



# Female Genital Mutilation

# Definition of FGM



- Female Genital Mutilation (FGM) is a collective term for a range of procedures which involve partial or total removal of the external female genitalia for non-medical reasons.
- A person is guilty of an offence of FGM if he excises, infibulates or otherwise mutilates the whole or any part of a girl's labia majora, labia minora or clitoris. "Excise" and "Infibulation" refer to *"the removal"* (by cutting) of the clitoris and partial or total removal of the labia minora and stitching of the labia majora

# Legislation on FGM



## **Prohibition of Female Circumcision Act 1985**

- Female Genital Mutilation (FGM) has been a specific criminal offence since 1985, with the introduction of the Prohibition of Female Circumcision Act 1985. However a 'loophole' was identified in the legislation, in that taking girls who were settled in the UK abroad for FGM was not a criminal offence. It is this 'loophole' that the Female Genital Mutilation Act 2003 ('the Act') intended to close.

# Legislation on FGM



## Female Genital Mutilation Act 2003

- The Act was brought into force on 3 March 2004 by the Female Genital Mutilation Act 2003 (Commencement) Order 2004. For offences committed before 3 March 2004 the Prohibition of Female Circumcision 1985.
- The Act affirms that it is illegal for FGM to be performed, and that it is also an offence for UK nationals or permanent UK residents to carry out, or aid, abet, counsel or procure the carrying out of FGM abroad on a UK national or permanent UK resident, even in countries where the practice is legal.

# Legislation on FGM



## Offence of female genital mutilation

- The Act contains the following offences, including an offence of performing the act of FGM on a UK national or permanent UK resident overseas. The offences are:

# Offence of FGM



- Section 1 - it is a criminal offence to excise, infibulate, or otherwise mutilate the whole or any part of a girl's labia majora, labia minora or clitoris;
- Section 2 - a person is guilty of an offence if he aids, abets, counsels or procures a girl to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris;
- Section 3 - it is an offence for a person to aid, abets, counsel or procures the performance outside the UK of a relevant FGM operation;
- Section 4 - extends the offences outlined in sections 1-3 to any act done outside the UK by a UK national or permanent UK resident, and where an offence is committed outside the UK, even in countries where the practice is legal, treats the offence as having been committed anywhere in England, Wales or Northern Ireland

# Defence



No offence is committed by a registered medical practitioner who performs a surgical operation necessary for a girl's physical or mental health. Nor is an offence committed by a registered midwife or a person undergoing a course of training with a view to becoming a registered medical practitioner or registered midwife, but only if the operation is on a girl who is in any stage of labour, or has just given birth, and is for purposes connected with the labour or birth .

- This applies if the surgical operation is carried out:
- in the UK; or
- outside the UK, by persons exercising functions corresponding to those of a UK approved person.

# Assisting a girl to mutilate her own genitalia



- It is not an offence for a girl to carry out an FGM operation on herself. However, a person is guilty of an offence if he aids, abets, counsels or procures a girl to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris

# Assisting a non-UK person to mutilate overseas a girl's genitalia



- Section 3 of the Act makes it an offence for a person to aid, abet, counsel or procure the performance outside the UK of a relevant FGM operation that is carried out on a UK national or permanent UK resident by a person who is not a UK national or permanent UK resident .
- EG, arranges by telephone from his/her home in England for his/her UK national daughter to have an FGM operation carried out abroad by a foreign national (who does not live permanently in the UK) is guilty of an offence.

# Extra-territorial acts



- The effect of the extension (see section 4) on section 1 is that it will be an offence for a UK national or permanent UK resident to carry out an FGM operation outside the UK. By virtue of section 8 of the Accessories and Abettors Act 1861, it will also be an offence for a person in the UK (or a UK national or permanent UK resident outside the UK) to aid, abet, etc a UK national or permanent UK resident to carry out an FGM operation outside the UK. For example, if a person in the UK advises his UK national brother over the telephone how to carry out an FGM operation abroad, he would commit an offence.

# Penalties for offences



A person guilty of an offence under this Act is liable:

- on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both);
- on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

# Definitions



- "girl" includes "woman".
- A United Kingdom national is an individual who is:
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 is a British subject; or
  - (c) a British protected person within the meaning of that Act.
- A permanent United Kingdom resident is an individual who is settled in the United Kingdom (within the meaning of the Immigration Act 1971).