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The Rt Hon Keith Vaz MP
Chairman - Home Affairs Committee
House of Commons
London
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Dear Keith,

HOME AFFAIRS COMMITTEE FOLLOW-UP REPORT ON FEMALE GENITAL MUTILATION

On behalf of the Government, I am responding to the Committee's follow-up report on female genital mutilation (FGM) published on 14 March 2015. I would like to thank the Committee for its consideration of the previous Government's response to the Committee's report 'Female genital mutilation: the case for a national action plan'.

I welcome the Committee's recognition of the progress that has been made since the publication of their first report on FGM. All of the commitments made at the Girl Summit in 2014 have been fulfilled, but I recognise that sustained effort is needed if we are to end this appalling crime.

This Government will continue to build on the work undertaken during the previous Parliament. Upcoming work includes the new requirement for professionals to report cases of FGM to the police, the introduction of statutory guidelines, the £3 million NHS prevention programme, and Her Majesty's Inspectorate of Constabulary's inspection of the police's response to honour-based violence. These measures will all serve to improve the response of professionals, protecting more girls at risk and increasing our ability to prosecute those who commit this crime. Furthermore, the collection of data across the NHS and the forthcoming publication of local level prevalence data, together with the work of the Government's FGM Unit, will improve understanding of FGM and strengthen the response at a local and national level.

The Government has carefully considered the conclusions and recommendations made by the Committee, and I have set out our detailed response in the paper enclosed with this letter.

Yours sincerely

Karen Bradley MP
Minister for Preventing Abuse and Exploitation

The Government response to the House of Commons Home Affairs Committee report: *Female Genital Mutilation: follow-up*, published 14 March 2015
Raising the profile of FGM

Conclusion / recommendation 1 - *The work that has been done by the media, politicians and most importantly by survivors and campaigners has raised the profile of FGM, so that many more people are aware of this horrendous form of child abuse. However, it is still the case that there have been no successful prosecutions for FGM in the UK in the last 20 years. This record is lamentable. The message must be repeated clearly: the practice of FGM is abominable and it must be challenged wherever it is found. **A sustained campaign will increase awareness among professionals of the training that is available to them, and direct victims of FGM to the support services that are provided.***

The Government recognises that continued work is needed to raise awareness of FGM among professionals.¹ A programme of work to improve response of healthcare professionals to FGM is being carried out as part of the Department of Health's £3m FGM Prevention Programme in partnership with NHS England. This includes:

- a package of guidance materials for NHS staff enabling them to respond to FGM more effectively;
- the publication of FGM patient information leaflets in a range of languages;
- new content on the NHS Choices FGM website
- awareness-raising roadshows;
- an FGM Resource pack including training DVD, sent directly to all GPs in England; and
- Jane Ellison wrote to NHS chief executives and Chairs of Clinical Commissioning Groups in July 2015 to raise awareness of the imminent 'cutting season', and what health must do to support women and girls.

Furthermore, the programme delivered five FGM e-learning sessions, developed by Health Education England and expert clinicians, which are available to all NHS staff on the eLearning for Healthcare national training platform.²

The introduction of statutory multi-agency guidelines on FGM will require professionals to have a good understanding of how to safeguard those at risk and support victims. The guidelines will be developed in consultation with professionals, community organisations and survivors. They will help to support effective training of frontline professionals and a more effective multi-agency response

The Government's FGM Unit is providing outreach support to local areas and working to raise awareness of resources available to professionals, including training, best practice examples and information on legislation and policy.

The Government recognises that increasing awareness of professionals needs to happen in parallel with increased awareness among communities. As a result of the

¹ While the UK Government retains responsibility for crime and policing matters in Wales, many of the local delivery partners who work together towards combating FGM in Wales work within areas that are devolved. These include health, education and local government services. Given the interdependencies between devolved and non-devolved elements of our approach to tackling FGM, we continue to ensure information and best practice is shared with the Welsh Government and we are committed to working with the delivery partners in Wales to ensure a consistent approach in tackling this issue.

² As health is a devolved matter in Wales, the Welsh Government is taking forward its own programme of work with NHS Wales to tackle FGM.

£370,000 funding provided by the Home Office, the Department for Communities and Local Government (DCLG) and the Government Equalities Office (GEO) to support projects preventing FGM and other forms of honour-based violence, 29 community prevention projects have been set up giving local people the resources to undertake work to change attitudes and keep girls safe. This work has varied from training for teachers, to awareness sessions in local mosques, from the establishment of a new national website for, and by, young people giving information about how to prevent FGM, to debunking myths which prevent victims accessing services. Evaluation of these projects is currently taking place. DCLG's network of community champions is established and is operating in London, Bristol, Manchester and Birmingham. Champions are working with local people to address the myths that sustain FGM and to help keep girls safe. An evaluation of this network is being carried out. DCLG has worked with communities to secure over 350 signatures from leaders of every major faith in the UK to a declaration making clear that no faith condones FGM. Work to maintain this momentum will be carried out through engagement with the Government's FGM stakeholder group, and through the FGM Unit's outreach work.

The new mandatory reporting duty for FGM, introduced through the Serious Crime Act 2015, will lead to a greater number of victims being identified to the police and social services. Even in advance of the introduction of mandatory reporting there has been an increase in the number of police investigations – for example, between January and November 2014, West Midlands Police saw 118 reports of suspected FGM, a significant increase from the 25 they received in 2012. While these investigations may have not resulted in prosecutions, the police have stressed how they have supported a robust safeguarding response which has helped to protect those at risk.

Prosecuting FGM

Conclusion / recommendation 2 - *The Committee welcomed the first prosecution under the Female Genital Mutilation Act 2003 brought by the DPP a few days before she was to appear before the Committee as part of our first report into FGM. The first prosecution under the Act was a problematic case: it was not a "classic" example of primary FGM involving a child, and the defence argued successfully that the defendant's actions were clinically indicated and were in the best interests of the patient.*

*In Heartlands Hospital in Birmingham alone, 1,500 cases of FGM were recorded over the last five years, with doctors seeing six patients who have undergone the procedure each week. There seems to be a chasm between the amount of reported cases and the lack of prosecutions. Someone, somewhere is not doing their job effectively. The DPP informed the Committee that she could only prosecute on the basis of evidence, the police said that they could only investigate on the basis of referral, and the health professionals told us that they could not refer cases because their members were not fully trained and aware of the procedure. While agencies play pass the parcel of responsibility, young girls are being mutilated every hour of every day. This is deplorable. **We wish to see more prosecutions brought and convictions secured. This barbaric crime which is committed daily on such a huge scale across the UK cannot continue to go unpunished.***

The Government shares the Committee's desire to see more prosecutions brought and convictions secured for this horrific crime. Through provisions in the Serious Crime Act 2015, the law on FGM has been strengthened in ways which we hope will help to break down the barriers to prosecution. For example, the Crown Prosecution Service (CPS) had highlighted a small number of cases where a prosecution for FGM committed abroad could not be brought because those involved were not, at the material time, permanent UK residents as previously defined in the FGM Act 2003. So we have extended the reach of the extra territorial offences in the 2003 Act to habitual (as well as permanent) UK residents to remove that restriction. Providing life-long anonymity for victims of alleged offences of FGM will hopefully encourage more victims to come forward and report offences. The new offence of failing to protect a girl from risk of FGM makes those responsible for the girl answerable in law for how the FGM happened and may reduce the need for the girl to give evidence in court - something which young and vulnerable victims may be reluctant or scared to do. And the introduction of mandatory reporting, should, as the Committee has recognised, help to bring about further prosecutions.³

A post case review of the first prosecution took place and lessons learned have been disseminated to FGM lead prosecutors.

The CPS has also published revised legal guidance in June 2015 to reflect the legislative changes in the Serious Crime Act 2015. Joint FGM training for prosecutors and police for all CPS areas and their respective police forces has been delivered to ensure that they have the skills and knowledge to improve the response to FGM to lead to successful investigations and prosecution.

All CPS Areas have agreed local protocols with their local police forces setting out the arrangements for investigation and prosecution of FGM. The protocols also outline how they will raise awareness through local community events. Lead prosecutors appointed for each CPS Area are involved in community engagement work with relevant community leaders to educate and help prevent FGM in the first instance.

Important though it is that offences of FGM should not go unpunished, prosecution after the fact does not relieve the victim of the offence from a lifetime of pain and discomfort. That is why the 2015 Act also includes provision for Female Genital Mutilation Protection Orders (FGMPOs), to enable those afraid of being subjected to FGM, or friends and family members of those at risk, to apply for an order to put the potential victim under the protection of the court. FGMPOs were commenced on 17 July, in time for the school summer holidays.

As part of the Department of Health's prevention programme, new, more detailed, data on FGM is now being collected across the NHS. This data will be available from October this year and will provide more information on where and when FGM took place so we can get a better understanding of the scale of the crime taking place within the UK.^{4 5}

³ The UK Government is working with the Welsh Government on the implementation of the Serious Crime Act 2015.

⁴ It should be noted, however, that many cases of FGM recorded by the NHS will have taken place before the women concerned were UK residents. Whilst we do not dispute that a crime has taken place, as the Committee will appreciate, it is not within our jurisdiction to investigate such cases.

Female genital cosmetic surgery

Conclusion / recommendation 3 - *Despite the Government's assurances that there is no ambiguity in the law relating to female genital cosmetic surgery, our evidence demonstrates that the police, midwives and campaigners would all like to see greater clarity on this point. We cannot tell communities in Sierra Leone and Somalia to stop a practice which is freely permitted in Harley Street. **We recommend that the Government amend the Female Genital Mutilation Act 2003 in order to make it very clear that female genital cosmetic surgery would be a criminal offence.***

The Government does not accept that FGM being forced on a girl in Sierra Leone and genital surgery taking place in Harley Street (or elsewhere) are the same issue. FGM is child abuse, whereas there can be genuine therapeutic reasons for genital surgery.

We therefore believe that it would be disproportionate to make all female genital cosmetic surgery illegal. The law needs to allow for legitimate surgeries which are necessary for a woman's or girl's physical or mental health, or for purposes connected with labour or birth. That is what the Female Genital Mutilation Act 2003 does.

There may be some circumstances in which surgery is necessary for those purposes. We are of the opinion that such surgery would not normally be described as 'cosmetic', but should be called medically-indicated female genital surgery. However, we are aware some private providers describe this as 'cosmetic' or female genital cosmetic surgery (FGCS).

The Royal Colleges of Obstetricians and Gynaecologists are clear in their guidelines, published 10 July 2015, that **'All surgeons who undertake FGCS must take appropriate measures to ensure compliance with the FGM Acts'**.

This highlights that cases of FGCS may not be legal. Surgeons, whether they are members of a professional body or not, need to make sure that whenever they perform what they describe as FGCS, they have a medically-indicated justification meeting the requirements of the FGM Act. That is why the Act does not make FGCS a specific criminal offence. The Government's view is that the current legal framework strikes the right balance and we have no plans to amend the 2003 Act specifically to prohibit FGCS.

Safeguarding at-risk girls

Conclusion / recommendation 4 - *Doctors and health workers are in the front line in the fight against FGM. We do not believe that enough is being done by the Royal Colleges to encourage their members to report cases of FGM. Given the recent prosecution there may be an even greater reluctance to do so, however, **we consider that it is imperative that the Royal College of GPs inform every single doctor about this practice and give them an indication of where adequate training can be provided.***

⁵ As health is a devolved matter in Wales, the Welsh Government is taking forward its own programme of work with NHS Wales to tackle FGM.

Health professionals are indeed key to safeguarding girls from this extremely dangerous criminal act, and to both commissioning and providing specialist care and support for women living with the damaging health consequences of FGM.

The Department of Health has worked in conjunction with the Royal College of GPs (RCGP) to develop key FGM products for health professionals. They provided input to the FGM Information Pack for GPs which the Department of Health sent to every General Practice in England at the beginning of June. The RCGP took part in the multi-agency development of the “*FGM Risk and Safeguarding Guidance for Professionals*” document and the content of the five e-learning sessions for health professionals, commissioned by the Department and created by Health Education England.⁶

The statutory guidelines on FGM, which will be developed in consultation with healthcare professionals, will clearly set out the new legal duties on frontline professionals to report cases of FGM to the police.

Government action since June 2014

Conclusion / recommendation 5 - *We welcome the steps that the Government have taken to strengthen the law related to FGM. In particular, we welcome the provision in the Serious Crime Act to introduce mandatory reporting of FGM, by healthcare professionals, teachers and social care workers, to the police. This should help to bring about further prosecutions, sending a strong message both in the UK and overseas. However, it remains unclear what would happen in the event that a professional should fail to make a report. **We recommend that the Government set out the sanctions that may apply when a professional has failed to meet their duty, which should range from compulsory training to a criminal offence for intentional or repeated failures.***

Where professionals fail to comply with the duty, this will be dealt with in accordance with existing disciplinary procedures. Given that these, in health, may include General Medical Council and Nursing and Midwifery Council fitness to practice proceedings, there can be a wide variety of recommendations made as to suitable action which may include re-training, supervision or other measures. The proceedings will consider whether action is needed if the clinician may be putting the safety of patients, or the public's confidence in doctors, at risk. This approach is in line with the approach favoured by the vast majority of respondents to the consultation and will ensure that appropriate sanctions are imposed, in accordance with the individual circumstances of the case. The Government expects employers and the professional regulators to pay due regard to the seriousness of breaches of the duty.

Conclusion / recommendation 6 - *We commend the work done by Jane Ellison MP in the Department of Health to spearhead their work against FGM. This has produced results and significant funding for a programme aimed at health professionals. **We urge the Home Office to follow this example, and step up to the mark by providing funds for the tireless campaigners such as Leyla Hussein and Alimatu Dimonekene.***

⁶ As health is a devolved matter in Wales, the Welsh Government is taking forward its own programme of work with NHS Wales to tackle FGM.

The Government shares the Committee's commendation of the work of campaigners. The Government recognises that the progress that has been made over the past years could not have happened without the determination, commitment and bravery of these individuals. We greatly value the input of campaigners in guiding and challenging the development of Government policy on FGM.

That is why the FGM Unit has established an FGM stakeholder group to provide a forum for campaigners, non-governmental organisations, devolved administrations and professionals to advise on FGM policy. Through this stakeholder group, and regular communications with stakeholders by the FGM unit, we will keep campaigners informed of any funding opportunities that become available. As set out in the previous Government's response, during the previous Parliament a total of £370,000 was provided to community organisations to support projects preventing FGM, forced marriage and other forms of honour based violence. We are now looking to work with stakeholders to build on the learning gained from these projects, developing understanding of what works in community engagement and embedding good practice.

Conclusion / recommendation 7 - *The Government needs to be aware of the impact that its decisions have on FGM campaigners within practicing communities. We recommend the establishment of an advisory panel of FGM campaigners, which should be consulted before any major policy decisions are taken and also act as a sounding board to ensure that sufficient action is taken. The panel should advise on both the substance of policy decisions and on the way in which policies are to be communicated to the target communities, recognising that the final decision on these matters will rest with ministers.*

The FGM Unit has established a stakeholder group which meets on a quarterly basis. The first meeting of this group took place on 15 July. The purpose of the group is to advise the Government on policy development, to inform the Government of emerging issues, and to challenge the Government to take appropriate action to end FGM. The group is attended by a range of representatives including survivors, campaigners, non-Governmental organisations, professionals and cross-Governmental officials. The stakeholder group feeds into a biannual cross-Government Ministerial group to ensure that key issues raised by the group can be escalated to Ministers.

In addition, the FGM Unit is undertaking an extensive programme of outreach, working with stakeholders and affected communities.