

GMC response to Home office consultation on forced marriage mandatory reporting duties consultation - Jan 2019

11: Would there be any other implications for frontline professionals of introducing a mandatory reporting duty for forced marriage?

We would like to highlight three important risks doctors and their patients will face if mandatory reporting of forced marriage is established.

1. Trust is an essential element of the doctor-patient relationship and confidentiality is central to that trust. The introduction of mandatory reporting could significantly erode patient's trust in doctors, especially for vulnerable individuals, making it increasingly difficult for doctors to provide the help and support they need.
2. If patients stop seeing their doctors the likely outcome will be a negative impact on public health. Treatable conditions could be left to escalate and perhaps only be addressed when they have become more serious and threaten the health of the individual and possibly the wider community. This will put additional strain on the already stretched resources of our frontline healthcare staff.
3. To provide good care and treatment doctors need to be able to exercise their professional judgment and act in partnership with patients, respecting their rights to privacy and dignity. We are deeply concerned that a mandatory duty removes this judgment and the ability of doctors to act in a patients best interests and unduly interferes with the good care and treatment of patients.

These risks are likely to be magnified if the mandatory reporting duty was to include 'suspected' and/or 'at risk' cases of forced marriage as well as 'known' cases. The professional judgment of doctors would be further diluted –damaging trust in a confidential healthcare service and negatively impact existing safeguarding efforts.

Children and Young People

We are clear in our existing guidance *Protecting Children and Young People, The Responsibilities of all Doctors*, that where doctors spot signs of abuse or neglect they must

report concerns to an appropriate agency unless there are exceptional reasons for believing it would not be in the best interests of the child or young person to do so (for definitions of children and young people see p50 in our *Protecting Children* guidance). Without the ability not to report instances of forced marriage, doctors may feel driven to act against what they feel are the best interests of a child or young person.

It is important to remember that children and young people also have confidentiality rights. Without the trust that confidentiality brings, children and young people might not seek medical care and advice, or they might not tell clinicians all the facts needed to provide good care. In addition there is no clear line between childhood and adulthood – although under-18s have a different status to adults in law, from the age of 16 young people are legally presumed to have the ability to make decisions about their own care. For example, discussions about the treatment of a 17 year old may be indistinguishable from those relating to an adult.

Adults

Mandatory reporting duties which apply to adults would require doctors to disregard the rights of patients who have capacity to make decisions in their own interests (including decisions about when their confidential information should be disclosed). Our guidance recognises that such disclosures can still be made if an individual doesn't consent if there is a public interest in overriding the person's wishes, or where the disclosure is required by law. However, as a general principle, if no one else is at risk of harm, our view is that decisions about how best to proceed when someone is known to have been subject to a forced marriage should be taken in partnership with them (see our confidentiality guidance at paragraph 59).

It may of course be proportionate and legitimate to disclose information about an individual without consent – either because it is likely to assist in the investigation or prosecution of a serious crime (see *Confidentiality: Good Practice in Handling Patient Information*, paragraph 65), or because steps need to be taken to protect others from the risk of death or serious harm (see *Confidentiality*, paragraph 64). But that decision should take into account the purpose of every disclosure, what it seeks to achieve, and the potential consequences for the individual. We do not consider it to be proportionate to routinely override an individual's right to privacy and self-determination and consider that such an approach would damage the trust between doctors and patients.