, you’re now saying a different story. It’s very difficult for us too. Then we don’t want them to perjure themselves and make another statement saying, “Well, my parents didn’t do this” because you’re setting them up to be a liar. And if they had a future case, that would undermine the future case. So, although the forced marriage unit have those stats, that could be somebody phoning, going “I’m really worried about my friend”. And actually, there is no arrangement for marriage or it’s just at the early stages and we managed to get it seen and recognising it at an early stage that we can put, we can put interventions in place to stop the crime happening that actually gets recorded. So, although the forced marriage unit may flag forced marriage cases, they may not necessarily be forced marriage crimes just yet, if that makes sense (Police Officer, female, interview).

23. In relation to police officers and the CPS, close working relationships between the two was an important example that could lead to successful outcomes, including successful prosecutions. There were instances within the accounts of police officers and CPS lawyers explaining that they communicate with each other, where officers were able to seek advice early on about potential offences being committed and to obtain advice about the types of evidence needed to proceed with criminal charges, a criminal trial and ultimately securing a conviction. Police officers explained that dealing with criminal evidence can also be time-sensitive because perpetrators may often seek to hide or destroy evidence once they are on notice that a criminal complaint has been made. Obtaining advice early on about what constitutes ‘good evidence’ is vital if a criminal case is to progress any further. Linked to this was the building of long-term relationships and

communication between the police and CPS, in terms of longevity and familiarity – knowing a prosecutor that is a point of contact in the CPS can help if an investigating police officer has a question about the types of issues presented or evidence needed to justify charging a suspect with an offence. Knowing that they have an opportunity to pick up the phone or send an email directly to a prosecutor in the CPS, explaining the facts of a case and obtaining appropriate advice, helped with the establishment of familiar relationships and trust that cases referred to the CPS will be dealt with sensitively and appropriately:

Having the same team is important. Same lawyer and counsel who have experience from past cases (Police Officer, online survey).

Criminal Cases –
Special Measures & Expert Witnesses

24. The ability to apply for special measures to allow victims to give evidence in HBA and FM cases was another point considered good practice and an area that works well. Criminal cases can often be long and protracted and victims will often experience stress and fear during an investigation and the lead-up to a criminal trial when giving evidence. Vulnerable witnesses and witness intimidation can negatively affect the quality of testimonies by victims and can negatively impact on a criminal trial. The Youth Justice and Criminal Evidence Act 1999 introduced a range of measures that can be used to facilitate the giving of evidence by vulnerable and intimidated witnesses by alleviating some of that stress. These measures are collectively known as ‘special measures’ and include putting up screens in court, the use of live links to give evidence at a location away from court, giving evidence in private, the removal of wigs and gowns by judges and barristers, the use of video-recorded interviews, and pre-trial recorded cross-examinations. Participants to this study stated that the use of these special measures can afford victims some security at a time when they are immensely frightened, and this was viewed as a positive example of ensuring witnesses feel able to give evidence without intimidation. Furthermore, employment of expert witnesses (providing expert witness statements on HBA and FM) was another feature cited in strengthening the prosecution’s case, together with experienced trial prosecutors and judges, knowledgeable and who are familiar with the delicate and nuanced cultural, social, and religious factors that HBA and FM cases involve.

Family Cases –
Speed & Ease of FMPO Applications

25. In relation to civil law and the family courts, several participants spoke very positively about their experiences of the civil justice system. Many stated that family hearings are listed urgently and quickly and, on some occasions, even out of hours, or applications for FMPOs have been granted by judges on the same day in urgent cases. For participants, this was a notable strength of the family courts, demonstrating a

good appreciation of HBA and FM, and the urgency to secure FMPOs for victims against their perpetrators, including the seizure of passports and preventing victims from being taken abroad. They were also very positive about family law judges, who appeared to be experienced in these cases and who appear to be trained in HBA and FM:

Cases have consistently been handled very well by the judiciary (Family Lawyer, online survey).

I’m not really familiar with discontinuance in the civil courts. All FMPOs we have supported have been obtained (Family Lawyer, online survey).

We rarely, if ever, have discontinued our applications for FMPOs or FGMPOs (Family Lawyer, online survey).

I expect criminal cases will be discontinued because the victims will have been threatened or coerced into withdrawing support, but in my cases, none have been prosecuted - I haven’t had any unsuccessful applications through the civil courts (Family Lawyer, online survey).

I am not aware that there is high discontinuance rates in civil courts, certainly around FMPOs and FGMPOs, my personal experience of the civil courts has been nothing but positive. There is a growing determination by judges to issue these Orders, and I think there is a general acceptance that civil courts do not have by far enough applications made. This is, I believe because of a lack of awareness of police officers, specifically within social services and police forces, and the low threshold to obtain one. Very frustrating, and something I try to promote (Family Lawyer, online survey).

26. The perception was that securing civil orders in the family courts was much easier in comparison to securing a conviction in criminal trials, largely attributed to the burden of proof in civil cases (the ‘balance of probabilities’) being much lower than in criminal cases (‘beyond reasonable doubt’). As a result, applications for FMPOs and other Orders were much more readily accepted by the family courts, where participants stated that they had successfully obtained FMPOs to protect vulnerable people:

Yes, we achieved a major Forced Marriage Protection Order authority [sic] and have generally been successful with our applications for both types of protection orders [i.e. FMPOs and FGMPOs] (Police Officer, online survey).

I have too many to put a number on it but in the last 4 years have obtained over 50 FMPOs, repatriated numerous victims from other countries who were being held against their will, and assisted many victims safely escape their abusers (Police Officer, online survey).

In all cases, I was able to successfully obtain Forced Marriage Protection Orders from the court. In one case, despite the Order, the female was forced into marriage. This occurred abroad (Family Lawyer, online survey).

The civil court process has been successful in the amount of Orders that have been granted (Family Lawyer, online survey).

My experience is that FMPOs are easy to obtain and that is a positive (Family Lawyer, online survey).

Yes. And the judges...my first one, I was brand new, didn't know what I was doing. I just went. I thought. I've gotta do it [i.e., obtain an FMPO]. Went along and since then, obviously, I've built up a good working relationship... and the court, the judges, know my name and they know me. So, I think generally they say "If [name of police officer] said it, it must be". I have never had one rejected. And I have never had one discontinued. Because when they come to me, the victims, go to legal, go to the court, "I don't want this anymore". And of course, legal services come to me and say, "Um, can you give us a statement about discharging this?" And they ask me to do a further risk assessment and I say "No". The risk assessment that we did at the time is the true risk assessment as far as [name of police force] is concerned. That risk has not gone away, and then they say "Well, nothing has happened for two years". That's because there's been a Forced Marriage Protection Order in place. That's why nothing's happened for two years. And my blanket response is "No", it would have to be exceptional circumstances for me to agree that someone no longer needs a Forced Marriage Protection Order. I have never said: "OK, we'll discharge it". Never. And the judges uphold it (Police Officer, female, interview).

I think that I like the way that the courts work. They work fast. I think that they deal with it quite seriously, which is good. I think they don't take it lightly...So they do, you know, make the Orders, put all the recitals in the Order saying that, you know, there's this person, can't be taken outside the UK, these people cannot be forced into marriage. These passports have to be surrendered. They all have to come to court. And these Orders are made, and they have to be served. And I think they've done it officially. That's really good. I think there is the show that it's serious and I think, obviously, if a family or a parent or any individual involved in forcing someone to get married receives that Order, they would be quite scared because there's penal notices attached to it and a penal notice is kind of like a criminal sanction to

say that if you do not come to court or you do not do these things, you can be arrested and prosecuted for this. I think the seriousness of it, the vastness, the professionalism of the court, I think that's very good the way they did [sic]. When they do deal with it, they deal with it very seriously. So, I think that's good (Family Lawyer, female, interview).

27. The idea that FM victims can also put forward evidence in front of a family court judge without opposing parties viewing those submissions is a positive step to protect the privacy of victims and avoid further confrontations with their families:

I also like the fact that victims can give evidence, kind of, without necessarily having it sent to the other side, and you know, the forced marriage cases are really the only type of case. One of the only time cases where that's possible, because in any, you know, most family cases, if you file a statement, the other side gets to see it. But there is provision within forced marriage cases for the victim to file a statement that only the judge sees. And again, when that came in. It was quite controversial, and you always get the barrister for the parents banging on about human rights and all of that. But that element of it does work, I think, because often a victim won't want to voice what the real risk for her is, that maybe she has got a boyfriend. And her parents don't know about it. And her parents maybe are suspecting. She's certainly going out a lot or they're not sure what she's doing, but she will not want to actually confirm the fact that she has a boyfriend. And who that is. But the fact that she has does increase the risk, and the need to have one of these Orders. So, it's good to be able to have a function where you can tell the judge about that, without telling the parents. So again, I think that side of it does work really well (Family Lawyer, female, interview).



The Data

Negative and Unsuccessful Outcomes in HBA and FM Cases - What is Not Working Well?

Criminal Cases – Inaccurate recording of HBA and FM: Home Office Counting Rules

28. One of the issues discussed during interviews was the inaccurate recording of HBA and FM by police officers. This is because frontline police officers or call handlers may not initially recognise the signs of HBA and FM cases:

Yeah, it's really difficult. I personally think that on honour-based abuse and forced marriage is generally not given the level of significance in most organisations that it should have, because it's under-reported and because we don't recognise it very well. It's a far smaller proportion of the general crime type that we deal with. So, forces use data analytics and various different tools and methods to prioritise what they need to do because they have so much to do, and they can't possibly do it all. And obviously police officers have to be the master of everything. It's one of those crime types that, well, we don't see that much of it. It's not really an issue for us. So, we don't really think that we need to...And of course, that just perpetuates the issue because people don't understand the complexity or risks associated with honour-based abuse. And what happens if you don't get it right? And obviously, we know that if you don't get it right, people die and it's just massive. So, it's a real challenge for us to be able to, kind of, do that and that's where you know, slightly off the records, we're out in [name of police force] that you know, domestic abuse is a priority, Violence Against Women and Girls is a priority. All of these things are a priority. And it's like, "Well, it [HBA and FM] kind of sits in there, doesn't it?" You know, it's, it's kind of there. And we're like, "Well, it's not. It's, it's not there [i.e. not recognised]", you know. And actually, you really do need to have a specialist understanding of this crime type because it's not the same as domestic abuse and it's not the same as generalised violence against women and girls. We've got some very specialist considerations that you need to take within this because it's so hidden and it is so risky and you need to be able to understand that there will be multiple perpetrators, female perpetrators, that this person might not be safe and might not be safe anywhere. You know, how? How are you going to deal with those things? And I think that's a real, real challenge. And I don't think it ever really gets the recognition or the importance that it deserves, and that feeds into the court system (Police Officer, female, interview).

29. The issue not only relates to the inaccurate, misidentification or lack of understanding of HBA and FM cases from frontline officers (to be discussed further below, in relation to lack of awareness and police training), it also relates to Home Office counting rules and specific identification of offence category types, which may inadvertently lead to mis-identification of HBA and FM cases, perceived lower numbers and consequently a lower priority, and which may be a contributing factor to the lack of prosecutions and convictions. For example, if someone reports "My dad wants me to marry my cousin in Pakistan, and I said I don't want to and if I don't, he will kill me", one police officer stated that within her own police force, it "will be recorded as a non-crime". As a researcher, the author immediately asked why this was the case. The police officer replied:

Because of Home Office counting rules. I've tried to get an explanation. So, if that young person, so that, that same circumstances, if you add the sentence "My dad has hit me. He said I've got to marry my cousin in Pakistan. I said I don't want to. And he said if I don't, he'll kill me". They will record an assault. Because they'll record threats to kill...I've been shouting for several years. Everyone that knows me will tell you. Because Home Office counting rules say they are the most serious offences, more than forced marriages, so I challenge them. I say: "That is an attempted forced marriage". Oh, every element of the offence in law is within what that young woman has just told us. Why is it not a crime? Well. "What did he? Did he assault her?" If that young woman said: "My dad assaulted me two years ago", now they will record the assault that happened two years ago, rather than attempted forced marriage. So, my organisation, and all the leaders that I get frustrated with, why aren't you investing or putting any time or money into this crime type? It's because their figures and spreadsheets, whatever they look at, don't show that there's a problem because it's not been recorded correctly.

MM Idriss: Can I also add someone to this, if I may? Is this problem compounded by the fact that there is no separate offence of honour-based abuse?

Yes, it absolutely masks the problem, and when I spoke to a load of Inspectors or higher, and I said: "It's a hidden crime and we are further hiding it because as a senior leader, you will look at your screen, and if you're, if you're being asked to justify why, why we've got 0% in whatever?" You cannot see it because what you will see is a total mismatch of threats to kill, assault, harassment, coercive controlling behaviour and non-crimes. And you could look at a thing that tells you I've got 600 cases. Oh yeah. Maybe three or four will actually say forced marriage. And that's because it will have been recorded by somebody that works on my department and nowhere else...Why won't you

record this? That's what it is. Because they say to officers, they will only record a forced marriage if the marriage has taken place. But there's also the offence of attempted forced marriage there, so "If you don't get married, I'm gonna kill you". That is an attempted forced marriage (Police Officer, female, interview).

30. In this scenario of an attempted forced marriage, according to the police officer (above), those tasked with the responsibility of recording crimes are not correctly recording such crimes as they should, which at face value, runs counter to the Home Office document on crime recording rules and guidance for the police on "Whether to record a crime" (at page 5; pages 23 and 25 of the guidance specifically provides guidance on HBA and FM). The police officer's comments appear to hold some weight because at page 10 of the guidance ("Principal Crime Look-Up Table"), HBA and FM are not included as 'principal crimes' to be recorded, though offences like ABH and threats to kill are. Why HBA is not included is understandable because it is not a specific offence with its own offence code, but FM is a crime under English criminal law. FM and breaches of FMPOs were criminalised under the Anti-Social Behaviour, Crime and Policing Act 2014. Similarly, The Marriage and Civil Partnership (Minimum Age) Act 2022 now makes it an offence to cause a child under the age of 18 to enter into a marriage under any circumstances. The interpretation of the current Home Office guidance on counting rules by some forces implies that ABH and threats to kill take on higher priority, to the detriment of data accuracy and recording of statistics on FM (a crime) and victims who report these offences (including attempts). The police officer went on to say:

So, I went to a meeting with the lead. I explained all this to him and he said "OK. I understand we need to deal with this, but I can't at the moment because of [major event], but after that he agreed to get me into a meeting with somebody, a relevant rank within that department to discuss what's going on. It didn't happen. And I keep coming back to the same point. People are not gonna listen to me unless they can see it hits somewhere where it hurts, which is in their figures. I would welcome some scrutiny on this area because it [HBA and FM] is the worst form of domestic abuse, mainly perpetrated against women and girls. Supposedly the hot political topic. And we're not doing anything about it. I didn't get a reply...If someone over the phone has said: "I was assaulted" and the police get there and there's no one there, we still have to record an assault against someone, by someone we don't know. By method unknown. If the Home Office Counting Rules say we have to do that, how on Earth are they saying that we don't have to record attempted and forced marriages as what they are? And that's the extent. And even that's not reliable, that's reliant on the person recognising that it is HBA. And so, the girl, the girl in [country] with all the family last

week. So that's what happens regularly to us. Oh, I start looking through our systems and it seems in 2021, when she was a child, and this is a regular thing. We discovered in 2021 as a child, she I think, was assaulted by mum, mum was strangling her, and whilst her mum was strangling her, mum was saying "If you want to die now, just tell me". And as part of whatever the argument was, "Throw schoolbooks away, throw schoolbooks away", and said she wasn't allowed to go to college. It turned out the argument was about that girl wanting to go into further education and her parents disapproving. I'm thinking now it's HBA. It's obvious to me and I would expect anyone else to be suspicious and ask the question why. And then they may have got the right answer. But in 2021, that was the one chance to save that girl. And it wasn't recognised. And now she's in [country] sending messages saying "SOS" and we can't help her. And those kinds of cases devastate me (Police Officer, female, interview).

31. It is submitted that if FM (including criminal attempts) were seen as a priority like threats to kill, assault, GBH and murder, they should be included within the Principal Crime Look-Up Table as a principal crime, given the severity of FM as a crime, the violation of human rights associated with it and that it is a serious VAWG issue. If FM was to be included within the Look-Up Table, it is submitted that the impact on FM statistical data collection (including criminal attempts) may increase because frontline officers would be encouraged to look out for and record such crimes based on the Look-Up Table for what they really are – HBA and FM:

It would implode, or explode, all of a sudden. People would be saying: "We've got a problem with forced marriage and honour-based abuse there". Yeah, we have. Because [name of police officer] has been trying to tell you for years. That's what would happen. That's what needs to happen. You need to stop messing around... (Police Officer, female, interview).

32. This could then potentially increase the number of prosecutions and convictions pursued. It may invite police forces to appreciate the true nature, scale and recording of HBA and FM offences. One police officer even said that she believes HBA should be a criminal offence with its own 'crime header' to capture data accuracy and prevalence:

I have got a victim. She's got learning disabilities, she's deaf and she's dumb. She has had four forced marriages. She was married to three brothers in the same family. One after the other, they passed her onto the other. She produced two children. Both ended up in care. We find out when the second husband murdered the first husband at their father's funeral in [country]. So, then we find out and then. So, then we're aware. So, we go and get a Forced Marriage Protection Order. The second wife of the murdered husband then becomes a perpetrator, because my victim owns the

house of the dead husband. I've had to go back to court and get us a further Forced Marriage Protection Order with different perpetrators, and at the same time, that victim's daughter has come out of care and now I'm trying to protect her. I'm still currently fighting with her because she thinks her family, her long lost family in [country], love her and want to see her. And I'm like: "Oh, I don't think you understand what's going on here". Anyway, and then in between this, so she's got two Forced Marriage Protection Orders. But in between those two Orders, unbeknown to me, but known to her social worker and all that, she has a fourth marriage, and a pregnancy, and a forced abortion. That's one, one woman. And all it's, it's complex, it's really complex, but you wouldn't know it because everything on our system will be an "assault". It might even be a rape, threats to kill. Oh. It draws me inside...Yeah, it has to be a crime header because markers to me mean warning markers (i.e., flagging) and we've already got those. They're irrelevant. It has to be an offence header (Police Officer, female, interview).

33. The non-inclusion of FM as a serious offence within the Principal Crime Look-Up Table, coupled with misidentification of HBA and FM cases in the first instance by frontline officers, show that current Home Office Counting Rules are not fail safe when it comes to the identification and recording of HBA and FM. As stated at the beginning of this Report, while in the year ending March 2022 there were 2,887 HBA-related offences recorded by the police, this statistic is likely to heavily under-estimate prevalence, not just because HBA and FM are hidden harmful practices and victims do not report, but also because frontline police officers and police forces are failing to properly identify such crimes. The Home Office Counting Rules has a role to play in this misidentification. Police forces rely on frontline officers to put a 'marker', 'flag' or 'qualifier' that a case concerns HBA or FM. When this does not happen, it can lead to HBA and FM cases being missed, resulting in victims being placed at significant risk of harm. It significantly downplays HBA and FM because inaccurate or incomplete counting creates a misleading picture that HBA and FM is 'a far smaller proportion of the general crime type' that the police normally deal with. It is recommended that FM should be included within the Principal Crime Look-Up Table. There should also be further guidance that this may also be applicable to criminal attempts. In addition, if HBA were to become a separate criminal offence in the future, it should also be included within the Principal Crime Look-Up Table.

Criminal Cases – High Attrition Rates and Discontinuance

34. Many of the participants described instances where it can be extremely difficult for victims to disclose and report instances of HBA and FM, providing another explanation for the lack of prosecutions and convictions. Victim attrition in HBA and FM cases consequently lead

to criminal cases often being discontinued even before they get to the charging, prosecution, and trial stage process, as opposed to any major abstract failure on the part of legal authorities responsible for enforcing the criminal law:

There are significant barriers...factors such as English being a second language, concerns about immigration status etc. Therefore, there are significant barriers to reporting, let alone getting a case to court. We have very few criminal prosecutions for HBA-related domestic abuse cases. We have had one forced marriage investigation (Police Officer, online survey).

We do not get reports to us in the first place as people may distrust us because experiences they have with the police abroad, or our current press who seem to report negatively on police. The pressure on young people is high enough now with social media, the stress/anxiety with no family support is too much for victims (Police Officer, online survey).

Yes, because the perpetrators are usually family members and the victims wants immediate protection from the situation, they do not want to prosecute family members (Police Officer, online survey).

In my opinion, from my own Force, once it has and is taken seriously, particularly when dealt with by CID, and I feel we and partners do a good job in supporting the victim and safeguarding them, but we are asking the victim to give evidence against their family and in addition to that to leave them as they are so at risk – that is a massive ask and very few are able to do that. That is why there will always be in my opinion a high rate of victims not supporting and cases being discontinued (Police Officer, online survey).

I think, unless you're from the Asian or African background, you won't understand that you have to understand 'honour' and 'shame'. And I think the 'honour' and 'shame' of taking that further step of them making the criminal complaint. You're dishonoured for the rest of your life, that you've, you've broken all ties, and in some cases, it puts a massive life risk to the victim as well. So, firstly, we have to cross that hurdle (Police Officer, male, interview).

...what a lot of people say is that 'honour' is not an issue in our community, or our family, so we're not going to talk about it. That's one part of it. We'll talk about some of our marginalised communities. There are so many barriers to reporting to any professional, not just the police, but particularly the police around perceptions of corruption. But feeling that you won't be believed, nobody's going to listen to me, but

also that coercion and influence within the family and community that you don't go to the police to sort out your problems, certainly not family or community problems. And the risk and the threat is also great, but if you don't speak English, that's another barrier. If all of your family are telling you that if you get involved with professionals, they are going to take your children off you, massive barriers, you've got all these myths. We're not going to start arresting everybody willy nilly, but there's a lot of myths that we haven't really broken down, and there's a lot of barriers we haven't overcome. And we don't provide or enable people to come forward (Police Officer, female, interview).

35. These extracts clearly demonstrate that victims are reluctant to report or progress cases further through the criminal process. During such stages, victims will begin to reflect on the impact of pursuing criminal charges and how their life may continue outside of their family and community networks. This, together with the distrust towards police and perceived lack of victim care, is probably one of the biggest factors why victims may not come forward to disclose abuse, or later withdrawing from the criminal process altogether. Navigating family pressures and conforming to the wishes of their families can impose huge strain on victims, resulting in the withdrawal of criminal complaints, as well as retracting FMPOs made in the family courts. Victims may retract their complaints, including having (sometimes, misplaced) loyalty to their families, deterred by the possibility that their family members will receive a criminal conviction, as well as being further isolated from their families for bringing 'shame' upon the family for pursuing criminal proceedings. Fear of violent repercussions and further acts of retribution may also be contributing factors for disengagement with the criminal law.

36. CPS Prosecutors and police officers said that they only proceed with a legal case when the victim consents to a prosecution and is able to provide evidence on their abuse:

In my experience, it is the victim who feels unable to support and ultimately the evidence of taking a case to court lies with them – without it, I have never been able to proceed (CPS Prosecutor, online survey).

Reaching an evidential level - as mentioned above the key evidence lies with the victim who does generally not feel able to support (CPS Prosecutor, online survey).

The community-based approach to these crimes means most of the evidence is either too nuanced or hidden and therefore making it difficult to support a prosecution (CPS Prosecutor, online survey).

In my Force, there is a reluctance to arrest the perpetrators and search for evidence if the victim is not willing to support a prosecution (Police Officer, online survey).

That is an impossible question as a criminal court does need a high level of evidence to

go beyond reasonable doubt (CPS Prosecutor, online survey).

HBA cases are too difficult for the prosecution team to take to trial, there are many reasons for a poor attrition rate (CPS lawyer, online survey).

Very difficult to obtain evidence (Police Officer, online survey).

And then I think the most difficult part of investigating a lot of the forced marriage cases is that if these marriages have occurred in another country. Getting evidence from that country can be almost impossible. If you are investigating a forced marriage from India, Pakistan, Bangladesh. Consider that you may have to work with the police in that country. Now I have never ever had any assistance from the police in any of those countries, purely because of the danger of corruption, the danger of approaching, say, for example, a local police force or a local police area. You have to think what contacts does that family have? If that family has UK connections, they will have money. So, it's very, it can be very dangerous to kind of rely on police forces in those countries to assist you in an investigation. So, getting evidence from that country is very difficult. You have to use other means (Police Officer, male, interview).

37. The reasons cited (above) for the lack of prosecutions is the difficulty in obtaining evidence to justify a prosecution and ultimately securing a conviction. However, participants did point out that to mount a successful prosecution, the police must 'have the right team' at their disposal to gather evidence. This is not necessarily an impossible task, but through knowledgeable and experienced teams of police officers, working within their specialism of HBA and FM, and given adequate time and resources to investigate through specialist HBA and FM Teams/ Units within their own police forces. Some officers stated that they do not have specialist HBA or FM units within their own police forces, which ultimately impacts on the investigation of HBA and FM offences. Consequently, this may contribute to the lack of prosecutions and convictions in relation to such offences. Many of the police officers stated that given adequate resources and time to investigate, they will succeed in providing the required evidence to secure convictions against perpetrators:

...for me, the biggest thing is if you want a successful case and a prosecution. You have to have the right team. You have to have the right officers. You have to be given the resources and the time to investigate. You will have seen how policing has been in the last few years. Numbers are massively cut, the workload is huge and what I would say is that for our first conviction, we were given the time to investigate. So, we were literally kind of sidelined for that investigation. But you have to have the right officers. You have to understand 'honour' and 'shame'. You have to understand the dynamics of the families in the community. For me, because

I was from that community, not from the actual community of the victim. But I had an Asian background. I understood that, you know, the culture. And then I think building that rapport and the trust of the victim is massive. What you got to bear in mind is that the victim has been probably let down by families, friends, people she trusted...So one, it was having the right team. Two, it was being given the time and I think with that case, because it was going to be a ground-breaking case as in the first ever conviction, resources were put in by the Crown Prosecution Service as well. Also, working with partner agencies, because if you look at evidence. The threshold required for a forced marriage conviction is very, very high from the Crown Prosecution Service before they will consider a charge. So, when you're looking at additional evidence or third-party material in my case, adult social care, children's services, school records, were really, really important. So, I had to work with partner agencies (Police Officer, male, interview)

Criminal Cases –
Victimless and Evidence-Led Prosecutions?

38. To improve prosecution and conviction rates in HBA and FM cases, one option to consider where a victim is unwilling to attend court is to produce a witness summons compelling a victim to give evidence. This approach itself comes with its own problems and issues and might be considered if a case can succeed only with the victim's evidence. However, this is a very forceful and heavy-handed measure. It certainly does not guarantee that the victim will give evidence in the same manner as their initial complaint, and potentially exposes them to criminal liability if they fail to comply with the summons. This seems unjust given the circumstances and the pressures upon victims to testify against their families.

39. As there are high attrition rates in HBA and FM criminal cases, one way to improve prosecution and conviction rates therefore is to pursue victimless prosecutions. Victimless prosecutions were introduced to protect victims who are too afraid to support and testify in a case, for example, of domestic abuse. Body-worn video evidence from frontline police officers who first attend a scene, photographic evidence at the scene of an investigation, a 999-call recording, silence/admissions in police interviews, all could be used in place of a victim's statement as evidence to trigger an arrest and an evidence-led prosecution. In circumstances where an initial complaint is made to the police by a victim, but the victim later withdraws their statement, the prosecution may also apply to adduce that statement as complainant hearsay. Given that extracts from the data (above) details victims are refusing or retracting statements out of fear, should the CPS pursue victimless prosecutions? This issue comes amidst the CPS's own commitment to the prosecution of domestic abuse in cases even without the support of the victim, and the question is whether this should also extend to HBA and FM cases as a form of honour-

based domestic abuse.

40. The dilemma, however, occurs when the HBA or FM victim states that they do not want to pursue a prosecution at all, and the criminal justice system is told to place victims at the heart and centre of the justice system. On what basis should the CPS override their voice and right to choose in criminal proceedings? What dangers might this pose? Some officers explained that it may be dangerous to pursue victimless prosecutions in HBA and FM cases, because if the victim does not cooperate with the investigation, the police may be escalating the risk to the victim by placing them in a difficult position in relation to their families, a situation that victims do not consent to. The needs of victims must therefore be considered:

The threshold for these offences is very high. Many of these offences take place abroad so getting evidence is difficult. It is also difficult to prosecute with an evidence-led prosecution (CPS Prosecutor, online survey).

Victims are coming forward in their droves, and we provide a police statement. We are provided bundles and reams of evidence. We told them [i.e., the CPS] everything and they [i.e., the victim] didn't prosecute despite our will to prosecute. No, no, no. Often it's the other way around. The amount of evidence that we can generate in HBA cases, and I have done this myself, can be overwhelming. And obviously you can never have enough good evidence. But we always have sufficient evidence to prosecute. In those cases, and we apply the subjective, and it is subjective, the second part of the test – does this meet public interest threshold? Well obviously, this depends on who the public is and, and, and, so more often than not, we, we can prosecute in those cases, but we have to tread very carefully. What good is a prosecution if we pull so much trauma to the victim? And as I've seen this, or many documents, that the victim is saying, "If you prosecute my parents for this offending, I'll take my own life (Police Officer, male, interview).

Ninety-odd percent of victims will never make the complaint. So, what you're left then is can you go down an evidence-led prosecution for forced marriage? Personally, I think it's almost impossible to have the evidence to go down the route with CPS and evidence-led prosecutions, because you're not going to have the victim. You're not going to have a lot of the evidence.

You know, very, very difficult for me. There's more negatives than there's positives around investigating forced marriage and honour-based abuse (Police Officer, male, interview).

41. By pursuing a victimless prosecution, the victim is unlikely to report any further abuse, and future victims may be deterred and lack confidence in the system because they are aware that family members may be prosecuted without their approval. Instead, the provision of appropriate support and care to victims (when victims may often feel isolated from their

families), and pursuing prosecutions only when victims consent, may conversely help to improve attrition rates and the lack of criminal prosecutions in HBA and FM cases in the long term, when victims feel confident in a system that respects them and their choices. On the other hand, some police officers stated that there are some important benefits of pursuing victimless prosecutions:

Yeah, I'm a huge fan of that, massive fan of that, because I just think it takes the pressure off the victim, and psychologically as well. And you're saying to the perpetrators: "It's me taking this to court, the police. It's not your victim. You can leave him or her alone now, because it's me that's pushing this". So, the victim feels safer. They feel an awful lot safer, because actually, the anger and frustration of the perpetrators, is now directed at the police or the CPS, it's not necessarily directed at the victim and their family. So, I'm a huge, huge fan of those and we have, you know, we have tried to take a couple of them to the CPS and the court system, you need some form of evidence. So quite often, these things are very clinical, so you have to take the emotion out of it and say: "Have I got enough evidence to take to court to convince 12 men and women that actually this has happened?" And so, I think it's, it's probably something we probably need to work better at it. Really, sometimes I wonder whether we could push more or cases that way...But sometimes I do see the CPS's point that actually, we still need some evidence to push towards it. And, and in these cases, quite a lot of the time with honour-based abuse, you've got the initial bits. If you have a 999 call, and you'll have what the officers have got at the scene. But then, when you're looking for that support, so perhaps, other witness statements or other corroborating evidence, sometimes that's where it can fall down. But yeah, it's definitely something I think we can push forward for, we need to do more of (Police Officer, female, interview).

42. The rationale of victimless prosecutions requires further examination. While such prosecutions may occur where no evidence is directly adduced from the victim because the victim is unwilling to give evidence, it may still nevertheless be in the public interest to continue with such prosecutions without the victim. One of the most important public interest factors in domestic abuse, HBA and FM cases is the fact that a successful prosecution is likely to protect the victim from further abuse. In the Steven Saunders trial, medical professionals (i.e., third parties) were able to give evidence of the defendant's conduct that had been relayed to them by the victim in the form of hearsay evidence under the Criminal Justice Act 2003. He was sentenced to 18 months' imprisonment in the first reported case of a conviction in a victimless prosecution for controlling and coercive behaviour. In the context of victimless prosecutions, seeking to prove a case using third party hearsay evidence would require prosecutors to inform the Court why a witness summons of the victim was not sought and the reluctance/fear such

victims hold in relation to prosecuting loved ones.

43. Victims of HBA and FM are often unable to accept that they are in fact victims or are extremely reluctant to see their family members prosecuted, despite evidence of the commission of criminal offences. The Saunders case clearly indicates that the CPS intends to prosecute the offence of controlling and coercive behaviour by whatever means available, and there are strong arguments that this approach should also extend to HBA and FM cases. Convictions should be possible given that Saunders has now confirmed that it is possible to achieve a conviction in domestic abuse cases without victim testimony. This would send out a very clear message to those who believe they can use control and fear to silence their victims, and that there is no longer any hiding place for those who perpetrate HBA and FM.
44. It was put to a CPS Prosecutor that some police officers feel that they do not know who the specialist contacts are for HBA and FM cases within the CPS. The CPS prosecutor replied that the CPS are very equipped at responding to prosecuting perpetrators:

So, that's not right, because we work, we work with the National Police Chief Council and we have a network, I mean every CPS area, there is a champion on honour-based abuse and forced marriage and there's an equivalent from the police side as well. So, we have the police representation, so those police officers should be going in their local area, their local police force, saying "OK, who's the specialist?" And then speaking to that specialist, because the network, because we don't have many cases, I make sure there's a national network and that national network talks to each other about cases which come up and then you share good practice. You learn, so it may just be that office and not knowing who to go to because you're not gonna have, every prosecutor is not going to be aware of these cases because we don't have many, many of them. And when you don't have many of them, it becomes like a niche area in some ways. So, we have named prosecutors in every CPS area, and we've got a list of them. And those police officers should know who is in their area and they should have the equivalent of a specialist who leads on this work as well (CPS Prosecutor, female, interview).

45. Asked if this lack of knowledge may be because such information may not be properly shared or promoted as widely as it could be, the CPS prosecutor responded:
- Yeah, that's probably often gonna happen because there's usually a high turnover of police officers. And so, when you train some and you tell them, then they're off or they move. They don't always leave the police force, but they move into different work and then it's trying to kind of keep up. So, the message has to always be out there. It's gotta be something which the police are continually kind of improving and they've got a police lead for this (CPS Prosecutor, female, interview).

46. However, in relation to the CPS, there appeared to be tension between some police officers and the way that some prosecutors handle HBA and FM prosecutions. While some of the CPS accounts (above) indicate a lack of evidence may hinder the possibility to mount prosecutions, some police officers (below) believed that sufficient evidence is in fact available, but that there is an unwillingness or lack of proper preparation on the part of some CPS prosecutors to mount a prosecution, even if this involves an evidence-led prosecution:

Prosecutors would tend to give up at the first hurdle (Police Officer, online survey).

Prosecutors don't always understand or flag the cases as HBA (Police Officer, online survey).

Counsel at court will often only have briefly read the case papers and will not generally have had a sit-down meeting with the investigating officer, to get a real feel for the case from those who have 'lived and breathed' it and know the family/community (Police Officer, online survey).

Victim attrition is high; can't always keep the victims engaged as they feel pressurised not to give evidence against family members; IDVA support not always there; expert witnesses not allowed by the courts to give evidence to explain the context or background to offences; not always the right barrister/counsel prosecuting the case (Police Officer, online survey).

Poor witness care, lack of communication with prosecution services. Witness care services need understanding of the cultural issues and provide targeted support and good connections into prosecution services (Police Officer, online survey).

Offence of forced marriage? Extremely complex. If you look at the criminal justice side of it, if you look at CPS, only the most senior lawyers in this country can advise on forced marriage cases, and there's only a handful in the country...I think it's probably less than five CPS lawyers in the country...I think in [name of city] there's only two and we're probably one of the busiest forces in this arena (Police Officer, male, interview).

Yes, well, prosecutions and convictions are a whole different story. Because our role and so with that the role of ours being safeguarding, because of the underfunding and staffing on the investigation teams as they are now. Unless that victim wishes to pursue a criminal prosecution, they [i.e., the CPS] file it. So, that then puts more pressure on me and my staff and my department to do the civil route. And I've got to manage that risk now knowing that the department that should be seeking a prosecution should be arresting, searching, investigating and seeking a prosecution are not doing that. For a number of reasons – understaffing, uh, is one of them. Lack of knowledge and understanding is another. And it's been a long time. Well, a few years since I argued with the CPS. Um, and I know they're, in the same boat. I do understand that. But, uh, I'm told, or I'm led to believe that there are HBA specialists in the CPS. Um,

but nobody appears to know who they are. And if that is the case, and I know because I'm passionate about this subject, and I do my research and [name of police force] has got a 0% charge and prosecution rate. And it's been [i.e., forced marriage] a criminal offence since 2014 (Police Officer, female, interview).

Massively, that's a huge frustration for me as an investigator. I see it on social media constantly that the police are blamed for poor sentencing. And poor conviction rates and the sentencing is purely down to the judge. We have no influence at all. The conviction is influenced by the police, for sure. It's influenced by how good our investigation is. Yes, the jury make the decision, but they make it based on the facts that we present. But also, a conviction is influenced by how well the case is presented by the prosecution and the defence. So that can be a frustration for us. I've sat through trials that have been my investigation. And I thought the defence barrister was absolutely brilliant, and this prosecutor has clearly had half an hour before the trial started to read this and has clearly not read this statement until now, because you can see them scanning through it. And that's a real frustration for me because I think I see the prosecutor is on my side (Police Officer, female, interview).

One police officer was very critical of the CPS and the way that it manages cases when the victim withdraws, leaving the possibility open to an evidence-led prosecution:

I haven't had any direct involvement with CPS for a few years, but regularly spoke with the investigators who were involved in the criminal aspects to my FMPO cases, usually CPS wanting to know what was happening with the FMPO case, and in my view, due to multiple negative experiences of CPS, so that they could justify discontinuance of their case. An example being, breach of FMPO, within days of the Order being served, the father of my victim had obtained a replacement SIM card to her phone and harassed her and many contacts in her phone, I can't remember if there were threats, only that he was, relentlessly, trying to find her, he admitted this behaviour during interview, and there would have been undeniable physical evidence in the form of phone records. Clear breach of an Order. At some point during proceedings, the victim told the investigator that she didn't support a prosecution for the case, so CPS discontinued the case. She also told me she didn't want to proceed with the FMPO after reading her parents statements, which were full of emotional blackmail, but she was gay and had [...a number of other] younger siblings and it was my view that they would never accept her life choices, and her siblings were still at risk. She accepted what I said and admitted that she didn't want her parents to find out where she was now living (so still scared) and hoped that she could have contact with them in the future,

so we removed the ‘non-contact’ prohibition and the Order was granted, despite her refusal to attend the hearings.

Another case was conspiracy to murder, offenders were remanded in custody, a witness (who had clearly been intimidated) withdrew his support for the prosecution, he had given a statement about overhearing all the plans to murder my victim, who we had to rescue from [country]. Case dismissed, offenders released and of course they continued to threaten her and breach the FMPO, no prosecution. If they [the CPS] understood HBA they would surely understand that these decisions only empower the offenders and give them the confidence that they only have to intimidate the already terrified victim/witness and they walk away (Police Officer, female, interview).

The thing I’ve learned about perpetrators, particularly honour-based abuse perpetrators, is they don’t start, they have an absolute belief in that they are right, and it doesn’t matter what law or what condition or anything I throw at them, they will be ‘right’, and they will disregard whatever advice I give them. “You know, these are bail conditions. You’ll go stick to them. This is a force marriage protection order. You’ve got to stick to it”, and individuals that perpetrate this type of abuse, it doesn’t matter. They don’t take it seriously because they’re working to a different agenda (Police Officer, female, interview).

47. The police officer (above) explained that it is always in the public interest to prosecute HBA and FM cases, even if the victim withdraws. This relates to the value and respect towards the rule of criminal law and deterring offenders by pursuing evidence-led prosecutions without the victim’s support:

Another thought that comes to mind is how it [discontinuance, reluctance to prosecute by the CPS] devalues the FMPO, that has been granted by a Judge, often a High Court Judge, and is granted to protect an individual from serious harm, so for the CPS to not treat breaches of an Order seriously quite frankly makes a mockery of the civil court process and how such Orders are perceived by the perpetrators of this kind of abuse and more importantly makes the victims courage in coming forward, and sacrifice, a waste of time and obviously offers no protection. A protection order is worthless if there is no consequence or punishment for breaching it. So, I believe any progress we make with the civil process will always be hindered by the lack of prosecution by CPS.

I have spent too many hours, hours that I should have been at home asleep, disagreeing with CPS decisions to NFA cases and I don’t know if it’s about targets or financial pressures, but my view is that they do not want to take on any case that might fail, they don’t have any desire to ‘fight’ no matter how horrific the offences or offender may be. Every investigator will tell you that CPS

almost want the whole case ‘gift wrapped with a bow on top’ before they will even charge a suspect, despite our desire to protect a victim by getting the offender off the streets then building the case. They call it ‘CPS advice’, in reality, the police put together a document of what has happened and who said what, then you phone them, and they say “YES or NO”, or go away and do a list of things and phone us back, which is obviously a tall order within 24 hours, and they might still say “NO”. Many years ago, CPS lawyers used to work from police stations and as an officer with a case you could book an appointment and sit down with them and say... what if I get this statement or that statement... this CCTV etc. Is that enough? Or they would say if you can get A, B or C, we’ve got a case. It felt like we were working together then. I once had a CPS lawyer, during a disagreement, say ‘That’s a safeguarding issue’ and at [name of police force] we say ‘safeguarding is everyone’s responsibility’, so from that comment I infer that CPS don’t see it as one of their responsibilities. For me as a safeguarding sergeant, there’s no better safeguarding than the offender being in a prison cell! When CPS send their authority to charge, which was on an MG3 form that forms part of the case file, there is a standard template type paragraph which says something like ‘Consideration needs to be given that victims of DA may withdraw their support and the case needs to be built on the basis that it could be a victimless prosecution’. But my experience is that every time a victim phones the police to withdraw their support, the police take a retraction statement, or CPS tell police to take a retraction statement, and they will discontinue the case. I just don’t think they are victim focussed, they never have to face the victim, hear and see them cry, see them shaking with fear, or see the fear behind their silence. Victims only see the police, so when they are let down by the criminal justice system, they only say that they have been let down by police. If I’m honest, in recent times, the officers and supervisors who now work on the police investigation teams haven’t got my experience or confidence, and will often pre-empt a CPS “NO”, and not even present the case to them if the victim is not supportive, that’s how dangerous the knock-on effect has been (Police Officer, female, interview).

48. In its guidance on So-Called Honour-Based Abuse, the CPS state that ‘Since 2010, the CPS identifies and flags all cases of SCHBA and FM. It is important that these cases are identified and flagged at the outset so that issues are identified and the case is managed properly’. While there is no specific offence of HBA in its own right, the CPS guidance states that HBA and FM will be prosecuted under the specific offence(s) committed (e.g., FM; GBH; stalking; harassment; kidnap; rape; threats to kill; and murder, etc.). It also states that these crimes should be identified as ‘honour crimes’ on the CPS Case Management System as well as by their

named offence(s) and offence codes. Yet, the perception of some police officers is that cases are being missed and discontinued, either because it is not properly flagged as a HBA or FM case on the Case Management System in the first instance because the prosecuting lawyer does not understand the ‘honour’ element involved in the case, or because they do not want to proceed with a prosecution because the victim has withdrawn. It suggests that cases are not always being prosecuted by the CPS, that the true nature and context of offences is not properly addressed at court, and that opportunities are being missed.

49. Even where the victim is willing to provide evidence in court, the CPS has still expressed a desire to discontinue with a case. In the case of R v Moroak (2023, unreported), the investigating officers at Bedfordshire Police said (during a public presentation) that the CPS wanted to discontinue this HBA and FM case for lack of evidence. Two investigating officers then had to sit down with the CPS Prosecutor to explain the circumstances surrounding the case and the evidence that they had already gathered, which the two officers believed was sufficient to secure conviction. After this discussion, the CPS Prosecutor then agreed to proceed with the case. The case went to the Crown Court and the defendant was eventually convicted and imprisoned for four years for the infliction of violence, abuse and for forcing his victim to marry him for immigration purposes. Had it not been for the persistence of the two police officers, this case may have been discontinued and the perpetrator free to terrorise his victim.

50. These issues may also be exacerbated by judges and the courts themselves not fully understanding the complexity of the issues:

Offences not always understood by Judges/ magistrates’, so the ‘honour’ element not proved (CPS lawyer, online survey).

Courts need more training, more guidance; people withdrawing so courts unable to do anything (CPS lawyer, online survey).

The CPS have a good understanding and in the two convictions I was OIC for, we used the same lawyer [name of CPS lawyer] who was very experienced in VAWG cases. I felt the Judge in the second conviction lacked knowledge around HBA, there should definitely be training for the CPS and Judges (Police Officer, male, interview).

51. If these instances are taken to be reflective of some criminal prosecutions in HBA and FM cases, it suggests that there is a lack of understanding and training on the part of some judges, which may explain another reason for the lack of convictions in HBA and FM cases.

Criminal Cases –
Lack of Awareness and Training of
Police Officers

52. Police officers from a range of forces stated that they do not get many reported cases on HBA and FM and so could not really comment on the legal processes in these cases. Conversely, there were other police officers who stated in the data that they had come across many cases of HBA and FM in their career and within their force:

Not many cases reach court (Police Officer, online survey).

We have no recent cases progress through the court system (Police Officer, online survey).

I’ve never really been anywhere in my career for few months without falling or stumbling into a HBA case. And so, I think, I think that’s quite telling and quite worrying as well that the amount that’s going on, and also the amounts that are there, that are either undetected or don’t get a proper policing response because of the comprehension isn’t there to generate that response (Police Officer, male, interview).

53. One explanation for the disparity in the experience of some police officers could be due to the dynamics of communities that they police, and where HBA and FM is not perceived to be a major policing issue for that force. This demonstrates two possible extremes – some police forces are regularly exposed to such cases, while others are not. Yet this also raises an important question – to what extent do police officers of all ranks receive appropriate training on HBA and FM and to what extent is training adequate?

54. It was interesting to discover in the data that, where police officers had experience of HBA and FM cases, they were very self-critical, demonstrating a strong willingness for inner self-reflection on how police responses could be improved within their own police forces. Several police officers openly admitted that new recruits and officers responding first to a scene do not always recognise or spot the signs of HBA and FM. Others felt that some police officers may view HBA and FM as archetypal ‘domestic abuse’ due to lack of proper training and understanding. It was also suggested that some police officers fail to understand the levels of family manipulation that can occur in these types of cases, together with deception and lies so families may conceal their abuse and criminal behaviour. This can include moving or destroying evidence or falsifying passports to affect HBA or a FM abroad. And where family members or perpetrators have been verbally addressed, some officers may fail to take further/ additional steps in terms of providing safety precautions in relation to victims:

Family members can masquerade as translators for the victim and try to elicit information [from the police] on the victim’s behalf. I have also seen taxi driver networks tracking down victims who have been safehoused [sic]...I think the extent to which offenders will go to track down the victim is not always fully appreciated (Police

Officer, online survey).

It is the capacity for officers to be dealing with these complex cases on top of very busy workloads, when a lot of victims do not want to press charges. They don't have time to keep going back to see if they have changed their mind. Or have to file the case that day, and then move on to their next case. Joint working is sometimes very difficult with feedback from officers that...sometimes do not understand the 'need for speed' and risks involved, or do not see associated risk i.e. only take out an Order for the victim and ignore the younger siblings, or the adult single woman only notifies ourselves when the capacity test comes back months after the vulnerable adult has been married (in the meantime that vulnerable adult has been living with the offender) (Police Officer, online survey).

...requires staff to understand HBA/FM and be able to evidence risks – if they can't do this, they won't be able to progress as needed (Police Officer, online survey).

Um, I've tried to educate the officers that currently work on investigation, but we're trying to do that on a day I've agreed. We've agreed three dates. But they don't get a training day. Years ago, we all had a training day. Built into our shift pattern, for whatever reason, the public protection unit didn't include one in our new shift pattern. So, I've agreed to talk to all these investigators about honour-based abuse and forced marriage. But on the day, they had 20 prisoners in the blocks, which takes precedent. So, three people [investigators for training] turned up. Three. That's not their fault. They've been put in that role. They're not trained, they're not given the time. I'm offering the training, but they've still got to deal with their day job at the same time, that doesn't work (Police Officer, female, interview).

The biggest thing is the lack of training, the lack of training and resources in, I would say, every police force in the United Kingdom around honour-based abuse and forced marriage. There's, there's no bespoke training. It's not incorporated in any training. I just don't think that it's high enough on the agenda for police forces that will concentrate on what's required for that force. Then look at acquisitive crime, burglary, robbery. Yes, Violence Against Women and Girls is now very high up on the agenda. But Maz. You're from [city], you know that [city] has probably got one of the highest issues around honour-based abuse and forced marriage. Look at the communities we have in [city]. [Name of police force] do not have an honour-based abuse team. We do not have a forced marriage team. I am now doing this on my own. However, I am not a forced marriage or an honour-based abuse team (Police Officer, male, interview).

55. One case was cited by a police officer in this study about another police force failing to identify a potential

HBA/honour killing case – the death of Natasha Rasul in 2022. Cleveland Police has stated publicly that they are no longer investigating the death of the teenager who had been found in her bath with a fatal dose of medication. The police were unable to identify whether she had taken the drug or whether she had been given the drug. However, her sister, brother and family attended the inquest in court, stating that: 'We know ourselves it wasn't a happy household at all'. The circumstances surrounding the case has raised suspicions in the policing community because the drug belonged to Natasha's uncle, who was her legal guardian, but he never reported any drug missing and declined to assist the police with their inquiries. Commenting on this case, the police officer said:

...the reason I know about the case is because her female cousin fled HBA and came to [city]... So I asked questions...Her cousin said when she was at home, she kept going dizzy and falling over...being drugged. Then the paperwork said there was community intelligence that her cousin was victim of a suspected honour killing...I was fuming...I said: "Didn't you think that was important info to pass on to me"? (Police Officer, female, interview).

56. To the knowledge of the researcher, the case of Natasha Rasul has never been reopened for further investigation as a suspected HBA/honour killing. Instances like this are illustrative of potential opportunities missed to investigate and prosecute perpetrators, and to improve on prosecution and conviction rates, based (in the opinion of the police officer concerned) on a lack of understanding and awareness of HBA and FM.

57. Many of the police officers appreciated the progress made over the last two decades, but questioned the appropriateness of online training and the lack of bespoke face-to-face learning, which can enable staff members to probe and ask questions in person and elaborate on issues, rather than undertaking basic online training, which some perceived more of a 'tick-box' exercise rather than an opportunity to gain important learning about this hugely complex area that they may never have been exposed to before:

We started off getting mandatory training for all staff and all new police officers have got to do a day's online training in relation to this area. Initially we ran in-person training, but due to the numbers we can no longer support this, so new staff get a voice over PowerPoint for this area, along with the [service provider's name] risk assessment training and FGM training (all done in a day) (Police Officer, online survey).

I have dealt with a large number of cases, most of my negative experiences are with the way cases are dealt with by Police and Local Authorities and as I have stated previously, my Force (in my opinion) is wholly inadequate at investigating HBA and FM crimes, so they don't even get to CPS or the courts, apart from my FMPO cases through the civil court. They are viewed as a safeguarding issue rather than crimes (Police Officer, online survey).

...we share our legal services with [name of another police force]. Um, doesn't affect me in anyway, shape or form until [name of police force] had a forced marriage victim. And they speak to our legal services. They recognise that they [emphasis added] don't know what they're doing. So, then they ask me if I will help them. Yes, of course I will help them. They don't know what they're doing. They don't even have a Public Protection Unit, let alone a safeguarding department. So, I'm on the motorway in the car receiving calls. Um, because they've totally dealt with this poor young girl wrongly. And now she's accusing them [the police] of harassing her, telling them to go away. But she's not safe. She's quite clearly not safe, but just the information they put in an e-mail, they didn't recognise that they had enough evidence for a Forced Marriage Protection Order. They didn't know how to deal with her. So thankfully, modern technology in these work phones, I sent them a safety plan – they didn't know what one was and I'm like "Wow", and we're talking about a whole force. Um, I thought it was strange that they didn't have a safeguarding team, but to know that they didn't even have a Public Protection Unit that specialises in domestic abuse, it's just been dealt with by normal officers who don't have the expertise. No expertise whatsoever. And it's the same in my own organisation. Even when the person in front of them is using the words 'honour', 'shame', 'dishonour'. It never results. Well, no, that's not always their fault. That there is a lack of knowledge, which you can only put down to a lack of training [by their superiors] (Police Officer, female, interview).

58. Based on the data collected above (and in earlier sections), it seems that the paramount concern in HBA and FM cases is the safeguarding of the victim in their best interests, while seeking a conviction is a secondary (although important) consideration. In many instances, this may manifest itself in attempting to secure an FMPO from the civil courts if the case concerns FM. Yet within the data (above), there is a concern that there is a lack of understanding nationally around FMPOs, even within the police, and that the police can apply for FMPOs for victims and that the evidence required in the civil courts is based on the balance of probabilities test. Publicly available annual data shows that very few FMPOs are obtained annually overall; this is also an issue for children services, adult social care services and local authorities in general (see below). As one police officer stated about police forces nationally:

...very few take out FMPOs, because it's a lack of understanding. But what I do with my victims, if, I'll give you an example. If I have a victim who I know. He's not gonna go down the criminal route, but I need to safeguard that victim and prevent a forced marriage. I will sell an FMPO. How do I sell an FMPO? I said to that victim: "This is a Civil Order. It's not criminal. It goes to Family Court. Your family do not get arrested, they do not get a criminal record. They do not get in trouble with the police unless they

breach the Order." Then I'll say to the victims: "This Order will safeguard you and will prevent a forced marriage. Will put enough conditions in there to give you the safeguarding. However, it can also allow you to live with your family. It doesn't mean we take you away from the family". And that, and I think, if officers had enough knowledge to speak to victims in that way, we'd probably have a lot more FMPOs, we have an FMPO review where they've not got one for them [i.e., the victim]. I've then had a chat with the victim and next thing you know, I'm in court with the FMPO. It's knowing, it's knowing how to speak to your victims, gaining their trust and explaining the FMPO...if you look at which forces are probably gaining the most, you're probably looking at [name of large cities and locations], it's because of the communities we have, we've got a far bigger problem. So, you'd probably find officers like me in these forces who've got their head round it, they've got their head round the thought, "Yeah, we can do this. We know how to do this". Where you've got smaller, where you've got forces where, say, they haven't got such a big of a problem. They have very few cases, or if they do have cases, then unsure what to do. And again, that comes down to lack of training (Police Officer, male, interview)

59. The police officers in this study were unanimous in their opinion that the training of police officers nationally is where time and resources should be invested in because they are the very people who have important frontline interaction with victims. If police officers receive training on the processes and how to apply for FMPOs in the civil courts, they may then realise that the process is not as burdensome as criminal trials, or that the process is not as daunting or overly complicated as they same seem. With this knowledge, police officers may then take on more cases and apply for more FMPOs in the family courts, thereby safeguarding victims. It also presents an opportunity to prosecute perpetrators for breach of FMPOs, thereby helping to improve prosecution and conviction rates in other ways.

60. Police officers also stated that training should be provided around the gathering of criminal evidence, which may help to improve prosecution and convictions rates and allow the CPS to pursue charges in the criminal courts. They explained that police officers need to ensure that the case goes to the right CPS lawyer in their area, who has experience in HBA and FM. Early interaction with CPS lawyers was regarded as very important and that many police officers do not realise that they can approach the CPS for initial advice about evidence gathering:

You don't just go to CPS when you're looking for a charge, you can go to CPS for early evidential advice and I think if we start looking at doing that, you've got a better chance of charging because this case I've got at the moment, we presented the case to CPS, not for charging. We said: "This is what we've got. What kind

of additional evidence do you think we would require?" These are lawyers who have very good experience and knowledge on forced marriage, so that early interaction works really well. I think if you, for example, decided "Right, we've got evidence, we're gonna present this to CPS for charging" and you go through the normal channel of, we've got an electronic system, it goes through to CPS. You may have a lawyer that's not got the experience, who may review the case and send it back and say: "Insufficient evidence. Can you bail for further enquiries?" That would not be, that would not be the right channel to go to for forced marriage. So, that I think that early evidential advice is really, really important. If you do not get the evidence early on, you're never gonna get that evidence back. So, a few weeks ago, when I advised on this case, I said to them: "You have to search the address. You have to find evidence, marriage certificate, wedding albums, videos, jewellery, clothes. We need all this evidence because if you don't have that evidence, if you don't do the search, you've lost it forever. Because [i.e., the perpetrators] they'll get rid of the evidence. Interview strategies. To interview for forced marriage, you have to know the culture and religious ceremonies and the Nikkah [Islamic wedding ceremony] is different to Sikh ceremonies. Yeah, we all have our own different cultures. One of my friends got married in Nepal, and I followed all his ceremonies and I was intrigued with all the different ceremonies. You have to have some knowledge. How are you going to interview someone for a forced marriage if you don't even know all the different Sikh ceremonies? So, what I had to do was I had to sit down with the officer say: "Right, if a Sikh is getting married, these are the ceremonies leading up to the marriage. This is the marriage. This is how it happens. This is how many days it's over. For each ceremony. This is the evidence you're looking for at the address". And because I did that, we got the evidence. For example, if I said to you: "We have a jewellery ceremony". We had the evidence for that, the ceremony, the bride's uncle. You know, and that's where the problems lie for me. I know it, I know it's not very nice to say this, but why should we have to wait for the another Banaz or another Shafiea? When are we gonna start learning that when it's 'honour' and 'shame'? The risk is horrific. The end risk is murder and death.

You know, and I, I just don't think, yes, we do all this work. I get it's around Violence Against Women and Girls. This falls under that remit, but we're not taking it seriously (Police Officer, male, interview).

**Family Cases –
Lack of Awareness and Training of
Local Authorities and Social Workers**

61. Criticisms were also levelled at local authorities and social workers for their lack of knowledge and training on matters relating to HBA and FM. There was a consensus by many of the participants that local authorities and social workers lacked training on this important area, even though this is a safeguarding issue concerning young people and vulnerable adults, and that FMPOs can be applied for relatively easily by local authorities in the family courts on the balance of probabilities test. The argument was that local authorities should be applying for more FMPOs, but appear reluctant to do so:

A lot of the local authorities were very reluctant...I don't mind going to court and being shamed by the judge, shouting and going "Oh bloody hell, you've not done this and you should have done that". I'll take all learning on board as long as it's safe for victims...I think if you're a solicitor for a local authority, there is maybe a bit of a "You don't wanna go to court and get shouted at by a judge because it's professionally embarrassing" (Police Officer, female, interview).

...lack of knowledge and understanding across professionals who miss opportunities or don't know what to do (Police Officer, online survey).

...social workers do not understand the risks or the thresholds (which are low) to be able to go to court and as such have not progressed securing of Orders [e.g., FMPOs] in relation to HBA/FM due to lack of knowledge (Police Officer, online survey).

Social services don't understand it and often excuse it as 'cultural or religious practice'. Also lack of understanding as to why victims sometimes don't want an Order (Police Officer, online survey).

My internal research suggests that my Force have had no successful prosecutions for either HBA or FM in the past few years. I have one notable unsuccessful outcome where the victim was a child and sent to Pakistan (not my area of work) and despite my efforts and challenges with other Police departments and the local authority, she was not rescued (Police Officer, online survey).

Where the vulnerable females are underage, and there are other younger siblings involved, the local authority and professionals involved can take the view that pursuing prosecution would have a negative impact on the other children involved (Police Officer, online survey).

Timeliness of Orders is often too long, if other parties [i.e., local authorities] are taking them out. Once police have the details, we are very aware of the need to protect and do the Order in a very timely manner (Police Officer, online survey).

62. One police officer said during an interview:

[Referring to social workers]. Yes, I am. Yeah, we've had some really complicated cases recently around forced marriage where social care just don't perceive the risk, and ourselves, and the forced marriage unit, and others really do and have said: "You know, we're not saying that we want to prosecute". We've actually said: "We want to get Forced Marriage Protection Orders. And the local authority have refused to do that. And we find it baffling because it's a Prevention Order. This isn't punitive. This is a measure designed to protect everybody. And we find it really hard to understand when a local authority will refuse. And that's really difficult then for us to go and get the Order, because we have to ask permission from the local authority for the police to be able to get the Order. And then, if you're going to a court and a family court. And the judge knows that the local authority and the police are at odds with one another. It doesn't make for a successful outcome in our experience... And it's just something that people don't necessarily understand, and I think you know what social care are trained to do is sit down with the family and talk to them and discuss the issues because "We can't solve the issue of the family unless we discuss it. So, we need to sit down with the family and say we think you are going to force your child into marriage". They say "No, we're not". And they're convincing. You know, "We come away feeling assured that this is never going to happen". Now, of course we know what the guidance says. We know what this is about. We know that somebody is not going to say "Oh, do you know what, I was going to force my child into marriage. But now you've been there. I've changed my mind. I definitely won't do it anymore". You know, that's not how it works, is it? That's not how it happens. So, I think, I think there's something about the approach that has to be different. And we have to have an acknowledgement and an understanding that is widespread...There isn't a senior social worker you can go to who's an expert on this, who can say "I disagree and actually you need to do this, this and this" (Police Officer, female, interview).

63. Another police officer described a case at length that she was involved in with social services. She said:

...one case that I could use. She's the one that went to [city], so that young woman, I think she was 18 or 19. She was gay. And her family were trying to arrange a marriage. She wanted out. And I think she was planning on [going to university in city] or she had friends in [city]. So, we got her to [city] where she was safe. The family continued to harass her and through her contacts, harassing all her friends. Anyway, she remained safe, but she had concerns for her younger siblings, [a large number] of them. Children's services are not very good at identifying the risk. I told them the risk and they

disagreed. So I went to court, got not only a Forced Marriage Protection Order for my victim, I got one for all [large number of] siblings too... That's not the norm because children services should do that. But I'll use that case as an example of good practice to tell them. Because they're, so, "Well, there's no evidence". Well, a 10-year-old is not gonna know that they're at risk of forced marriage. And the house is clean, and yes, there is food in the fridge, that is nothing to do with the risk of forced marriage. But social workers, in my experience, are not given the correct training or the right tools to risk assess this particular element of abuse. I've tried and I've spoken to social workers, I've given presentations to try and explain the transferable risk, these types of families don't just choose one child and the rest can do what they like. It is their values and beliefs. So, on the balance of probability, if they're forcing one tomorrow, all the others, unless they agree, have got the same fight in store for them. But it's usually a battle [with social services]. I hope that that case...would prove my point. Well, I'm not. I'm not accepting that as a failure because since then, they continue to make mistakes. We continue to disagree. And they continue to put statements into the court to say: "We don't believe there's a risk", even though the police are telling them that there is a risk, but we have now and I've been in, I've been involved with [name of another police officer] and children's services to draw up a new joint protocol. And in that case, I have provided them all our evidence as a case study to say "I said there was a risk. You said there wasn't and we got an Order for all [large number] of them". Because they were disagreeing with me, we used an expert witness. And the judge obviously agreed. Well, the expert witness agreed with me. And the judge agreed with the expert witness, so that now is written in stone in their protocol (Police Officer, female, interview).

64. Another police officer said that the issue also persists with vulnerable adult care:

When it comes to vulnerable abuse, the problem lies with the social workers actually seeing and recognising a forced marriage for what it is. And actually, their concentration, all their focus, I suppose, is on getting a capacity assessment to see if they have capacity to make the decision...Not have to then react three or four months later when we finally got the capacity assessment result, and the victim hasn't got capacity to consent to marriage. Well, you've just colluded with them [i.e., the perpetrators] because for four months, that person has lived at home and had a sexual relationship with that person...There's a lot of vulnerability within the vulnerable adult arena for people working within families who maybe see themselves, as I think sometimes, people think they're friends of the family and I think, and they sometimes forget that their role is a paid role to protect

and safeguard that individual, not to be friends with a family. Yeah, I’ve had feedback to me from somebody that social workers have gone “Yeah, but they know my family in Pakistan”. Doesn’t matter. Your role is to do this, and if you feel there’s a conflict, you stop being that person’s social worker. Because if you imagine this person has learning disabilities, you know, then maybe they know the social worker for 15-20 years or more, whereas the police, we only go in when there’s a problem, we don’t have 15-20-year relationships with anybody. We deal with the issue and come away. So, it’s easy for us to be a little bit independent I suppose (Police Officer, Female, interview).

65. Police officers stated that there is often too much time wasted between social services and their relevant legal departments in deciding whether an FMPO is needed for a child, siblings or for a vulnerable adult. This can be costly in terms of safeguarding:

Now what I say to my colleagues is look, if I’ve got an adult, or children, or siblings. “I need to get this into court urgently”. What I will do is I will inform children’s services and say: “Right, we go for this FMPO, we haven’t got time”. I don’t then want to wait for them to speak to their legal, to kind of mull over whether they want to take it to court, or whether there’s enough risk if I think there’s enough risk. I’m now saying to my colleagues: “Take it to court, put the children on the Order and then the judge will review the Order and then the judge can bring in the partner agency into the further proceedings”. That’s what I even started to recommend because what I’m finding is. I’m kind of sorry to say this sometimes, but people put honour-based abuse and forced marriage into the ‘difficult box’. “It’s too difficult”. We don’t understand it. We don’t understand the ‘honour’, the ‘shame’, the culture and, and let’s be frank, some people will hide behind religion when we’re investigating or we’re speaking to suspects. They’ll bring religion into it. And we all know religion pays no part in honour-based abuse...But for me, I think the biggest issue I see is the delay in getting this to court, and say for example, now I have a case. Now let’s say it’s an Afghani female. There’s a risk from the family, they want to take her to Afghanistan. There’s previous incidents, there’s a risk of forced marriage. She’s old enough. If she’s got younger siblings, if I then start saying: “Okay, I need to speak to children’s services on wasting time on potentially waiting days in people thinking about it”. If I say: “Right, I can see the risk. There’s a risk, I’m going to my legal services. There’s my rationale”. We need to get it into court now in [city] legal services, we’ve got a very good legal services because we do so many FMPOs, a lot of our lawyers will come to me for advice because I have that very good working relationship with them. So, what I think is you need to get it into court asap because once you start putting delays into it, say, for example, now I have to take this

to court next week, a week later. The first thing the judge is gonna ask is, “Well, what risk is there now?” Because there’s been a week delay or two weeks delay. You know what? You know, “How can you show me that there’s still a risk when you go to court with a forced managed protection order?” There’s two things you consider. Is it ex parte or is it with notice? The majority we go with the ex parte because we do not want the perpetrators to know. We seek in the Order. We only want them to know when we serve the Order. So, for me, I think, the biggest thing I see is the delay it causes so many issues because then what happens is you know, by the time you’ve taken the case to a judge, the judge is going to say, “Well, I can’t see the risk now, it’s been two weeks” and they may not consider giving the FMPO. You lose it. Then it’s very difficult then to try and get all the evidence together, then to say, look, these are my reasons there’s still a risk to that person (Police Officer, male, interview).

Family Cases – Inefficiencies in the Family Courts

66. In relation to family court proceedings and FMPOs, contrary to the accounts in previous earlier sections of this report, participants cited examples of long delays in cases being resolved in final hearings. For example, serving FMPOs might be an issue if parents or family members dispute or contest the Orders, and this may contribute to lengthy proceedings and delays overall for victims. Like the police accounts (above), some family lawyers indicated that there may at times be hearings to determine the facts of the case, at that delays are sometimes attributed to parties (including applicant local authorities) not being properly represented by specialist solicitors or appreciating the urgency to obtain an FMPO for victims.

67. The cross-over relationship between the civil justice system and the criminal justice system is apparent, given that cases concerning HBA and FM will often straddle both areas of the legal system. One police officer said that her experiences of the family courts are very good when seeking to apply for an FMPO, but her perception is that the civil courts do not take it upon themselves to make enquiries about the status of criminal proceedings, which may be useful in making determinations in civil cases in terms of assessing the level of risks posed to victims:

I don’t know how they allocate judges to cases in the family court but there are at least two in [city] that have dealt with many of my cases and, by their comments and rulings, show a complete understanding of the risk and also the victims’ reluctance to give evidence and accept this as ‘par for the course’ and carry on regardless. Having said that, when I present cases to them, they are usually littered with criminal offences, and I have never been asked what CPS are doing about it (Police Officer, female, interview).

68. Linked to the above is the lack of relationship or communication between the civil justice system and criminal justice system. This issue is by no means unique for FMPOs and does apply to other types of Orders too, yet the civil courts are under no obligation to let the police know that an FMPO has been issued and where the police are not the applicants. While the issuing of an FMPO is positive in that a victim is protected, it appears illogical that the police (whose primary function is to protect members of the public, especially now that breach of an FMPO constitutes a criminal offence) are not immediately informed about FMPOs when they are issued by the family courts. Some participants explained that the current system therefore needs improvement:

It’s just a stupid, antiquated system that needs improvement. We have a system now where they e-mail it through, the Orders, they have to fill in some paperwork, e-mail the Orders through and the Orders come out. There is still a delay. They should be coming to me within a timely fashion, what should happen in my opinion, is those Orders are granted at court at 3:00pm and at 3:05pm, they should be with the police. The paperwork should be filled in within court time and banged straight across and I still get them without dates of birth on (Police Officer, female, interview).

69. In these instances, police officers explained that they will only know about such FMPOs when things go wrong, which could be months after when the original FMPO had been issued, sometimes disclosed by a third-sector organisation who is supporting the victim. Yet such FMPOs were not brought to the attention of the police and not recorded on the police national computer. It is important to disclose the issuing and existence of all FMPOs because safeguarding strategies can then be put into place in relation to that victim, but if there is no disclosure to the police, they will not be flagged on the police national computer, potentially meaning victims are taken out of the country for a forced marriage and not be flagged or prevented from travelling:

Well, if we just look at it, if they don’t let us know within a timely fashion, so you get the cut. So, you’re the family, there’s an FMPO today, you get your passport and you take them out of the country tonight. But it’s not flagged on policing systems and that is now dangerous, not letting us know straight away, or not picking up the phone going “I’m sending one through to you now”. They need this. This needs flagging up...And you know what? And you might not get them back [i.e., the victim] (Police Officer, female, interview).

70. Additional problems were highlighted by police officers. When FMPOs are served on respondents, an Order can be obtained from the family courts but they are not ‘live’ until that Order has been correctly served on the respondent(s). Once an Order has been served correctly, the police are able to put strategies in place to safeguard victims. Yet the police have faced delays in getting those Orders through and waiting for it to

go ‘live’ because there were spelling mistakes on the FMPO, which makes the Order non-servable because it does not apply to the victim or the perpetrators:

Mohammed [surname] has got this Order. Well, that could be bloody anybody from [city] called Mohammed [surname] or something. You know what I mean? I’m like, if you don’t give me a date of birth, I cannot enter this on any of our systems. I can’t do any checks, because you’re gonna pull up 400 people. It’s like saying John Smith. You’re just gonna get loads of people and you can’t affiliate it to one person. You need to tell me who they are and their date of birth and any middle names. If you’ve got them and actually spell stuff out correctly. Are you sure? It’s Mohammed, “A”, “MM”, “ED”. Or is it “AD”? Or is it one “M”?...So actually, data accuracy is really, really important, because if there’s a letter out or the date of birth is wrong, that person’s passport is not flagged and that is dangerous (Police Officer, Female, interview).

71. Where FMPOs were issued, another criticism by family lawyers and support workers was the issue that not all Orders extend beyond the initial set term in the original Orders. One support worker explained a case that an FMPO had been set for several years by the family court in relation to young female children at risk of forced marriage by the estranged father, but that a different judge refused to extend the FMPO when the initial Order was set to expire. This, according to the support worker, placed the victim’s children at risk of an FM by the estranged and domestically abusive ex-husband, who had a history of serious violence, weapons possession and who had been convicted of a separate assault in an unrelated matter. This was despite further evidence being submitted to the family court that the children were at risk of an FM and that the ex-husband had expressly stated in text messages that he wanted to take the children abroad (documented to the court and evidenced by emails and text messages, and supported even by the police).

72. In this example, the victim applied for a new FMPO once the original Order had expired, only for it to be heard by the same judge who had initially refused to extend the original FMPO – the same judge then refused the application for a new FMPO. As a result, the police advised the victim to reapply for an FMPO at a different court (in a different area) once the children had reached teenage years. Why should a victim have to apply for an FMPO at later stage and to a different court in a different area to avoid a particular judge? Clearly, the family judge did not think it was necessary to extend the original FMPO or issue a new FMPO. But with the balance of probabilities test in the civil courts, the support worker stated that the evidence of a violent history presented about the father, and documentary evidence that the father wanted to take the girls away abroad, why was the family judge reluctant to extend the original FMPO (or issue a new FMPO) protecting these young girls? The support worker suggested that it was down to the lack of understanding and awareness of HBA and FM issues by the family court judge in her locality, coupled by the fact that the victim in this

case was a white woman (who converted to Islam, and whose ex-husband was South Asian). In the support worker's opinion, perhaps the judge thought that white women cannot be victims of HBA (and their children, FM). Whatever the explanation for the judge's own refusal, this is an example where the family court, based on the facts and evidence presented, could have imposed an FMPO but decided against doing so. This may be another explanation for the low numbers of FMPOs being issued by the family courts – some family court judges being reluctant to issue new (or extend existing FMPOs) based on their own subjective biases and lack of understanding of the complex issues presented in HBA and FM cases.

73. Finally, there were several instances in the data where police and family lawyers stated that family pressure placed upon victims resulted in victims (who had originally requested an FMPO) later requesting it to be discharged because of the 'shame' and 'dishonour' of involving the authorities. This is another explanation for the discharge or discontinuance of FMPOs in the family courts.



Conclusion

74. It will be recalled that this research project had several research questions (detailed at p.6 of this report). There are several reasons explaining why there are low prosecution and conviction rates for HBA and FM offences in the criminal courts. First, there are high attrition rates for victims, who later withdraw from proceedings, retract their statements, and ultimately discontinue their cases. This is a very difficult and extremely sensitive issue. Ultimately, the reason why victims withdraw is because their perpetrators are often loved ones and family members, and victims do not wish to see their loved ones prosecuted or convicted. Second, victims may feel pressurised and blackmailed by family members to withdraw from criminal proceedings, due to being blamed for further 'dishonouring' and 'shaming' the family for involving the police and the criminal justice system (in addition to the perceived shameful acts or their behaviour). These reasons may offer an explanation why there are low prosecution and conviction rates in the criminal courts and high rates of discontinuance. If this is to be addressed in any meaningful way, appropriate intervention in HBA and FM cases must be provided. This includes suitable relocation for victims, away from family members and community networks that seek to influence victims and their choices when it comes to criminal prosecutions. This will not be easy and in many instances, it is likely that many victims will still choose to withdraw and return to their families.

75. In instances where victims withdraw their cases or where cases are discontinued, strong consideration must be given by the police and CPS to pursue victimless and evidence-led prosecutions. This is already in line with CPS guidance on domestic abuse and coercive control, and there are already examples of the prosecution of perpetrators without victim support. Should this be extended to HBA and FM cases? This is a difficult question because pursuing prosecutions against perpetrators may place victims in further danger in relation to family or community networks. However, the rule of law demands that no one is above

the law, and this includes anybody who commits any criminal offence. The danger of not pursuing victimless prosecutions is that it makes a mockery of the law, the criminal justice system (and civil justice system, in relation to FMPOs), if perpetrators can feel that they can commit offences and breach Orders of the court by blackmailing or pressurising victims into retracting statements, with no consequences or repercussions. If we are to assist in the eradication of HBA and FM as harmful practices, the full extent of the law must be applied. This includes pursuing victimless and evidence-led prosecutions; however, it also requires the police and CPS to gather evidence in a timely and sensitive manner to pursue those very types of prosecutions. It requires the authorities to assume by default that victims will want to withdraw their complaints, given the nature and context of HBA and FM; on this basis, the police and CPS should look to gather evidence very early on so that they can pursue criminal cases against perpetrators without the support of victims. This will uphold the rule of law and may help to increase prosecution and conviction rates for these offences. This will require early and strong collaboration between the police and CPS to secure the required evidence before a charging decision is made.

76. There remains and underlying issue about knowledge, training and awareness of HBA and FM amongst police and CPS staff. Participants indicated that there is still an issue of understanding of HBA and FM amongst frontline staff and those first responding to an incident, as well as in relation to evidence-gathering. Similarly, police accounts of CPS prosecutors demonstrate that prosecutors are not always experienced or knowledgeable on these matters, and some appear to discontinue cases when, according to some police officers, strong evidence has been obtained to secure a conviction, including breaches of FMPOs. It seems that from the accounts (above) that the CPS will discontinue cases almost immediately if the victim withdraws. This, however, conflicts with the CPS's own guidance that they will pursue victimless prosecutions in domestic abuse cases – why should HBA and FM be any different? This is an area that requires further

reflection and consideration by the CPS. Further recruitment of specialist CPS prosecutors and specialist training is recommended, together with an improved relationship between the police and CPS that goes beyond the charging stages (i.e., the police and CPS should look to build a relationship early on in terms of evidence-gathering and before the charging stages). The CPS should also look to pursue more criminal breaches of FMPOs.

77. In relation to the civil justice system, most of the participants stated that they had positive interactions with family courts and felt that the family courts issue FMPOs in a timely fashion. However, discontinuance is still an issue for the family courts like the criminal courts, with some victims wishing to discharge an FMPO on the insistence of their families once it has been secured. Furthermore, given the balance of probabilities test in civil proceedings, participants indicated that the police and local authorities should be more willing to apply for FMPOs in the family courts than they currently do. Local authorities were criticised for not doing nearly as enough to apply for FMPOs when they have the duty, responsibility and authority to do so, especially when it concerns children. There were two main reasons put forward for this: lack of training for social workers and awareness that FMPOs are relatively easier to obtain because the family courts work on the balance of probabilities; and because local authorities/social workers do not want to be perceived as racist when applying for FMPOs. There can be no room for cultural sensitivity – the rule of law remains paramount and demands that local authorities must act under the law if they feel children and vulnerable persons are at risk of abuse. Local authorities require further training on the application processes related to FMPOs and they need confidence and reassurance that applying for FMPOs are within their remit. Receiving training on the importance of applying for FMPOs, the required procedures that must be fulfilled, together with reassurance and confidence that applying for FMPOs as a protective and preventative measure (as opposed to punitive), may see an improvement of, and increase in, the number of applications for FMPOs in the family courts.

78. The discussion above highlights how improvements to victim attrition rates, low prosecution and conviction rates in criminal cases, and improvements to family law proceedings, may be undertaken. The final section below discusses how authorities may bring more perpetrators to justice and provide the necessary protection and support to victims through law, policies and procedural reforms, as recommended by the author and participants to this research study.



Recommendations for Action

79. In July 2023, the Women & Equalities Committee published its Sixth Report on its inquiry into HBA and provided detailed recommendations and proposals for reforms. The Government also published its response to the Sixth Report in September 2023. Both the Sixth Report and the Government response will be discussed, where appropriate. While the Sixth Report does make mention of law reform throughout, it lacks specific details of law reform given its remit. However, given that this report has been conducted with its own set of research questions about the courts in the criminal and civil justice system, this report should be viewed as supplemental to the Sixth Report in its discussion on specific areas of law and what this might entail.
80. Recommendation No. 1 – A Statutory Definition of HBA. Several participants in this study were in favour of and made specific mention of having a legal definition of HBA. Currently there is no definition of HBA contained within any legal statute. This was considered by the Women and Equalities Committee, who put forward this specific recommendation in its Sixth Report. However, this was not accepted by the government in their response in September 2023 (though they stated they would keep this under review). This is disappointing because there are many benefits of having a statutory definition as it will place a legal duty on statutory organisations to recognise and identify HBA under the law and in the courts. It will also help to overcome some of the inconsistencies and variations in definitions. It will also enable judges to recognise this form of abuse in the cases that they adjudicate upon, whether criminal or civil, and will place a legal obligation upon them to apply that definition in court.
81. Recommendation No. 2 – A New Criminal Offence of HBA. FM and breaches of FMPOs are already criminalised under law reforms made in 2014, but another reform recommended in the data was the creation of a new specific criminal offence of HBA. This was a recommendation not considered by the Women

and Equalities Committee in its Sixth Report. It may be argued that we do not need a new separate offence of HBA because we already have a variety of laws that can be used and applied, such as murder, threats to kill, ABH, GBH, kidnapping and criminal damage, etc. However, a new separate offence could help to mark out HBA as a separate, serious crime that warrants its own offence and offence code. Some participants drew analogies with racially-aggravated offences, because of the motivations behind HBA – the motivation and rationale behind HBA (that of restoring perceived ‘dishonour’ through violence and abuse) requires the law to declare its opposition and condemnation of such practices. Likewise, racially-aggravated offences can relate to the immutable characteristics of a victim, such as race and ethnicity, and may often be enacted because of the sexuality or sexual orientation of the victim, providing another justification why a separate offence is needed to protect victims. In addition, while FM cases may broadly fit into the category of HBA, not all HBA cases will necessarily involve a FM, therefore justifying a new separate offence where HBA victims may feel they are not receiving the same protection as FM victims. There is an argument to suggest that HBA (in terms of commission) is far bigger than FM offences because there are multiple reasons and motivations why a victim may experience HBA.

82. Another justification for a new separate offence is that the Home Office Counting Rules relates to offence headers and separate offence codes, not merely a ‘warning marker’ or ‘flag’ attached to a case. If a new separate offence is created, the law will be declaring that HBA is serious and will invite the police and the CPS to declare that such an offence, if committed, will be recorded as such in law, instead of being lost within generic ABH, threats to kill or other offences. This may also help to derive more accurate statistics about the commission of HBA offences under a specific offence code in different policing areas, thereby accumulating more accurate data than is currently the case. It may also make some police forces realise that the problem of HBA is much greater than originally anticipated, resulting in the injection of further resources into

investigations. With no statutory definition and with no separate offence code, the issue of HBA often presents itself ‘like a needle in the haystack’ (Police Officer, male, interview). And with the VAWG strategy, it is easy for some police forces to shift priorities to other offences within that spectrum. Without accurate data on HBA and because there is no specific offence, HBA may then fall down the priority list because the perception is that it is not a major issue.

83. Another advantage of a new criminal offence of HBA is that it would become a stand-alone offence and police officers will be able to approach the CPS with a clear offence and legislation to work under. They will have official guidelines to charge under that new specific offence, whereas now, the only criminal offence is FM, but not every HBA case will involve FM. By having a specific offence code, it will encourage courts to deliver judgments on the new offence, instead of it being masked and hidden by other offences. For example, it is possible that the police will treat a case as HBA, but it may be charged as controlling or coercive behaviour in the courts. When the CPS process the case through the charging and prosecution stages, there is a possibility that the case will be flagged as HBA by both the police and CPS (separately), but as the case proceeds through the courts, it will go through a different offence code of controlling and coercive behaviour, meaning that there will be no judgment on HBA as it is currently not a stand-alone offence. On this very issue, one CPS barrister commented on the murder of Somaiya Begum, who had been killed by her uncle, Mohammed Taroos Khan, leaving her body wrapped up in a rug in Bradford. Khan was given a minimum term of 25 years in prison. Commenting on the case, the CPS barrister said:

...like Taroos, in Bradford, who was convicted recently, of killing his niece, remember he wrapped her up in a rug? And had just dumped her body. He was convicted and got 25 years, but the judge did not deem that to be an ‘honour’ killing. And so, though he didn’t, even though we had presented it in that way, he didn’t accept it (CPS Barrister, female, interview).

84. If there is no separate offence of HBA, or separate sentencing guidelines on HBA, or HBA is a not considered as an aggravating factor under s.66 (see Recommendations 5 and 6, below), can one really blame the judge for not accepting that Somaiya’s murder was a so-called ‘honour’ killing? One may understand the judge’s approach because there is no ‘honour’ in so-called ‘honour’ killings, but labelling is important in terms of the declaratory statement of the law and the punishment of perpetrators. It has been reported that there are 12-15 so-called ‘honour’ killings each year which are HBA linked. But rarely is the public informed when a murder is a so-called ‘honour’ killing in a criminal trial (as above), physically documented and recorded within a legal judgment – that is a very important consideration and a separate offence may help to publicise such heinous murders committed by perpetrators.

85. The lack of a specific criminal offence presents misleading data, or a misleading impression, that HBA is not a problem when really from a policing perspective, it is a very serious issue. The advantage of having a specific offence allows more specific data to be collected through the courts and importantly, becomes an additional weapon within the armoury of the CPS to charge perpetrators. For example, a HBA case may have various elements or offences applicable, such as ABH, coercive and controlling behaviour and an additional (new) offence of HBA. The CPS can then charge each individual offence and it will be presented to the court as three separate charges offences.

86. Another justification for the creation of a new separate offence of HBA is deterrence. It will help send a message that HBA is a crime and a harmful practice. High-profile prosecutions are needed to make examples of families who abuse others because currently, the message is not out there that this is a crime and perpetrators of HBA are criminals. In the context of the data obtained in this study, certainly the position cannot continue where some actions are recorded as ‘non-crimes’ by the police. While it is fortunate that some police forces exercise due diligence and do the best they can to safeguard and protect victims, it is inevitable that without a separate criminal offence, some police officers will not recognise HBA as a crime, let alone the public.

87. However, there are challenges with having a separate offence. It may be difficult to enact a specific offence because HBA is used as an ‘umbrella term’ and incorporates several different offences, so may be difficult to enact. Drafters of the legislation would need carefully consider how to construct such an offence. In addition, there may be some concern that enacting a specific HBA offence would apply disproportionately to certain communities based on myths and stereotypes. If this is the case, a new specific offence may be counter-productive to community relations and cohesion. Similarities may be drawn with anti-terrorism laws and its impact on Muslim communities such as the Prevent Duty under s.26 of the Counter-Terrorism and Security Act 2015. HBA, just like terrorism, cuts across all communities and religions and the author in his research elsewhere has evidenced that HBA and FM can occur in white Christian communities. Furthermore, with the additional barriers to prosecuting FM (e.g., victims not wanting to prosecute family members), there is no guarantee that a new offence of HBA will see any increase in prosecution and conviction rates (which are already low for FM offences), though previous discussion about victimless and evidence-led prosecutions are applicable here too.

88. Recommendation No. 3 – Update Home Office Counting Rules Document. Based on the findings of this research, it is recommended that the Home Office Counting Rules be updated to include the criminal offence of FM within the ‘Principal Crime Look-Up Table’. This was a specific reform not considered by the Women and Equalities Committee in its Sixth Report. Cases of FM are not always prosecuted and may at times be processed as a ‘non-crime’ if there has been no assault, according to the accounts of some of the

police officers. FM is a serious crime and a human rights violation; this includes attempted FM, which the counting rules do not include. FM also involves sexual offences, including repeat rapes because the victim does not consent to marriage – this therefore should be a priority VAWG issue. It is submitted that if FM is included within the Table (including its criminal attempt), it may encourage more police officers to recognise and investigate such offences, instead of the offence being masked and hidden by other crimes. It may also help to provide more accurate statistical data collection. If a new HBA criminal offence is created in the future (Recommendation No. 2), it should also be included within the Table.

89. Recommendation No. 4 – Creation of New HBA Protection Orders. The data demonstrates that pursuing criminal prosecutions is not always favoured by victims because they do not want to see parents or family members prosecuted. Many of the participants pursued FMPOs as a civil remedy because it is both a preventative and protective measure for victims, not intended to be punitive unless there has been a breach. Based on this assessment, there are already FMPOs and FGMPOs enacted under legislation as protective orders, yet there is a notable absence of any protective orders for HBA. There may be HBA cases where there is no FM involved and so an FMPO cannot be used. This was a specific reform not considered by the Women and Equalities Committee in its Sixth Report. The government has instead focussed its attention more on FM, one distinct type of the HBA genre. To provide balance and protection for victims, HBA Protection Orders with a civil emphasis may be an appropriate choice for victims who do not wish to prosecute family members. Like FM, HBA is about coercion and control by perpetrators and removes freedom of choices away from victims by making the choices of perpetrators the victim’s ‘choice’. HBA Protection Orders could include conditions where the victim has more empowerment over their own choices. For example, conditions within HBA Protection Orders could include the victim pursuing further or higher education; the victim engaging in community activities such as attending the gym or a public swimming bath or sporting activities; or the victim joining a community music group – things that people are legally allowed to do, but which perpetrators restrict. The very essence of HBA Protection Orders should be that victims are not to be restricted in their freedom of choice, whatever it may be. Such orders can also be as wide or as specific as applicants want, in terms of the conditions attached and could include conditions that prohibits the harassment or assault of the victim, breach of which will then constitute a criminal offence in line with FMPOs. HBA Protection Orders should be tailored to the individual circumstances of each victim, validating and recognising their human rights as individuals.

90. Recommendation No. 5 – Updating Sentencing Guidelines for Judges on HBA and FM. The author elsewhere has written extensively on sentencing guidelines for HBA, FM and so-called ‘honour’ killings. In his research, the author stated that there needs to be guidelines on HBA and FM separately

or subsumed properly into existing domestic abuse guidelines. This includes the inclusion of further aggravating factors such as ‘motivated by honour’, and in appropriate cases, where there are multiple, community perpetrators or ‘family councils’ involved in the commission of crimes. This would help the courts to punish perpetrators involved in HBA or so-called ‘honour’ killings more severely and to impose stricter sentences. That research was published in 2015 when the old sentencing guidelines for domestic abuse contained no mention of HBA and FM. The revised sentencing guidelines on domestic abuse were published and came into effect on 24 March 2018, after a consultation was held in 2017. At paragraph 3 of the guideline (under ‘Scope of the Guideline’), it states ‘For the purposes of this guideline domestic abuse also includes so-called ‘honour’ based abuse, female genital mutilation (FGM) and forced marriage’. This is a positive step, although there is still no express mention of ‘honour’ being an aggravating factor in HBA cases, or that sentences should be more severe if they involve multiple perpetrators as HBA offences often do. Although the domestic abuse guideline states ‘Overarching Principles’, it is still recommended that they be further revised to include crimes motivated by ‘honour’ as an aggravating factor, and that this be expressly written within the guidelines so that the judiciary can be guided by these principles during sentencing. If this is expressly written, it will provide clarity to judges on the factors that they will need to consider when sentencing from a starting point (conversely, this would also help prevent the defence from raising the issue of ‘honour’ as a defence of cultural mitigation). It also sends a very clear message that HBA and FM offences will be treated more severely and punished, assisting with the rule of criminal law so that both victims and perpetrators can know with certainty what are aggravating factors in HBA and FM cases. Such revision of the guidelines would also help to bring it strongly into the VAWG agenda. As FM is already a crime itself (and if HBA were to be a new separate criminal offence), the author is of the opinion that there is justification for the creation of a new separate sentencing guideline for HBA and FM offences. The Sentencing Council must urgently review this.

91. Recommendation No. 6 – The Application of s.66 of the Sentencing Act 2020 to HBA and FM / ‘Honour’ as an Additional Aggravating Factor under the 2020 Act. This recommendation sees the application of existing s.66 of the 2020 Act to HBA and FM offences, or the creation of a new aggravating factor of ‘honour-based abuse’ as a form of ‘hostility’ against a victim, an aggravating factor that makes the commission of any criminal offence more serious in line with section 66 of the Sentencing Act 2020 in relation to hate crimes. Under this section, a defendant who commits an offence based on racial or religious hostility, disability, sexual orientation or transgender identity, may be found guilty of an offence, but receive an additional sentence uplift for the hate crime, if at the time of committing the offence, the offender demonstrated towards a victim hostility based on the victim’s (presumed) membership of one of the groups above, or the offence

was motivated in whole or in part by hostility towards members of one of the groups above. The court must also state this openly in court.

92. It is interesting that s.66 should, in theory, already be applicable to HBA and FM offences because of the rich and varied cases in this area. For example, HBA offences may be committed because a woman/man has decided that she/he wants to engage in a relationship with another person from a different racial or religious group, to which the family disapproves. The family may then enact violence or abuse upon the woman/man who belongs to that different racial or religious group. In theory, not only is this an example of HBA, but it is also an example of hostility towards the victim based on their racial or religious identity – there has been an assault or threats to kill made to the victim because the family disapproves of the relationship, but they have also been made because the victim belongs to a different racial or religious group. The issue of caste discrimination may also be relevant here in some South Asian communities.

93. In this way, s.66 could be used to prosecute HBA and FM offences because of its additional seriousness – racial and religious hostilities targeted towards victims, justifying a sentence uplift for hate crimes under the 2020 Act. Similarly, HBA and FM victims may experience violence and abuse based on their disability, sexual orientation or transgender identities – those with disabilities may be forced into marriage because they are disabled (they are not seen by perpetrators as individual human beings with freedom of choice). Victims may also be assaulted, have threats to kill made against them, harassed or even forced into marriage against their will because their sexual orientation has been revealed or discovered by conservative families or members of their community. If they are assaulted or forced into marriage based on their sexual orientation or transgender identities, technically s.66 should come into play and the judge would have to state their reason why in open court. To the author’s knowledge, very few HBA and FM cases reach the criminal courts, and none appear to have used s.66 in this way.

94. Separately, s.66 could see the creation of an additional aggravating factor of ‘honour-based abuse’ as a form of ‘hostility’ against victims of HBA and FM, who are attempting to exercise freedoms and choices that families and community members do not like. The advantage of this recommendation is that it will legally oblige the courts to consider all offences committed in the name of ‘honour’ rationales, justifying a sentence uplift upon conviction. No one should be the victim of a crime based on the family’s disapproval of the exercise of freedom of choice, or the perceived loss to the family’s ‘reputation’. Furthermore, an aggravating factor of ‘honour-based abuse’ under s.66 would apply to both female and male victims, and to female and male perpetrators (i.e., not limited to one gender in application). This would help to prevent any downplaying, or negating of, the experiences of male victims and female perpetrators (the author has conducted various studies on male victims and female perpetrators of HBA and FM separately). Such

a reform would provide a declaratory statement of the law’s condemnation of HBA as an abhorrent crime. Offences committed under the banner of HBA are not just ‘standard’ offences – they are worse because of the honour element and motivation involved. Such a reform may make the public understand and take notice of HBA and will help to recognise the elevated risks that victims experience in these cases. It would help the judiciary to think more about these offences and their motivations. Furthermore, such crimes would be recordable by the police, CPS and the courts. However, for this recommendation to work, reference must be made back to Recommendation No. 1 and the importance of having a legal definition of HBA under statute to assist the judiciary with making their determinations.

95. Recommendation No. 7 – Specialist HBA and FM Teams in Police Forces. An important recommendation stated by many police officers who took part in this study called for appropriately resourced/staffed, specialist and expert investigation teams to investigate HBA and FM cases 24 hours a day. These could be housed under each police force or region, or there could be a national HBA and FM unit that can oversee cases across the country and support local police forces (as a single point of contact) as and when the need arises (irrespective of boundaries and regions, so that police forces are not working in silo). As one police officer said, “Perpetrators do not care about [police] boundaries” (Police Officer, male, interview). HBA and FM are some of the most high-risk cases and poor intervention can prove fatal; poor intervention can also affect prosecution and conviction rates. The police response can be very patchy across the country, especially when certain police forces are asked to intervene and their officers have little or no experience of working on these types of cases daily, perhaps due to their community dynamics. Many of the participants criticised their respective forces for lacking officers with investigative expertise in this area, and that this can compound victims’ sense of injustice. By having a dedicated national team and a dedicated set of expert officers dealing with HBA and FM investigations, who understand the intricacies of this crime type and who work with these types of victims, this may help to achieve a ‘gold standard’ in the investigation of these crimes, together with supporting, building and retaining trust with the extremely vulnerable. This may also have an impact on attrition rates in the criminal justice system. This form of commitment will ensure that HBA is not dealt with as a secondary matter, without any limitation or restrictions on borders, boundaries, and jurisdictions.

96. It has been discussed in this report and the author’s research elsewhere that HBA cases are very niche, not straight forward and cannot always be treated as archetypal domestic abuse. Multiple perpetrators may be involved, together with cross layers within communities, and there is more planning and premeditation involved. In archetypal domestic abuse, there will often be only one perpetrator and one victim, and such abuse is general condemned. The difference between archetypal domestic abuse and HBA/FM

is that perpetrators within the community are not condemned – HBA and FM is encouraged by the very same members of that family and community. This means that the variety of perpetrators across HBA and FM may be much wider and criminal activities may very well be organised, much like organised crimes and ‘family councils’, with the head of the family making decisions. This, therefore, requires a greater number of resources to properly manage these types of cases and to set an impression on the minds of victims that the police do understand the nature of this type of abuse and are sufficiently resourced to support them.

97. Currently, the FMU remit is very limited in its powers and some police officers had put forward the recommendation that the FMU, as a civil service, should be reformed to include investigative officers. The emphasis and focus is on having a national team of investigators to lead on these types of cases and increasing the powers of the FMU.

98. Recommendation No. 8 – Review of CPS Strategies. The CPS need to consider the viability of pursuing victimless/evidence-led prosecutions in those instances where victims withdraw from the criminal process due to fear and unwillingness to prosecute family members. As already discussed, this is a sensitive and delicate issue and one that needs due consideration, perhaps on a case-by-case basis. However, there are strong rule of law arguments in favour of evidence-led prosecutions (ensuring perpetrators are held criminally responsible for their crimes), as well strong public interest arguments (making sure that the victim is protected from further acts of abuse; that the perpetrator is appropriately punished; and that future offenders are deterred from committing acts of HBA and FM). This may help to improve prosecution and conviction rates and send out important public messages that HBA and FM are harmful practices that will justify criminal punishment.

99. The CPS also need to reflect on those situations where prosecutions are not pursued, but where investigative police officers in this study claimed that there was sufficient evidence to mount a prosecution – R v Moroak (2023, unreported) is but one example where there was clear evidence of victimisation and FM, yet the CPS initially declined to proceed. Where there is direct evidence of a breach of FMPOs, there is great significance attached to criminally enforcing civil orders and a failure to prosecute breaches of FMPOs may encourage perpetrators to ignore the terms and conditions contained within them, thereby placing victims at further risk. This is a consideration that also affects the police. In 2019, the Centre for Women’s Justice spearheaded a super-complaint stating that the police fail to use protective measures in cases involving VAWG and provide excuses for not pursuing breaches of these orders. This includes ‘minor breaches’, yet a breach is a breach no matter how ‘minor’ they may appear to be. The report stated that the police often treat each report in silo, as separate isolated incidents, but this misses the alarm and distress caused to victims, and in some cases, can lead to fatalities. This, indeed, was the case with Raneem Oudah, when her husband murdered both her and her mother. Despite

being the subject of a Non-Molestation Order, which had not yet been formally processed, the perpetrator continued to harass, stalk and intimidate Raneem, who wanted to leave the relationship because of his violence and abuse. She was murdered in a so-called ‘honour’ killing because she failed to conform to his wishes. Raneem even called the police asking for help on the day of her murder, only to be dismissed by one call handler, at which point, she was then attacked by her perpetrator (her dying screams being heard by the police officer). West Midlands Police were later criticised for failing to protect the victim.

100. The number and pool of specialist HBA and FM prosecutors, with expertise and experience in dealing with these types of cases should also be increased, and there needs to be an improvement in the announcement and exposure of such specialists to investigative police officers. This will help with the establishment of good working relationships between the two agencies, improve familiarity, promote teamwork, and may help to create important discussions early on about the evidence needed in individual cases and how this may be gathered. Such important communications before the charging stages may help to gather important pieces of evidence to strengthen the chances of a successful prosecution and conviction. Increasing the size and pool of specialist prosecutors may take on even more significance if Recommendations 1, 2, 4, 5 and 6 are adopted, as the caseload in this area is likely to increase.

101. Recommendation No. 9 – Improved Training for Police Officers and Local Authorities. It was recognised during the research that the police, CPS and local authorities all receive training on HBA and FM. This is positive and demonstrates that knowledge and awareness of the issues is actively being pushed in these areas. However, the main thrust of the argument in relation to all three agencies was the need for improved, widespread, bespoke and continuous training for staff at all levels. This includes those who attend help desks; 999/101 call operators; frontline police officers; those police officers who work in public protection units and in domestic abuse; social workers; and CPS prosecutors. What was marked out for specific criticism was lack of time/hours granted for training days, with only short, online/virtual generic materials provided (e.g., PowerPoint voice-recorded lectures or videos). These materials were also marked out for lacking diversity and where there was no interaction with a specialist, and where trainees can ask further questions:

I spoke to our training department...I said, “Can you show me? Cos I can’t find it myself. What training is given to new police officers? I found 30 minutes of self-learning on FGM, HBA and FM. That’s a big ask, of the highest risk-type offending and subject matters (Police Officer, female, interview).

I’m talking about classroom-based activities on days to find out what those niches are. To find out what the key trigger points are, to find out what could go wrong, at what stage and where, and how the police need to adapt their response to ensure that they stay many steps ahead of

the perpetrators. For example, how they make arrests, how they need to be timely, perpetrators need to be remanded in custody and not only to set the impression to the other perpetrators out there, but to safeguard the victim from greater risk during those critical days following their release and bail from a police station. And, so, all of these very, very many things need to be properly considered and resolved, and if they would be, then that for me would be the single biggest takeaway...I'm here, for example, I have to talk about it. The risk assessment that we now have across England and Wales, we've moved from a risk assessment tool that had a question on HBA and if positively answered, had a number of drop down or other trigger questions that one must ask, now we've moved to a risk assessment away from domestic abuse, stalking and honour-based abuse [i.e., DASH] to DARA, domestic abuse risk assessment, where no questions feature, and the argument perhaps it is designed to tackle controlling and coercive behaviour, and in so doing, how will it detect HBA cases without a prompt? That's ridiculous in my opinion. You do need the prompt, so the person [i.e., a victim] when faced by an officer who's of a different nationality to them, um, won't feel the confidence of speaking about honour-related personal issues, familial issues with them, because I'm gonna think "These people, who are different from me, haven't understood or won't understand or won't simply comprehend". And I hear this from officers all the time when I used to do lectures on HBA, police officers say: "Nah, this isn't true. This isn't happening. It can't be happening on the grand scale that you say?" And, so, there was just a disbelief. "Why? Why would a father take issue if his daughter's got a boyfriend and she's seventeen years old?" Whilst it's fine in your community, it isn't in ours. And there just isn't that comprehension. And that's why there needs to be proper training. There needs to be proper risk assessment tools and all of these things would undoubtedly benefit (Police Officer, male, interview).

Young woman walks into a police front office, if she can find one open, and says: "My dad has assaulted me". Her dad walks into the same front office. The front office will say "I need a police officer". So that place officer will come down and say: "Your daughter said you assaulted her, so I'm arresting you on suspicion of assault". And they'll take them away. No problem. You replace the assault for forced marriage and then "Oh, we just need to take your daughter into another room here" and then he'll be sat there. Then they will ask her: "Well, how do you know you're gonna be forced to marry? Have they booked tickets?" And she'll say "No". "Well, have they threatened you?" She'll say "No". "Have you ever said you don't want to get married?", and you ask that victim who walked into the front office. They already think we don't believe

them. That, unfortunately, is through lack of knowledge and training. Because as a police officer, you're trained. "Where's the evidence? Where's the evidence? Are there tickets? Have they threatened you?" And I'll say "They don't need to be threatened. It's just an assumption that they know they've grown up in fear. They know they are not allowed to say no." But if I put myself in their position, I've had no training as a PC on response or whatever. Do not say this to a forced marriage victim: "Do you wanna make a compliant? Do you want us to arrest your parents? Are you prepared to go to court?" You've lost them. They're regretting ever calling the police and that they can't wait to get out the door. So, my advice to them is always safeguard them first, investigate later. All they want is help. They wanna be safe. Believe them, empathise. Don't threaten to lock up the mum and dad or ask them if they prepared to stand up in court in front of them. Because, of course, the answer is gonna be no. But that's not the way police officers are trained (Police Officer, female, interview).

102. This is a staffing issue for which policing superiors must take accountability and responsibility, including the government, police forces and the NPCC. There also needs to be continuous, professional development because of staff turnover and people moving in between roles.

103. Training and raising awareness amongst police and CPS prosecutors are particularly important to ensure that all appropriate HBA and FM cases are identified and flagged, because the data in this study appears to show that this is not always achieved (frontline police officers not spotting the signs of HBA and FM, or CPS Prosecutors not being familiar with the nuances of a particular case).

104. Training for other professionals, including local authorities and social care workers, is also recommended. This is especially the case in relation to children and vulnerable adults. It would appear from the accounts in this study that social care workers often miss the signs of HBA and FM, and instead focus on neglect and other issues. The way that some families operate to hide HBA and FM can be deceptive. Social care professionals need a better appreciation of the cultural mindsets of families in this area:

I think sometimes, and it's probably again training in relation to social workers, who you know very often will be completely hoodwinked by the parents into, you know, you know, these parents are not doing anything wrong. "This girl is out of control" and you know they don't really see. Again, I think they are almost brainwashed into thinking well, this is just a cultural thing. It's not abusing. And they don't see, you know, what's happening under their nose (Family Lawyer, female, interview).

105. From the accounts, it was suggested that social care workers also receive short online training, which is unsatisfactory. Local authorities and social care

workers (and CAFCASS officers) would benefit from proper training from knowledgeable and experienced consultants, who are able to provide detailed and accurate accounts of HBA and FM, who understand the urgency in these cases and who can explain to other professionals the nature and scope of FMPOs:

I just think they don't see that and don't understand it. So again, I think the training of social workers, in particular...I would say, social workers and, you know, CAFCASS officers, that kind of thing, they're the ones that often have the influence in court. And you know, if they get the wrong end of the stick, that makes it very difficult (Family Lawyer, female, interview).

Okay, say you need to go and get a forced marriage protection order. I'm talking about adults without capacity. Because they [i.e., social workers] don't know what to do, so they go to their legal services, and their legal services say: "You need a capacity assessment" and I'll say "No, you don't". So, I said, "Okay, the flight is Thursday. The flights booked for Tuesday. What do you do? What you gonna do? What would we need?" They say: "A capacity assessment?" I say "No, you don't. You're a professional. You're a professional! You don't need a capacity assessment to say that that person hasn't got the capacity to consent to marriage. You put that in a statement, you tell your legal services to go to court and apply for a forced marriage protection order". But they go to their legal services. Legal services say: "Get a capacity assessment". That takes months. So, they don't know what to do, so the person gets taken abroad, and are married (Police Officer, female, interview).

106. Recommendation No. 10 – Police Officers and Local Authorities Should be Encouraged to Make More Applications for FMPOs. The police, local authorities and social care workers should be more confident to apply for FMPOs. This may help to improve the number of FMPOs applied for in the civil courts and ultimately improve civil protection for victims:

But I do think that what works well within the legislation is the ability for third parties to make the applications on behalf of the victims. It's not used enough, and I think if it was used more by social workers, police, teachers. Then you know, I think that would be better. But I do think that the ability to do that, it was really novel when that came out..., but obviously it's been around for years with the forced marriage laws, but it's just not used enough and that's frustrating really (Family Lawyer, female, interview).

107. One explanation for why there are not enough applications for FMPOs is because of the lack of understanding and training on the actual mechanics of the law (as identified in the previous recommendation, above), but there may also be some uneasiness on the part of some social care workers, who do not wish to

be perceived as 'saying the wrong thing' or 'somebody thinking that they are being racist', that HBA and FM are cultural issues that should not be interfered with. These barriers need to be addressed and overcome and professionals should receive support from superiors and know, with confidence, that they have the framework of the law behind them to work precisely in these types of situations, without the fear of being labelled as 'racist'. The overall and paramount concern should be the protection and safeguarding of victims.

108. Recommendation No. 11 – Reform of Application of FMPOs in the Criminal Courts. Currently FMPOs can only be applied for in the family courts as a civil remedy, and breach of an FMPO can be heard in the criminal courts as a criminal matter. In those cases where criminal prosecutions are pursued, and offenders convicted and sentenced for HBA and FM offences, there seems no logical reason why a judge dealing with a criminal case should not be able to issue an FMPO in the criminal courts. For example, where perpetrators are found guilty of a crime and sentenced under the criminal law, this should also allow judges to issue an FMPO or initiate civil proceedings in dual qualified terms (in terms of family and criminal courts). In the criminal courts, the courts can already issue a Restraining Order, but an FMPO would be an additional tool for judges to impose to protect victims.

109. There is evidence that something similar is already being adopted by state agencies – in the case of R v Moroak (2023, unreported), a 40-year-old female was the victim of an FM at the hands of her male partner, who wanted to secure residency in the UK. She was also a victim of serious physical abuse, for which the defendant was also found guilty, yet Bedfordshire Police pursued an FMPO in the family courts to further protect the victim from being forced into any marriage after the event. Issuing FMPOs after the event and in the criminal courts may help to protect victims further. Where an offender has been convicted of a crime at the criminal standard of proof, which is higher than the civil burden of proof, a criminal court should be able to have at its disposal all the remedies from that same judge, including the imposition of FMPOs.

110. The advantage of this recommendation is the immediate protection of the victim and there is no requirement for the victim to pay for the FMPO application because this is a criminal matter burdened on the state. However, criminal cases focus on a narrow type of behaviour relevant to a particular crime, and there may be other examples or behaviours that have not formed part of the criminal trial but may nevertheless still be relevant. This could be mitigated by allowing criminal courts to issue FMPOs as temporary, emergency measures in the first instance, and the finer details can be addressed or deferred later in a separate family court hearing.

111. Another recommendation linked to this is to improve the communication between the civil and criminal courts in relation to FM. Currently, it is difficult to obtain information/judgments from the criminal courts and to pass it over to the civil courts (i.e., relevant convictions and sentences in the criminal courts that

may be useful for the determination of applications of FMPOs and other proceedings). There should be an automatic requirement that a transcript of the judgement of a criminal case goes over to the family court because (with the current issue of funding, family law cases, and the lack of availability of legal aid), if an applicant wants a transcript from the criminal court because they want the family court to be aware of a conviction, it is often the victim themselves that has to pay hundreds of pounds to get a transcript from the court. This should be automatically obtainable by the family courts in FMPO cases. Again, in *R v Moroak* (2023, unreported), a similar issue arose. Bedfordshire Police asked the local registrar to verify that a (forced) marriage had taken place. The registrar confirmed that the marriage had indeed taken place, but when Bedfordshire Police asked to obtain a copy of the marriage certificate, they were asked by the local registrar to pay £40. This went back and forth for one month, until Bedfordshire Police obtained permission to pay for a copy of the marriage certificate. State agencies should not have to pay for these types of documentation in between other state agencies themselves, especially when the matter concerns evidence of violations of the criminal law.

112. Recommendation No. 12 – More Central Funding for HBA and FM Victims. More funding, better investment and commissioning of support services is needed to assist victims with re-instigating their lives after pursuing a conviction or a protection order, or if a victim has applied for an FMPO and has decided to leave the family home. Knowledge of the lack of aftercare and support received after the involvement of police or a criminal trial/family hearing, or language barriers in safehouses or refuges, may put off victims altogether from pursuing these avenues, which the courts cannot obviously control. There is always the emotional link and ties to the family – so if a victim goes against her family and community, she will have to be rehoused away from her family and community networks. Therefore, more specific ‘secret’ safe houses and refuges designated for HBA/FM victims, with a similar community base to prevent isolation and promote support, may encourage continuance with criminal prosecutions and the legal process in the long term.

113. The provision of legal aid in this area may also encourage victims (as applicants) to apply for FMPOs and other protective measures in the family courts. Many victims of HBA and FM may also work, and they may not be eligible for legal aid, and it can cost victims as direct applicants many thousands of pounds to obtain an FMPO. This cost may also impact on their decision to leave. The recommendation here is that the Ministry of Justice should ensure that Legal Aid in these cases is not means-tested. If victims cannot afford to pursue an FMPO through the family courts, victims will be deterred, and then the only other real option is to rely on the police (and as the data shows above, victims do not want to go to the police for various reasons). According to the www.gov.uk website, to qualify for legal aid in a domestic abuse case (broadly defined), a person’s income should not be

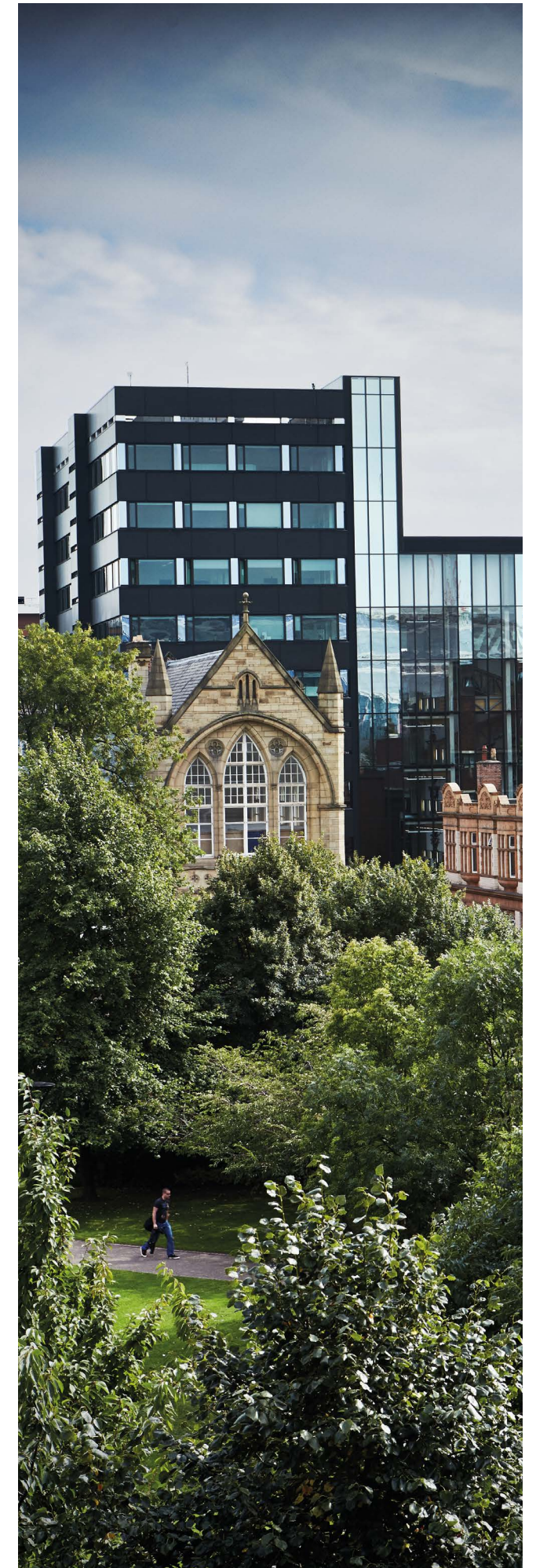
more than £2,657 a month before tax, and savings (or combined savings) should not be more than £8,000.

114. While certain deductions can be made such as a mortgage or rent, applicants do not have to be earning much to be found not eligible for legal aid. But if victims of HBA and FM are not paying a mortgage or rent because they are living with their parents, then those deductions will not apply, meaning they may be ineligible for legal aid. And if they do have over £8,000 worth of savings, it may have taken them a long time to save that. To then spend that money on an FMPO, what funds will they have available when they leave their families and communities? Amidst a cost-of-living crisis, the only real option for FM victims is to go through the police. Again, in line with Recommendation 10, the police should be applying for FMPOs more often than they currently do. This, obviously, may increase the legal bill for police forces. In recognition of this, it may be more financially prudent for police forces to employ their own in-house lawyers, as some police forces already do, to reduce their legal bill.

115. Recommendation No. 13 – A Separate Violence Against Men and Boys Strategy and a Separate Transformation Fund for Male Victims of HBA and FM. While women are predominantly the victims of HBA and FM, the author has demonstrated elsewhere that there is growing evidence that men are also victims. The FMU in 2022 reported that 26% of its caseload related to male victims. Karma Nirvana, a charity that supports victims of HBA and FM, has stated that 9% of its workload relates to male victims on average each year (unreported; email exchange). In the author’s research, 29 case files of male victims of HBA and FM were analysed over a 9-year period (2010-2019), although this should not be understood as prevalence. The Elm Foundation, the charity involved in the research, has a male refuge space with only 3 beds for all types of male victims (e.g., domestic abuse, sexual assault, etc.). The charity can only support three men at a time and has had to turn away many men from its services, including men experiencing HBA and FM. According to its statistics, The Elm Foundation supported two male victims of HBA in 2020-2021; one male victim in 2021-2022; and during lockdown, they could not take on new cases and so male victims stayed in their services longer (unreported; email exchange). Lack of refuge space has meant that The Elm Foundation cannot take more cases, and there has been continuously demand for bed spaces amongst male HBA and FM victims.

116. Men are often the victims of patriarchal family structures and violence, and men are at greater risk of HBA and FM based on their sexual orientation. However, reporting rates continue to be very low for men, which can also have an impact on service provision and funding for male services. Male victims continue to be ‘invisible’ to society and this can hamper efforts to create nuanced and gender-responsive services, and impede understanding at a national, regional and local level, with an under-provision of resources. The author provided written evidence to the Women and Equalities Committee in December 2022 and they accepted his recommendation in their Sixth Report that a parallel Violence Against Men

and Boys Strategy/VAMB – parallel to the Violence Against Women and Girls Strategy/VAWG – should be created to ensure that policymakers have a more modern, inclusive, equality-based view of victims of HBA and FM. There should also be a separate Transformation Fund to fund services for male victims of domestic abuse, HBA and FM in general. However, the government in its September 2023 response stated that they are doing what they can to recognise and support male victims and think that it is appropriate to view “Supporting Male Victims of Crimes” as part of the “Cross-Government Tackling Violence Against Women and Girls Strategy and the Tackling Domestic Abuse Plan”. Despite the best efforts of the Men and Boys Coalition to inform the Home Office (to which the author is also Trustee), there is an under-appreciation by the Home Office that tagging male victims onto the VAWG Strategy negates and marginalises male victims (for definitional and self-identification purposes), that men seem to be a mere afterthought, and that this can harm their therapeutic recovery. Male victims of HBA and FM must be validated in their own right.





Future Research

Dr. Idriss intends to conduct further research into this area. He has applied to the Ministry of Justice to undertake research interviews with members of the judiciary in the civil and criminal courts to ascertain their views and experiences of adjudicating on HBA and FM cases in their respective courts.

Acknowledgements

The author would like to thank all the participants who shared their experiences, views and opinions on HBA and FM, both in the criminal courts and family courts. Without their participation, it would not have been possible to obtain the data or the recommendations contained in this report. The author would like to thank Zahra Mahabis for her administrative and research support; Diana Nammi, Payzee Mahmood and Kulsoom Pridmore of IKWRO; and Sabeena Piroz of The Sky Project in helping to recruit participants for this study. The author would also like to offer special thanks to the RKE team, Metropolis and Manchester Metropolitan University for supporting this research.



Dr Mohammad Mazher Idriss
m.idriss@mmu.ac.uk
@Maz_Idriss

Manchester Metropolitan University
Manchester Law School
All Saints Campus
Oxford Road
Manchester
M15 6BH

© Mohammad Mazher Idriss 2024