

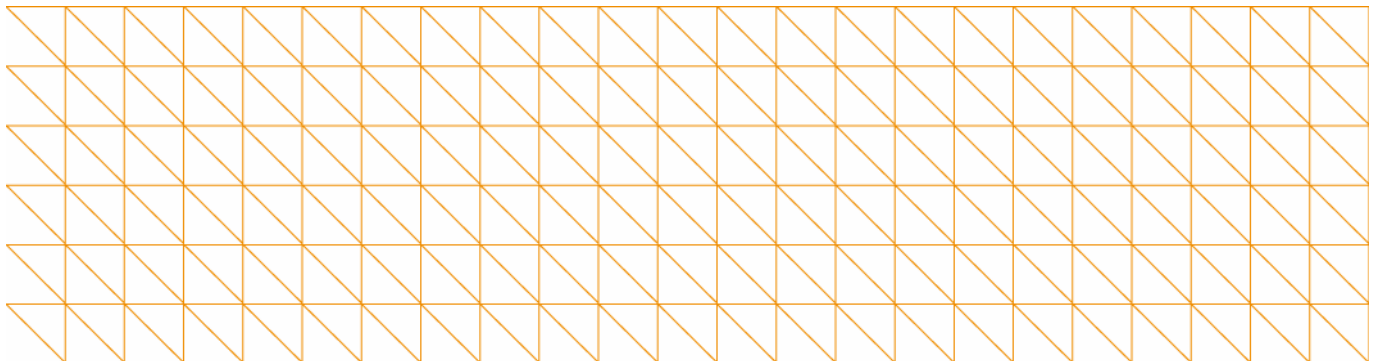


# **Forced Marriage (Civil Protection) Act 2007 – Court Rules – Response to Consultation**

**Response to Consultation**

CP(R) 02/08

30 September 2008







Ministry of  
**JUSTICE**

## **Forced Marriage (Civil Protection) Act 2007 – Court Rules – Response to Consultation**

**Response to consultation carried out by the Ministry of Justice.**

**This information is also available on the Ministry of Justice website:  
[www.justice.gov.uk](http://www.justice.gov.uk)**

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## Introduction and contact details

This document is the post-consultation report for the consultation paper, Forced Marriage (Civil Protection) Act 2007 – Court Rules.

It will cover:

- the background to the report
- a summary of the responses to the report
- a detailed response to the specific questions raised in the report
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting **Janice Stevenson** at the address below:

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This report is also available on the Ministry's website: [www.justice.gov.uk](http://www.justice.gov.uk).

## **Background**

The consultation paper 'Forced Marriage (Civil Protection) Act 2007 – Court Rules' was published on 31 January 2008. It invited comments on the general approach adopted by the draft court rules for applications for Forced Marriage Protection Orders, available under the Act.

The Forced Marriage (Civil Protection) Act 2007 (the Act) received Royal Assent in July 2007. The Act inserts a new Part 4A into the Family Law Act 1996 enabling the family courts to make Forced Marriage Protection Orders. The aim of the Act is to provide protection to those at risk of forced marriage and to provide recourse for those who have already been forced into marriage. It sends out a strong signal that forced marriage is unacceptable and will not be tolerated. The Act is due to come into force on 25 November 2008.

The Act itself provides the overall framework for the courts to make Forced Marriage Protection Orders. The rules for the Act, which outline the procedure and detail for proceedings, are made as a statutory instrument and amend the existing Family Proceedings Rules 1991.

The Family Proceedings Rule Committee (the Committee), with the approval of the Lord Chancellor, makes the rules. The Committee approved the draft rules for consultation. As part of the overall implementation of the Act, there will be amendments made to other existing family court legislation.

The consultation set out the general approach adopted by the draft rules for applications for Forced Marriage Protection Orders. Generally, the draft rules were based upon family court rules for orders under Part 4 of the Family Law Act 1996. The consultation highlighted the main areas where the draft rules departed from this in order to meet the requirements of the Act.

The consultation period closed on 24 April 2008 and this report summarises the responses, including how the consultation process influenced the final rules.

A list of respondents is at Annex A.

### **Scope of Response**

The consultation was limited to the content of the draft court rules. Comments received on the content and implementation of the Act were not provided to the Committee and are not commented upon in this response. Examples included court fees, public awareness, funding, the provisions of the Act in relation to the relevant third party and breach of an order, the allocation of the judiciary and the number of courts hearing applications during the first phase of implementation. However, where relevant, issues were taken forward in relation to other areas of the work to implement the Act.

### **Family Proceedings Rules 1991**

Within this response the Family Proceedings Rules 1991 are abbreviated to FPR 1991.

## Summary of responses

1. Rules of court provide the detail and technical aspects that support the implementation of an act in the courts. Consequently, the consultation was aimed primarily at the professional family court users familiar with family court rules, practice and procedure as provided by the Family Proceedings Rules 1991 and other court rules. Such professional advisers will be in a position to advise and explain the rules to victims and third parties when the Act comes into force.
2. Nine responses to the consultation paper were received. Of the responses four were from the legal profession and the judiciary and two were from victim support groups. One response was received from a local authority domestic violence team, a member of the public and CAFCASS Cymru.
3. Generally the approach of basing the draft rules on existing rules for part 4 of the Family Law Act 1996 was welcomed by respondents.

‘The decision to model Forced Marriage Protection Orders as far as possible on the Part 4 Family Law Act procedure has our whole hearted support’ *Association of District Judges*

‘The rules appear comprehensive and appropriately based on existing orders under part 4 of the Family Law Act 1996, with some necessary differences’ *Family Justice Council*

4. The responses made on the draft rules were provided to the Committee for consideration. As they were limited in number and of a technical nature commenting on the detail of specific rules, they are listed in the next section together with the decisions of the Committee.

## Responses to specific questions

### 1. Do you have any comments on the draft rules? If so, please state them.

The following table lists the comments made on the draft rules together with the decisions of the Committee. During the drafting process the numbering of the some of the rules has been changed. The references to rules in the comments column relates to the draft rules as provided in the consultation document. The references to rules in the response column correspond to the rules in Annex B of this response document.

Comment	Response
<p>Rule <b>3.25(2)</b> refers to a person who has been forced into a marriage in which case provision should be made for the person automatically to be able to disclose the papers filed within the FMCPA into any nullity proceedings issued pursuant to s. 12(c) Matrimonial Causes Act 1973 and FPR 1991 rr 2.1/2.51.</p>	<p>The revised draft rules now frames the definition of ‘the person who is subject to the proceedings’ in terms of their role in proceedings. As to automatic disclosure into nullity proceedings, a Forced Marriage Protection Order (FMPO) can be made pre or post a marriage. Under FPR 1991 Part II the court seized of any nullity proceedings can give directions for disclosure of evidence suitable for the particular case, including where there have previously been forced marriage proceedings. Therefore is no need for the rules to provide specifically for such cases.</p>
<p>An application can be made by an organisation or another individual who is not the victim (i.e. the person who is the subject of the proceedings). The rules as currently drafted make provision for an organisation only but not for other individuals who are not the person who is the subject of the proceedings.</p> <p>Under <b>Rule 3.26</b> propose the changes highlighted in <u>italics</u>: - (2) An application for a forced marriage protection order made by an organisation <i>or an individual who is not the person who is the subject of the proceedings shall state</i> – etc.</p>	<p>Under section 63C “any other person with the leave of the court” may make an application for an FMPO. The draft rules are consistent with this, draft <b>rule 3.27</b> dealing with the leave stage. No change made.</p> <p>There is no need for <b>rule 3.26</b> to deal separately with any particular category of applicant, whether the applicant is the person to be protected, a “relevant third party” or “any other person”. No change made.</p>

Comment	Response
<p>Following from the above under <b>Rule 3.26</b> we would recommend the following changes highlighted in <u>italics</u>:- (2) (b) The position which <i>he or she</i> holds in the organisation where relevant</p>	<p>Draft <b>Rule 3.26 (2)(b)</b> is amended to “the position which that person holds in the organisation.”</p>
<p>In Rule <b>3.26(3)</b> suggest “Where an application is made without notice it shall be supported by a sworn <del>statement</del> <u>affidavit</u> explaining why notice has not been given <u>and the basis of the application.</u>”</p>	<p>As with other Part IV applications an applicant only has to give a sworn statement of facts in support when making an application without notice. No change made.</p>
<p>Rule <b>3.27 (1)</b> of the draft rules clarifies how an application is made and the required contents of such an application. Presumably, a Court contemplating a forced marriage protection order of its own initiative need not comply with Rule 3.27 (1) of the draft rules.</p>	<p>In such a case, where there is no application, <b>draft rule 3.27</b> is not triggered. However, new <b>draft rule 3.34</b> is for cases where the court makes an FMPO of its own motion. One of the requirements of the new draft rule is that the court must set out in the order a summary of its reasons for making the order.</p>

Comment	Response
<p>Under <b>Rule 3.28</b> provision is made for personal service of a court order only where the Applicant is acting in person but an organisation will not have such facility and will be obliged to pay the costs of instructing a process server to personally serve the order on a Respondent. There could be more than one Respondent and the costs of such personal service could be significant. Where the organisation is a charity such as women’s refuge it would be wholly inappropriate to expect such organisation to pay the costs of personal service particularly where such organisation would not entitled to apply for public funding (legal aid) to make such application. Our understanding is that public funding is going to be limited to the person who is the subject of the proceedings only. If that is the case then the court should take responsibility for personal service not only where an Applicant is acting in person but also where an application has been brought by an organisation.</p> <p>We would recommend <b>rules 3.28</b> be amended as follows:-</p> <p>4 Where the Applicant is an individual and is acting in person or is an organisation service of the application shall be effected by the court if the Applicant or organisation so requests.</p> <p>For the same reasons referred to at rule 3.28 above we would recommend that <b>rule 3.31</b> is amended as follows:-</p> <p>(5) Where the Applicant is an individual and is acting in person or is an organisation etc.</p>	<p>The draft forced marriage rules are modelled generally on the FPR 1991 rules relating to applications under Part IV of the Family Law Act 1996. For example, FPR 1991 rule 3.9(5) provides that the court shall serve the order if requested to do so by an applicant who is acting in person. In the forced marriage context, it is acknowledged that there may be circumstances when an organisation is not in a position to serve a respondent. Accordingly, draft <b>rules 3.28(3) and (4) and 3.33(6)</b> have been re-drafted to allow any applicant to ask the court to effect service of the application or order.</p>
<p><b>Rule 3.28 (6)</b> insert he ‘or she’ has served the application.</p>	<p>The sub rules (now <b>draft rule 3.28 (4)</b> is amended to ‘after the application has been served.’</p>

Comment	Response
<p>Time limits for submitting written representations are not defined. The section does refer to a “specified period”. It would be helpful if there was a maximum period of time, i.e. 7 or 14 days maximum, but less if court feels it is necessary. This will ensure that there are strict court time limits and that the court proceedings are not delayed.</p>	<p>The approach taken leaves all time limits flexible so that the court can give directions specifying time limits appropriate to the particular case. No change made.</p>
<p><b>Rule 3.29 (2)(a)</b> – It is unclear who is deemed a ‘proper officer’ for the purposes of this paragraph.</p>	<p>The term ‘proper officer’ is defined in FPR 1991 rule 1.2 (Interpretation) and is widely used and understood. No change made. (Note: this rule has now been re-drafted and is now draft <b>rule 3.30</b>)</p>
<p><b>Rule 3.30</b> – Local Authorities are often happy to disclose chronological summaries of their involvement with a particular proposed protected person or his or her family, and provision should be made for statutory bodies to file such documents which may be termed as ‘FMCPA summary document’ for the courts information.</p>	<p>If there is local authority involvement, the court can make a direction to this effect if it sees fit. No change made. (Note: Rule 3.30 has now been divided into two separate rules namely <b>draft rules 3.31 and 3.32</b>)</p>

Comment	Response
<p>In many situations the protected person does not want affidavits referring to his/her communications with a solicitor or for example the Forced Marriage Unit to be disclosed to the other parties during the proceedings, while he/she continued to be at risk (e.g. abroad) of being harmed or forced into a marriage. Therefore, under <b>Rule 3.30</b> provision should be made to allow the redaction or withholding of evidence where required by the facts of the case. 3.30(10) seems only to apply to claims to withhold documents due to PII and not due to practical necessity, where a vulnerable young person's life may be at risk by virtue of disclosure to the parties. Otherwise one runs the risk of provoking the very act one is trying to avoid by commencing proceedings under this statute and serving the evidence.</p>	<p>The court will deal with questions relating to the filing and service of evidence at the directions stage. In this regard no change is made.</p> <p>However, at the order stage, new <b>draft rule 3.33(4)</b> allows the court to direct the withholding of submissions or evidence from the record of the hearing in order to protect the person who is the subject of the proceedings, any other person or for any other good reason.</p>
<p>Rule <b>3.31(4)(b)</b> – amend to "...a copy of the record of the hearing where it was without notice. Unless owing to the sensitive nature of submissions and evidence produced at the without notice hearing the court decides that, for the time being, no such record should be produced."</p>	<p>New <b>sub-rule 3.33(4)</b> is intended to deal with the point (see above)</p>
<p>Suggest the following addition to Rule <b>3.30(14)</b> – An application under paragraph (8) or paragraph (12) shall be supported by evidence <u>in sworn affidavit form</u>.</p>	<p>As mentioned above, the draft rules are modelled on those for applications under Part 4 of the Family Law Act 1996 generally and in this particular respect. No change made</p>
<p>Rule <b>3.31(4)(c)</b> – "where the order is made without notice, a copy of the application together with any <u>sworn</u> statement supporting it."</p>	<p>No change made – see above</p>

Comment	Response
<p>There is no provision in the rules to allow an Applicant to withhold his or her address or for an organisation such as a refuge to withhold their address. There needs to be a similar form to that in Children Act proceedings (Form C8) that an Applicant can complete and submit to the court with Form FL401A and therefore withhold the address in Form FL401A.</p>	<p>FPC 1991 rule 10.21(1) (disclosure of addresses) allows a party to withhold his/her private address or that of a child, unless the court orders otherwise. Under rule 10.21(2), a party who declines to reveal his/her (or a child's) address has to inform the court of the address on Form C8 and the address will not be revealed to any person save by order of the court. Please note that Form C8 is referred to in the application form.</p> <p>In forced marriage applications, FPR 1991 rule 10.21 will avail the person to be protected where s/he is the applicant or a party, but not otherwise. Accordingly, rule 10.21 is extended to (a) the person to be protected where s/he is not a party to the proceedings and (b) to any witness who is not a party. Rule 11 of the new draft rules makes these amendments.</p>
<p>Provision should be made for a Court to make a Forced Marriage Protection Order of its own motion without the need for a formal application for a short term, without notice, Forced Marriage Protection Order similar to S42(2)(b) Family Law Act 1986.</p>	<p>Section 63C(6) allows the court to make an FMPO, where no application has been made, in the circumstances set out in the subsection. This jurisdiction is reflected in draft <b>rule 3.34</b>.</p>
<p>Provision should also be added to allow for a penal notice to be attached automatically to the relevant injunctive aspects of the Forced Marriage Protection Order.</p>	<p>The court must attach a power of arrest to one or more provisions of the order unless it considers that there is adequate protection without a power of arrest (section 63H(2)). The order (FL404B) includes a warning in relation to the consequences of failing to comply with the order. No change made.</p>

Comment	Response
<p>Provision should also be made for the person in need of continuing protection not to attend court personally unless and until the court specifically requires him/her to give discrete oral evidence (please see below where the venue of these proposed proceedings is dealt with).</p>	<p>This is a matter that can be dealt with by the court giving directions appropriate to the particular case. No change made.</p>
<p>Provision should also be made for the person in need of continuing protection not to attend court personally unless and until the court specifically requires him/her to give discrete oral evidence</p> <p>A further point regarding the venue is that a protected person travelling to the RCJ in London or a District Registry in an area which is different to that within which s/he lives provides greater protection. They can give evidence via video-link and will also be able to avoid ugly local scenes that sometimes occur outside court, where friends and relatives of aggrieved parties congregate in these cases. Dislocating the parties from their home town for the purposes of these proceedings in its initial stages puts them all on an equal footing and adds to the protective arrangements that is at the heart of this Statute.</p>	<p>The court's general direction-giving powers are sufficient to deal with any questions relating to attendance at court and how evidence is to be given (for example, whether a party or witness may give the evidence remotely by video link). No change made.</p> <p>Likewise, the court can deal with questions of venue by giving directions appropriate to the particular case. No change made.</p>
<p>Clear links should be made to Occupation Order applications and Non-Molestation Order applications and whether an individual, by virtue of issuing an application under Part 4 A Family Law Act 1996 is deemed to have also issued applications for protective relief available under the same Act to avoid domestic violence.</p>	<p>Whilst it is right that forced marriage is seen as a form of domestic violence, applications for non-molestation and occupation orders are for different types of relief and should be applied for expressly and separately. No change made.</p>

Comment	Response
<p>Section 63C (6) of the Family Law Act 1996 (as amended by the 2007 Act) allows a court of its own motion to make a Forced Marriage Protection Order in any other family proceedings without an application being made to it. The draft court rules do not expressly mention this important provision.</p>	<p>Where a court is not designated to deal with Forced Marriage proceedings, it will not be able to make an order of its own motion. If all family courts were designated to deal with Forced Marriage proceedings, this would conflict with the aim of developing expertise in a small number of courts during the first phase of implementation. It should be borne in mind that family courts which are not designated to deal with Forced Marriage proceedings will have all their present powers to make protective orders, e.g. non-molestation, care etc. No change made.</p>
<p><b>Rule 9.2 and 9.2A</b> of the Family Proceedings Rules 1991 would be applied in some circumstances to allow a minor to bring or defend proceedings without the assistance of a next friend or guardian ad litem. However, those involved in forced marriages are particular vulnerable to family pressures and an independent next friend or guardian ad litem is essential to protect their interests. Where appropriate, consideration will need to be given to the appointment of a guardian ad litem to look after the best interests of the child during the course of the proceedings.</p>	<p>The Committee considered this aspect of the rules during initial drafting and agreed that the provisions afforded by FPR 1991 rule 9.2A (Certain minors may sue without next friend etc.) afforded adequate protection, whilst ensuring that a child could make an application easily. In addition FPR 1991 rule 9.5 (Separate representation of children) applies without prejudice to rule 9.2A; and under rule 9.5 an officer of the service or a Welsh family proceedings officer may be appointed as guardian ad litem if this appears to the court to be in the best interests of the child (as may be the Official Solicitor or some other proper person, but subject to their consent to the proposed appointment). No change is made i.e. rule 9.2A will apply to Part 4A applications.</p>

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- 2. Do you have any comments on any other part of this consultation? If so, please state them.**

All comments on the draft rules are given under the response to question 1

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## Conclusion and next steps

1. The responses to the consultation were reviewed by the Committee and helped to determine the final content of the draft rules. The final draft of the rules in the form of a Statutory Instrument is in Annex B.
2. The rules will be made as a Statutory Instrument and laid before Parliament ensuring they are in place when the Act comes into force on 25 November 2008.
3. It should be noted that the draft statutory instrument also contains a small number of references to amendments being made by the Tribunals, Courts and Enforcement Act 2007 at rules 2, 3(a), 5, 6, 10 and 12. These should be ignored for the purposes of this response.
4. Rules of court provide the detail and technical aspects that support the implementation of the Act in the court. The separate need to ensure the public have access to clearly written leaflets and information to ensure that anyone making an application knows what to do is recognised. This public information will be developed for the implementation of the Act.
5. We would like to take the opportunity to thank all respondents who took the time to provide comments on the draft rules and helped shape their development.

## **Consultation Co-ordinator contact details**

If you have any complaints or comments about the **consultation process** rather than about the topic covered by this paper, you should contact Gabrielle Kann, Ministry of Justice Consultation Co-ordinator, on 020 7210 1326, or email her at [consultation@justice.gsi.gov.uk](mailto:consultation@justice.gsi.gov.uk).

Alternatively, you may wish to write to the address below:

**Gabrielle Kann  
Consultation Co-ordinator  
Ministry of Justice  
5th Floor Selborne House  
54-60 Victoria Street  
London  
SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given on page 3.

## **The consultation criteria**

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

**These criteria must be reproduced within all consultation documents.**

## **Annex A – List of respondents**

Association of District Judges

CAFCASS Cymru

Family Law Bar Association

Family Justice Council

Hackney Domestic Violence and Hate Crime Team

Institute of Legal Executives (ILEX)

IMKANN

Jess Mortimer

Newham Asian Women's Project

## Annex B – The Family Proceedings (Amendment) Rules 2008

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STATUTORY INSTRUMENTS

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**2008 No.X (L. X)**

### **FAMILY PROCEEDINGS**

### **SUPREME COURT OF ENGLAND AND WALES**

### **COUNTY COURTS, ENGLAND AND WALES**

### **The Family Proceedings (Amendment) Rules 2008**

*Made* - - - - *16th September 2008*

*Laid before Parliament* *2008*

*Coming into force as provided in rule 1(2)*

The Family Proceedings Rule Committee makes the following Rules in exercise of the powers conferred by section 40(1) and (4)(aa) of the Matrimonial and Family Proceedings Act 1984(a):

#### **Citation and commencement**

- 1.—(1) These Rules may be cited as the Family Proceedings (Amendment) Rules 2008.
- (2) These rules shall come into force as follows—
  - (a) this rule and rules 2, 3(a), 5, 6, 10 and 12 shall come into force on 3rd November 2008; and
  - (b) the remaining rules shall come into force on 25th November 2008.

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(a) 1984 c.42. Section 40(1) was amended by section 25(3) of and paragraph 50 of Schedule 18 to the Courts and Legal Services Act 1990 (c.41), section 62(5) of the Children Act 2004 (c.31) and section 15(1) of and paragraphs 379 and 380 of Schedule 4 to the Constitutional Reform Act 2005 (c.4) and will be repealed (on a date to be appointed) by section 109(1) of and paragraph 278 of Schedule 8 to, and Schedule 10 to, the Courts Act 2003 (c.39). Section 40(4) was inserted by section 62(5) of the Children Act 2004 (c.31).

### Amendments to the Family Proceedings Rules 1991

2. The Family Proceedings Rules 1991(a) shall be amended in accordance with the provisions of rules 3 to 13.

3. In the Arrangement of Rules—

- (a) in the entry for rule 3.23, for “Child Support Commissioner”, substitute “Upper Tribunal”;
- (b) after the entry for rule 3.24, insert—

“3.25 Proceedings under Part 4A of the Family Law Act 1996: interpretation of rules and forms

3.26 Applications under Part 4A of the Family Law Act 1996 for forced marriage protection orders

3.27 Leave stage for forced marriage protection orders

3.28 Service of the application for a forced marriage protection order

3.29 Transfer of proceedings

3.30 Parties to proceedings for a forced marriage protection order

3.31 Orders for disclosure against a person not a party

3.32 Claim to withhold inspection or disclosure of a document

3.33 Hearing of applications for forced marriage protection orders

3.34 Forced marriage protection orders made by the court of its own motion

3.35 Enforcement of forced marriage protection orders

3.36 Applications under Part 4A of the Family Law Act 1996: bail”; and

- (c) after the entry for rule 8.1A, insert—

“8.1B Appeals from orders made under Part 4A of the Family Law Act 1996”.

4. In rule 3.8, for paragraph (9) substitute—

“(9) Subject to any enactment, where an application for an occupation order or a non-molestation order is pending, the court may transfer the proceedings to another court of its own motion or on the application of either party; and any order for transfer shall be made in Form FL417.”.

5. In rule 3.22(1) for “appeal tribunals” substitute “First-tier Tribunal”.

6. In rule 3.23 —

- (a) in the heading for “Child Support Commissioner” substitute “Upper Tribunal”;
- (b) in paragraph (1) for the words “25 of the Act of 1991” to the end, substitute “13 of the Tribunals, Courts and Enforcement Act 2007(b) (right to appeal to Court of Appeal etc)”;

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(a) S.I. 1991/1247. Relevant amending instruments are S.I. 1991/2113, 1992/456 and 2067, 1993/295, 1994/3155, 1996/816, 1997/637, and 1893, 1998/1901, 1999/3491, 2001/821, 2003/184, 2839 and 3079, 2004/3375, 2005/264, 412, 559, 1976 and 2922 and 2007/1622 and 2187.

(b) 2007 c.15.

- (c) in paragraph (2) for “Commissioner” substitute “Upper Tribunal”; and
- (d) in paragraph (3) for “Commissioner’s” substitute “Upper Tribunal’s”.

7. After rule 3.24, insert—

**“Proceedings under Part 4A of the Family Law Act 1996: interpretation of rules and forms**

**3.25.**—(1) In rules 3.26 to 3.36—

“a forced marriage protection order” means an order under section 63A of the Family Law Act 1996(a);

“the person who is the subject of the proceedings” means the person who will be protected by the forced marriage protection order applied for or being considered by the court of its own motion, if that order is made, or who is being protected by such an order.

(2) In connection with proceedings under Part 4A of the Family Law Act 1996, references in the forms mentioned below to “respondent” are to be read—

- (a) in Forms FL408, FL413 and FL414, as references to the respondent or other person who has failed to comply with the forced marriage protection order or is otherwise in contempt of court in relation to the order;
- (b) in Forms FL409, FL410, FL411 and FL412, as references to the respondent or other person arrested under section 63I or 63J of the Family Law Act 1996(b).

**Applications under Part 4A of the Family Law Act 1996 for forced marriage protection orders**

**3.26.**—(1) An application for a forced marriage protection order, including an application for a forced marriage protection order which is made in other proceedings which are pending, shall be made in Form FL401A.

(2) An application for a forced marriage protection order made by an organisation shall state—

- (a) the name and address of the person submitting the application; and
- (b) the position which that person holds in the organisation.

(3) Where an application is made without notice, it shall be supported by a sworn statement explaining why notice has not been given.

**Leave stage for forced marriage protection orders**

**3.27.**—(1) Where the leave of the court is required to apply for a forced marriage protection order, the person seeking leave shall file—

- (a) a written request for leave in Form FL430 setting out—
  - (i) the reasons for the application;
  - (ii) the applicant’s connection with the person to be protected;

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(a) 1996 c.27. Section 63A was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 (c.20).  
(b) Sections 63I and 63J were inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007.

- (iii) the applicant's knowledge of the circumstances of the person to be protected; and
  - (iv) the applicant's knowledge of the wishes and feelings of the person to be protected;
  - and
  - (b) a draft of the application for the making of which leave is sought, together with sufficient copies for one to be served on each respondent and the person to be protected.
- (2) As soon as practicable after receiving a request under paragraph (1), the court shall—
- (a) grant the request, or
  - (b) direct that a date be fixed for the hearing of the request and fix the date,
- and the proper officer shall inform the following persons of the court's action under this paragraph—
- (i) the person making the request,
  - (ii) the respondent,
  - (iii) (if different) the person to be protected, and
  - (iv) any other person directed by the court.
- (3) Where leave is granted to bring proceedings, the application shall proceed in accordance with rule 3.26.

### **Service of the application for a forced marriage protection order**

**3.28.**—(1) Subject to paragraph (3), in every application made on notice the applicant shall serve a copy of the application, together with the notice of proceedings in Form FL402A, on—

- (a) the respondent,
- (b) the person who is the subject of the proceedings (if not the applicant), and
- (c) any other person directed by the court,

personally not less than 2 days before the date on which the application will be heard.

(2) The court may abridge the period specified in paragraph (1).

(3) Service of the application shall be effected by the court if the applicant so requests.

This does not affect the court's power to order substituted service.

(4) The applicant shall file a statement in Form FL415 after the application has been served.

### **Transfer of proceedings**

**3.29.**—(1) Subject to any enactment, where proceedings under Part 4A of the Family Law Act 1996 are pending, the court may transfer the proceedings to another court of its own motion or on the application of a party or (if not a party) the person who is the subject of the proceedings.

(2) The order for transfer shall be in Form FL417.

### **Parties to proceedings for a forced marriage protection order**

**3.30.**—(1) In proceedings under Part 4A of the Family Law Act 1996, a person may file a request in Form FL431 for that person or another person to—

- (a) be joined as a party, or
- (b) cease to be a party.

(2) As soon as practicable after receiving a request under paragraph (1), the court shall do one of the following—

- (a) in the case only of a request under paragraph (1)(a), grant the request;
- (b) order that the request be considered at a hearing, and fix a date for the hearing; or
- (c) invite written representations as to whether the request should be granted, to be filed within a specified period, and upon expiry of that period act under sub-paragraph (a) or (b) as it sees fit;

and the proper officer shall inform the following persons of the court's action under this paragraph—

- (i) the person making the request,
- (ii) the applicant and the respondent,
- (iii) (if different) the person who is the subject of the proceedings, and
- (iv) any other person directed by the court.

(3) The court may direct—

- (a) that a person who would not otherwise be a respondent under these rules be joined as a party to the proceedings; or
- (b) that a party to the proceedings cease to be a party;

and such a direction may be made by the court of its own motion as well as upon a request under paragraph (1).

### **Orders for disclosure against a person not a party**

**3.31.**—(1) This rule applies where an application is made to the court under any Act for disclosure by a person who is not a party to the proceedings.

(2) The application must be supported by evidence.

(3) The court may make an order under this rule only where—

- (a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and
- (b) disclosure is necessary in order to dispose fairly of the proceedings or to save costs.

(4) An order under this rule shall—

- (a) specify the documents or the classes of documents which the non-party must disclose; and
- (b) require the non-party, when making disclosure, to specify any of those documents—
  - (i) which are no longer in his control; or
  - (ii) in respect of which he claims a right or duty to withhold inspection.

- (5) Such an order may—
- (a) require the non-party to indicate what has happened to any documents which are no longer in his control; and
  - (b) specify the time and place for disclosure and inspection.

**Claim to withhold inspection or disclosure of a document**

**3.32.**—(1) A person may apply, without notice, for an order permitting him to withhold disclosure of a document on the ground that disclosure would damage the public interest.

- (2) Unless the court orders otherwise, an order of the court under paragraph (1)—
- (a) must not be served on any other person; and
  - (b) must not be open to inspection by any person.

(3) A person who wishes to claim that he has a right or duty to withhold inspection of a document, or part of a document, must state in writing—

- (a) that he has such a right or duty; and
- (b) the grounds on which he claims that right or duty.

(4) The statement referred to in paragraph (3) must be made to the person wishing to inspect the document.

(5) A party or (if different) the person who is the subject of the proceedings may apply to the court to decide whether a claim made under paragraph (3) should be upheld.

(6) For the purpose of deciding an application under paragraph (1) (application to withhold disclosure) or paragraph (3) (claim to withhold inspection), the court may—

- (a) require the person seeking to withhold disclosure or inspection of a document to produce that document to the court; and
- (b) invite any person, whether or not a party, to make representations.

(7) An application under paragraph (1) or paragraph (3) shall be supported by evidence.

(8) This rule does not affect any rule of law which permits or requires a document to be withheld from disclosure or inspection on the ground that its disclosure or inspection would damage the public interest.

**Hearing of applications for forced marriage protection orders**

**3.33.**—(1) The hearing of an application for a forced marriage protection order shall be in chambers unless the court otherwise directs.

(2) A record of the hearing shall be made in Form FL405.

(3) The order made on the hearing shall be issued in Form FL404B.

(4) The court may direct the withholding of any submissions made, or any evidence adduced, for or at the hearing—

- (a) in order to protect the person who is the subject of the proceedings or any other person, or
- (b) for any other good reason.

(5) The applicant shall serve—

- (a) a copy of the order;
- (b) a copy of the record of the hearing; and
- (c) where the order is made without notice, a copy of the application together with any statement supporting it;

on the respondent, the person being protected by the order (if neither the applicant nor a respondent) and any other person named in the order, personally as soon as reasonably practical.

(6) Service of the documents mentioned in paragraph (5) shall be effected by the court if the applicant so requests or where the court made the order of its own motion.

(7) The court may direct that a further hearing be held to consider any representations made by the respondent, the person being protected by the order (if neither the applicant nor a respondent) and any other person named in the order.

(8) An application to vary, extend or discharge a forced marriage protection order shall be made in Form FL403A and this rule shall apply to the hearing of such an application.

#### **Forced marriage protection orders made by the court of its own motion**

**3.34.**—(1) Where the court makes a forced marriage protection order of its own motion under section 63C of the Family Law Act 1996(a), it shall set out in the order—

- (a) a summary of its reasons for making the order; and
- (b) the names of the persons who are to be served with the order.

(2) The court may order service of the order on—

- (a) any of the parties to the current proceedings;
- (b) (if different) the person being protected by the order; and
- (c) any other persons whom the court considers should be served.

(3) The court will give directions as to how the order is to be served.

(4) The court may direct that a further hearing be held to consider any representations made by any of the persons named in the order.

(5) Rule 3.33(8) applies to an order made under this rule as it applies to an order made under rule 3.33.

#### **Enforcement of forced marriage protection orders**

**3.35.**—(1) Subject to the following modifications, rule 3.9A shall apply to a forced marriage protection order as it applies to an order made under Part IV of the Family Law Act 1996.

(2) In paragraph (1)—

- (a) for “an occupation order”, substitute “a forced marriage protection order”;  
and
- (b) for “FL406”, substitute “FL406A”.

(3) For paragraph (1A), substitute—

---

(a) Section 63C was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007.

“(1A) Where paragraph (1) applies, the following documents shall be delivered to the officer for the time being in charge of any police station for the address of the person being protected by the order or of such other police station as the court may specify—

- (a) Form FL406A, and
- (b) a statement showing that the respondents and any other persons directed by the court to be served with the order have been so served or informed of its terms (whether by being present when the order was made or by telephone or otherwise).”

(4) In paragraph (1B)—

- (a) delete the words “on the respondent” in both places where they occur;
- (b) in sub-paragraph (a), for “3.9(2) or (4)”, substitute “3.33(5)”; and
- (c) in sub-paragraph (b), for “3.9(5)”, substitute “3.33(6) or 3.34(3)”.

(5) In paragraph (2)—

- (a) for “an occupation order or, as the case may be, any provisions of a non-molestation order”, substitute “a forced marriage protection order”; and
- (b) for “the applicant’s address”, substitute “the address of the person being protected by the order”.

(6) For paragraph (3), substitute—

“(3) An application for the issue of a warrant for the arrest of a person under section 63J(2) of the Family Law Act 1996 shall be—

- (a) made in Form FL407A; and
- (b) accompanied by a sworn statement.

(3A) An application for the issue of a warrant of arrest made by a person who is neither the person being protected by the order nor (if different) the person who applied for the order shall be treated, in the first instance, as an application for leave and the court shall either—

- (a) grant the application; or
- (b) direct that a date be fixed for the hearing of the application and fix a date,

and shall in either case inform the following persons of the court’s action—

- (i) the person applying for the issue of the warrant;
- (ii) the person being protected by the order;
- (iii) any other person directed by the court.

(3B) The warrant shall be issued in Form FL408.”

(7) In paragraph (5)—

- (a) for “IV”, substitute “4A”; and
- (b) for the words from “and CCR Order 29” to the end, substitute “and CCR Order 29, rule 1 shall have effect, as if for paragraph (3) there was substituted the following—

“(3) At the time when the order is drawn up, the proper officer shall, where the order made is (or includes) a forced marriage protection order, issue a copy of the order, indorsed with or incorporating a notice as to the consequences of disobedience, for service in accordance with paragraph (2).”

- (8) In paragraph (6), for “respondent”, substitute “arrested person”.
- (9) In paragraph (7)(b)—
  - (a) after “applicant”, insert “and (if different) the person being protected by the order”; and
  - (b) for “respondent”, substitute “person who has failed to comply with the order or is otherwise in contempt of court in relation to the order”.
- (10) In paragraph (9), for “respondent”, substitute “arrested person”.
- (11) In paragraph (10)—
  - (a) for “an occupation order”, substitute “a forced marriage protection order”;
  - (b) for “47(2) or (3)”, substitute “63H(2) or (4)”; and
  - (c) for “47(8)”, substitute “63J(2)”.

**Applications under Part 4A of the Family Law Act 1996: bail**

**3.36.**—(1) Subject to the following modifications, rule 3.10 shall apply to a forced marriage protection order as it applies to an order made under Part IV of the Family Law Act 1996.

- (2) In paragraph (1)—
  - (a) for “an occupation order”, substitute “a forced marriage protection order”;
  - (b) for “47(2) or (3)”, substitute “63H(2) or (4)”; and
  - (c) for “47(8)”, substitute “63J(2)”.
- (3) In paragraph (3), for “the applicant for the Part IV order”, substitute—
  - “—
  - (a) the applicant for the forced marriage protection order;
  - (b) the (or any other) respondent to the application for the order;
  - (c) (if different) the person being protected by the order; and
  - (d) any other person named in the order.”
- (4) In paragraph (4), omit sub-paragraphs (b) and (c).”.

**8.** After rule 8.1A, insert—

**“Appeals from orders made under Part 4A of the Family Law Act 1996**

**8.1B.**—(1) This rule applies to all appeals from orders made under Part 4A of the Family Law Act 1996 and on such an appeal—

- (a) paragraphs (2), (3), (4) and (5) of rule 4.22;
- (b) paragraphs (5) and (6) of rule 8.1; and
- (c) paragraphs (4)(e) and (6) of rule 8.2;

shall apply to the following provisions of this rule and with the necessary modifications.

(2) A district judge may dismiss an appeal to which this rule applies for want of prosecution and may deal with any question of costs arising out of the dismissal or withdrawal of an appeal.

(3) Any order or decision granting or varying an order (or refusing to do so) in proceedings under Part 4A of the Family Law Act 1996 shall be treated as a final

order for the purposes of CCR Order 37, rule 6 and, on an appeal from such an order, the judge may exercise his own discretion in substitution for that of the district judge and the provisions of CCR Order 37, rule 6 shall apply.”.

9. In rule 9.1(3), after “the Act of 1989”, insert “, Part 4A of the Family Law Act 1996”.

10. In rule 10.20A(3), in the fourth entry in the second column, for “an appeal tribunal” substitute “the First-tier Tribunal”.

11. In rule 10.21—

(a) after paragraph (1), insert—

“(1A) In proceedings under Part 4A of the Family Law Act 1996, a party is also not required to reveal the address of—

- (a) the person who is the subject of the proceedings; or
- (b) any witness;

unless the court directs otherwise.”; and

(b) in paragraph (2), for “paragraph (1) above”, substitute “this rule”.

12. In rule 10.21A(2)(c) for “an appeal tribunal” substitute “the First-tier Tribunal”.

13. In Appendix 1—

- (a) in the list of forms, at the end, insert the list of forms set out in Schedule 1;
- (b) for Forms FL413 and FL414, substitute the Forms set out in Schedule 2; and
- (c) at the end of Appendix 1, insert the forms set out in Schedule 3.

### **Transitional provision**

14. Where proceedings have been commenced before rule 4 comes into force, the Family Proceedings Rules 1991 shall apply to those proceedings as if rule 4 had not been made.

*Mark Potter, P  
Duncan Adam  
Bruce Edgington  
Angela Finnerty  
Charles Hyde  
David Salter  
Philip Waller*

I allow these Rules

*Michael Wills*  
Minister of State, Ministry of Justice

16th September 2008

## **SCHEDULE 1**

Rule 13(a)

FL401A	Application for a Forced Marriage Protection Order
FL402A	Notice of proceedings
FL403A	Application to vary, extend or discharge a Forced Marriage Protection Order
FL404B	Forced Marriage Protection Order
FL406A	Power of Arrest: Forced Marriage Protection Order
FL407A	Application for Warrant of Arrest: Forced Marriage Protection Order
FL430	Application for leave to apply for a Forced Marriage Protection Order
FL431	Application to be joined as, or cease to be, a party to Forced Marriage Protection Proceedings

## **SCHEDULE 2**

Rule 13(b)



In the

Case Number

**[Interim] Hospital Order**

Family Law Act 1996

Applicant  
Ref.  
Respondent  
Ref.

The Court orders that the respondent whose address is

be admitted to and detained in the following hospital

*[(name and address)]*

]

[and that the respondent be conveyed there by

]

[The Court directs that] [pending admission to that hospital within the period of 28 days the respondent shall be detained at a place of safety, namely:

]

[and shall be conveyed there by

]

The Court found that the respondent had breached one or more of the following:

- an occupation order
- a non-molestation order
- a forced marriage protection order
- an exclusion requirement included by virtue of section 38A of the Children Act 1989 in an interim care order made under section 38 of that Act
- an exclusion requirement included by virtue of section 44A of the Children Act 1989 in an emergency protection order under section 44 of that Act.

The Court [heard] [considered] the [written] evidence of two medical practitioners, namely

as required by the provisions of section 37 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [severe mental impairment] within the meaning of that Act.

The Court was satisfied that

- all other conditions, which under section [37] [38] of the Mental Health Act 1983 are required to be satisfied for the making of [a] [an interim] hospital order, are satisfied in respect of the respondent
- arrangements have been made for the respondent's admission to the hospital named above within 28 days of the date of this order.

Ordered by [Mr] [Mrs] Justice  
[His] [Her] Honour Judge  
District Judge [of the Family Division]  
Justice[s] of the Peace  
[Assistant] Recorder

on



In the

Case Number

---

Guardianship Order

Family Law Act 1996

---

Applicant  
*Ref.*  
Respondent  
*Ref.*

---

The Court orders  
that

the respondent  
whose address is

be placed under the guardianship of

[ social services authority]  
[ being a person approved by  
social services authority]

---

The Court found  
that

the respondent had breached one or more of the following:

- an occupation order
  - a non-molestation order
  - a forced marriage protection order
  - an exclusion requirement included by virtue of section 38A of the Children Act 1989 in an interim care order made under section 38 of that Act
  - an exclusion requirement included by virtue of section 44A of the Children Act 1989 in an emergency protection order under section 44 of that Act.
- 

The Court [heard]  
[considered]

the [written] evidence of two medical practitioners, namely

as required by the provisions of section 37 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [severe mental impairment] within the meaning of that Act.

---

The Court was  
satisfied that

- all other conditions, which under section 37 of the Mental Health Act 1983 are required to be satisfied for the making of a guardianship order, are satisfied in respect of the respondent
  - the [authority] [person] specified above is willing to receive the respondent into guardianship.
- 

Ordered by [Mr] [Mrs] Justice  
[His] [Her] Honour Judge  
District Judge [of the Family Division]  
Justice[s] of the Peace  
[Assistant] Recorder

---

on

SCHEDULE 3

Rule 13(c)

**Application for a Forced Marriage Protection Order**

Part 4A Family Law Act 1996

To be completed by the court	
Date issued	<input type="text"/>
Case number	<input type="text"/>
Name of court	<input type="text"/>

---

***Please read the accompanying notes on page 6 as you complete this form***

---

**1 About you (the applicant)**

Are you (tick only one box)

- the person who is to be protected by this order (see page 6)
- a relevant third party (see page 6)
- any other person (see page 6)

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

**If you do not wish your address to be made known to the respondent, leave this space blank and complete Confidential Address Form C8 (if you have not already done so). See notes for guidance on page 6.**

Address

Postcode <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

Telephone no. (optional)

Date of birth (if under 18)

//

For relevant third parties and any other person

Name of organisation (if applicable)

Position held in the organisation

**Your solicitor's details** (leave blank if you are representing yourself)

Full name

Name of firm

Address  
  
Postcode

Reference no.

Telephone no.

Fax no.

DX no.

**2 About the person to be protected** (see notes on page 6)

Mr.  Mrs.  Ms.  Miss  Other \_\_\_\_\_

Full name

If you do not wish the following address to be made known to the respondent, leave this space blank and complete Confidential Address Form C8 (if you have not already done so). See notes for guidance on page 6.

Address  
  
Postcode

Date of birth (if known)  
/ /

Tick this box if you do not know the date of birth but believe the person to be protected is under 18 years.

### 3 About the respondent(s)

If there are more than two respondents please continue on a separate sheet of paper.

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

Address

Postcode

Date of birth (if known)

/

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

Address

Postcode

Date of birth (if known)

/

**4 The Order(s) for which you are applying**

State what you want the order to say (for examples see page 6). Give full details in support of your application below (continue on a separate sheet if necessary) or in a separate statement. Include details of any violence that the respondent has used or threatened.

Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the sworn statement in support. (See notes for guidance on page 6.)

**5 At the court**

If you require an interpreter, you must notify the court now so that one can be arranged.

Will you need an interpreter at court?

Yes  No

If Yes, specify the language and dialect:

If you have a disability for which you require special assistance or special facilities, please state what your needs are. The court staff will get in touch with you about your requirements.

Please say whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provisions).

**6 Other information**

This could include name and address of any other persons who may become involved as a respondent.

**7 Other Proceedings and Orders**

If there are any other current family proceedings or orders in force involving you, the respondent(s) or the person to be protected, then where known, state the type of proceedings or orders, the court and the case number. Please attach a copy of the order if available.

**This application is to be served upon the respondent and the person to be protected by the order**

---

Signed:

Date:

## Application for a Forced Marriage Protection Order

### Notes for guidance

Please read these notes with the leaflet FL701 'Forced Marriage Protection Orders'

#### Section 1 - Applicants

There are three types of applicant. The person to be protected, someone on their behalf and a relevant third party.

If you are the person to be protected and are applying yourself for an order, with or without legal representation, you are also the applicant. Fill in section 1 only, and then go to section 3.

A relevant third party applicant is a person or organisation that is allowed to make an application on behalf of another without the leave of the court. Only the Lord Chancellor can make a person or organisation a relevant third party.

If you are not a relevant third party and you are not the person who is to be protected by the order you can still make the application, but you need the court's permission. The court can give you the form (FL430) to apply for permission.

#### Address details

If you **do not** wish your address, or the address of any person named in the application form to be made known to the respondent, leave the space(s) on the form blank and complete Confidential Address Form C8. The court can give you this form.

#### Section 2 - Person to be protected

This section only needs to be completed if you are applying on behalf of someone. If you are the person to be protected by the order, leave this section blank.

#### Address details

If you do not wish the address of the person to be protected to be made known to the respondent, leave the space blank and complete Confidential Address form C8. The court can give you this form.

#### Section 3 - Respondents

A person who you want the court to make an order against is called the respondent. There may be more than one respondent.

If you know of other people who may become involved as a respondent include their details in section 6.

#### Section 4 - The Order

A forced marriage protection order protects a person from being forced into marriage or a person who has been forced into marriage. Each Forced Marriage Protection Order is specific to each case and contains terms that change the behaviour of the respondent and other people.

Examples of what you might want the court to order are:

- that the respondent does not take you abroad to be forced into marriage
- that the respondent behave in a different way
- that the respondent hands over your passport and travel documents to the court.

In section 4 or in a separate statement say why you are applying and give full details. Include details of violence the respondent has used or threatened, so the court can consider a power of arrest.

#### Urgent orders

An urgent order made by the court before the notice of the application is served on the respondent is called a without notice order. In deciding whether to make a without notice order the court will consider all the circumstances of the case, including:

- any risk of significant harm to the person to be protected or another person, if the order is not made immediately
- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and the person to be protected or the applicant will be seriously prejudiced by the delay.

If you are applying for a 'without notice' order you must include the reasons why the court should deal with the application without notifying the respondent first. You must make a sworn statement. The court can tell you how to do this.

continued over the page 

If the court makes a 'without notice' order, it must give the respondent or other person an opportunity to make representations about the order as soon as just and convenient at a full hearing.

**Further details**

Further information on making an application is contained in the leaflet FL701 'Forced Marriage Protection Orders'. The leaflet contains information on coming to court, the power of arrest and what happens if a respondent or other person fails to obey a court order.

You can download this leaflet and details of your local court from our website  
[www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

---

In

Telephone Number

FAX Number

Case Number

---

Notice of Proceedings  
[Hearing] [Directions Appointment]

has applied to the court for an order.

---

**About the [Hearing][Directions Appointment]**

You should attend when the Court hears the application at

on

at

[am]

[pm]

---

**What to do next**

There is a copy of the application with this Notice. Read the application now, and the notes overleaf.

**When you go to court**

Please take this Notice with you and show it to a court official.

---

## About this Notice

---

**If you are named as a respondent in the application form** It is in your own interest to attend the court on the date shown on this form. You should be ready to give any evidence which you think will help you to put your side of the case.

**For legal advice** go to a solicitor or an advice agency.

You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Solicitors' Regional Directory.

You will find these books at:

- a Citizens' Advice Bureau
- a Law Centre
- a local library

A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

**If you require an interpreter** because you do not speak English, please notify the court now so that one can be arranged.

**If you have a disability** for which you require assistance or special facilities, please contact the court to ask what help is available.

**If you need the court to make any special arrangements for you to attend court** (e.g. providing you with a separate waiting room from the other respondents or other security provisions) please contact the court.

**If you are named as the person to be protected or anyone else** It may be in your interest to attend court on the date shown.

**For legal advice** go to a solicitor or an advice agency.

You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Solicitors' Regional Directory.

You will find these books at:

- a Citizens' Advice Bureau
- a Law Centre
- a local library

A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

**If you want to become a party to these proceedings**, you need to apply to the court. The court can give you the form FL431.

**If you require an interpreter** because you do not speak English, please notify the court now so that one can be arranged.

**If you have a disability** for which you require assistance or special facilities, please contact the court to ask what help is available.

**If you need the court to make any special arrangements for you to attend court** (e.g. providing you with a separate waiting room from the respondent or other security provisions) please contact the court.

## Application to vary, extend or discharge a forced marriage protection order

Part 4A Family Law Act 1996

### The court to which you are applying:

**Note:** the application should be made to the court currently dealing with the forced marriage proceedings (whether or not this is the court which made the order you wish to vary).

### To be completed by the court

Date issued

Case number

## 1 About you (the applicant)

State your title, full name, address, telephone number and date of birth (if under 18).

If you do not wish your address to be made known to the respondent or other persons, leave this space blank and complete Confidential Address Form C8 (if you have not already done so). The court can give you this form.

State your solicitor's name, address, reference, telephone, FAX and DX numbers.

If you are already a party to the case, give your description (for example, applicant, respondent or other).

## 2 The order(s) for which you are applying *Please attach a copy of the order if possible.*

I am applying to

vary	<input type="checkbox"/>
extend	<input type="checkbox"/>
discharge	<input type="checkbox"/>

the order dated:

If you are applying for an order to be varied or extended please give details of the order which you would like the court to make:

**3 Your reason(s) for applying**

State briefly your reasons for applying.

**4 Person(s) to be served with this application**

State the title, full name and address (where known) of all respondents, the person protected by the order and any other person named in the order.

---

**Signed**  
(Applicant)

**Date**

---



In the

Case number

---

**Forced Marriage Protection Order**

Part 4A Family Law Act 1996

---

**Notice**

(Insert name and address of respondent or other person(s) to whom this order is directed)

To

Address

**Warning**

---

**You must obey this order.** You should read this order carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to apply to the court to change or cancel the order.

**If you do not obey this order, you will be guilty of contempt of court and may be sent to prison.**

---

**Terms of the Order**

(Attach a separate page for the order if required)

Date of hearing \_\_\_\_\_

Name of person to be protected

---

The court makes a Forced Marriage Protection Order in the following terms:

[A power of arrest is attached to [some] [all] of these terms]

Power of Arrest

See separate form FL406A (if attached).

Duration of Order

This order is made until

(The following date and time) \_\_\_\_\_

Further notice

Notice of further hearing

The court will reconsider the application and whether the order should continue at a further hearing

Place \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

If you do not attend at the time shown the court may make an order in your absence.

This order is made

without notice

with notice

to the respondent.

Important notice

Where attached to a Forced Marriage Protection Order the power of arrest (see attached form FL406A) also applies to any third party who frustrates the terms of the order or otherwise acts in contempt of court in relation to this order, even where they are not a respondent to the original proceedings.

---

Ordered by [Mr] [Mrs] Justice  
[His] [Her] Honour Judge  
[Deputy] District Judge [of the Family Division]  
Recorder

---

on

---



In the

Case number

---

**Power of Arrest**  
Forced Marriage Protection Order  
Part 4A Family Law Act 1996

---

Applicant  
*Ref.*

Respondent  
*Ref.*

---

**The Court orders that**

(Set out those provisions of the order to which this power of arrest is attached and no others)

a power of arrest applies to the following paragraph(s) of an order made under Part 4A of the Family Law Act 1996 on

**Power of Arrest**  
(Delete the part that does not apply)

[Orders with notice]

[Orders without notice]

**This Power of Arrest expires on**

---

The court considers that the respondent or other person to whom an order is directed has used or threatened violence against the person being protected or otherwise in connection with the matters being dealt with by the order and

[in all the circumstances, there will not be adequate protection without a power of arrest being attached to the provision(s) of that order.]

or

[that there is a risk of significant harm to a person, attributable to the conduct of the respondent or other person to whom an order is directed, if a power of arrest is not attached to the provision(s) of the order immediately.]

A power of arrest is attached to the order whereby any constable may (under the power given by section 63I of the Family Law Act 1996) arrest without warrant a person if the constable has reasonable cause for suspecting that the person may be in breach of any provision to which the power of arrest is attached or is otherwise in contempt of court in relation to this order.

---

Note to the  
Arresting Officer

Where a person is arrested under the power given by section 63I of the Family Law Act 1996, that section requires that the person must be brought before the court within 24 hours beginning at the time of arrest.

If the matter is not then disposed of forthwith, the court may remand the person arrested.

Nothing in section 63I authorises the detention of the person arrested after the expiry of the period of 24 hours beginning at the time of arrest, unless remanded by the court.

The period of 24 hours shall not include Christmas Day, Good Friday or any Sunday.

---

Ordered by [Mr] [Mrs] Justice  
[His] [Her] Honour Judge  
[Deputy]District Judge [of the Family Division]  
Recorder

---

on

---



## Application for leave to apply for a Forced Marriage Protection Order

Part 4A Family Law Act 1996

### To be completed by the court

Date issued

Case number

Name of court

Complete this form if you are asking for the court's permission to make an application on behalf of the person to be protected. You **must** also complete application form FL401A. The court can give you this form.

### 1 About you (the applicant)

Mr.  Mrs.  Ms.  Miss  Other \_\_\_\_\_

Full name

### 2 About the person to be protected

Mr.  Mrs.  Ms.  Miss  Other \_\_\_\_\_

Full name

### 3 Your reasons for applying on behalf of the person to be protected

State briefly your reasons including:

- your connection with the person to be protected;
- what you know of the circumstances of the person to be protected;
- the wishes and feelings of the person to be protected so far as you know them.

continue over the page ⇨

3 continued from over the page

Continue on a separate sheet if needed.

---

Signed:

Date:

---

# Application to be joined as, or cease to be, a party to Forced Marriage Protection Proceedings

Part 4A Family Law Act 1996

**To be completed by the court**

Date issued	<input type="text"/>
Case number	<input type="text"/>
Name of court	<input type="text"/>

For further information please read the leaflet FL701 Forced Marriage Protection Orders.

## 1 About you (the applicant)

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

Date of birth (if under 18)

/ / 

If you do not wish your address to be made known to the respondent or other persons, leave this space blank and complete Confidential Address Form C8 (if you have not already done so).

Address

<input type="text"/>
Postcode <input type="text"/> <input type="text"/>

Telephone no. (optional)

Your solicitor's details (leave blank if you are representing yourself)

Full name

Address

<input type="text"/>
Postcode <input type="text"/> <input type="text"/>

Reference no.

Telephone no.

Fax no.

DX no.

**2 Your reasons for applying**

State briefly your reasons:

**3 The persons to be served with this application (The respondent(s))**

If there are more than two respondents please continue on a separate sheet of paper.

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

Address

Postcode

Date of birth (if known)

//

Mr.    Mrs.    Ms.    Miss    Other \_\_\_\_\_

Full name

Address

Postcode

Date of birth (if known)

//

**4 At the court**

**If you require an interpreter, you must notify the court now so that one can be arranged.**

Will you need an interpreter at court?

Yes  No

If Yes, specify the language and dialect:

If you have a disability for which you require special assistance or special facilities, please state what your needs are. The court staff will get in touch with you about your requirements.

Please say whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provisions).

---

Signed:

Date:

---

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Family Proceedings Rules 1991 (“the FPR 1991”).

### *Transfer of proceedings*

Rule 4 amends rule 3.8(9) of the FPR 1991, which deals with transfer of proceedings under Part IV of the Family Law Act 1996 (“the 1996 Act”), so as to align rule 3.8(9) with new rule 3.29 (transfer of proceedings under Part 4A of the 1996 Act) which comes into force on 25<sup>th</sup> November 2008. By rule 14, rule 3(8) as so amended applies only to Part IV proceedings commenced on or after 25<sup>th</sup> November 2008.

### *Part 4A of the Family Law Act 1996*

Rules 3(b) and (c), 7, 8, 9, 11 and 13 set out a procedural code for applications under Part 4A (Forced Marriage) of the 1996 Act and come into force, with Part 4A itself, on 25<sup>th</sup> November 2008. Jurisdiction in respect of proceedings under Part 4A is conferred on the High Court and designated county courts. The procedural code for such applications is contained in new rules 3.25 to 3.36, 8.1B and 10.21(1A) which are inserted into the FPR 1991. The new rules are to a large extent modelled on, and adapted from, the rules for applications under Part IV (Family homes and domestic violence) of the 1996 Act.

New rule 3.25 contains principal definitions. New rule 3.26 sets out how an application for a forced marriage protection order is to be made. New rule 3.27 deals with cases where the court’s leave is required to make an application. New rule 3.28 deals with service of the application.

New rule 3.29 permits the court to transfer the proceedings to another court. New rule 3.30 deals with joining or removing a person as party to the proceedings.

New rule 3.31 permits the court, on application, to make an order for disclosure against a person who is not a party to the proceedings. New rule 3.32 deals with applications to withhold disclosure or inspection of a document.

New rule 3.33 provides for the hearing of applications for forced marriage protection orders and service of the ensuing orders. New rule 3.34 provides for orders made by the court of its own motion.

New rules 3.35 and 3.36 apply, with modifications, the equivalent Part IV rules (3.9A and 3.10 respectively) as to enforcement of orders, to proceedings under Part 4A of the 1996 Act.

New rule 8.1B provides for appeals from orders made under Part 4A of the 1996 Act.

New rule 10.21(1A) widens, for forced marriage proceedings, the ambit of rule 10.21 (no requirement for party to disclose own address or that of a child) so as to permit a party additionally not to disclose the address of a witness or of the person who is the subject of the proceedings.

Rule 13 and the Schedules specify the amended and new forms which are to be used in connection with forced marriage proceedings.

### *The Tribunals, Courts and Enforcement Act 2007*

Rules 3(a), 5, 6, 10 and 12 make amendments to the FPR 1991 that are consequential on the transfer of the functions of the appeal tribunal and Child Support Commissioners to the

First-tier Tribunal and Upper Tribunal and the subsequent abolition of the appeal tribunal and Commissioners. A Transfer Order to effect these transfers is being made under the Tribunals, Courts and Enforcement Act 2007 (c.15).





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