

# END FORCED CHILD MARRIAGE

**BEST PRACTICE RESPONSE GUIDELINES**

**AUSTRALIA**



**Commonwealth Government Department of Families,  
Housing, Community Services and Indigenous Affairs**

The Commonwealth Government Department of Families, Housing, Community Services and Indigenous Affairs is the Centre's source of funding for the End Forced Child Marriage Australia project. The Centre was awarded a grant under the Department's Child Aware Approaches Initiative, which aims to promote better understanding of the relationship between child abuse and neglect and domestic violence, sexual abuse and mental illness. The Initiative builds the capacity of organisations to intervene early, respond to risk factors, build protective factors, and to ensure better outcomes for children and young people. The Department awarded the grant to the Centre to build the capacity of community service providers to respond to the needs of young people under the age of 18 who are at risk of child abuse due to forced marriage.

**University of New South Wales Law Faculty**

The UNSW Law Faculty is one the Centre's longest standing partners. The Faculty has provided a home for the Centre almost since the Centre's inception. Currently, in addition to providing our home and significant in-kind administrative support, the UNSW Law Faculty is a major provider of legal volunteers and interns to the Centre, many of whom have provided administrative and legal research support for this project.

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Tina Jelenic and Matthew Keeley  
National Children's and Youth Law Centre



# CONTENTS

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<b>SECTION 1</b>	<b>BEST PRACTICE RESPONSE GUIDELINES</b>	<b>04</b>
<b>1.1</b>	Purpose of the Guidelines	04
<b>1.2</b>	Definition of forced child marriage	05
<b>1.3</b>	Steps to take in all cases: Do's and Don'ts	05
<b>1.4</b>	What to do when a child or young person is going to be sent overseas imminently	06
<b>1.5</b>	What to do when a third party reports that someone has been taken overseas for the purpose of a forced marriage	06
<b>1.6</b>	What to do when someone has already been forced to marry	07
<b>SECTION 2</b>	<b>IMPLEMENTING THE BEST PRACTICE RESPONSE GUIDELINES IN YOUR ORGANISATION</b>	<b>08</b>
<b>SECTION 3</b>	<b>RATIONALE AND EVIDENCE BASE FOR THE BEST PRACTICE RESPONSE GUIDELINES</b>	<b>09</b>
<b>3.1</b>	Purpose	09
<b>3.2</b>	What is forced child marriage?	09
<b>3.3</b>	Forced child marriage is child abuse	10
<b>3.4</b>	Forced child marriage involves numerous crimes	11
<b>3.5</b>	Forced child marriage and a child rights approach	11
<b>3.6</b>	Forced child marriage in Australia	11
<b>3.7</b>	Forced child marriage and you: advocacy, accountability, information sharing and coordination	12
<b>3.8</b>	Methodology: research and preparing the Best Practice Response Guidelines	12
<b>SECTION 4</b>	<b>CONTACTS</b>	
<b>4.1</b>	Sources of information, advice or casework for you	<b>13</b>
<b>4.2</b>	Sources of advice and support for the child or young person	14
<b>4.3</b>	Responsible agencies	14
<b>SECTION 5</b>	<b>CASE STUDY EXAMPLES</b>	<b>16</b>
<b>5.1</b>	Serena's story	16
<b>5.2</b>	Sarah's story	16
<b>5.3</b>	Sophie's story	17
	<b>OTHER AUSTRALIAN RESOURCES</b>	<b>18</b>
	<b>NOTES</b>	<b>19</b>

## SECTION 1

# BEST PRACTICE RESPONSE GUIDELINES

The purpose of these Guidelines is to assist workers in their work with children where there is a risk of forced child marriage. The Guidelines are a resource to promote cooperation, information sharing, accountability and a coordinated approach across all responsible service providers pursuant to the child care and protection laws in each State and Territory.

The aim is to highlight forced child marriage as a child protection concern; facilitate a coordinated response to child victims; and ultimately improve the safety, welfare and wellbeing of children faced with the abuses inherent in forced marriage.

These Guidelines are for any worker who encounters a potential or actual forced child marriage victim during the course of their work, including:

- Health professionals
- Teachers and educators
- Social workers
- Counsellors
- Legal professionals
- Law enforcement officers
- Child protection officers
- Consular and immigration officers

## 1.2 DEFINITION OF FORCED CHILD MARRIAGE

A forced child marriage is a marriage in which one or both spouses are children or young people under 18 years of age, do not or cannot consent to the marriage, and duress is involved<sup>2</sup>. Duress can include psychological, physical, sexual, financial or emotional pressure or abuse.

The following have been identified by caseworkers as common indicators that a child or young person is at risk of or in a forced marriage:

- Unreasonable restrictions such as being kept at home by their parents or being unable to maintain their education.
- The child always being accompanied, including to school and to doctor's appointments.
- Unexpected or extended absence during school time for a holiday or to visit sick relatives; removed from education during school time and/or not returned after the holiday period
- A history of older siblings leaving education early and marrying early
- Depressive behaviour including self-harm

- Reports from siblings, friends or classmates that the child is engaged or married
- Withdrawal from regular activities and an increase in domestic duties for the child
- Domestic or family violence
- Family disputes

You may receive information about a forced marriage from the victim or from a friend or relative, or another agency or community service provider.

Forced child marriage may also become apparent in the course of dealing with another issue or incident, such as self-harm, domestic violence or a report for a particular type of abuse such as physical or sexual assault. A child or young person may also have run away from home. If they approach you and have run away, it is important to first interview them about why they left home to establish whether it is in their best interests to return home.

For children and young people, it is often very traumatic to leave their family to seek help, so they will need your reassurance and support. The needs of victims will also vary. They may need help avoiding a threatened forced marriage in Australia or overseas, or dealing with the consequences of a forced marriage that has already taken place.

Situations of forced child marriage that you may encounter include:

- A child or young person who fears they may be forced to marry in Australia or overseas
- A report by a third party of a child or young person having been taken abroad for the purpose of a forced marriage
- A child or young person who has already been forced to marry a spouse who comes from Australia or overseas. The child or young person may be in Australia or abroad

Research shows that the most common situation that caseworkers and practitioners encounter is a child or young person who is at risk of being sent overseas to be married.

Cases of forced child marriage are a child care and protection matter and the relevant child care and protection authority should be contacted as soon as possible. However, in light of the current lack of coordination and recognition of the issue, your support and assistance in making the correct referrals and working alongside the child throughout the process will be vital to ensure that their needs and rights are appropriately met, and that their life or quality of life is not put at risk.

### 1.3 STEPS TO TAKE IN ALL CASES: DO'S AND DON'TS

#### DO:

- ✓ See the child or young person immediately in a safe and private place, ensuring to bring no attention upon yourself or the child or young person
- ✓ See them on their own even if they are with others
- ✓ Reassure them about confidentiality and that you will not contact their family
- ✓ Contact, if and as soon as possible, a trained caseworker in your organisation who has experience with forced marriage or child abuse
- ✓ Give the child, if possible, the choice of the ethnicity and gender of the person who deals with their case
- ✓ Perform a risk assessment and consider the need for immediate protection and placement away from the family if there is any concern for the safety of the child or young person
- ✓ Establish if there is a family history of forced marriage or if other indicators are present
- ✓ Report the situation to child protection authorities in your State or Territory and activate the local child protection procedures
- ✓ Inform the child or young person of their right to and need for legal advice and representation
- ✓ Develop a safety plan so that they have a prepared reason for why you might be meeting if they are seen by a family or community member
- ✓ Identify any potential criminal offences and refer the matter to the police if there is any suspicion that a crime has been or may be committed
- ✓ Ensure that they have your contact details and other emergency contact numbers and establish a way of contacting them safely and privately in the future
- ✓ Give them advice on what service and support they can expect and from whom (see Contacts section)
- ✓ Refer them to appropriate local and national support groups, counselling services and youth and women's groups that have experience working with victims of forced marriage and child abuse
- ✓ Consider contacting the National Children's and Youth Law Centre or Rosemount Good Shepherd, who have forced child marriage contacts and networks across each State and Territory (see Contacts section)
- ✓ Identify someone involved in the matter who will accept responsibility for coordinating a holistic response, following the matter to completion and providing feedback to all workers involved

A child or young person at risk of or in a forced marriage is at risk of imminent significant harm if they are returned to their family or if their family finds out that they have sought help. They may be punished for seeking help or travel plans may be expedited. Sending them home or sharing information with their friends or family can place them in significant danger.

If you try to mediate with the family or use family members as interpreters, the child may feel unable to speak openly in front of them and sensitive information may be passed on to others, which would place the child in further danger.

If the child or young person does not want a referral to be made to child protection authorities you will need to consider the best interests of the child or young person. It is important to listen to their views and wishes. However, if they want to take an action, or no action, that puts them at risk, then you should explain all the risks to them and explain why it is necessary to take the relevant child protection precautions. If you have any concerns for the safety of the child or young person, then you must contact child protection authorities and if an offence has been committed, the police also.

The ages for children and young people across the States and Territories vary. However, whether the victim is considered a child or young person under the State or Territory legislation they will need a committed worker to work with them and support them throughout the process, or until all the relevant services have been engaged and referrals made. Best practice is to make a report to the relevant child protection authority for any person at risk of or in a forced marriage who is under 18 years of age.

If there are age restrictions at any accommodation option where you seek accommodation for a child or young person, it is best practice for the accommodation option to accept a child or young person who is at risk of harm as a result of forced marriage. The serious nature of the harm and the danger of returning home mean that it is in the best interests of the child or young person to do so.

It is important to explain to the child or young person that forced child marriage is illegal in Australia and that the Court can make orders to ensure that they do not get sent overseas to be married. You should also explain that forced child marriage is child abuse which is also illegal and that there are support networks and legal frameworks in place to protect them against it.

Importantly, when you are referring a case of forced marriage to other organisations, you will need to ensure that they are capable of handling the case appropriately. The Contacts section provides a list of relevant services as well as organisations you can call to ask for advice about next steps.

## DO NOT:

- ✗ Send the child or young person away
- ✗ Contact members of their family or community
- ✗ Breach confidentiality
- ✗ Try to be a mediator between the child and the family or use family members, friends, neighbours or those with influence in the community as interpreters
- ✗ Do not rehouse a child locally if there is a need for placement away from the family
- ✗ Use privacy laws as an excuse to not pass on information

When you encounter a child at risk of or in a forced marriage you should treat it as your one chance to help the victim. Their call for assistance from you is usually their last resort.

Children and young people trying to escape a forced marriage may be reported missing by their parents. Once the child has been removed you should not tell any relatives or community members where the child or young person is staying, even if they put considerable pressure on you to do so. The best interests of the child are paramount and the danger to the child if their location is revealed justifies your confidentiality. Police and child protection authorities have particular experience in handling such situations with parents.

## 1.4 WHAT TO DO WHEN A CHILD OR YOUNG PERSON IS GOING TO BE SENT OVERSEAS IMMINENTLY

This is the most common forced child marriage scenario. The plain fact is that you have it in your power to cause the departure overseas to be stopped.

Ideally, you should discuss the cases of forced child marriage you encounter with, and seek advice from, other statutory and support agencies. However, there will be occasions when immediate emergency action is necessary to protect a child or young person from being sent overseas to marry. In these situations it will be vital to call the police who will then be able to initiate police protection or emergency protection orders and prevent the child or young person from being sent overseas for the purpose of marriage.

On top of the relevant steps at 1.1, you should ensure that you contact:

- The Australian Federal Police (AFP)
- The child protection authority in your State or Territory and
- Legal professionals

Lawyers will need to take urgent legal action. These three organisations will need to coordinate the matter between them and you should be prepared to assert the seriousness of the child or young person's situation and insist on urgent legal action being taken (see Case Studies at 5.1 and 5.2).

## 1.5 WHAT TO DO WHEN A THIRD PARTY REPORTS THAT SOMEONE HAS BEEN TAKEN OVERSEAS FOR THE PURPOSE OF A FORCED MARRIAGE

Sometimes a child or young person may be taken overseas on the pretext of a family holiday, the wedding of a relative or the illness of a grandparent. Once they arrive, their documents and passports may be taken away from them. In these cases, it may be a concerned friend, relative, partner or agency that reports them missing or raises their concerns about the forced marriage with you.

You should collect as much information as possible as set out at 1.1 above. You must indicate to the third party that confidentiality is vital. You should also obtain details of and maintain contact with the third party in case the person contacts them whilst overseas or on their return. You may consider contacting a school counsellor to make some confidential enquiries about the child and the nature of any removal from schooling. If possible, ascertain whether anyone else is aware of the situation and establish whether enquiries have already been made.

It is important not to speak to the victim on the telephone in order to find out if they are being held against their will. The family may be present at the time threatening them or it may be a different person speaking on the telephone.

The organisations that you should contact with regard to someone who has been taken overseas for the purpose of a forced marriage include especially:

- Local police
- The AFP
- The Department of Foreign Affairs and Trade (DFAT)
- International Social Services (ISS)
- Rosemount Good Shepherd
- The local child protection authority

Your local police, the AFP and DFAT have international networks and liaisons that may be able to help repatriate a child who has been sent overseas. However, once a child has been sent overseas, reaching them is very difficult unless they present to an Australian embassy or consulate themselves, or if a family member or friend in Australia knows their whereabouts and can assist in finding them and facilitating their return. Locating them is especially difficult if a child is sent to a country in which Australia does not have a consular presence or established police liaisons.

ISS is an independent not-for-profit organisation that is part of an international network. ISS can involve its colleagues in ISS branches overseas in inter-country child welfare matters, and can assist with cases of international child abduction and with locating children overseas in cases where there are welfare

concerns. They work with child protection authorities, both nationally and internationally, in cases of alleged child abuse and neglect and carry out a number of other specialised services with regard to defending children's rights and connecting families around the world. They may be able to assist with the repatriation of the child or young person that has been sent overseas.

## **1.6 WHAT TO DO WHEN SOMEONE HAS ALREADY BEEN FORCED TO MARRY**

If you encounter someone wishing to leave a forced marriage, follow the steps at 1.1, being mindful of the potential dangers posed by the child or young person's spouse. Domestic violence and physical and sexual abuse is present in almost all cases of forced marriage. While legal services will be vital if a child or young person wishes to nullify a marriage, they will also have other needs such as re-housing and counselling if they have been abused and it is dangerous for them to return to their family or community.

It is very likely that the child or young person will have been subject to sexual abuse at this stage, and in that case the police will need to be called. Sexual intercourse with a child is rape, and so is sexual intercourse with a 16 or 17 year old without their consent, regardless of whether this occurs within a marriage or not.

You will need to explain the options to them, which include leaving their spouse to start a new life, leaving their spouse and prosecuting those involved, returning to their family (if a risk assessment determines that this is a safe option) and/or seeking other legal protection and redress.

Some cases are also brought to the attention of the police, social services or through immigration officials when a victim is forced to act as a sponsor for their spouse's immigration to Australia. They may be reluctant to tell immigration officials that the marriage was a forced marriage because they fear reprisals from the family. If a child or young person wants to prevent a successful visa application for their spouse, all the parties involved will know the reasons if an application is denied, and this places the child or young person in danger. It is important to follow the steps at 1.1 and provide a caseworker who will assist the child or young person in these circumstances. Importantly, they will also need safe accommodation, and possibly also police protection and counselling.

## SECTION 2

# IMPLEMENTING THE BEST PRACTICE RESPONSE GUIDELINES IN YOUR ORGANISATION

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The only available Australian research into the forced marriage of children in Australia identifies the following strategies as vital to an effective response to victims:

- General information, factsheets and referrals
- Worker training on the issue
- Community engagement and education

In order to effectively implement these Guidelines it will be vital to ensure that the organisation has a lead person with overall responsibility for safeguarding children who can also lead on forced marriage procedures and training. The procedures and information on which training can be based are outlined in this document and should be used in conjunction with existing statutory and non-statutory guidance material on protecting children and responding to child abuse.

International literature confirms the importance of the above strategies and recommends incorporating forced child marriage training within existing staff training and engaging with the resources and information sheets in an interactive way, through seminars and discussions.

To ensure that information and relevant referrals are known and acted upon, it will be important to include and actively reference these Guidelines in training about reporting requirements, referrals and abuse types.

It is vital for organisations to ensure that their staff understand their role in protecting people at risk of or trapped in a forced marriage. Through an active engagement with the Guidelines, staff will understand the serious risks facing victims of forced child marriage and become familiar with their duties and responsibilities and what constitutes an appropriate response.

On top of linking the Guidelines with existing practices and procedures, it will be important to highlight that some of the underlying principles and themes within existing guidance may inadvertently place forced child marriage victims at greater risk of harm. This includes the belief that the best place for them is with their family and the practice of attempting to resolve cases initially through family counselling, mediation, arbitration and reconciliation.

Implementation in the above ways will be assisted by your organisation adopting these Guidelines as organisation policy.

## SECTION 3

# RATIONALE AND EVIDENCE BASE FOR THE BEST PRACTICE RESPONSE GUIDELINES

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### 3.1 PURPOSE

Forcing a child to marry is a violation of their human rights, constitutes many crimes, and is a form of child abuse. Worldwide, 10 million girls under the age of 18 marry each year, many as young as 8. Child marriage is a global problem that cuts across countries, cultures, religions and ethnicities. Child brides can be found in every region in the world, from the Middle East to Latin America, South Asia to Europe, and many Australian children are victims of this abuse too.

At the time of writing, research has identified 147 community service worker encounters with forced child marriage victims over the past two years in Australia. Each organisation surveyed had encountered an average of 3-4 victims. The research is ongoing.

These Guidelines fill a national gap in coordinated service provision, promote early intervention and begin to pave a path of effective assistance for child victims of forced marriage. The Guidelines will build the capacity of community service providers to respond to the needs of children and young people under the age of 18 who are at risk of child abuse due to proposed or actual forced marriage.

International experience demonstrates that forced child marriage is best understood as an issue of human rights, gender inequality and child protection. Therefore, to provide an effective response to victims, it is vital to situate forced child marriage within the framework of rights, equality and protection. This way we link in with existing frameworks and resources that provide the greatest potential for an effective response to victims' needs.

The Guidelines highlight important practical considerations for effective intervention in situations of forced child marriage, such as engaging with the victims and facilitating appropriate referrals and engagement.

The Guidelines encourage the sharing of information, knowledge and intervention responsibility on the basis that a coordinated response can more effectively and meaningfully address the diverse and complex range of needs of children and young people in situations of forced marriage.

The Guidelines are based on the premise that all practitioners should treat their first encounter with the potential and actual

victim of forced child marriage as the one and only chance to help the victim. This means that all professionals need to be aware of their responsibilities and obligations when they come across forced child marriage cases. If the child or young person is allowed to 'walk away' without support, practitioners are not likely to have another chance to contact the child or young person and the consequences for the child or young person are likely to be dire.

International research and statistics confirm that forced marriage is not only a growing problem but an issue in which service providers may only have one opportunity to assist potential victims<sup>3</sup>. This substantiates the need for a holistic understanding of the issue. The promotion of a best practice approach is imperative to ensure that the needs and rights of children and young people in the domestic setting are addressed and to secure better outcomes for present and future generations of actual and potential victims.

### 3.2 WHAT IS FORCED CHILD MARRIAGE?

A forced marriage is where one or both spouses do not or cannot consent to the marriage, and duress is involved. Duress can include psychological, physical, sexual, financial or emotional pressure or abuse.

Forced marriage is distinct from an arranged marriage, where the families of the spouses play a dominant role in arranging the marriage, but the spouses have the right to accept or refuse the arrangement. However, the consent has to be real in order for an arranged marriage to be valid and lawful. It cannot be obtained under duress.

Forced marriage is a violation of children's rights under the UN Convention on the Rights of the Child (CRC), an abuse of human rights and, more widely, a form of violence against women. The fundamental right to freely consent to marriage is enshrined in numerous international human rights instruments<sup>4</sup> and the CRC requires State parties to take all effective and appropriate measures with a view to abolishing practices that are harmful to children. Article 16(2) of the Convention on the Elimination of All Forms of Discrimination against Women also explicitly prohibits child marriage:

*The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

Children and young people under 18 years of age are, by definition, incapable of consent to marry, which means that child marriage is forced marriage, and as such violates fundamental human rights and should be prohibited.

Australian domestic law incorporates this principle in the *Marriage Act 1961 (Cth)* (Marriage Act) in which marriage means the union of a man and woman to the exclusion of all others, voluntarily entered into for life<sup>5</sup>. Minors are deemed incapable of giving the informed consent that is inherent in this definition. Under the law, 'minor' means a person who has not attained the age of 18 years<sup>6</sup>.

Forced marriage is primarily an issue of violence against women and where it affects girls or boys, child abuse. Most cases involve young women and girls, although it affects boys and young men as well, in smaller number.

In some cases it is parents forcing their child to get married or sometimes it can be the extended family that is forcing a child to marry. It can happen between people within Australia or between someone in Australia and someone abroad.

### 3.3 FORCED CHILD MARRIAGE IS CHILD ABUSE

*Girls who are forced to marry face a life of violence in the home where they are physically and sexually abused, suffer from inhuman and degrading treatment and ultimately slavery<sup>7</sup>.*

The harmful behaviours associated with forced child marriage constitute child abuse and require the activation of relevant local child care and protection procedures. This is because child marriage forces children to assume responsibilities for which they are physically and psychologically unprepared, and subjects them to significant harm. Any of the behaviours associated with the forced marriage of a child would give rise to grounds for suspicion that a child is at risk of significant harm.

State and Territory child care and protection authorities confirm that while their legislation does not currently refer specifically to forced child marriage, the range of scenarios in the legislation that constitute significant harm and abuse encompass the behaviours associated with it.

Behaviours associated with the forced marriage of children include the following:

- Indecent assault and rape
- Physical assault and false imprisonment
- Emotional abuse
- Psychological abuse
- Kidnapping
- Abduction
- Threatening behaviour
- Removal from education and neglect
- Slavery

It is common that a child at risk of forced marriage is at risk of some, if not all, of the abuses listed above.

Harm is present before the marriage takes place, when the parents or family are coercing a child into marrying through psychological, physical, sexual, financial or emotional pressure. At this stage, the behaviours may constitute offences such as harassment, kidnap, and threats to kill.

Harm is also present after a marriage has been entered into, usually (but not always) with someone significantly older than the child spouse. The acts that constitute offences at this stage can include rape, indecent assault, physical assault, servile marriage, slavery and an offence under the Marriage Act.

Due to the nature of the harms associated with child marriage, it is also a mandatory reporting issue. Mandatory reporters may face penalties if they fail to inform child protection authorities of their knowledge, belief or suspicions that a child is at risk of or in a forced marriage.

In all States and Territories the abuse types associated with forced marriage are also those for which it is mandatory to report. Where the ages of children and young people on whose behalf it is mandatory to report vary, best practice is to report anyone at risk of forced marriage under the age of 18 years. The risks and harms are serious and warrant a voluntary report to child protection authorities where one may not be mandatory.

An effective coordinated national response will be one that satisfies all of the different requirements in each State and Territory. This is achieved by promoting practice that is compliant with the most extensive mandatory requirements in Australia with regard to child protection, which is a report of any maltreatment or risk thereof to a person under 18 years of age.

This approach is also consistent with human rights instruments and the Marriage Act which establish the age of 18 as the age of consent to marriage, and in doing so recognise the severity of the harms inherent in forced child marriage.

### 3.4 FORCED CHILD MARRIAGE INVOLVES NUMEROUS CRIMES

Forced marriage itself is not yet a criminal offence<sup>8</sup>, however the abuses associated with forced child marriage are criminal offences and constitute child abuse. Forced child marriage situations can involve the specific criminal offences of:

- Marrying a child
- Harassment
- Kidnap
- Blackmail
- False imprisonment
- Common assault, actual/grievous bodily harm
- Threats to kill
- Child abduction
- Rape or other sexual offences
- Immigration offences
- Fraud
- People trafficking

Situations of forced marriage can also involve acts and behaviours that constitute people trafficking offences such as slavery, sexual servitude or forced labour<sup>9</sup>. These offences are distinct from forced marriage but may occur simultaneously.

When you encounter a child victim of proposed or actual forced marriage it is important to assess the risk or reality of these offences. You may require legal information or advice in order to do so.

### 3.5 FORCED CHILD MARRIAGE AND A CHILD RIGHTS APPROACH

Some of the core principles of a child rights approach are participation, non-discrimination and paramountcy of the best interests of the child. The principle of participation requires that the child's views are heard in all matters affecting the child, and that they have an opportunity to be heard in any judicial or administrative proceedings affecting them. The principle of non-discrimination requires that all of the child's rights are recognized without discrimination on any ground. The best interests of the child are required to be a primary consideration in all actions concerning children.

This approach should be applied to children and young people who are at risk of or in a forced marriage. For example, many victims do not want to criminalize family members and may be reluctant to call the authorities. As one caseworker identified 'Children generally want the abuse to stop, not to be removed forever from the family, friends, culture and community they have known'. It is important to respect and listen to the child or young person's views and to recognise any culturally specific needs. However, the

best interests of the child are paramount, and if there is any concern at all for the safety of the child, then the appropriate child protection procedures, especially these Guidelines, must be activated. If you decide to take action that is against the child or young person's wishes, then let them know and explain why you must take those actions.

### 3.6 FORCED CHILD MARRIAGE IN AUSTRALIA

Forced child marriage happens in all communities and across many different cultures. Research has identified cases of forced child marriage in each State and Territory in Australia, with each organisation surveyed about their responses to forced child marriage having encountered an average of 3-4 victims over the last two years, some as many as 18. The encounters are significant in number and outcome, and demonstrate the need for a coordinated response.

While it is important to be sensitive to different cultural and racial backgrounds, the overriding duty of workers who encounter child victims is to prioritise the safety and wellbeing of those victims through the application of these Guidelines and a child protection approach.

### 3.7 FORCED CHILD MARRIAGE AND YOU: ADVOCACY, ACCOUNTABILITY, INFORMATION SHARING AND COORDINATION

It is important for practitioners, community service providers and communities to encourage potential victims and those already in a forced marriage to seek support and help. They need to know that wherever they may present with their needs, appropriate support can be given and referrals can be made.

If you encounter a victim in the course of your work, it is vital to support them throughout the process. This means going above and beyond the usual duties and also becoming an advocate who follows up with the victim and the organisations to which you may refer the child. Research confirms that there is a need for someone to work alongside the child and their case until a permanent and safe solution has been found, and to link the child or young person with the appropriate services they will need. It is not enough to refer a victim to another organisation without being able to follow up with the organisation about what has been done for the victim and whether the victim's range of needs has been met.

The diversity of needs of forced child marriage victims necessitates the involvement of different services and organisations. In order for the involvement to be effective, you will need to provide the victim with consistent advocacy. Numerous cases with successful outcomes in terms of safety

for the child or young person were only made possible by the tenacity of school counsellors, teachers and caseworkers who committed themselves to finding a safe solution for the child or young person even when many other workers or systems appeared to not understand the issues or want to respond to them.

The main services the victim will need are:

- Counselling and support
- Child care and protection services
- Accommodation
- Legal advice and representation
- Police
- Mental health/suicide prevention
- Domestic violence services

Remember to ensure that the child protection authority understands the implications of a situation of forced child marriage and of returning the child or young person to their family home. Your advocacy is vital to ensure that the appropriate statutory and service intervention is taken, in accordance with these Guidelines especially. Your advocacy will also encourage and build multi-agency liaison with police, child protection services and community service providers to facilitate coordination, consistency, follow-through and follow-up.

### **3.8 METHODOLOGY: RESEARCH AND PREPARING THE BEST PRACTICE RESPONSE GUIDELINES**

These guidelines are based on international research and our own national consultations with community service providers, Commonwealth and State and Territory government departments and other relevant stakeholders.

The methodology had three components: an internationally and domestically sourced literature review, a quantitative data sourcing and analysis exercise, and a qualitative consultation element.

The extent and nature of community service worker engagement with victims was examined using quantitative data collected through a web-based survey distributed to organisations across all States and Territories. The survey was distributed electronically to hundreds of organizations and agencies around Australia that have encountered or may yet encounter forced marriage cases, including legal and social services providers, advocates, community and religious leaders, educators, health practitioners, law enforcement officers, and other professionals. Recipients were identified through a combination of existing national networks, consultations, internet research to identify respondents with

relevant experiences, and by asking contacts to forward the survey to their colleagues and through their networks.

For the qualitative consultation element, the authors interviewed government and non-government organisations with experience in responding to child victims. The qualitative investigation aimed to identify and critically describe front-line responses to forced child marriage, prevention options, models of good or poor practice, and good practice impediments and facilitators.

## SECTION 4

# CONTACTS

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## 4.1 SOURCES OF INFORMATION, ADVICE OR CASEWORK FOR YOU

### Australian Federal Police

Urgent Assistance 000  
Urgent assistance at a major airport (excluding VIC)  
Tel: 131 237 (131 AFP)  
Urgent assistance at Vic airports (local police) 000  
<http://www.afp.gov.au/>

### Anti-Slavery Australia

Tel: (02) 9514 9662  
[antislavery@uts.edu.au](mailto:antislavery@uts.edu.au)

Anti-Slavery Australia (ASA) is a legal and policy centre which provides advice and assistance for people who have been trafficked, enslaved or severely exploited in Australia or are worried about someone in this situation. They provide confidential casework and advice services to people in slavery and slavery-like situations, including forced marriage.

### Department of Foreign Affairs and Trade

Consular emergency hotline:  
Within Australia Tel: 1300 555 135  
Outside Australia Tel: +61 2 6261 3305

Switchboard/Main contact no. Tel: (02) 6261 1111

### International Social Services

Tel: 1300 657 843  
<http://www.iss.org.au/>

International Social Service (ISS) Australia provides social work and legal services to families, children and single adults across international borders. Their inter-country services include family tracing and reunification, international family mediation, kinship care and other child welfare matters, and support and legal assistance for families experiencing international parental child abduction.

ISS Australia is the independent Australian arm of the global International Social Service network, spanning over 120 countries worldwide. They receive government funding for some services, but rely on fees, individual and organisational donors, membership fees and other income to continue providing a full range of services.

### National Children's and Youth Law Centre

Tel: (02) 9385 9588  
[admin@ncylc.org.au](mailto:admin@ncylc.org.au)  
<http://www.lawstuff.org.au/lawmail/send-a-lawmail>

The National Children's and Youth Law Centre (NCYLC) is a peak national body dedicated to addressing human rights issues for children and young people in Australia through legal change, the only community legal centre of its kind in Australia.

The NCYLC provides legal information, advice and referrals on issues affecting children and young people. The NCYLC can provide legal advice on issues including leaving home/crisis accommodation, mandatory reporting, reporting requirements, international parental child abduction, criminal law, family law and emergency and protective orders.

The NCYLC is also a co-convenor of the Child Rights Taskforce, Australia's peak child rights body, and convenor of the Australian Youth Advocacy Network.

### Rosemount Good Shepherd (NSW)

Tel: +61 2 8571 7800  
Tel: +61 2 9560 0414  
[reception@rosemountgs.org.au](mailto:reception@rosemountgs.org.au)

Rosemount Good Shepherd provides counselling services for adolescents and their families, specialist sexual assault counselling, drug and alcohol counselling, advocacy and research, education services for young people who cannot thrive in mainstream education, the Day Program for young people at risk of becoming disengaged with education, the Wellbeing Program for "at risk" students in schools, group workshops for young people and parents of young people, community outreach involving mentoring and case work support, creative strategies for those in financial difficulties through the provision of safe no interest and low interest loans.

## 4.2 SOURCES OF ADVICE AND SUPPORT FOR THE CHILD OR YOUNG PERSON

### **Kids Helpline**

Tel: 1800 55 1800  
<http://www.kidshelp.com.au/>

*Kids Helpline* is Australia's only free, private and confidential, telephone and online counselling service specifically for young people aged between 5 and 25.

### **Lifeline**

Lifeline's 24hr crisis telephone line on 13 11 14  
Access online one-on-one Crisis Support Chat

Local Lifeline Centre Offices  
<http://www.lifeline.org.au/About-Lifeline/Lifeline-Locations/Lifeline-Locations>

13 11 14 is a confidential telephone crisis support service available 24/7 from a landline, payphone or mobile. Anyone across Australia experiencing a personal crisis or thinking about suicide can contact Lifeline. Regardless of age, gender, ethnicity, religion or sexual orientation our trained volunteers are ready to listen, provide support and referrals.

### **Relationships Australia (SA) PEACE Multicultural Services**

Tel: (08) 8245 8100

PEACE (Personal Education And Community Empowerment) supports and assists individuals, families and communities from culturally and linguistically diverse backgrounds to lead balanced and healthy lives. They have extensive casework and counselling experience, including with victims of forced marriage.

### **Shakti Migrant and Refugee Women's Support Group Melbourne Incorporated**

Tel: (03) 9753 4324  
After hours and weekends Mob: 0432 611 688  
[Shaktimelbourne@gmail.com](mailto:Shaktimelbourne@gmail.com)

Shakti is a support group that provides a wide range of services for refugee and immigrant women and children experiencing domestic violence and abuse, including in the form of child marriage, forced marriage, dowry abuse, threats of honour killing and using immigration status to trap women in abusive relationships. Their services include a crisis call service, a drop-in centre for women, safe accommodation, social work and counselling, legal and health referral, advocacy and domestic violence intervention training for the community.

## 4.3 RESPONSIBLE AGENCIES

### **STATE/TERRITORY STATUTORY CHILD PROTECTION AUTHORITIES**

These hotlines provide child protection services and advice.

#### **Australian Capital Territory**

Office for Children, Youth and Family Support –  
Child Abuse Hotline  
Tel: 1300 556 729 (24 hours)  
<http://www.dhcs.act.gov.au/ocfyfs>

#### **New South Wales**

Department of Human Services (Community Services) –  
Child Protection Helpline  
Tel: 132 111 (24 hours)  
Tel: 1800 212 936 (TTY)  
<http://www.community.nsw.gov.au>

#### **Northern Territory**

Department of Children and Families –  
Child Protection Line  
Tel: 1800 700 250 (24 hours)  
<http://www.childrenandfamilies.nt.gov.au/>

#### **Queensland**

Department of Child Safety – Child Safety Services  
Tel: 1800 177 135 / (07) 3235 9999 (24 hours)  
Tel: (07) 3012 8655 (TTY)  
<http://www.communities.qld.gov.au/childsafety/>

#### **South Australia**

Department for Families and Communities –  
Child Abuse Report Line  
Tel: 131 478 (24 hours)  
<http://www.dfc.sa.gov.au/pub/default.aspx?tabid=485>

#### **Tasmania**

Department of Health and Human Services –  
Child Protection Services  
Tel: 1300 737 639 (24 hours)  
For TTY call 133 677 and ask for 1300 135 513  
[http://www.dhhs.tas.gov.au/children/child\\_protection\\_services](http://www.dhhs.tas.gov.au/children/child_protection_services)

#### **Victoria**

Department of Human Services – Child Protection Services  
Tel: 13 12 78 (24 hours)  
<http://www.dhs.vic.gov.au/for-individuals/child,-youth-and-family-services/child-protection>

#### **Western Australia**

Department for Child Protection  
Tel: 1800 199 008 (24 hours)  
Tel: (08) 9325 1232 (TTY)  
<http://www.dcp.wa.gov.au/Pages/Home.aspx>

## STATE AND TERRITORY POLICE

### ALL STATES AND TERRITORIES EMERGENCY ASSISTANCE FROM POLICE

**If there is an emergency and there is an imminent threat of danger then you should call emergency assistance on Triple Zero**

When you call Triple Zero:

- Your call is connected to the Emergency Call Service (ECS).
- ECS will answer – ‘Emergency – police, fire or ambulance?’ (if the caller is on a mobile telephone they will be asked for the city and state they are in).
- Respond with the service/location you require.
- Your call will then be connected to the emergency service you require.

#### ACT Police

Tel: 131 444 (Redirects to local station)  
Tel: (02) 6256 7777 (general enquiry)  
<http://www.police.act.gov.au/contact.aspx>

#### NSW Police

Tel: 131 444 (Redirects to local station)  
<http://www.police.nsw.gov.au/>

#### VIC Police

Switchboard (03) 9247 6666 (or visit website to find local police station)  
<http://www.police.vic.gov.au/>

#### WA Police

Tel: 131 444 (Redirects to local station)  
<http://www.police.wa.gov.au/>

#### QLD Police

Tel: 131 444 (Redirects to local station)  
<http://www.police.qld.gov.au/>

#### NT Police

Tel: 131 444 (Redirects to local station)  
<http://www.pfes.nt.gov.au/Police.aspx>

#### TAS Police

Tel: 131 444 (Redirects to local police station)  
<http://www.police.tas.gov.au/>

#### SA Police

Tel: 131 444 (Redirects to local police station)  
<http://www.sapolice.sa.gov.au/sapol/home.jsp>

## STATE AND TERRITORY LEGAL AID SERVICES

Translating and Interpreting Service – 13 14 50  
[http://www.immi.gov.au/living-in-australia/help-with-english/help\\_with\\_translating/](http://www.immi.gov.au/living-in-australia/help-with-english/help_with_translating/)

#### Legal Aid ACT

Legal Aid Helpline  
Tel: 1300 654 314  
[legalaid@legalaidact.org.au](mailto:legalaid@legalaidact.org.au)

#### Legal Aid NSW

LawAccess NSW Help Line  
Tel: 1300 888 529  
<http://www.legalaid.nsw.gov.au/>

#### Legal Aid VIC

Tel: (03) 9269 0120  
<http://www.legalaid.vic.gov.au/>

#### Legal Aid WA

Telephone InfoLine  
Tel: 1300 650 579  
<http://www.legalaid.wa.gov.au/>

#### Legal Aid QLD

Legal Information & Referrals  
Tel: 1300 65 11 88  
<http://www.legalaid.qld.gov.au>

#### Legal Aid NT

Legal Aid Helpline  
Tel: 1800 019 343  
<http://www.ntlac.nt.gov.au/>

#### Legal Aid TAS

Telephone Advice Service  
Tel: 1300 366 611  
<http://www.legalaid.tas.gov.au/>

#### Legal Aid SA

Legal Help Line  
Tel: 1300 366 424  
<http://www.lsc.sa.gov.au/>

## SECTION 5

# CASE STUDY EXAMPLES

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### 5.1 SERENA'S STORY

Serena was 15 when she was hospitalised for an attempted suicide. When talking to the hospital staff about when she could return home, Serena told the hospital staff that she did not want to go home. When the hospital staff asked her why she did not want to go, Serena indicated that she feared that she would be sent overseas and forced to marry an older relative.

The hospital staff informed child protection services, who then called the police to undertake consultation with the family while they looked after Serena. Due to Serena's fear of violence, the child protection officers took her into provisional protection and care for a short period. This could be done if an officer suspected, on reasonable grounds, that there were immediate and substantial risks to the child's wellbeing. Serena later also told the officers that she was engaged to a man overseas.

In the meantime, a police consultant went to speak with her family about Serena's situation. Her family was very caring and inviting, although found it quite stressful to have external agencies involved in what they saw as family matters. Serena's mother believed that a marriage would protect Serena and that having a husband would be in her best interests. Serena's father wanted to send her overseas to be married in order to provide her a husband to protect her, and to preserve familial ties overseas.

The child protection officer and police consultant went to Court in order to make a case for the provisional protection and care order they had taken out and for the Court to examine whether there was sufficient evidence to warrant placing Serena in the care of the state. The Court decided that it was appropriate to reunite Serena with her family, but only if the family abided by specific orders made by the Court.

The Court ordered that the family sign a reunification plan, which, if acted against, would become a criminal matter. The Court ordered that the engagement be broken off; that Serena is put on the Airport Watch List and that Serena is sighted daily by a professional for a period of time.

Serena was reunited with her family, and the police consultant visited her weekly for a period of time to check on her and discuss any questions Serena or her family may have. Serena was happy to be home and to be able to finish her schooling, and grateful to have assistance in explaining to her family why that was important to her.

### 5.2 SARAH'S STORY

Sarah was 16 when she told the school counsellor that her parents had arranged a marriage for her overseas but that she did not want to be married. The marriage was to be in two weeks' time. The school contacted a children's legal centre and child protection services. The children's legal centre also contacted a Legal Aid lawyer to assist Sarah. Child protection services told the lawyer that Sarah was not considered to be a child in need of care and protection and that they would need to have meetings about it to determine what they could do. They could only offer a referral to a youth emergency refuge at that point in time.

This meant that Sarah was left to make an application to the Court alone to restrain her parents from sending her overseas against her will. Her Legal Aid lawyer noted that this was particularly distressing for Sarah. It was very confronting for her to have to initiate litigation on her own against her family. She told the Legal Aid lawyer that she just wanted some help to explain to her parents that she did not want to go overseas to be married. She was scared that her parents would react negatively and was scared for her personal safety if she told them herself.

The Legal Aid lawyer explained to Sarah the options she had, which included making a court application to prevent her parents from sending her overseas, arranging emergency accommodation and speaking to her school.

Sarah decided to make an application to the Court for orders to place her on the Airport Watch list to prevent the marriage taking place, and went to stay with a trusted friend.

The Legal Aid lawyer was disappointed that the child care and protection authority did not intercede to protect Sarah and provide support throughout this process. Sarah was placed under a lot of pressure to discontinue her Court proceedings. Fortunately, the school counsellor was incredibly helpful and assisted Sarah to stand up for what she wanted and remained with her throughout the process.

In the meantime, the Legal Aid lawyer alerted the local police about what was happening. This meant that when Sarah's parents went to look for her, the police were on notice and could explain to Sarah's parents that Sarah was safe and that they could contact the lawyer for further information. The lawyer explained the situation to them and the application that they would make to the Court.

The Court granted an order preventing Sarah's removal from Australia by her parents, an order requesting her parents to surrender Sarah's passport and an order to place her name on the Airport Watch list. The Court also granted an order

requesting the Australian Federal Police give effect to these orders and take all necessary steps to restrain her parents from removing or attempting to remove her from Australia.

The parents agreed to cancel the arranged wedding and Sarah was able to return home. Sarah and her parents later reported that they had a better relationship and her parents understood that Sarah could make her own decisions which should be heard and respected.

### 5.3 SOPHIE'S STORY

Sophie approached an overseas Australian Embassy seeking a new passport. She did not want to consent to allow consular staff to talk to her parents or family about returning her existing passport which had been taken from her upon arrival in the overseas country. When consular officials asked her why, Sophie revealed she was forced to come to the country to marry a man she did not want to marry. She wanted to return to Australia, where her mother was still living, but feared that she would be in danger if her father and extended family found out that she wanted to leave.

Because Sophie was a minor, the consular officers could not issue her with a new passport without the consent of both of her parents, or waiting for approval by an Approved Senior Officer, which is often a very lengthy referral process.

Despite not having any direct powers to help Sophie, the consular officers contacted a specialist legal centre in Australia to help Sophie. The organisation had experience with forced marriage cases and provided casework and advice services to victims. The organisation was able to liaise with Sophie's mother in Australia and with Sophie. They found out that Sophie's overseas family would not let her leave the country without receiving a dowry payment. In order to facilitate Sophie's safe return home to her mother, the organisation organised for the payment to be made in order to ensure Sophie's safe return.

With the assistance of the consular officers and their referral to the specialist organisation, Sophie was reunited with her mother in Australia.

# OTHER AUSTRALIAN RESOURCES

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## **Anti-Slavery Australia**

'What is Forced Marriage' (2011) Factsheet #5 Available at <http://www.antislavery.org.au/resources/fact-sheets/97-fact-sheet-5-what-is-forced-marriage.html>

## **Australian Domestic and Family Violence Clearinghouse**

Australian Government Attorney-General's Department, Criminal Justice Division '*Discussion Paper: Forced and Servile Marriage*' (2010)  
Available at [www.ag.gov.au/forcedandservilemarriage](http://www.ag.gov.au/forcedandservilemarriage)  
<http://www.ag.gov.au/Documents/Discussion%20Paper%20for%20Public%20Release%20-%20forced%20and%20servile%20marriage.pdf>

## **Gill A. & Anitha S.**

(Eds.) (2011) '*Forced marriage: Introducing a social justice and human rights perspective*' London, England: Zed Books

## **Good Shepherd Australia New Zealand**

'*Hidden Exploitation: Women in forced labour, marriage and migration*' (2012) Available at: <http://www.goodshepherd.com.au/sites/default/files/files/Hidden%20Exploitation%20Executive%20Summary.pdf>

## **Individual and Family Support, Policy and Learning**

'*Information on Female Genital Mutilation and Early/ Forced Marriage*' (2012) Department for Child Protection, Government of Western Australia  
Available at [www.dcp.wa.gov.au](http://www.dcp.wa.gov.au)

## **National Children's and Youth Law Centre**

'*Forced Marriage Factsheet*' (2013)  
<http://www.lawstuff.org.au/> (forthcoming)

## **National Children's and Youth Law Centre**

'*Forced Marriage Prezi*' (2013)  
Available at <http://prezi.com/> (forthcoming)

## **National Children's and Youth Law Centre**

'*End Forced Child Marriage Australia Report*' (2013) (forthcoming)

# NOTES

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- 1 The term 'children and young people' in these Guidelines refers to people under 18 years of age.
- 2 *Madley v Madley* [2011] FMCAfam 1007 at 21
- 3 The Scottish Government, *Responding to Forced Marriage: Multi-Agency Practice Guidelines* (2011), 31.
- 4 For example, article 16(2) of the Universal Declaration of Human Rights (1948) states that 'Marriage shall be entered into only with the free and full consent of the intending spouses'. The International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966) have similar reiterations of this right. Article 16(1) (b) of the Convention on the Elimination of All Forms of Violence Against Women (CEDAW) is also explicit in its prohibition of forced marriage on the basis of a right to freely and fully consent to marriage.
- 5 *Marriage Act 1961 (Cth)*, subsection 5(1)
- 6 Under very limited circumstances the Marriage Act provides an exception for children who are 16 or 17 and want to get married to someone who is over 18 (section 12). In this case the young person must obtain permission from a judge or magistrate and permission from both parents or guardians. The judge or magistrate would grant this permission only under 'exceptional and unusual' circumstances, taking into account the maturity of the young person and influences on them. It is expected that the judicial discretion and strict limitations provided by the Act would identify if a young person was being forced to marry.
- 7 Joint Statement by a group of UN human rights experts to mark the first International Day of the Girl Child, 11 October 2012, including the UN Committee on the Rights of the Child, UN Committee on the Elimination of Discrimination against Women, the UN Special Representative of the Secretary General on Violence against Children, the UN Special Rapporteur on Sale of children, child prostitution and child pornography, the UN Special Rapporteur on Contemporary forms of Slavery, including its causes and consequences, the UN Special Rapporteur on violence against women, the UN Special Rapporteur on trafficking in persons, especially women and children and the UN Working Group on Discrimination against Women in Law and Practice. Available at <http://www.un.org/en/events/girlchild/2012/hrexerts.shtml>
- 8 In 2009 the Australian Government indicated it was considering introducing a specific offence in relation to forced marriage (Trafficking in Persons: The Australian Government Response January 2004 –April 2009, Inaugural Report of the Anti-People Trafficking Interdepartmental Committee (2009). In 2010 the Commonwealth Attorney General's Department released the first Australian Government Discussion Paper about the issue of forced marriage. The Federal Government's *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012* has since been passed by the House of Representatives and is currently before the Senate, a second reading having been moved on 22 August 2012. It is likely that the Bill will be passed at the next sitting in February 2013.
- 9 For example subsection 271.2(1B) of the *Criminal Code 1995 (Cth)* provides for an offence where a person organises or facilitates the entry or the receipt of another person into Australia and is reckless as to whether this other person will be exploited after entry or receipt.





