

# **Staffordshire Safeguarding Children Board**

## **GUIDANCE FOR CHILDREN WHO MAY BE PARTICULARLY VULNERABLE**

### **FORCED MARRIAGES**

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## 1 Aims of this Guidance

This guidance is for professionals working with children and young people from all agencies in Stoke-on-Trent and Staffordshire. It details how concerns about young people who are facing the prospect of a forced marriage, or have married under duress, should be dealt with at the referral stage.

Practitioners from health, police, education and children's social care should also be aware of the multi-agency practice guidelines 'Handling Cases of Forced Marriage, particularly in regard to long term protection of young people. This SCB guidance follows the multi-agency practice guidance produced by the Government and focuses on why, when and how all agencies should refer concerns about forced marriage when they relate to young people living in Stoke-on-Trent or Staffordshire who are under 18 years of age.

Many of the concerns and procedures would also apply to vulnerable adults and those over the age of 18 years who are potentially subject to forced marriage. However, the local authority has specific responsibilities in respect to young people and this practice guidance reflects these statutory duties.

There are some significant differences between the referral of a concern about a young person being forced into marriage and other child protection referrals. Professionals must be aware that sharing information with a young person's parents, extended family or members of their community, could put the young person in a situation of significant risk. Any disclosure that indicates a young person may be facing a forced marriage must be taken seriously by professionals who should also realise that this could be 'one chance to save a life.

## 2. What is a 'Forced Marriage'?

A forced marriage is a marriage in which one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, financial, sexual and emotional pressure. In cases of vulnerable adults who lack the capacity to consent to marriage, coercion is not required for a marriage to be forced.

### **Forced Marriage and Arranged Marriage**

There is a clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice of whether or not to accept the arrangement still remains with the prospective spouses. However, in forced marriage, one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, financial, sexual and emotional pressure. In the cases of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced.

The provision of consent is essential within all marriages – only the spouses themselves will know if they their consent is provided freely.

### **Capacity to Consent to Marriage**

If a person does not consent or lacks capacity to consent to a marriage, that marriage must be viewed as a forced marriage whatever the reason for the marriage taking place. Capacity to consent can be assessed and tested but is time and decision-specific.

### **The Mental Capacity Act 2005**

The Mental Capacity Act 2005 aims to empower people to make decisions about their own lives where possible and protects those who lack capacity. It provides a statutory framework both for people who lack capacity to make decisions for themselves and for those who have capacity and want to make preparations for a time when they may lack capacity in the future. It sets out who can take decisions, in which situations, and how they should go about this. The Mental Capacity Act Code of Practice provides more detailed guidance.

Forced marriage can happen to both men and women although most cases involve young women and girls. The majority of cases of forced marriage reported to date in the UK involve South Asian families. This is partly a reflection of the fact that there is a large, established South Asian population in the UK. However, it is clear that forced marriage is not solely a South Asian issue and there have been cases involving families from the Middle East, Europe, Africa and North America to name but a few.

Some forced marriages take place in the UK with no overseas element, while others involve a partner coming from overseas or a British citizen being sent abroad. Young people facing the prospect of a forced marriage may also, if they resist, be subjected to so called 'honour based abuse'.

## 3. Honour Based Abuse (HBA)

The terms “honour crime” or “honour-based violence” or “izzat” embrace a variety of crimes of violence (mainly but not exclusively against women), including assault, imprisonment and murder where the person is being punished by their family or their community. They are being punished for actually, or allegedly, undermining what the family or community believes to be the correct code of behaviour.

In transgressing this correct code of behaviour, the person shows that they have not been properly controlled to conform by their family and this is to the “shame” or “dishonour” of the family. It can be distinguished from other forms of abuse, as it is often committed with some degree of approval and/or collusion from family and/ community members. Victims will have multiple perpetrators not only in the UK; HBA can be a trigger for a forced marriage.

## 4 One Chance Rule

All professionals working with suspected or actual victims of forced marriage and honour-based violence need to be aware of the “one chance” rule. That is, they may only have one opportunity to speak to a victims or potential victim and may possibly only have one chance to save a life. As a result, all professionals working within statutory agencies need to be aware of their responsibilities and obligations when they are faced with forced marriage cases. If the victim is allowed to leave without the appropriate support and advice being offered, that one chance might be wasted.

Where information is available to any agency which gives rise to concerns about a forced marriage or HBA involving a child or young person under 18 this should be referred to the Staffordshire First Response Team (FRT) or the Stoke-on-Trent Safeguarding Referral Team (SRT) or police in the Multi-Agency Safeguarding Hub (MASH) in line with the Staffordshire and Stoke-on-Trent Safeguarding Children Boards' Referrals procedures<sup>i</sup>.

## 5 Legal Position

The minimum age of consent to marriage is 16. Young people between the age of 16 and 18 can only marry with parental consent unless they are a widow or widower.

New offences came into force in June 2014:

1. To take someone overseas to force them to marry (even if it doesn't take place)
2. Marrying someone who lacks the capacity to consent
3. Breaching a Forced Marriage Protection order (FMPO)

Forcing someone to marry can result in a 7 year sentence and breach of an FMPO can result in a 5 year sentence.

Forced Marriage Protection Orders can also be sought under section 4A of the Family Law Act 1962 ("the 1996 Act"). The 1996 Act makes provision for protecting both children and adults at risk of being forced into marriage and offers protection for those who have already been forced into marriage. The terms of orders issued under the Act can be tailored to meet the specific needs of victims.

## Who can apply for an order?

- The person who is to be protected by the order
- A relevant third party
- Any other person with the permission of the court

## 6 Impact on Children and Young People

Isolation is one of the biggest problems facing those trapped in, or under threat of, a forced marriage. They may feel they have no one to speak to about their situation. These feelings of isolation are very similar to those experienced by victims of other forms of domestic abuse and child abuse. Only rarely will someone disclose fear of forced marriage. Therefore, they will often come to the attention of health professionals, police, social care services or education professionals for various behaviours consistent with distress.

Young people forced to marry, or those who fear they may be forced to marry, are frequently withdrawn from education, restricting their educational and personal development. They may feel unable to go against the wishes of their parents and consequently may suffer emotionally, often leading to depression and self-harm. These factors can contribute to impaired social development, limited career and educational opportunities, financial dependence and lifestyle restrictions.

## 7 Potential warning signs or indicators

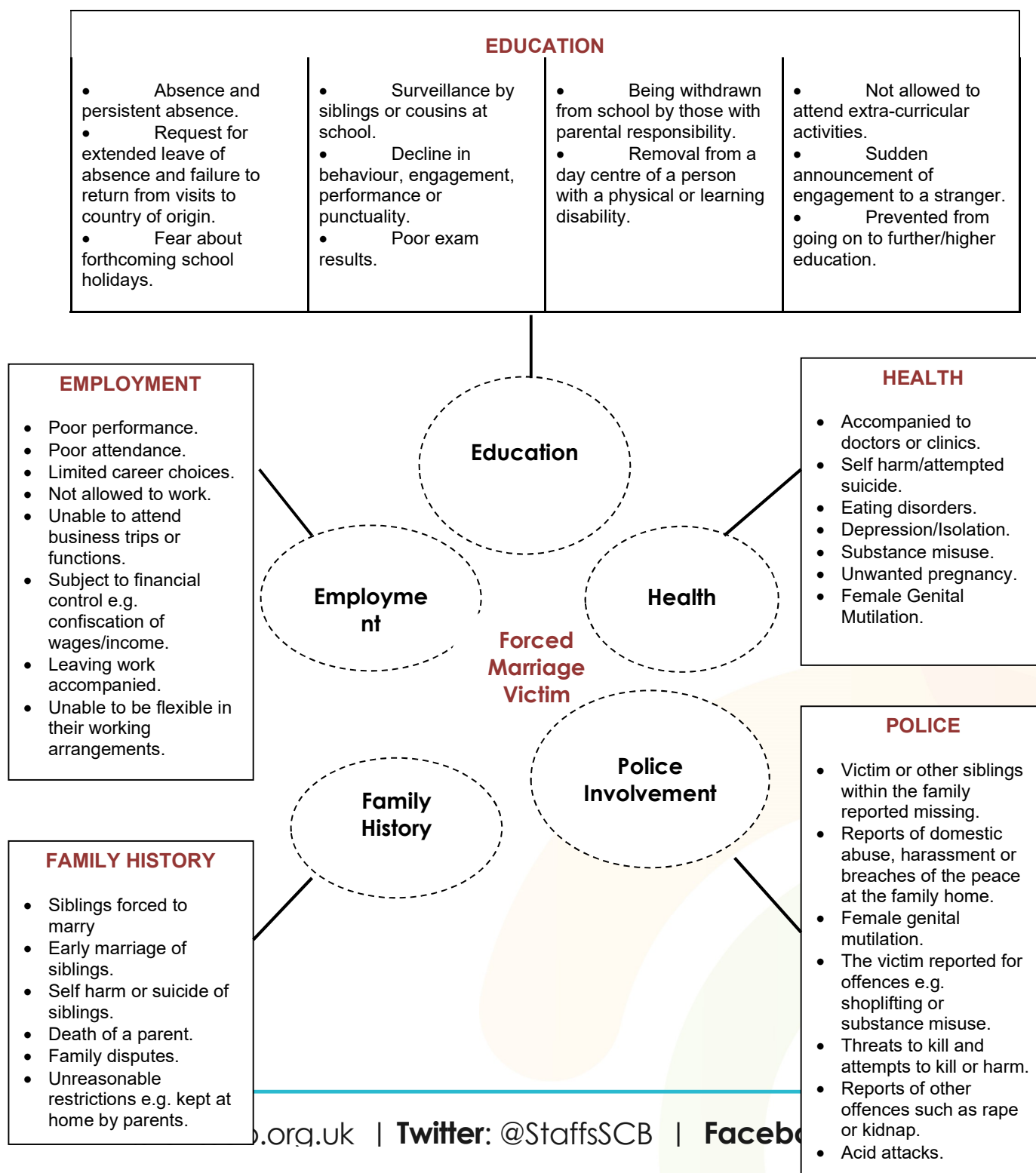
Both women and men facing forced marriage may become anxious, depressed and emotionally withdrawn with low self-esteem. They may come to the attention of practitioners for a variety of reasons, some of which are described in the diagram below. Whilst the factors set out in this diagram may be an indication that someone is facing forced marriage, it should not be assumed that it is forced marriage simply on the basis that someone presents with one or more of these warning signs. These warning signs may indicate other types of abuse that will also require a multi-agency response.

There have been occasions when women have presented with less common warning signs such as cut or shaved hair as a form of punishment for disobeying or perhaps "dishonouring" her family. In some cases, a girl may report that she has been taken to a private practice to be examined to see if she is a virgin. There have been reports of women presenting in the NHS with symptoms associated with poisoning. In certain communities, it is considered important that women undergo female genital mutilation (FGM) before being able to marry – usually this will be performed during childhood, but there have been reports of young girls or young women undergoing FGM just

before a forced marriage. FGM has been a specific offence in the UK since 1985 and extra-territorial offences were created in 2003 to deter people from taking girls overseas for the purposes of FGM. This legislation has been strengthened by the Serious Crime Act 2015 which extended the offences to include habitual residents and introduced Female Genital Mutilation Protection Orders, anonymity for victims, mandatory reporting for professionals and an offence for parents/carers of failing to protect.

## CHART OF POTENTIAL WARNING SIGNS OR INDICATORS

These indicators are not intended to be an exhaustive list.



## 8 Practice Guidance on Initial Disclosure

### First steps in all cases:

See the child/young person immediately in a secure and private place where the conversation cannot be overheard.

See the child/young person on their own – even if they attend with others.

Explain all the options to them.

Recognise and respect their wishes as far as practicable.

Perform a risk assessment as guided by your specific agency.

If the young person is under 18 years of age, refer them to the designated person responsible for safeguarding children and activate local safeguarding procedures.

If a child/young person discloses to an NHS professional that they are in a FM situation, and state that they don't want any further action taken about it, their rights as a patient would need to be respected and patient confidentiality maintained, no reports or referrals made etc. This is the case for rape and domestic abuse too.

Reassure the victim about confidentiality where appropriate i.e. practitioners will not inform their family.

Establish and agree an effective method of contacting the victim discreetly in the future, possibly using a codeword to confirm identity.

Obtain full contact details.

Where appropriate, consider the need for immediate protection and placement away from the family.

If the child/young person requires an interpreter, never use family members, friends or individuals who are prominent or influential in the individual's community. You should always use an accredited interpreter. Information at the interview may be imparted to other members of the community and put the child/young person at risk of harm.

Some people may be more likely to disclose forced marriage when a telephone interpreting service is used, as they can speak to the interpreter more anonymously.

### **BEST PRACTICE**

- **Inform them of their right to seek legal advice and representation.**
- **If necessary, record any injuries.**
- **Provide personal safety/safeguarding advice.**
- **Develop and agree a safety plan in case they are seen i.e. prepare another reason why you are meeting.**

- **Establish if there is a family history of forced marriage, e.g. have siblings been forced to marry in the past. Other indicators may also include domestic violence, self-harm, family disputes, unreasonable restrictions (e.g. withdrawal from education or “house arrest”) or missing persons within the family.**
- **Advise the victim not to travel overseas and/or discuss the difficulties they may face.**
- **Identify any other potential criminal offences that may have been committed and refer to the police if appropriate.**
- **Provide advice on the further service or support they should expect and provide contact details as appropriate.**
- **Maintain a full record of the decisions made and the reason for those decisions.**
- **Information from case files and database files MUST be kept securely and preferably be restricted to named members of staff only.**
- **Refer the victim to other recognised local and national support groups with a history of working with victims of domestic abuse and forced marriage as appropriate.**

## NEVER

- **Send the child/young person away.**
- **Approach members of their family or the community**
- **Breach confidentiality – unless there is an immediate child protection issue, imminent risk of serious harm or threat to life of the victim.**
- **Attempt to be a mediator or encourage mediation, reconciliation, arbitration or family counselling.**

## 9 Information Required for all Cases

Subject to the need for safety and confidentiality in making enquiries, the following information and documentation should be acquired if possible. It is important to get as much information as possible when a case is first reported, as there may not be another opportunity for the individual reporting to make contact. The case may be reported by a third party or the individual under threat. Whoever reports the case you should record:

- date of disclosure
- details of third party if disclosure about another person
- name of person under threat
- nationality
- age
- date and place of birth
- passport details
- school/college details
- employment details
- full details of allegation
- names and address of parents or those with parental responsibility
- national insurance number
- driving licence number
- NHS number



- details of all friends and family who can be trusted and their contact details.
- You should also:
- Establish a code word to ensure you are speaking to the right person.
  - Establish a way of contacting them discreetly in the future that will not put them at risk of harm.
  - Obtain any background information including schools attended, involvement by adult or children's social care, doctors or other health services etc.
  - Record details about any threats, abuse or other hostile action against the person, whether reported by the victim or a third party.
  - Obtain a recent photograph and any other identifying documents. Document any other distinguishing features such as birthmarks and tattoos etc.
  - Establish the nature and level of risk to the safety of the person (e.g. is she pregnant? Do they have a secret boyfriend or girlfriend? Are they already secretly married?)
  - Record details of any other family members at risk of forced marriage or if there is a family history of forced marriage and abuse.

**If a young person discloses that they are being taken overseas and suspect that it is in order to be forced into marriage, additional information should be obtained when possible:**

A photocopy of their passport for retention and encourage them to keep details of their passport number and the place and date of issue.

As much information as possible about the family (this will need to be gathered discreetly), including:

- **Full name and date of birth of the person under threat**
- **Father's and/or Mother's name**
- **Address where they may be staying overseas**
- **Potential spouse's name (if known)**
- **Date of the proposed wedding (if known)**
- **Name of the potential spouse's father (if known)**
- **Addresses of the extended family in the UK and overseas.**
- **Information that only the person would be aware of.**
- **Details of any travel plans and people likely to accompany them**
- **Names and addresses of close relatives remaining in the UK**
- **A safe means by which contact may be made with the person e.g. a mobile that will function overseas**
- **Details of the third party in order to maintain contact in case the person contacts them whilst overseas or on her return**

- **An estimated return date. Ask that the person contacts you without fail on their return**

and if appropriate a written statement by the person explaining that they want the police, children's social care, a teacher or a third party to act on their behalf if they do not return by a certain date.

## 10 What happens following a referral (see flowchart overleaf)

Section 47 enquiries will be made by children's social care and the police. If the young person wishes to remain in the family home it is essential to devise a way of contacting them discreetly without placing them at increased risk. This should include an agreed code word.

A plan will need to be put in place for a young person who may wish to leave the family home if the situation deteriorates. This will need to address issues such as a place of safety. If a child is in immediate danger, it may be necessary to consider removing them from the family home by means of Police Protection Powers or an Emergency Protection Order.

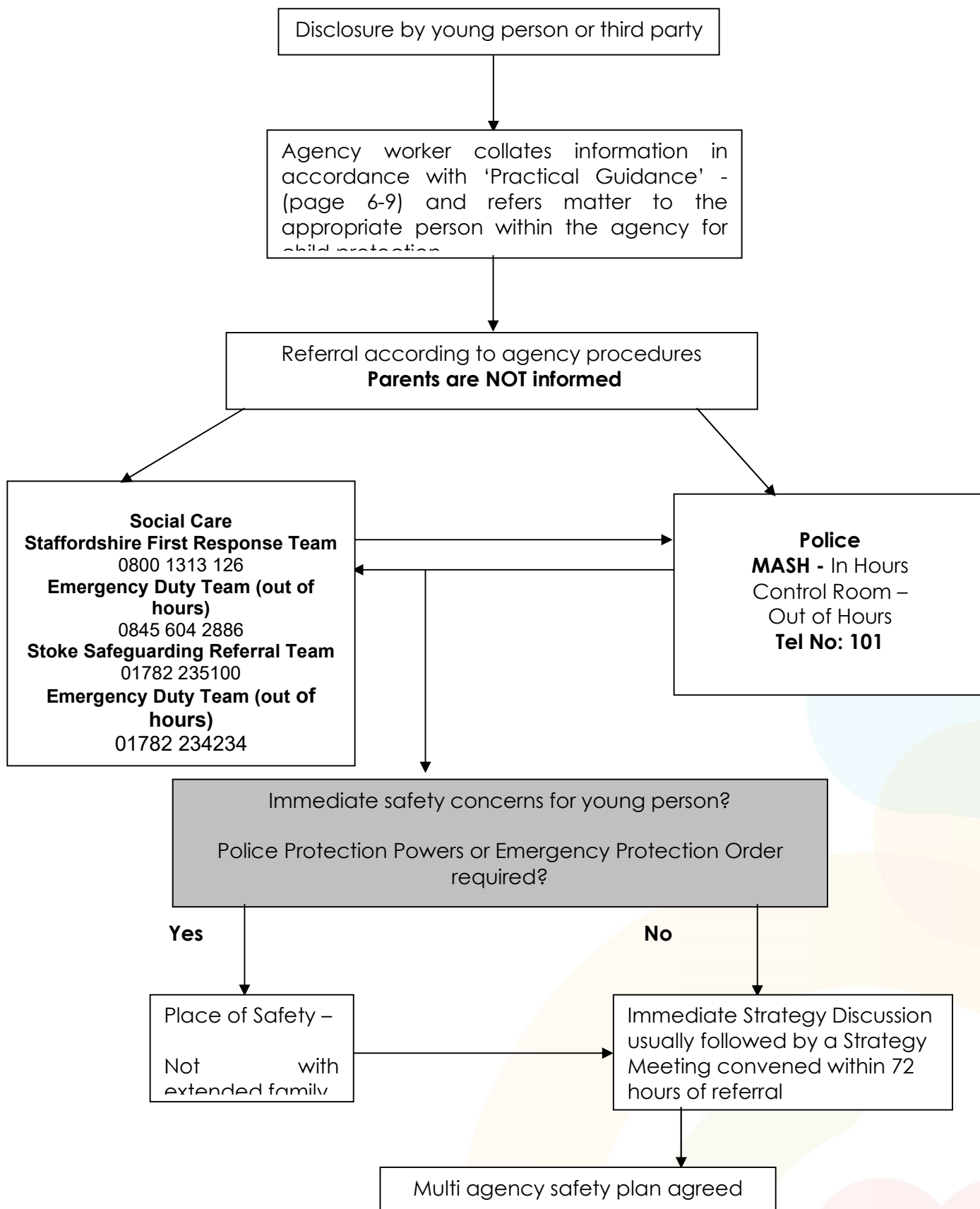
In this situation it is not appropriate to rely on the external family to provide a place of safety. It may be necessary to place the young person in a placement outside of their community, or in a different local authority area.

Following referral and initial enquiries there will be a section 47 strategy meeting to include police, children's social care, health and, where applicable, education representatives. Information about how the child is to be protected will be shared at this time, and any actions for individual agencies agreed. The safety of any siblings in the family will also need to be considered.

### REMEMBER

**If the family are approached, they may deny that the young person is being forced to marry. They may then move them, expedite any travel arrangements and bring forward the forced marriage. You may also be putting the young person at risk of so called 'honour based'<sup>ii</sup> violence which has, on occasions, resulted in murder.**

## 11 Flow Chart: Referral



## References:

Working Together to Safeguard Children – 2015 (HM government)

HM Government 2014 – Multi-Agency practice guidelines: Handling Cases of Forced Marriage

HM Government 2014 – The right to choose – Multi-agency statutory guidance for dealing with forced marriage

HM Government Forced Marriage & Learning Disabilities: Multi-Agency Practice Guidelines

Stoke-on-Trent and Staffordshire Safeguarding Children Board procedures can be found on the website [www.sssc.org.uk](http://www.sssc.org.uk)

Guidance on Taking of Fingerprints, DNA & Photographs of Victims/Potential Victims of Forced Marriage, ACPO 2008

Procedure for Requesting HM Revenue and Customs to make National Insurance Data “Nationally Sensitive” – Forced Marriage and Honour Based Violence Victims, ACPO 2009. Note: this document is confidential and for police use only

Guidance on the Relocation of Victims of Forced Marriage and Honour Based Violence between Force Areas, ACPO 2008

Guidance on Investigating Domestic Abuse College of Policing ‘Authorised Professional Practice’

GOV.UK - Guidance on Forced Marriage