



Reporting forced marriage/ honour crime to the Police: Your rights

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Reporting forced marriage/ honour crime to the Police - Your rights

The police take reports of gender based violence such as forced marriage and honour crime, rape, sexual assault, domestic abuse and stalking very seriously. They have specially trained staff to deal with these offences and they work closely with partners to ensure that victim-survivors are provided with support throughout the process. Anyone who reports such incidents should expect to be treated with dignity, empathy and respect.

This leaflet will provide you with some information about what to expect if you report an incident to the police and outlines some of your basic rights. Many of these rights have been set out in the [Scottish Government Victim's Code for Scotland](#).

All citizens are entitled to certain rights as outlined in the Human Rights Act 1998. These rights are based on the principles of equality, dignity, fairness and respect. The Act not only protects the rights of individuals but it influences the actions of public organisations including police, Procurator Fiscal, NHS etc., who are required to adhere to these principles and to the legislation.

What does the law say about forced marriage and honour crime?

It is recognised that domestic abuse may also be a feature of a forced marriage or honour crime incident. Domestic abuse can be any form of physical, sexual or mental and emotional abuse which might amount to criminal behaviour and which takes place within a relationship. The term relationship means partners or ex-partners, and includes those who are married, cohabiting or in a civil partnership.

Honour crime (or honour based violence) is a term that is used to describe a range of offences that involve the victim-survivor being punished by their family or community for what is regarded as having brought 'shame' to them by not behaving in a manner the family or community believe is appropriate. Criminal actions including physical abuse, sexual abuse, confinement and forced marriage are committed as a means to 'restore honour'.

A forced marriage is one in which one or both parties do not consent to the marriage (or cannot consent in the case of children or adults with a mental disorder) and where coercion is involved. Coercion can include pressure (including physical, financial, emotional and sexual), deception, threats, blackmail and harassment.

Specialist guidance has been prepared to advise police officers and staff of specific issues and complexities in relation to these matters. In addition, there are specialist officers identified and who are consulted when each report is received. When carrying out investigations the police should be sensitive to any cultural issues while still upholding the law; and will be aware of emotional and complex family and extended community influences that may exist to discourage victim-survivors from reporting to the police.

General Guidance

When you report a gender based crime, the police then have responsibilities and certain things they then have to do which relate to your complaint. Broadly speaking this can include:

- Taking a statement from you and any other witnesses;
- Examining any crime scenes;
- If the crime relates to sexual violence, asking you to have a forensic medical examination;
- Taking items of yours for evidence or for further examination. If you refuse this, they might be able to obtain a warrant to seize them without your permission;
- Asking you to sign a permission form to access your personal files, for example medical or social work records. If you refuse this, they might consult the Procurator Fiscal and ask for a warrant;
- Linking you with support services and ensuring your wellbeing;
- Identifying and managing risk to others
- Providing you with a Victim Care Card that has details of the investigating officer, the incident reference number and the crime reported. If the crime is rape, the point of contact will be a specially trained Sexual Offences Liaison Officer (SOLO).

This is a process, and the time taken to complete these activities will depend on the individual circumstances, but the investigating officer has a responsibility to update you with their progress. Within this process it is important that you know that **you have rights**.

The rights you have can sometimes depend on what your crime relates to, but if it relates to sexual crime, domestic abuse, stalking or human trafficking then you can;

- **Request a male or a female officer. This should always be respected unless there are exceptional circumstances;**
- **If you are asked to have a forensic medical examination, you may also specify the gender of the doctor that you want. There is a shortage of specially trained female doctors, so this might not be possible;**
- **Give your statement somewhere you feel comfortable;**
- **Have someone with you for support when you give your statement, as long as they are not a potential witness;**
- **Ask the Police if they can return certain items that are taken for evidence as a priority to minimise the inconvenience caused, for example your mobile phone;**
- **Ask the police to explain the necessity of accessing any of your personal records, and make sure that the form is specific and only requesting access to files that are relevant to the investigation, not the whole file. The COPFS leaflet ‘Sensitive and Personal Records; Information for Victims of Sexual Crimes’ gives full guidelines.**

The Police have a responsibility to explain what is happening to you in language that you understand, and to keep you up to date with any investigation they are undertaking after you report. Sometimes, as part of an ongoing investigation the police might contact you without you having reported anything to them. This is particularly relevant with rape, sexual crime and domestic abuse investigators. It is entirely up to you whether you choose to provide a statement; if you do, you may be called to court to give evidence.

If I report forced marriage or honour crime to the police what should I expect?

The police recognise that there are many reasons why an individual who has been the victim of a forced marriage or honour crime would be reluctant to come forward, including alienation by family members, risk of repercussions towards siblings and other family members, and the stigma of involving the police. Where the victim-survivor relies on the offender, other issues can be relevant such as language difficulties, lack of knowledge of the law or immigration status.

The safety and wellbeing of the victim-survivor is the priority for the police, regardless of their individual circumstances, and they will work with other agencies to ensure that this remains the main concern.

When you make initial contact with police you can request to deal with a male or female officer, whichever you feel more comfortable with. The police must meet this request unless there are exceptional circumstances. Similarly, if you are worried about a uniformed officer attending you should explain this and ask for plain clothes officers.

The initial priority for the police will be your safety and wellbeing, and that of your family. They will ask for your help to complete a Risk Assessment and Protection Plan form at an early stage. This will involve asking a number of questions. The purpose of this is to ensure that they are able to create an appropriate safety plan for you, but if you are uncomfortable with any of the questions, or you're not sure of the purpose of any questions then you can ask for an explanation. They may, for example, ask for details of your passport or request to take your fingerprints, a mouth swab for DNA and your photograph. All of this is to put measures in place to ensure your safety, however you can decline. The police will discuss protection and safety advice with you and will provide you with details of support agencies that can assist you.

Their investigation will be thorough and will be carried out by officers who have specialist knowledge of forced marriage and honour crime. It is recognised that pressure and duress are common features of these types of crimes. To ensure that there is no influence or pressure applied to the victim-survivor, in general terms there is a presumption to prosecute. Therefore if, for whatever reason, you don't want to continue with your report, this may not mean the end of the police investigation. Similarly, for the same reasons, the police can conduct an investigation even where the victim-survivor does not make a report and does not provide a statement.

Forced marriage is covered by both criminal and civil law in Scotland. The Anti-Social Behaviour, Crime and Policing Act 2014, section 122 creates a criminal offence of forced marriage. It is committed by anyone who uses violence, threats or coercion for the purposes of causing a person to enter a marriage where he/she believes, or should reasonably believe, that the person has not freely consented.

The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 allows for an application to be made to a Sheriff who can issue a civil Forced Marriage Protection Order (FMPO). These Orders are granted for the purposes of protecting a person from being forced into marriage, an attempt to force them in to marriage or where they have already been forced into marriage. They can either restrict the behaviour of individuals (for example prohibiting them from contacting the protected person) or require them to do certain things (such as surrendering their passport to the courts). If a person breaches the terms of a FMPO it is a criminal offence for which they can be arrested. Applications can be made by the victim-survivor or by certain organisations on their behalf in recognition of the difficulties some may have in making a formal report. For example, as part of ongoing court proceedings the Court can grant a FMPO; or a Local Authority can make an application (this would include social work).

It is possible to have both civil and criminal elements of legislation apply at the same time.

Where the victim-survivor is a child, statutory child protection procedures and national child protection guidelines will be applied across agencies. The safety and wellbeing of the child will take priority and decisions and action will be taken in the best interests of the child.

What happens after the police investigation?

If the police charge an offender they are likely to be arrested and kept in police custody until they make an appearance at court.

At court, the offender will be either kept in custody until a trial date, released from custody on bail until trial or released from custody with no further action. Where the offender has been released from court on bail, as standard they will be prohibited from anything that influences or attempts to influence witnesses in the case (including the victim-survivor) and they must not reoffend. Depending on the circumstances they may also impose special bail conditions such as preventing them from contacting, or attempting to contact you or other witnesses; or from coming within a stated distance of you.

If the offender breaches the conditions of bail, then this is a further offence. Where there is sufficient evidence in law, he/she will be arrested, charged and kept in custody until a further court appearance. Where there is not enough evidence however to charge, the circumstances may be reported to the Procurator Fiscal who in turn can apply to the courts to review the conditions of bail and amend them if appropriate. You should contact police if there is any breach of bail conditions, even if there are no witnesses.

If the offender is released on bail then you should be notified that same day, or within 24 hours by either VIA (Victim Information and Advice service at the court) or the police.

The police should agree with you amended safety and protection advice in the event of the offender being released from court either on bail or with no further criminal action.

What other options do I have to keep myself safe?

There may be other, alternative courses of action open to you that will help provide you with security and reassurance, and the police should discuss these with you. This includes various legal measures, known as protective orders, including Exclusion Orders, Non-Harassment Orders and Domestic Abuse Interdicts.

A Non-Harassment Order is an order that the court can make to help protect you from someone who is harassing you. This order can prevent a person from approaching or contacting you, threatening or abusing you, using physical violence against you or damaging your property. Applications are made to the court by a solicitor on your behalf. If an order is granted and the person to whom the order applies breaches it, then they will be committing a criminal offence for which they can be arrested.

The Scottish Women's Rights Centre [Stopping Harassment Guide](#) available on our website contains a clear and useful guide to Non-Harassment orders. Similarly, the Scottish Women's Rights Centre can provide further information in relation to the various protective orders that are available.

I am not satisfied with the police action, what should I do?

If there are aspects of the police investigation that you are not satisfied with, or are unsure of, it may be useful in the first instance to ask for an explanation or for more details from the police. If for whatever reason that is not an option or, having done that you are still unsatisfied, you can make a formal complaint against the police.

Your support worker can help you with this or you can make a complaint directly to [Police Scotland](#).

If, following the conclusion of your complaint to the police, you are still not satisfied, you can refer your complaint to the Police Investigation and Review Commissioner (PIRC). PIRC are independent of the police and will review the police's handling of your complaint.

Criminal Injuries Compensation Authority (CICA)

Victim-survivors of crimes of violence, sexual abuse or physical abuse can apply to the Criminal Injuries Compensation Authority for compensation where they have been physically or mentally injured as a result of the crime. If the victim-survivor was an adult (aged 18 and over) at the time, the claim must be made within 2 years of the incident (unless in exceptional circumstances). The two-year rule does not apply where the victim-survivor was below the age of 18. All crimes must be reported to the police before a compensation claim will be considered.

Your support worker can help you with any application, or full details of the application process can be found on the [CICA website](#).

Glossary of Terms

CICA	Criminal Injuries Compensation Authority
COPFS	Crown Office and Procurator Fiscal Service
DAU	Domestic Abuse Unit
PIRC	Police Investigation and Review Commissioner
SIO	Senior Investigating Officer
SOLO	Sexual Offences Liaison Officer
VCC	Victim Contact Card
VIA	Victim Information and Advice

Support Agencies and Contact Details

Scottish Women's Rights Centre

Helpline: 08088 010 789 (opening times available on website)

Website: www.scottishwomensrightscentre.org.uk

Rape Crisis Scotland

Helpline: 08088 01 03 02 (everyday 6pm-midnight)

Website: www.rapecrisisscotland.org.uk

Scottish Women's Aid

Website: www.womensaid.scot

Local specialist groups: www.womensaid.scot/find-nearest-swa-group/

Scotland's Domestic Abuse and Forced Marriage Helpline

Helpline: 0800 027 1234 (24 hour)

Website: www.sdafmh.org.uk

Email: helpline@sdafmh.org.uk

Police Scotland

Telephone: 101 (non-emergency)

999 (emergency only)

Website: www.scotland.police.uk

National Stalking Helpline

Helpline: 0808 802 0300

(daily 9.30am-4pm except Wednesday 1pm-4pm)

Website: www.suzylamplugh.org

**For information on local services please visit the
Scottish Women's Rights Service website.**

For further information about the SWRC
and its services please visit our website at:

www.scottishwomensrightscentre.org.uk

HELPLINE:

08088 010 789

Tues: 6 - 9pm / Wed: 1.30 - 4.30pm / Fri: 10am - 1pm

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