

Response ID ANON-VX19-YVSP-A

Submitted to Ending conversion practices in Scotland: consultation
Submitted on 2024-01-30 14:49:02

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?

Yes

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

Please give us your views:

We do support this approach.

We'd note though that whilst we understand clear evidence of core intent may be required to meet a legal threshold, differentiating 'behaviour motivated by intention to change or suppress a person's sexual orientation' from so called 'general statements of belief or opinion' and/or 'non-directive and ethical guidance and support' could nonetheless remain complex.

Given it has been noted that conversion practices may occur or be practiced within families and communities as well as faith groups and healthcare professionals - we feel this could be open to abuse in the form of consistent subliminal messaging in the form of 'general statements of belief or opinion' around an LGBTQI+ person behind which lies intent to shame, coerce, suppress or change that person's sexuality or gender identity. The same could easily apply to 'non-directive support or ethical guidance'.

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 be covered

4 Please give reasons for your answer to Question 3.

Please give us your views:

We believe that attempts to suppress a person's sexual orientation and gender identity - even whilst accepting it cannot be changed - nonetheless continue to give the message that their sexual orientation or gender identity is undesirable or shameful, and seeks to inhibit a person's authentic expression of who they are.

We believe that there is overwhelming evidence that such practices are extremely harmful and put an individual at significantly higher risk of mental and physical health problems, increase the risk of suicide, as well as increasing the risk that person may develop a wide range of issues including problematic substance use.

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?

Support

6 Please give reasons for your answer to Question 5.

Please give us your views:

We support the creation of these offences.

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?

Support

8 Please give reasons for your answer to Question 7.

Please give us your views:

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?

Support

10 Please give reasons for your answer to Question 9.

Please give us your views:

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)?

Don't know

12 Please give reasons for your answer to Question 11.

Please give us your views:

We'd feel that any attempt to engage in any form of conversion practice, whether a person perceives that they have been harmed by it or not, and whether intent to harm was present - it is inherently potentially harmful. A person may also not feel it did them harm for some time, but later come to consider that they were harmed - even perhaps only by one 'therapy' session. One session may form part of a backdrop of wider negative or shame based messaging that taken together cause great harm.

We'd also question whether this is consistent with other crime types. Many crimes may be committed that do not cause physical or psychological harm to a victim dependent on how that victim perceives what has happened. But nonetheless these crimes might still be prosecuted, also giving consideration to public safety of not prosecuting someone who means to continue to engage in potentially harmful behaviour. Why not apply the same principles here?

Offence of engaging in conversion practices: for the avoidance of doubt

Offence of engaging in conversion practices: defence of reasonableness

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

Do not agree

14 Please give reasons for your answer to Question 13.

Please give us your views:

We do not believe that anyone should be engaging in any form of conversion practice and that doing so is unreasonable.

If motivated to prevent immediate harm due to distress a person may be experiencing around their sexual identity, we'd suggest the only appropriate course of action would be to refer someone to mental health crisis teams or to another appropriate mental health service, without engaging conduct that might validate, or mirror feelings of shame or distress due to sexual orientation or gender identity.

Offence of engaging in conversion practices: proposed penalty

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

Don't know

16 Please give reasons for your answer to Question 15.

Please give us your views:

We do not support sending people to prison for sentences of less than 12 months. On Summary Conviction we'd prefer to see fines and/or a mix of community sentencing and/or restorative justice approaches used. Orders to undergo equalities or LGBTQI+ inclusion education courses may also be helpful - where a perpetrator can be helped to understand the harm that conversion therapy and LGBTQIphobia can cause to individuals and wider society.

For conviction on indictment - if the offence has been sufficiently serious and has involved serious violence or psychological abuse, especially over an extended period of time, and if the perpetrator shows little remorse or commitment to changing their views or opinions - then we would be supportive of the penalties suggested, with the proviso that we broadly prefer community sentencing and restorative approaches to imprisonment where this can be achieved whilst keeping the public safe from harm.

Criminal offences – additional considerations

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

Yes

18 Please give reasons for your answer to Question 17.

Please give us your views:

We do not believe someone experiencing psychological distress caused by LGBTQIphobic environments can give informed consent to engage in conversion practices - especially for the reasons outlined above, namely that conversion practices don't work and are likely to cause significant harm to them.

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:

No.

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?

Support

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

Please give us your views:

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

Don't know

23 Please explain your answer to Question 22.

Please give us your views:

Similar reasons to previous penalties questions. Preference where possible for community sentencing/restorative approaches and re-education on LGBTQI+ issues/awareness.

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?

Support

25 Please explain your answer to Question 24.

Please give us your views:

Seems like this would cover abuse such as 'corrective rape' which we believe should indeed be an aggravating factor.

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 :

We do not support a 'Defence of Reasonableness' as we do not see why it would ever be necessary to be supportive of views held by someone that an LGBTI identity is wrong or can/should be changed - even if that person is experiencing an acute mental health crisis related to such views. We believe these situations could/should be dealt with by referring to crisis mental health services.

We note the intent not to include general statements of opinion without this specific intent or voluntary practices undertaken by a person themselves in line with their own beliefs and not pushed on them by someone else.

We'd have some concerns that some people may attempt to circumvent bans on conversion therapy by subtly making 'general statements of opinion' towards an LGBTI person that their identity is bad/wrong/sinful etc. in such a way as would amount to a 'long game' and very discreet attempt at conversion/suppression of their LGBTI identity (e.g. family members/religious leaders). We do recognise though that this would not likely be via the provision of any service, but nonetheless may amount to coercive or abusive behaviour designed to slowly undermine a person's confidence or self-

esteem.

We'd certainly not advocate prosecuting an individual for voluntary practices undertaken by a person in line with their own belief and not pushed upon them by someone else - though we would call into question whether anyone truly comes to a belief that an LGBTI identity is wrong without the early intercession of specifically religious but also cultural teaching or environments in childhood. Every effort must therefore be made to stamp out any form of LGBTIphobia, however subtle or apparently incidental to wider 'teachings or beliefs' in any setting where the state has influence or control - especially in schools, and to roll out LGBTI inclusive education across Scotland (e.g. via TIE).

A new civil order relating to conversion practices

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

Support

28 Please explain your answer to Question 27.

Please give us your views:

We believe this would help keep individuals and communities safe from harm.

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?

Agree

30 Please explain your answer to Question 29.

Please give us your views:

A new civil order relating to conversion practices : additional considerations

31 Do you have any other comments regarding the civil order? (These are set out in parts 12-14 of our full consultation document)

Please give us your views:

No.

Wider recommendations

Impact assessments

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

a. Age, c. Gender reassignment, f. Race, g. Religion and belief, i. Sexual orientation

If you wish, please expand on your answer.:

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 think the proposals to ban conversion practices in Scotland will enhance the human rights of children and young people and make it more likely that LGBTI young people can grow up in environments that accept and celebrate their identities rather than denigrate or shame them.

We believe that these proposals, whilst not perfect, will contribute to making Scotland a safer place for LGBTI young people.

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:

LGBTI people experience significant health inequalities linked to their experiences of LGBTIphobia, but research also suggests they experience economic inequalities related to LGBTIphobia. We also know from research that LGBTI people make up a disproportionately high percentage (around 25%) of the young homeless population in Scotland - https://uploads-ssl.webflow.com/59f07e67422cdf0001904c14/63317fd1d200585b60b1a3_CHI.Sexuality-gender%20identity%20and%20homelessness%20policy%20document.pdf

We believe any efforts to expand and protect LGBTI rights will have social, health and economic benefits to LGBTI people.

Please see research pieces below for more on link between LGBTI identities and economic inequalities.

<https://www.sciencedirect.com/science/article/pii/S0305750X19300695>

<https://lgbtq-economics.org/wp-content/uploads/2020/03/LGBTQ-Wealth-Gap-One-Page-Infographic.pdf>

<https://www.bbc.com/worklife/article/20220603-the-big-lgbtq-wage-gap-problem>

<https://www.cbpp.org/research/poverty-and-inequality/for-lgbtq-people-recent-anti-discrimination-advances-could-lessen>

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:

No practical impacts.

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:

No.

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:

No.

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

Please give us your views:

No.

About you

What is your name?

Name:

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What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

The Scottish Community Safety Network

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

Publish response with 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

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: