Prosecutions under Section 121 of the Anti-Social Behaviour, Crime and Policing Act 2014

We have been concerned to hear of a case where an elderly woman with advanced vascular dementia, having been befriended by a man over 20 years her junior, married him five months before her death at the age of 91. The family, who found out about their mother’s marriage after her death, maintain that she married without consent owing to her lack of mental capacity, and that this was consequently a “forced marriage” within the meaning of Section 121 of the Anti-Social Behaviour, Crime and Policing Act 2014. We understand that this case is not an isolated example.

We note that the CPS prosecution guidance on Honour-Based Violence and Forced Marriage focuses mainly on forced marriage as an honour-based crime. While the guidance acknowledges that Section 121 protects victims who lack mental capacity to consent to marriage, it does not expand further on this point. We also note that CPS guidance on identifying and flagging Honour Based Violence and Forced Marriage cases makes no reference to mental capacity. Anecdotally, we hear that the CPS has not yet brought any prosecutions for forced marriage in cases involving victims with dementia.

I would be grateful if you could confirm whether the CPS has brought any prosecutions in forced marriage cases where the victim had dementia. If no prosecutions of this type have been brought, we wonder if you would nonetheless agree that this is an area where further action may be required to prevent outcomes that are against natural justice. We would ask you to please consider whether you would be willing to revise your prosecution guidance to include further clarity for prosecutors, including on the nature of the evidence that would be required for a realistic prospect of conviction. We would also be interested to hear any additional observations you might have on cases in this category.

Bob Neill MP
Chair
Justice Committee