

Research into Female Genital Mutilation (FGM) in Scotland

The Policy Clinic, Open Justice Centre,
Open University Law School



Research report into the practice of FGM in Scotland following the FGM (Protection and Guidance) (Scotland) Act 2020 **undertaken by** ***Déborah Jackeline De Souza Costa Stevenson, Grace Badenoch, Leslie-Ann Mills-Gomez, Liam Donaldson, Marguerite Elena Kidd, Paulette Stanislas, Sonia Seran Lal and Stephen Murphy.***

April 2023

Table of Contents

Contents

Contents.....	2
Introduction	4
Background and aims of the study	5
1. Research Aims	6
2. Potential Impact of Research	Error! Bookmark not defined.
3. Research method.....	6
Results	Error! Bookmark not defined.
1. Desktop research.....	Error! Bookmark not defined.
<i>a. Demographics.....</i>	Error! Bookmark not defined.
<i>b. Case numbers.....</i>	Error! Bookmark not defined.
<i>c. Leaflet.....</i>	Error! Bookmark not defined.
2. Research into law	Error! Bookmark not defined.
<i>a. FGM law in Scotland.....</i>	Error! Bookmark not defined.
<i>b. FGM law in England and Wales.....</i>	Error! Bookmark not defined.
<i>c. Prosecutions and legal action in Scotland and elsewhere.....</i>	Error! Bookmark not defined.
<i>d. FGM Protection orders</i>	Error! Bookmark not defined.
<i>e. France.....</i>	Error! Bookmark not defined.
3. Freedom of Information Requests (FOI).....	Error! Bookmark not defined.
<i>a. Police Scotland.....</i>	Error! Bookmark not defined.
<i>b. Procurator Fiscal.....</i>	Error! Bookmark not defined.
<i>c. Schools.....</i>	Error! Bookmark not defined.
4. Research into agencies using a survey.....	Error! Bookmark not defined.
5. Interviews with Agencies.....	Error! Bookmark not defined.
6. Other research and limitations.....	Error! Bookmark not defined.
a. Legal professionals	Error! Bookmark not defined.
Analysis	Error! Bookmark not defined.
1. Demographic data.....	Error! Bookmark not defined.
2. Scottish law, including comparison to the law for England and Wales.....	Error! Bookmark not defined.
3. FOI Police Scotland and COPFS.....	Error! Bookmark not defined.

4. Schools..... Error! Bookmark not defined.

5. Survey with agencies..... Error! Bookmark not defined.

6. Agency interviews Error! Bookmark not defined.

7. Legal services..... Error! Bookmark not defined.

8. Cases research..... Error! Bookmark not defined.

Recommendations for reform..... Error! Bookmark not defined.

1. Recommendations from the agency interviews. Error! Bookmark not defined.

2. Recommendations from the report analysis Error! Bookmark not defined.

Conclusions..... Error! Bookmark not defined.

Appendices..... Error! Bookmark not defined.

Introduction

This research was undertaken by the Policy Clinic at the Open Justice Centre, Open University Law School. Open Justice provides free legal advice and education to members of the public in various legal areas. In 2019, Open Justice established the Policy Clinic to undertake research on behalf of organisations and charities. The purpose of the Policy Clinic is to provide research and evidence; aiming to influence policy and law reform. All work in the Policy Clinic is overseen by experienced Open University tutors who have a background in policy and advocacy work.

FGM has been illegal in the UK since 1985 (Prohibition of Female Circumcision Act 1985) (the 1985 Act).¹ In Scotland the Prohibition of Genital Mutilation (Scotland) Act 2005 (the 2005 Act)² repealed the 1985 Act and re-enacted its provisions. More recently the Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020, (the 2020 Act)³ was introduced and included amendments to the 2005 Act.

The Bridges Programmes, based in Glasgow, has requested the Open University Policy Clinic carry out research into the practice of Female Genital Mutilation (FGM) in Scotland following the enactment of the 2020 Act, which was designed to strengthen the protection given to victims of FGM. However, agencies working in this area remain concerned regarding the lack of prosecutions for FGM and are concerned that the practice of FGM is continuing within Scotland.

The research team as below for this project are all students with the Open University Law School:

Déborah Jackeline De Souza Costa Stevenson, Grace Badenoch, Leslie-Ann Mills-Gomez, Liam Donaldson, Marguerite Elena Kidd, Paulette Stanislas, Sonia Seran Lal, and Stephen Murphy.

Avril Martin, *supervising tutor.*

¹ [Prohibition of Female Circumcision Act 1985 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1985/37/enacted)

² [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005 - Explanatory Notes \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2005/12/enacted)

³ [Female Genital Mutilation \(Protection and Guidance\) \(Scotland\) Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2020/12/enacted)

Background and aims of the study

*“Every human being has the inherent right to life. This right shall be protected by law.
No one shall be arbitrarily deprived of his life.”*

*“No one shall be subjected to torture or to inhuman or degrading treatment or
punishment”⁴*

These rights are enshrined in Article 6 (1) of the International Covenant on Civil and Political Rights,⁵ in the European Convention on Human Rights Article 3 - Prohibition of torture,⁶ and by extension in the UK by the Human Rights Act 1998.⁷

FGM (Female Genital Mutilation) is recognised internationally as a violation of human rights of girls and women. It constitutes discrimination and inequality against women and children. FGM violates the right to health, security, physical integrity, freedom from torture, inhumane and degrading treatment and possibly right to life. 200 million females are living with FGM globally including babies; 4.6 million affected per year.⁸

FGM originates from African, Asian, and Middle Eastern countries affecting majority Black Asian Minority Ethnic (BAME) women and girls. The reasons why FGM is performed vary from one region to another, as well as over time, and include a mix of sociocultural factors within families and communities. Where FGM is a social convention (social norm), the social pressure to conform to what others do and have been doing, as well as the need to be accepted socially coupled with the fear of being rejected by the community, are strong motivations to perpetuate the practice. FGM is often considered a necessary part of raising a girl, and a way to prepare her for adulthood and marriage. This can include controlling her sexuality to promote premarital virginity and marital fidelity. Some people believe that the practice has religious support, although no religious scripts prescribe the practice. Religious leaders have different viewpoints on this issue, some contributing to its abandonment.⁹

Over time, awareness of FGM in general, and an impetus to stop it, has grown in the UK. This is because agencies and charities have worked extremely hard to increase understanding and education concerning FGM, especially within specifically affected communities in the UK. There have been several updates to the law concerning FGM since the original 1985 Act,¹⁰ and although devolution has meant that there are now different statutes in Scotland to the rest of the UK, the basic purpose and rationale of the different national statutes can be taken to be same. This is to stop FGM from taking place by making it illegal. It is a criminal offence to either: carry out FGM in Scotland or abroad, assist others to carry out FGM, or remove someone from the UK to undergo FGM.

⁴ [Guide on Article 3 - Prohibition of torture \(coe.int\)](#)

⁵ [International Covenant on Civil and Political Rights | OHCHR](#)

⁶ [Guide on Article 3 - Prohibition of torture \(coe.int\)](#)

⁷ [Human Rights Act 1998 \(legislation.gov.uk\)](#)

⁸ <https://www.un.org/en/international-day-zero-tolerance-female-genital-mutilation/page/background-female-genital-mutilation>

⁹ <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>

¹⁰ The Prohibition of Female Genital Mutilation (Scotland) Act 2005

The Scottish Government produced a national action plan to prevent and eradicate FGM in partnership with Police Scotland, NHS Scotland, councils, and voluntary sector organisations in 2016.¹¹ This is aligned with 'Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls'.¹² By collection and interpretation of available data, as well as through communication with several agencies involved with FGM, the report will endeavour to examine whether the updated Scottish law is having any effect on the prevalence of FGM. It will also propose recommendations to move forward based on its findings.

1. Research Aims

The research aims to identify:

- i) whether there have been any prosecutions for FGM since 2020, and if not, the reasons why
- ii) whether there is any evidence for the continuation, decrease, or increase in the practice of FGM within Scotland
- iii) whether there is any evidence that individuals are coming to Scotland for the purpose of FGM
- iv) whether the 2020 law has changed the practice of FGM within Scotland or the protection offered to victims.

The research utilised different methodology to achieve this. Methods used included desktop/web-based research, Freedom of Information (FOI) requests to statutory agencies, research into the law and remedies used, surveys sent to statutory and voluntary agencies, and in-depth qualitative interviews with agencies.

[...]

3. Research method

The research methods employed in this project included desktop research, data research via surveys, research into the law, interview research and FOI research. These are explained below.

- a. **Desktop research** included researching various online sources (such as Scottish Government/ Police Scotland/ FGM aware websites) which are reliable and credible, in order to:
 - i) locate and extract relevant data regarding population by ethnicity in both Scotland as well as England and Wales for comparison
 - ii) locate and extract relevant data regarding reported incidents of FGM such as NHS data in both Scotland as well as England for comparison

¹¹ [Scotland's national action plan to prevent and eradicate FGM - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹² [Equally Safe strategy - Violence against women and girls \(VAWG\) - gov.scot \(www.gov.scot\)](http://www.gov.scot)

- iii) for the leaflet: research into FGM information currently available in other leaflets and information sheets from agencies and health-related bodies; research into appropriate agencies to include in a contact list; research into legal services available for affected persons.
- b. **Research into the law** - identify the law relating to FGM in Scotland and compare any national differences to the rest of the UK and a brief look at the law in France.
- c. **Freedom of Information (FOI) research**, (under the Freedom of Information (Scotland) Act 2002)) was carried out initially by sending out FOI requests to Police Scotland (see appendix 1) to obtain data regarding crimes and prosecutions, and to schools (see appendix 2) chosen through demographic research to enquire about cases reported. Resulting from the response from Police Scotland a further FOI request was sent to the Crown Office and Procurator Fiscal Service. Resulting from the response from the schools, an FOI request was sent to Glasgow City Council (appendix 5).
- d. **Data Research** was carried out using surveys (appendix 3). Information was requested from several agencies, including the Royal College of Midwives and the NHS (specifically chosen because of their known or likely encounters with FGM). This was by means of a bespoke brief survey with questions devised by the team. Replies were received from three out of the twelve agencies contacted. In order to keep the agencies anonymous, they will be referred to in the report as Agency 1, 2 and 3.
- e. **Interview research**. The agencies that the team went on to interview were those that gave a positive response to the request for interview made in the survey. Two of the twelve agencies approached were willing to be interviewed. The questions set were devised jointly by team members (appendix 4).
- f. **Other research** – a Twitter call-out to the legal profession regarding FGM experiences was conducted by the Open Justice Centre.

[...]

Open Justice Centre

The Open University
Walton Hall
Milton Keynes
MK7 6AA

General enquiries to: open-justice@open.ac.uk

Web: <https://www.open.ac.uk/open-justice/>

Twitter: @OU_OpenJustice