

## Response ID ANON-VX19-YNEN-J

Submitted to Ending conversion practices in Scotland: consultation  
Submitted on 2024-04-02 21:59:21

### Defining conversion practices for this legislation

1 Do you support our approach to defining conversion practices which focuses on behaviour motivated by the intention to change or suppress a person's sexual orientation or gender identity?

No

2 Please give the reason for your answer to Question 1.

Please give us your views:

The inclusion of "gender identity" is problematic, not least because no definition is provided. The omission of such critical information for a key component in the proposed legislation seems a huge lacuna and will, undoubtedly cause confusion when or if any charges are brought.

According to a Freedom of Information request in 2021 [1], the Scottish Government defined "gender identity" as:

- a personal, internal perception of oneself and so the gender category someone identifies with may not match their sex at birth;
- what an individual experiences as their innate sense of themselves as a man, a woman, as having no gender, or as having a non-binary gender – where people identify as somewhere on a spectrum between man and woman.

It is extremely hard to see how this highly personalised experience of self can be defined in law. It is also, evidentially, a belief that is at odds with reality. In effect, the Scottish Government proposes to legislate to protect a false (or delusional) belief and criminalise those who refuse to adhere to the same (false) belief.

The notes make allowance for support of someone "questioning" their "identity" but this fails to reflect the fact that many children presenting at clinics are fully convinced they are "trans". As the Cass Report [2] makes clear, the affirmation only model is extremely problematic. Children presenting with a range of co-morbidities have been set on a path to lifelong medicalisation, despite all the evidence that their body dysmorphia tends to resolve post puberty. The notes also say that conversion practices will be outlawed if practised on someone who is "cisgender" (we have issues with this terminology as offensive and anti-feminist). We wonder whether the Government is anticipating many cases being brought by detransitioners against the clinics and Scottish Government organisations which have encouraged the erroneous belief that one can be "born in the wrong body"?

In the ministerial forward to the consultation, Ms Roddick suggests this is to protect "LGBTQ+ people from the trauma and harm" of conversion practices. We are not sure how people with a different sex development are affected by conversion practices as these are congenital medical conditions. This inclusion suggests that, yet again, the Scottish Government are wilfully ignorant of the realities of these conditions as they persist in bracketing them as an identity, contrary to the recommendations of specialist organisations. We have no idea what the Government thinks is captured by the "Q+" (does the Q represent Questioning or Queer?) and no evidence is offered for the definition or the reason for inclusion.

We are still unsure what the government thinks the problem is in Scotland. The data cited is the Government and Equalities Office (GEO) LGBT Survey Report [3], supplemented by a 2020 survey specifically into conversion therapy for gender identity [4]. The GEO Survey claimed that 2% of 108,100 participants reported having experienced conversion therapy. This survey has been widely discredited, emanating as it did from a highly partial source, it never even defined what was meant by "conversion practices". [5] The subsequent Coventry Report was equally flawed, and relied on only 6 trans interviewees who were sourced through the Ozanne Foundation (again, not impartial). [6]

References:

- [1] <https://www.gov.scot/publications/foi-202000116319/>
- [2] <https://cass.independent-review.uk/publications/interim-report/>
- [3] <https://assets.publishing.service.gov.uk/media/5b39e91ee5274a0bbe01fd5/GEO-LGBT-Action-Plan.pdf>
- [4] [https://www.stonewall.org.uk/system/files/gict\\_report\\_-\\_final.pdf](https://www.stonewall.org.uk/system/files/gict_report_-_final.pdf)
- [5] <https://sex-matters.org/wp-content/uploads/2022/05/ThoughtfulTherapistsScopingSurvey.pdf>
- [6] <https://sex-matters.org/posts/publications/rapid-review-of-coventry-university-research-on-conversion-therapy/>

### Suppression

3 Do you think that legislation should cover acts or courses of behaviour intended to 'suppress' another person's sexual orientation or gender identity?

It should not be covered

4 Please give reasons for your answer to Question 3.

Please give us your views:

Again there is an issue with the clarity of language especially around the concept of the "manifestation" of gender identity. Will parents be criminalised if they do not wish a child to go out wearing inappropriate clothing? Will a place of work which has rules about uniform or appropriate dress be liable to prosecution for insisting that extreme manifestations of "identity" are not suitable in the workplace?

We would be extremely concerned that parents or doctors who tell a girl not to wear a breast binder would be criminalised. Some trans organisations maintain that these are essential for affirmation purposes. However, even organisations which support the use of these binders admit that a whopping 97% of girls using them will suffer problems ranging from infections and broken ribs to damaged breast tissue and an increased risk of cancer. [7]

Eminent KC Aidan O'Neill has suggested that, as heterosexual identities are also included, the parents of a teenage boy might be guilty of "suppression" if they refuse to let him put up a poster of a naked woman. [8] This has troubling implications for young men and boys who are drawn to extremes of men's rights activism or incel identities. Will they be able to argue that restricting their ability to listen to individuals like Andrew Tate or to watch pornography is a suppression of their identity?

We are rather surprised that the Scottish Government is drawing on the Memorandum of Understanding (MoU), a document which most now feel is unfit for purpose and which grew out of trans activism rather than genuine medical concerns. The evidence base for conversion therapy is highly questionable and, as Peter Jenkins of Thoughtful Therapists has pointed out, there are deeply concerning parallels between the MoU and the discredited WPATH: he describes the MoU as the "key vector for WPATH ideology into the UK. [9]

References:

[7] [https://pubmed.ncbi.nlm.nih.gov/27300085/#:~:text=Over%2097%25%20reported%20at%20least,wrap%20\(13%2F28\)](https://pubmed.ncbi.nlm.nih.gov/27300085/#:~:text=Over%2097%25%20reported%20at%20least,wrap%20(13%2F28))

[8] <https://www.christian.org.uk/wp-content/uploads/Aidan-O-Neill-KC-Conversion-practices-opinion-February-2024-highlights.pdf>

[9] <https://www.transgendertrend.com/wpath-mou-gender-ideology-uk/>

## Overview of proposals

5 Do you support or not support an approach which uses a package of both criminal and civil measures to address conversion practices in legislation?

Do not support

6 Please give reasons for your answer to Question 5.

Please give us your views:

We have little information on what is meant by the "provision of a service". The fact that this will cover medical and counselling services is highly worrying and may inhibit professionals whose first concern should be the mental and physical well-being of a patient.

Existing criminal law already protects against harmful practices which constitute degrading treatment or psychological suffering of others, with civil remedies also available. The Equality Act covers those with the protected characteristics of sexual orientation and gender reassignment in a wide range of circumstances from unwanted conduct which creates an "intimidating, hostile, degrading, humiliating or offensive environment". Extending laws on a very weak evidence basis is unnecessary.

We question why a statutory aggravator is needed as crimes committed based on a belief that the victim is of a certain sexual orientation or transgender identity is already covered under the Hate Crime and Public Order (Scotland) Act. We note that the Government claims that this will create an aggravator which captures behaviour where an "offender does not bear malice or ill-will towards the specific victim, but is motivated by helping them." We wonder where this leaves parents or doctors who refuse to let a girl wear a binder because it has caused medical issues - for example broken ribs. Will they be liable for prosecution while the organisations which promote and distribute these items remain free to continue to cause genuine medical problems?

The Civil Protection Order proposals opens up the possibility that parents, teachers, medical professionals or clerics could be targeted even in the absence of any crime. This sort of Draconian and undemocratic power has been used in other jurisdictions to remove children from parents who prefer to follow the recognised best practice of "watchful waiting" rather than affirm a child's gender identity. It represents a massive and unnecessary over-reach on the part of the Government and may be an infringement of Article 8.

## Offence of engaging in conversion practice

### Offence of engaging in conversion practices: the provision of a service

7 What are your views on the proposal that the offence will address the provision of a service?

Do not support

8 Please give reasons for your answer to Question 7.

Please give us your views:

As stated earlier, the wide definition of "service" will mean that medical and counselling services will be unable to address or properly explore the reasons why some people claim to be trans. The consultation document claims it is not possible to "remedy" or "bring about such a change" in gender confused children. In fact, the opposite is true. The evidence from the interim Cass report suggests that a range of comorbidities are overlooked by professionals who are reluctant to explore the underlying reasons why a patient may maintain that they have gender dysphoria.

This is especially pertinent in the case of young girls, many of whom present with comorbidities including depression and self-harm and many who have been victims of child sex abuse. Body dysmorphia typically affects teenage girls - this is most commonly understood as eating disorders such as anorexia

nervosa. However, professionals have noticed that the similarities between the cohort affected by these conditions and the girls presenting as trans are striking. In a report for the German Society for Sexual Medicine, Sexual Therapy and Sexual Science, Korte and Gille found that female puberty presents challenges and temporary crises are common as girls attempt to navigate their changing bodies and the ways families, peers, and society respond to these changes. When an adolescent girl fails to negotiate these challenges successfully, serious disorders, including anorexia and gender dysphoria, may arise, with psychological conflicts projecting onto the body. Either disorder may serve as an “exit strategy” employed when a girl cannot find a way to accept her developing female body. They note that, culturally, Gender dysphoria may present the better option as:

“... the trendy diagnosis of gender dysphoria or self-identification as trans offers two decisive advantages over anorexia and bulimia nervosa: first, in comparison to eating disorders, the projection surface for gender incongruence is more diverse, and the boundaries are not only sought, but crossed in a very concrete, not just symbolic way. Secondly, gender incongruence and “being trans” are currently extremely socially and politically legitimized and have been defined as a matter of human rights in recent years, which is also reflected in the planned “law of self-determination”. As a result, those affected experience strong external validation and positive reinforcement in their disorder – which, according to the proponents of a transaffirmative care, should no longer be described as such.” [10]

This may account for the shocking rise in the number of teenage girls who are currently identifying as trans and who, if affirmed, may be locked into a medicalised pathway they would otherwise grow out of. [11] The recorded fact that many of these girls are also autistic or lesbian only makes it more disturbing that the Scottish Government would fail to consider they need rounded, thorough and in-depth support. [12]

References:

[10]

<https://segm.org/gender-dysphoria-anorexia-korte-gille-elective-affinities#:~:text=They%20propose%20that%20both%20gender,body%20image%2C%20and%20so>

[11] <https://www.transgendertrend.com/children-change-minds/>

[12] <https://www.docdroid.net/57t8V1q/clarke-2019-extended-clinical-assessment-pdf>

### Offence of engaging in conversion practices: coercive course of behaviour

9 What are your views on the proposal that the offence will address a coercive course of behaviour?

Do not support

10 Please give reasons for your answer to Question 9.

Please give us your views:

The definition of coercion provided in the notes is a clear challenge to parental authority and rights. Parents and schools do control the day to day activities of children in order to keep them safe. This, again, would run foul of Article 8.

As Gay Men’s Network have pointed out, “affirmation only” medical treatment is explicitly exempt from criminalisation. They note that “clinicians offering Cass compliant exploratory therapy for children in gender distress might be at risk of prosecution for suppressing gender identity, but those who believe in the contested concept of “gender identity” and seek to alter physical characteristics are exempt.” [13] We share and second these concerns.

References:

[13] Paragraph 26:

[https://static1.squarespace.com/static/6200252604e9795287de2ada/t/660682e140c9ea784b072066/1711702754735/GMN\\_ScotlandCTConsultationResponse.pdf](https://static1.squarespace.com/static/6200252604e9795287de2ada/t/660682e140c9ea784b072066/1711702754735/GMN_ScotlandCTConsultationResponse.pdf)

### Offence of engaging in conversion practices: harm

11 What are your views on the requirement that the conduct of the perpetrator must have caused the victim to suffer physical or psychological harm (Including fear, alarm or distress)?

Do not agree

12 Please give reasons for your answer to Question 11.

Please give us your views:

“Fear, alarm, or distress” are highly subjective terms which are almost impossible to measure. It is also a low threshold for prosecution and very far removed from the contention that this legislation will protect against “torture”. Distress is highly subjective and is always going to be present in children who are gender distressed, making any interaction at all a possible criminal offence.

Whilst some of these emotions may be an additional factor in the assessment of any actual mental or physical harm, it cannot be a standalone. It is unlikely that this would be legally enforceable in any case.

### Offence of engaging in conversion practices: defence of reasonableness

13 Do you agree with the inclusion of a defence of reasonableness?

Don’t know

14 Please give reasons for your answer to Question 13.

Please give us your views:

The burden of proof is the wrong way round. A defendant should not be required to prove that their exercise of, for example, parental rights or best medical practice was "reasonable". Instead, the courts should be required to prove that they behaved in a criminal fashion.

#### Offence of engaging in conversion practices: proposed penalty

15 Do you agree with the proposed penalties for the offence of engaging in conversion practices?

Do not agree

16 Please give reasons for your answer to Question 15.

Please give us your views:

Serious offences such as those which include violence or torture are already criminal and attract high tariffs. The possibility that a parent could face a 7 year tariff for refusing to let a child to wear a binder or a medic face similar for exploring the deeper reasons why an abused child might reject her sexed body, is truly appalling.

Even if parents are struggling to accept, for example, a child's sexuality, we wonder if the ideal scenario is to jail that parent for up to 7 years - especially if they have other dependents. Otherwise loving families may be ripped apart over the ill-defined concept of causing "distress" to a child.

#### Criminal offences – additional considerations

17 Do you agree that there should be no defence of consent for conversion practices?

No

18 Please give reasons for your answer to Question 17.

Please give us your views:

Adults in Scotland are - and should be - deemed capable of making decisions unless there is substantial evidence of cognitive inability or grounds for believing they are incapable of giving consent.

The huge irony here is that the Scottish Government continues to insist that we believe, and give credence to, metaphysical ideas of gender identity - for which there is no empirical evidence - and to claim that even young children should be deemed capable of making the decision to take experimental, dangerous puberty blocking drugs and cross-sex hormones.

The only potential positive of this ludicrous provision is that if gay and lesbian children are set on a pathway of medicalisation due to internalised or externalised homophobia, they may, in the future, be able to pursue medics, schools, and the Government funded organisations who pushed the concept of "gender ideology" and caused them to believe that they were really the opposite "gender". As observed by the whistleblowers at the Tavistock and by Cass, this cohort is especially vulnerable to this especially pernicious form of coercion.

19 Do you have any other comments regarding the criminal offence? These are set out in parts 7 and 8 of our full consultation document.

Please give us your views:

We believe these proposals will do nothing to address the severe, underlying reasons for the rise in young women adopting a trans identity to escape sexist and lesbophobic social pressures. As such, we regard the potential criminalisation of those who offer best practice counselling services as patriarchal and regressive, as well as contrary to the current evidence.

#### Removing a person from Scotland for conversion practices

20 What are your views on it being a criminal offence to take a person out of Scotland for the purpose of subjecting them to conversion practices?

Do not support

21 Please give your reasons for your answer to Question 20.

Please give us your views:

The consultation gives scant evidence that this is happening and fails to consider the harm caused by clinicians who have referred at least 50 girls under the age of 18 to England for double mastectomies. [14] The same clinicians acknowledge girls are over-represented at Sandyford gender clinic and are likely to be autistic or same-sex attracted. This is conversion to a transgender identity yet is ignored by the proposals.

References:

[14] <https://www.telegraph.co.uk/politics/2021/09/19/allowing-16-year-olds-change-gender-risks-opening-floodgates/>

22 What are your views on the proposed penalties for taking a person outside of Scotland for the purposes of conversion practices?

Do not support

23 Please explain your answer to Question 22.

Please give us your views:

Conversion practices as an aggravating factor for existing offences

24 What are your views on the proposal that conversion practices should be an aggravating factor for existing offences?

Do not support

25 Please explain your answer to Question 24.

Please give us your views:

The consultation document states a new form of aggravation over and above that provided by the Hate Crime and Public Order (Scotland) Act is necessary in order to cover offences motivated by genuine concern and a wish to help an individual. It is beyond incredible that a loving parent acting with the best of intentions and following medical best practice, for example refusing to allow a teenage girl to wear a damaging breast binder, could be imprisoned by this over-reach.

Consideration of Convention Rights

26 Do you have any views on the steps we have taken to ensure the proposals are compatible with rights protected by the European Convention of Human Rights?

Please give us your views :

As stated above, this legislation would undoubtedly breach Article 8. It may also breach Article 6, as the right to a fair trial is undermined by the assumption that gender identity is real and opinions to the contrary are, counter to UK law, potentially criminal. The proposed legislation almost certainly runs counter to Articles 9 and 10 covering freedom of belief and expression.

A new civil order relating to conversion practices

27 What are your views on the purposes of the proposed conversion practices protection order?

Do not support

28 Please explain your answer to Question 27.

Please give us your views:

The Civil Protection Order proposals opens up the possibility that parents, teachers, medical professionals or clerics could be targeted even in the absence of any crime. This sort of Draconian and undemocratic power has been used in other jurisdictions to remove children from parents who prefer to follow the recognised best practice of "watchful waiting" rather than affirm a child's gender identity. It represents a massive and unnecessary over-reach on the part of the Government and its heavily funded yet unaccountable third sector organisations, and may be an infringement of Article 8.

Presuming future crime is best left to the pages of Science Fiction, except in those provable scenarios, for example, escalation of domestic violence or stalking which, bizarrely, are often ignored. The Scottish Government should provide proof, rather than assumption, that concerned parents may turn into abusers before legislating for such an authoritarian assault on families.

A new civil order relating to conversion practices: considerations

29 Do you agree or disagree with the proposals for who should be able to apply for a conversion practices civil order?

Do not agree

30 Please explain your answer to Question 29.

Please give us your views:

Impact assessments

32 Do you have any views on the potential impacts of the proposals in this consultation on equality by:

a. Age, b. Disability, g. Religion and belief, h. Sex, i. Sexual orientation

If you wish, please expand on your answer.:

Sex and Age:

As we have set out above, the affirmation only model of dealing with gender dysphoric youth betrays girls and young women. In recent years, we have seen a rapid rise in the number of girls who identify as trans with little research into the causes of this. For girls who are put on a medicalised pathway (the near inevitable result of the affirmation-only model), the effects of these dangerous and experimental drugs are life-altering and can be life threatening.

Sexual Orientation:

There is a disproportionate impact on lesbian girls, as a frequent outcome of the "watchful waiting" model is that these girls realise they are same-sex attracted. Whistle-blowing clinicians at the Tavistock Clinic were reported as saying the affirmation model felt like "conversion therapy for gay children". Lesbian girls, especially, often presented after months of homophobic bullying: one clinician said "Young lesbians considered at the bottom of the heap suddenly found they were really popular when they said they were trans." [15] As puberty blockers and cross-sex hormones result in sterility, another said there was a dark joke that "there would be no gay people left". We do not believe it is too strong to say that this has a whiff of eugenics. Ironically, this most pernicious form of conversion for gay and lesbian children will be promoted rather than outlawed by this legislation!

Disability:

The Cass review found that around a third of children attending gender clinics are autistic and many more have other mental health co-morbidities or eating disorders. [16] These concerns are especially pertinent in light of the leaked WPATH files which show that clinicians had a cavalier disregard for the seismic effect on this cohort and are more than happy to experiment on people who have limited knowledge about outcomes. [17] Again, it is not this sort of bad practice this legislation seeks to address.

Belief:

The right to believe sex is immutable (and therefore reject gender identity theory) was established in the Forstater ruling. [18] Anyone - including parents - who hold a protected gender critical belief and refuse to affirm, validate or allow child transition will be caught by this draconian law. It is likely people will be unable to exercise their Equality Act rights to express this belief without being accused of conversion practices. As such, we maintain this is yet another misstep on the part of the Scottish Government and it may well, yet again, end up struck down in a court of law on any one of many breaches to UK law or UN convention rights.

References:

[15] <https://www.thetimes.co.uk/article/it-feels-like-conversion-therapy-for-gay-children-say-clinicians-pvsckdvq2>

[16] Paragraph 3.11: <https://cass.independent-review.uk/publications/interim-report/>

[17] <https://www.telegraph.co.uk/news/2024/03/05/wpath-tansgender-hormone-therapy-cancer-links-leaked-emails/>

[18] <https://oldsquare.co.uk/forstater-v-cgd-europe-others/>

33 Do you have any views on the potential impacts of the proposals in this consultation on children and young people, as set out in the UN Convention on the Rights of the Child?

Please give us your views:

We see that this will impact several articles on the UN Convention on the Rights of the Child. Including, but not limited to: Article 3, Article 5, Article 9, Article 14, Article 16, Article 18 and Article 24.

34 Do you have any views on the potential impacts of the proposals in this consultation on socio-economic inequality?

Please give us your views:

35 Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?

Please give us your views:

36 Do you have any views on the potential impacts of the proposals in this consultation on privacy and data protection?

Please give us your views:

37 Do you have any views on the potential impacts of the proposals in this consultation on businesses and the third sector?

Please give us your views:

38 Do you have any views on the potential impacts of the proposals in this consultation on the environment?

Please give us your views:

About you

What is your name?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

For Women Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent