

**MUSLIM WOMEN'S NETWORK UK  
RESPONSE TO CONSULTATION:**

**FEMALE GENITAL MUTILATION: PROPOSAL TO INTRODUCE A CIVIL  
PROTECTION ORDER**

**18<sup>th</sup> August 2014**

**Introduction**

1. Muslim Women's Network was formally established in 2003 with the support of the Women's National Commission (WNC), to give independent advice to government on issues relating to Muslim women and public policy. In 2007, Muslim Women's Network decided to establish itself as an independent organisation to ensure its autonomy from Government. We renamed the group 'Muslim Women's Network UK' (MWNUK) and became a Community Interest Company in 2008. In December 2013 we formally became a registered charity<sup>1</sup>.
2. Our aim is to gather and share information relevant to the lives of Muslim women and girls in order to influence policy and public attitudes, to raise the profile of issues of concern to Muslim women and to strengthen Muslim women's ability to bring about effective changes in their lives.
3. At the time of writing, MWNUK has a membership of over 600 that includes individuals and organisations with a collective reach of tens of thousands of women. Our membership is diverse in terms of ethnicity, age, religious backgrounds, lifestyles, sexual orientation and geographic location. Members are also from a range of employment sectors including: higher and further education; voluntary sector and support services including services workers; health and legal professionals; the police and criminal justice sectors; and local and central government. Our members are mainly Muslim women living and working in the UK while our non-Muslim members work with or on behalf of Muslim women.
4. Supporting actions to addressing female genital mutilation is part of our overall commitment to changing attitudes to abuse against women and girls, which is one of our six current priority areas. As the only national Muslim women's organisation in the UK we have been very aware of the issue of FGM within Black Minority Ethnic (BME) communities with an overlap into the Muslim community. In turn we have carried out a range of activities to tackle the issue including creating fact sheets and podcasts raising awareness and educating others as well as talking in the media and at a grassroots level. For example, in 2013 we included FGM as an abuse within our national postcard campaign directed at mosques and also spoke to the residents of East London on the matter and have been building on such grassroots work and projects throughout 2014; from speaking at events, presenting workshops to liaising with key

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<sup>1</sup> Charity Registration Number: 1155092

stakeholder organisations and undertaking research. We will be undertaking further in this area throughout the remainder of 2014 and 2015 in the hope of effecting change.

5. In order to ensure the inclusion of a diverse range of voices in connection with this Consultation, we sought the views of our members in relation to the proposal to introduce a civil protection order and where relevant, have included comments received.

## **Response**

6. MWNUK's constant concern has been that whilst FGM is a complex issue prevalent within a wide cross-section of communities of varying faiths and ethnicities, there are particular hurdles and barriers as well as systematic failures which as a collective are contributing towards the continued existence of FGM in UK.
7. We believe that victims/survivors, including potential victims, are at particular risk of being overlooked by service providers and support agencies due to a lack of will, understanding and/or ability. In turn, it leads to an inability to deter perpetrators through legislation, and these issues will continue until properly addressed whether or not civil law measures are pursued. We attempt to address these matters within the following questions of the Consultation and hope our comments are taken into consideration with regard to your proposal to introduce a civil protection order.
8. At this stage, we would like to clarify that MWNUK strongly disagree with any suggestions that FGM is an Islamic practice; on the contrary we consider FGM to predate Islam with no authentic basis to validate any such connection. We consider it to be a form of violence inflicted upon women and girls, which must be eradicated throughout the whole world, not just the UK. For further information please see our website.<sup>2</sup>

## **In principle, do you think that a specific civil law measure for FGM is a good idea?**

9. We are aware of the fact that despite FGM being a criminal offence in the UK and having been so for decades, this form of violence is continuing. We are concerned that not everyone is aware of this legislation and more worryingly, there are individuals who are aware but are still not deterred. We consider this to be a result of desire and ability in that, perpetrators wish to uphold this cultural practice and know they are able to do so without facing repercussions due to evidential hurdles or a lack of understanding shown by those tasked with tackling FGM.
10. We are aware of the particular hurdles resulting from victims and/or survivors not wishing to report their family members. However, it is also necessary for such family members to understand that an offence has been committed which has, and will, have a detrimental impact on their child.

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<sup>2</sup> [http://www.mwnuk.co.uk/go\\_files/factsheets/518708-FEMALE%20GENITAL%20MUTILATION%20factsheet.pdf](http://www.mwnuk.co.uk/go_files/factsheets/518708-FEMALE%20GENITAL%20MUTILATION%20factsheet.pdf)

11. In turn, Muslim Women’s Network UK made a call for similar strategies in cases of domestic violence or sexual offences, such as domestic violence protection notices and orders, forced marriage protection order or sexual offences prevention orders, to be followed in our Written Evidence to the Inquiry into Female Genital Mutilation in February 2014<sup>3</sup>:
12. *“In such situations an alternative approach may be to serve a notice akin to that for domestic violence for example thus allowing evidence for any further FGM committed on a member of the family; by following a similar process it will allow police and other agencies to be alert as to risk to any other potential victims and also hold evidence for future prosecutions whilst at the same time providing victims/survivors with the opportunity to come forward without feeling guilt for criminalising their family – that is, they can be reassured that it was not their actions in coming forward but rather the persistence of the perpetrators despite warning and support in addressing the practice that has led to any prosecutions.”*
13. At the time of writing our Written Evidence in February 2014 we stressed that pursuing such measures would not be a clear cut procedure and proper consideration would be required. We note that the proposal to introduce a civil protection order is being modelled upon the Forced Marriage Protection Order; whilst we ourselves asked for strategies similar to a Forced Marriage Protection Order to be pursued we do ask that rather than modelling on an existing framework it is more useful to consider FGM as a standalone issue and give proper consideration to the procedures and policies to be agreed when introducing any civil measure in order to ensure it is fit for purpose.
14. Therefore, whilst we agree in principle that a specific civil law measure for FGM would be a positive step, we expect to see a further Consultation for a proposal in which precise steps and measures have been put forward upon which we are able to comment.
15. We would also like to stress that for such measures to work it would also be necessary to have a dedicated support network together with a means by which to assist in educating perpetrators and accomplices in a bid to re-educate the communities involved. Just as introducing a criminal offence has not been sufficient to address FGM, a civil law measure will not assist without a multi-agency collective approach.

**Do you think that introducing a specific civil law measure for FGM would in any way undermine the efforts that are being made to secure prosecutions?**

16. We must firstly express that we are disappointed that this forms a part of the Consultation as a question. Efforts should be directed at the ultimate aim of ending FGM through considering different measures rather than with any other ulterior motives. Would it not be a better situation where a prosecution has not been secured due to FGM no longer occurring?

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<sup>3</sup> <http://www.mwnuk.co.uk/resourcesDetail.php?id=104>

17. We of course appreciate that there is unfortunately a long way to go in achieving such an aim and in turn appreciate that a criminal prosecution may act as a strong deterrent as it will provide a clear message to perpetrators. However, dialogue such as that expressed in the question actually undermines our efforts in tackling FGM because it suggests that key stakeholders are more concerned with punishing communities, rather than in actually ending FGM. It suggests a lack of concern for the plight of FGM victims and in turn makes it difficult to liaise with the communities. We do not in any way advocate any form of political correctness in tackling FGM – but we do ask that supporting potential victims and survivors are kept central to the considerations.
18. In any event, we do not believe a specific civil law measure for FGM would in itself undermine the efforts that are being made to secure prosecutions. Rather, with adequate procedures and usage it is likely to assist in securing criminal prosecutions particularly if procedures are pursued such as issuing Notices which can be used as evidence, or allowing breach of an order to be considered a criminal offence.
19. However, this is dependent on personal and organisational efforts continuing. In fact we believe a part of the reason for not having been able to secure a criminal prosecution as yet is due to an inability to properly pursue criminal measures. Evidential issues are consistently put forward as key hurdles in achieving prosecution despite the very physical and visual proof that FGM has occurred on the victim. We are aware of the complexities involved including the fact that perpetrators may be family members themselves, the age of the victim, and issues of stigma within the community. However, we suggest that there is a misguided overemphasis on needing victims/survivors to shoulder a case – if this approach was taken towards all violence against women and girls offences, would this not naturally affect prosecutions?
20. There is a serious need to consider alternative evidence gathering strategies. This would not only include better policing strategies such as surveillance of serial perpetrators who carry out FGM on behalf of family members but also an evaluation of any circumstantial evidence available which may help strengthen a case.
21. We would also like to highlight an obvious deterrent in victims/survivors and also any witnesses coming forward; that is, a lack of protection and support available. As well as a need for better training and understanding of the complexities involved, we ask that consideration be given to legal mechanisms available such as witness anonymity or pre-recorded evidence. Such measures may not only assist in preventing external factors such as social stigma or threats but will also take account of the very personal difficulties involved in recounting such experiences.

**Do you think that similar provisions to protect against conduct that may lead to a girl being mutilated would cover the range of circumstances in which FGM may take place?**

22. Given the various methods and means by which FGM can take place, including taking the victim abroad or even bringing the perpetrator into UK, we do feel it will be useful

for similar provisions to forced marriages to be considered to protect against conduct that may lead to a girl being mutilated.

23. However, we must stress that we feel it would be more appropriate to consider FGM as a standalone issue and give it the proper consideration it deserves in order to ensure it is fit for purpose. Whilst we appreciate that measures relating to forced marriage will indeed be relevant as there are overlapping factors, such as victims being taken abroad, it must not be forgotten that they are still two very different forms of violence against women. We are concerned that by concentrating on a comparative discourse we are in danger of missing or ignoring specific conduct relating to FGM and in turn causing more harm than good.
24. For example, as mentioned before, in some cases of FGM the perpetrator may have been someone that has entered into the UK for a short-term visit; this may be pre-planned or the perpetrator may be approached due to being known as a cutter and the opportunity being made available. This scenario may be different to that of forced marriage where more usually the victim is taken abroad or, if the spouse to the victim is brought to the UK, it is generally with a longer-term plan in order to ensure citizenship can be properly obtained. Therefore, concentrating on only stopping the victim going abroad will not in such circumstances assist if there is not also an evaluation of who may be coming in and getting in contact with the victim. It must also be remembered that this is just one of many different means by which FGM may take place; there are of course a number of cases where neither the victim has gone abroad nor the “cutter” has arrived from abroad and yet the offence has taken place.
25. In turn therefore, considering only the provisions as used in tackling forced marriage will not necessarily cover all the circumstances in which FGM may take place. It would therefore be useful to ensure that provisions put forward are broad ranging and not exhaustive, so that measures can be put in place that are case specific and appropriate for each situation.

**Do you think that there are circumstances in which a civil order could be used to help girls or women who have already been subjected to FGM?**

26. It is difficult to answer this question with such limited information in that it is not clear what specific measures are being considered. However, in principle we do believe that there may be situations where a civil order may be useful to help girls or women who have already been subjected to FGM.
27. One particular situation where this would be useful is in the case of child abduction to countries which are not a part of the Hague Convention; this may be where one parent has taken the child away from the other and had FGM performed on the child. Civil orders would therefore be useful in assisting the victim’s return and further measures should be considered in terms of ensuring safety from perhaps other family members of the abducting who may still be in the UK and also consider health matters, including counselling for the child.

28. A further example may be where additional medical procedures may be pursued in order to reduce the discomfort for the victim in the future; family members may be against this as to them it may defeat their personal objectives in having FGM carried out in the first place and in such circumstances civil measures may be necessary. This would of course be for all victims of FGM irrespective of their age. It would also be necessary to consider additional protective measures to ensure the girls and women involved are not re-victimised.
29. It may also be possible to consider compensation as a means by which to assist victims; some perpetrators do so for payment and in turn make a profit out of another's pain. Given the long lasting effects, considering compensation due to personal injury inflicted may be a measure by which potential victims are helped and at the same time a further means by which to punish perpetrators, including family members.
30. There are ample cases where for example, an elder sibling who has already had FGM performed on her wants to then protect a younger sibling and in turn both are at risk of further abuse. It may therefore be useful to consider additional measures, taking into account the existence of FGM in the situation that is causing additional risk. In such circumstances there may of course be an overlap with other provisions available such as those related to domestic violence.

**Given that most victims of FGM are young girls, typically aged 5 – 8, do you think that similar provisions in relation to FGM would enable vulnerable young victims, including babies, to be protected?**

31. Victims of such a young age group, and particularly babies and toddlers, are especially vulnerable because they do not know what FGM and even after it is performed, do not necessarily understand what has happened to them. In contrast for example, victims of forced marriage generally tend to be at an age where they are at the very least aware of the concept of marriage even if they do not necessarily understand the difference between a consensual and forced marriage. Thus, perpetrators and/or family members are perhaps more confident in allowing FGM to be performed given the age and lack of understanding of the victims.
32. We therefore do believe that protection orders should be pursued in order to ensure that there are measures by which to protect such vulnerable individuals. Naturally given the age of the victims it may be that an application by the potential victim rarely occurs but we believe that this should still be included in order to firstly express the fact that the potential victim has their own autonomy and rights irrespective of their age, and secondly to ensure that applications may be made by legal representative and litigation friends.
33. It must be borne in mind however, that the protection order is most likely to be acquired against a family member or known relative. On the one hand, keeping the potential victim in the same household, or vicinity of, the potential perpetrator and/or potential secondary participants may be dangerous. On the other hand, removing the potential victim away from the household may cause issues due to the lack of

understanding involved; the child will not necessarily know or understand why they have been moved away from their family given they may not be aware of the potential harm they face in the first instance. In this regard, we ask that all protection orders are accompanied with a proper assessment of the situation and adequate measures ordered, such as ensuring the child is regularly checked by social workers, or removed and placed with another family member (for example, where perhaps the parents are separated, or there is an elder sibling separated from the family). Decisions would of course need to be made on a case by case basis, and in order to ensure adequate competence for all multi-agency professionals involved it is vital to ensure that adequate education and training is provided.

**If you answered no, what additional or different provisions do you think should be put in place to protect such vulnerable young victims?**

34. Although we believe that Protection Orders will enable vulnerable young victims to be protected, it is naive to assume that Protection Orders on their own would be sufficient; we therefore expect that additional measures are considered so as to ensure the safety and protection of potential victims as stressed in paragraph 32 above.
35. We would also suggest legislative changes by which parents and potential others may be charged due to a failure to protect under-age victims from harm; the fact that FGM has occurred would therefore directly implicate those with parental responsibility thus alleviating the need for a child's evidence or even the need to identify who performed the FGM etc. We suggest that a similar method of responsibility is placed on professionals such as those working in health and education for not reporting an offence or potential risk. This could of course fall within either the criminal or civil route.
36. On a further note, we ask that you address the clear discriminatory aspect of legislation by which it is only an offence if victims are British nationals or "settled"; all children and young people should be protected irrespective of their arrival date into the UK.

**As indicated above, local authorities, as a specified "relevant third party" may apply on the victim's behalf for a FMPO without first needing to seek the leave of the court. Which persons or class of persons do you think should be able similarly to apply for an order to protect a potential victim of FGM?**

37. On this point, we submit that it is futile to allow for such applications by the likes of local authorities, without ensuring that proper education and training has been implemented in order to ensure that potential victims are not being missed, and at the same time ensuring that stereotypes are not at play in assuming whether someone is at risk.
38. By assuming that girls and women from a particular group, community or ethnicity are at most risk makes it likely that other potential victims are missed or ignored. Training and education needs to ensure that FGM is considered just the same as any other form

of violence against women whereby the focus is on the offence and the individual vulnerabilities of the victim are included as part of an overall assessment; when identifying those at risk of sexual abuse in UK for example, it would not be appropriate to start by considering which groups are more at risk but rather it is, or should be, understood that sexual abuse is a sad and unfortunate reality in all communities. During our research into sexual exploitation of Asian girls and young women we had uncovered that Asian victims were being missed as a result of a misbelief that Asian girls and young women are not subjected to such abuse (Unheard Voices, 2013). Taking such an approach towards FGM may lead to similar consequences whereby a belief that the practice is more prevalent in one group creates an assumption that it is not in another. This is irrespective of the fact that we do understand that there are indeed groups more at risk and our suggestion of utilising an approach more in line with other forms of violence against women will encompass such risk assessment without potentially leading to missed victims.

39. The above approach will also allow us to take account of any changes within communities and ensure vigilance against FGM at all times. It must be remembered that the reasons for performing FGM vary from person to person - some may do so in order to protect cultural ideals and/or identity, some may wrongly believe this to be a part of their faith, some may consciously adhere to the patriarchal notions that underpin the existence of the practice – and in turn, people may be drawn towards FGM for such reasons even if the practice was previously unknown to them.
40. One individual for example, who was not a victim nor knew a victim, was told that FGM is an Islamic practice which whilst not compulsory was a preferred practice and it was only through further research that she was able to uncover that this was incorrect – her concerns upon finding out that she was fed false information was that others on a spiritual journey like her who are trying to better themselves in their faith may fall into such traps and may begin pursuing a practice due to a lack of knowledge and understanding of the exact effects.
41. Interestingly, a particular point raised by the above individual was her lack of understanding of what in fact entailed FGM and in our opinion this is a part of the barriers towards identification and intervention. There may be individuals within a community, such as young men, who are aware of the practice but unclear on the specificities and the harm caused. Similarly, there may be front-line professionals in a position to provide information on a potential victim but a lack of knowledge of the exact practice and impact makes them minimise the issue. Better education and training in this regard would therefore assist in overcoming such barriers and assist in disclosures.
42. Similarly, assumptions may lead to wrongful accusations and doing so will only undermine efforts to eradicate FGM.
43. More importantly, we have been informed on many occasions that there is reluctance by key professionals, including health care professionals and police, to interfere in what they regard as culturally or faith sensitive matters. It is vital that this is addressed immediately through proper education and training; we would suggest that this include

information highlighting the alternative voices of the communities, that is, highlight that there are key individuals and organisations including faith leaders within the communities themselves striving to end FGM and therefore it is not about cultural factors but rather about violence against women.

44. In terms of relevant third parties who may be able to apply on behalf of the victim, we believe the following should be considered although we do not propose an exhaustive list:
- a. Family members, including relatives
  - b. Family friends, or friends of the potential victim
  - c. Teachers, including private tutors
  - d. Social workers
  - e. Doctors, Nurses and other health care professionals including midwives and gynaecologists
  - f. Community workers
  - g. Charities and non-profit organisations knowledgeable familiar with the potential victim
45. With regard to charities and organisations knowledgeable on FGM issues, such as MWNUK, we would ask for your thoughts on circumstances where a third party informs an organisation of a potential victim but the third party is unwilling to apply themselves due to fear of reprisals. In such circumstances we feel it would be appropriate to allow the organisation to make an application on behalf of the third party. The court could still be informed of the third party but they would essentially be anonymous for all intensive purposes; by doing so it would allow victims to be protected without placing third party individuals in danger.
46. With regard to allowing friends of the potential victim, we ask that you consider situations where perhaps the parents of the friend of the potential victim become aware of the possibility. Should they be allowed to make an application as a friend, on behalf of a friend, or should a scenario should as that suggested in para.44 be considered? In turn, should charities only be able to make an application on behalf of a specified relevant third party or any third party that they have vetted? We ask that all these different scenarios be given due consideration so as to ensure that all those willing to protect are given the opportunity to do so.
47. In this regard, MWNUK are happy to assist with producing any Guidance required relating to relevant third party applications and hope to be given the opportunity to do so in due course.

**Given that girls are at risk of FGM from birth until, and even during, adulthood, do you think that similar provisions in relation to FGM would enable long-term protection from mutilation?**

48. It is difficult to ascertain at this point without being given more specific information as to what provisions are being envisaged. It must be highlighted however that forced marriage protection orders are not necessarily in themselves sufficient to protect victims or potential victims. Naturally therefore, a protection order for FGM, which may be varied or discharged may not in itself be enough.
49. However, generally it is more appropriate to allow flexibility as to the length of time a protection order may apply and would agree that a similar approach should be considered by which the court can specify a period or have it so it can be varied or discharged, whether by application or on the courts own volition.

**If a civil order for FGM were introduced, do you think that it should be a criminal offence to breach such an order?**

50. The aim of making civil orders available is to add to the different measures available by which to tackle FGM, and most importantly to protect victims and prevent FGM from occurring. We are certainly hoping that civil orders will be an useful alternative given the hesitancy shown by victims and potential victims in terms of pursuing criminal provisions. Where civil orders are breached however, it is apparent that the perpetrator has not been deterred and we consider it appropriate for the breach of such an order to be a criminal offence. By doing so, this will provide a clear message of the seriousness of the offence, that is FGM (as opposed to breaching a court order), and also make clear that the civil measures are to be taken just as seriously as criminal prosecutions.

**Do you think that, as with FMPOs, victims should be able to use the civil enforcement route if they prefer, even if the breach of an order is a criminal offence?**

51. We believe victims should be at the heart of the decision-making process and in turn victims should be able to use the civil enforcement route even where the breach of an order is a criminal offence.
52. We appreciate of course that in some circumstances it may be more appropriate to pursue a criminal prosecution but this should be considered on a case by case basis and by giving due consideration to the victims views.
53. We must stress the need to keep the victim/survivor at the forefront of all considerations who may face a range of issues including the physical, psychological and societal, such as the fear of abuse or stigma. There may also be additional issues of consideration, which may or may not be linked to the issue of FGM such as financial matters, caring responsibilities, mental health issues etc.
54. We ask therefore that due consideration is given to the needs of victims/survivors whether this is at initial disclosure and evidence gathering, in terms of health related matters or issues stemming from societal problems such as the need for alternative accommodation or relocation. Our aim should be to tackle and eradicate FGM, but not at the expense of causing more harm to those already suffering.

### **Are there any other points that you wish to add?**

55. Alongside legislative measures, there is a need for collective action and a multi-agency approach; we ask that you bear in mind that this is sought in order to assist those who have fallen victim and protect those at risk from becoming victims. This is only possible if an unqualified commitment is made to ending FGM in UK, which takes into account all the issues of relevance.
56. Whilst we welcome the idea of a civil protection order to tackle FGM cases, we were surprised that only four weeks were allocated to the consultation period. Moreover, we feel this Consultation has been heavily focused on a comparative exercise with forced marriage and are worried as to whether specific and undivided attention is being allocated to tackling FGM.
57. In addition, some members of MWNUK have expressed that the Consultation was difficult to comprehend and in turn this places barriers in being able to acquire adequate responses by which to properly formulate a proposal that will ensure all factors are taken into account in tackling FGM. We hope this is borne in mind where any future Consultations are held.
58. We must also highlight our concerns as to how FGM is discussed generally with a link to immigration and/or religion, which we believe conflates an issue and takes it to a direction that is both unhelpful and unfair for victims/survivors. Training sessions and presentations during university lectures for example, can include language and terminology by which the practice is regarded as one only of relevance to the deviant “other” which rather than promoting collective actions can seem divisive. It is essential therefore that a properly effective training programme is developed which can be utilised across the board; if the intention to stop FGM is sincere we would ask that proper attention is directed to training and development as without a thorough multi-agency approach, FGM will continue.
59. It is also vital that we continue working at a community level to raise awareness and change attitudes to FGM. It is apparent that there is a serious lack of understanding of what FGM entails as well as ignorance on the part of many as to why it occurs. We are aware that in some cases we have had community and faith leaders perpetuate myths as to the realities of FGM; in turn it is vital that where found, strict measures be taken against such individuals and all organisations across the UK irrespective of faith or ethnicity be urged to commit to tackling FGM.

### **Final Comments**

60. As a point of clarification, we must explain that our comments and examples have been limited to BME and/or Muslim victims due to the nature of our organisation and its work. As a national Muslim women’s organisation our work predominantly deals with Muslim and BME women albeit we also work with individuals of other faiths and are therefore also aware of issues of relevance to other faith communities. In turn we

wish to clarify that where we ask for faith and culturally sensitive support packages and mechanisms we do so on behalf of victims of all race, ethnicity, religion and faith.

61. We also wish to reiterate that we do not consider FGM to have any basis within Islam and therefore from our perspective it is not a practice justified through the Islamic faith; we consider it to be violence against women and girls and ask that it be treated accordingly.
62. As a national women's organisation committed to combatting FGM, Muslim Women's Network UK would like to express its willingness to assist through training, support, information or advice or any other means in order to ensure that any cases are prosecuted accordingly and preventative measures put in place for the future.
63. We would like to thank you for providing us with the opportunity to respond to your Consultation and hope that our Response proves to be helpful in your considerations.

**On behalf of Muslim Women's Network UK,  
Nazmin Akthar-Sheikh  
Vice-Chair**

**Muslim Women's Network UK  
The Warehouse  
54-57 Allison Street  
Digbeth  
Birmingham  
B5 5TH**