

Response by the Newham Asian Women's Project

**Forced Marriage (Civil Protection) Act 2007
- Court Rules
April 2008**

Background to Newham Asian Women's Project

Newham Asian Women's Project (NAWP) is a London-based charity, established in the mid 1980s to address the issue of domestic violence within the Asian community. Our involvement in working with and supporting Asian women and girls at a grassroots level for the past two decades has provided us with great insight into their needs, especially in the context of all forms of domestic violence, sexual abuse, forced marriage and self-harm. Consequently, over the years our services have been strategically developed to provide a holistic approach to issues that affect our client base. Our support services include: safe-refuge housing; counselling programmes; youth projects and activities; mental health support; legal advice; and education, training and career development.

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Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

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

Our understanding is that 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 only make provision for an organisation, and not for other individuals who are not the subject of the proceedings.

Under Rule 3.26 we would recommend the following changes, highlighted in *italics*:-

(2) An application for a forced marriage protection order made by an organisation *or an individual who is not the person who is the subject of the proceedings shall state* – etc.

(2) (b) The position which he *or she holds* in the organisation *where relevant*

Under Rule 3.28, provision is only made for the personal service of a court order where the Applicant is acting in person; however, an organisation will not have this facility, and will be obliged to pay the costs of instructing a process server to personally serve the order on a Respondent. Because there could well be more than one Respondent, the costs of such a personal service could be significant. Where the organisation is a charity, such as women's refuge, it would be wholly inappropriate to expect it to pay the costs of a personal service, particularly given that the organisation would not be entitled to apply for public funding (legal aid) to make such an application. Our understanding is that public funding will 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 a personal service, not only when an Applicant is acting in person, but also when an application has been brought by an organisation.

We would recommend 3.28 be amended as follows:-

4 Where the Applicant *is an individual and* is acting in person *or is* an organisation, then an organisation service of the application shall be effected by the court if the Applicant *or organisation* so requests.

A small amendment to (6) – after he *or she* has served the application.

For the same reasons referred to at 3.28 (above), we would recommend that 3.31 is amended as follows:-

(5) Where the Applicant *is an individual and* is acting in person *or is* an organisation etc.

Another concern for NAWP is that the time limits for submitting written representations are not defined. We note that the section does refer to a “specified period”. It would be helpful if there were a maximum period of time defined by the regulations, e.g. 7 or 14 days maximum – less if the court deems it necessary. This would ensure that there were strict court time limits, and that the court proceedings were not delayed.

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

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 its address.

There needs to be a form similar to that in the Children Act proceedings (Form C8), which an Applicant can complete and submit to the court along with Form FL401A, which will allow him or her to withhold his or her address.

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March 2008**