

Response ID ANON-VEE4-K5GY-M

Submitted to Banning conversion therapy
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Introduction

Individual or organisation

Are you providing an individual or personal response or a response on behalf of an organisation?

Organisation

About your organisation

What is the name of your organisation?

Please write in:
For Women Scotland

What type of organisation is it? (Please tick the category which most closely reflects your organisation)

Community group

Does your organisation work on behalf of any of the following people? (Please tick all that apply)

Young people (16 years or over), LGBT people, People with religious beliefs, Women

Which country does your organisation work in? (Please tick all that apply)

Scotland

Approximately how many people work in your organisation?

Don't know

Views on banning conversion therapy

Do you agree or disagree that the Government should intervene to end conversion therapy in principle?

Somewhat agree

Why do you think this?

Please explain the reasons for your answer:

Conversion therapy is abhorrent. The attempt to forcibly 'convert' lesbian, gay and bisexual people is a shameful practice which has no place in any rights-respecting society.

However, there is a significant problem with the way this consultation and proposed legislation have been framed. They conflate sexual orientation with gender identity, when these are two very different things. We are in agreement with the EHRC's recent advice on this point.

We are resolutely opposed to conversion therapy for lesbian, gay and bisexual people. These practices are thankfully largely historic. We agree in principle that residual conversion therapies in this context should be banned.

The proposals as they relate to gender identity are problematic.

1) Gender identity, and conversion therapy in relation to gender identity, is not properly defined in the proposals. The proposals appear to be based on an unquestioning acceptance of the contested, unevidenced and unscientific belief that individuals (including very young children) have an innate gender identity which constitutes their 'true self'.

2) There is no robust evidence base for the need for legislation in this area. The Coventry University study commissioned by the Government to establish the need for such a ban is deeply flawed: it is embedded in gender-identity ideology (which means it accepts faith-based propositions about innate gender identity as though they are empirical truths), it is based on small and unrepresentative datasets, and makes unwarranted and misleading claims and assertions not supported by the data.

3) There are particular concerns relating to gender identity and young people. The Government has commissioned the Cass Review which aims to map the many social and psychological factors underlying the huge increase in transgender identification amongst young people, especially girls. The findings of this review are likely to have implications for talking therapies in relation to young people who assert a transgender identity. It is irresponsible and

premature of the Government to try to rush through the current legislation in relation to gender identity before the Cass Review has reported.

Targeting physical conversion therapy

To what extent do you support, or not support, the Government's proposal for addressing physical acts of conversion therapy?

Somewhat support

Why do you think this?

Please explain the reasons for your answer:

We agree that such acts should be banned. We believe this is already largely covered under existing legislation: physical acts of conversion therapy would normally constitute assault, already a criminal offence. Moreover, hate crime legislation already provides for such acts to be treated as aggravated in relation to protected characteristics.

If any further legislation is shown to be needed to prevent physical acts of conversion therapy we would support them, though we think a stronger evidence base is needed to identify the precise circumstances in which physical acts of conversion therapy are not covered by existing legislation.

Targeting talking conversion therapy

The Government considers that delivering talking therapy with the intention of changing a person's sexual orientation or changing them from being transgender or to being transgender either to someone who is under 18, or to someone who is 18 or over and who has not consented or lacks the capacity to do so should be considered a criminal offence. The consultation document describes proposals to introduce new criminal law that will capture this. How far do you agree or disagree with this?

Strongly disagree

How far do you agree or disagree with the penalties being proposed?

Strongly disagree

Do you think that these proposals miss anything?

Yes

If yes, can you tell us what you think we have missed?

Please explain the reasons for your answer:

There are fundamental problems with the way this proposal has been conceptualised in relation to under-18s and gender dysphoria.

It is important to remember that children and adolescents are forming their sense of self, and that this is a work-in-progress. The phenomenon of pre-pubertal children (mainly boys) presenting with severe distress about their sexed bodies and a belief that they are of the opposite sex has been known about for many decades. This distress is known as gender dysphoria. The phenomenon of adolescents (mainly girls) presenting with similar forms of distress is a very much newer form, and we consider it separately.

Pre-pubertal children experiencing gender dysphoria typically present as certain that they are 'really' of the opposite sex. This is a manifestation of the concrete and relatively unsophisticated way in which young children see the world rather than a reflection of an incontrovertible reality. Studies over decades (collected in Cantor, 2016*) have found that in 70-90% of cases (the proportions vary due to different diagnostic protocols in different nations) gender dysphoria resolves naturally during puberty. For that reason, until recently the established therapeutic and professional response has been 'watchful waiting': supporting the child but not affirming their belief that they are the opposite sex as the truth. The point here is that a child experiencing gender dysphoria, and stating categorically that they are of the opposite sex, is statistically unlikely to retain that feeling and that identification into adulthood, and it is impossible to know prior to adulthood whether they will be in the minority for whom a transgender identification persists.

The belief, therefore, that a gender dysphoric child can be considered 'transgender' is misplaced. We simply cannot know how that child will develop. Holding a space in which the child is treated sympathetically, and their dysphoria recognised as painful and difficult for them is important. But failure to confirm a child's belief that they are of the opposite sex is not an act of conversion therapy: it is simply enabling the child to develop, in the knowledge that gender dysphoria is more likely than not to resolve naturally.

It is also important to note that a significant proportion of gender dysphoric children grow into same-sex-attracted adults. Prematurely confirming to a child that they are of the opposite sex, and putting them on a pathway to transition before allowing dysphoria to resolve during puberty, can in this context be seen as a form of conversion therapy, since the child is statistically more likely to grow into a gay or lesbian adult than a child from the general (non-dysphoric) population.

Adolescence is a time when young people actively explore and forge their sense of self. For many, this can be a turbulent and uncomfortable process of discovering who they are and how they wish to live their lives. In the current social and cultural (including online) context, young people - especially girls - may come to a genuinely-felt and strongly-held belief that they are transgender for many reasons. Girls who experience social difficulties, including girls on the autism spectrum and girls who have suffered traumatic and abusive experiences, may be especially attracted by the promise that changing their

gender will offer them the chance to be a different, more attractive or popular, person.

There is nothing new in adolescent girls coming to strongly-held beliefs about their identities, but what is new is the identification with the opposite sex or with no sex at all, often following periods of online immersion and/or within peer groups. This is a recent phenomenon about which we need to know much more in order to identify appropriate and helpful responses. The term "Rapid Onset Gender Dysphoria" (ROGD) is evolving to describe "the phenomenon of adolescents who suddenly and rapidly experience a socially mediated version of gender dysphoria" (O'Malley, 2021**), and there is much still to be learned about it. The Cass Review is currently investigating this new social phenomenon and has yet to report.

Young people who assert a transgender (including non-binary) identity typically do so forcefully. They will often have accessed online material encouraging them to view their transgender identification as their true self. While only some young people may present as questioning, in reality, all young people are coming to an understanding of who they are, even when they profess certainty. The voices of detransitioners (referenced in Littman's 2021 study***) show us that even the most convinced young people can look back a few years later and regret that a range of alternatives were not fully explored with them.

We currently await the report of the Cass Review into the unprecedented increases in adolescents, especially girls, presenting with gender dysphoria. In the meantime, supporting talking therapies that do not take at face value an adolescent's deeply-felt belief that they are really of the opposite sex or no sex at all, is crucial. The appropriate and well-established therapeutic response to such a young person is curiosity, and a good therapist will open up non-judgemental space in which the child or young person can explore their feelings in depth. By contrast, accepting a young person's stated identification at face value as objective 'truth' closes down therapeutic possibilities, and we know from the experiences of de-transitioners, that prematurely closing down exploration can put young people on the path to unnecessary medical and surgical intervention with all their attendant irreversible harms and risks. There should not be a reliance on the child or young person presenting as 'questioning' rather than certain, in order to justify an exploratory approach.

The proposals risk criminalising therapists who take an appropriately exploratory approach with children and young people. Not only will this mean that spaces in which young people can explore their identities in therapy are prematurely closed down, but the prospect of potential criminalisation, and predictable confusion around what is and is not within scope of the ban, is likely to put therapists off working in the field, resulting in even longer waiting lists for treatment.

The proposals will also have a foreseeable chilling effect for other professionals, including teachers, social workers and youth workers. Although not directly covered by the ban, such professionals may be put under additional pressure to confirm a child or young person's assertion that they are of the opposite sex or no sex, and to socially transition children and young people upon request, without parental knowledge or consent if requested.

Professionals need to be able to adopt a supportive approach, being open to changing the environment around the child or young person, but without unconditionally confirming the dysphoric child or young person as telling an objective and empirical 'fact'. They also need to be able to consult parents openly and without fear: colluding in keeping secrets from parents and carers is normally understood as a basic failure of safeguarding. The proposals make it less likely that professionals would have the confidence to do that: it is not clear whether they would actually be criminalised by the proposals, but we know from the days of Section 28 which never resulted in any criminal cases against teachers, that the perception of illegality is enough to coerce most professionals into compliance.

*Cantor, J. (2016) Do Trans- Kids Stay Trans- When They Grow Up? Sexology Today
http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html Date of access 28/07/2021

**O'Malley, S. (2021) How Clinicians Work With ROGD. Webinar contribution to conference: ROGD: What we know and what we're learning, Genspect.
Available at <https://www.youtube.com/watch?v=tInYPMCHOzo>

***Littman, L. (2021) Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition Who Subsequently Detransitioned: A Survey of 100 Detransitioners. Available at: <https://pubmed.ncbi.nlm.nih.gov/34665380/>

Restricting the promotion of conversion therapy

The Government considers that Ofcom's Broadcasting Code already provides measures against the broadcast and promotion of conversion therapy. How far do you agree or disagree with this?

Strongly disagree

Why do you think this?

Please explain the reasons for your answer:

The Broadcasting Code already states that material detrimental to the physical, mental or moral development of under-18s must not be broadcast. However, broadcasters may be unaware that transition, including social transition of children and adolescents, is a very serious step, and constitutes significant intervention. They should not promote such steps as neutral or straightforward, and should take particular care with suggesting that transgender-identifying and gender non-conforming young people are at particular risk of suicide. Nothing in the Broadcasting Code has prevented broadcasters from screening material that suggests that gender non-conforming children are 'innately' transgender: given that many such children would, if supported through traditional watchful waiting approaches, grow into lesbian and gay adults comfortable in their own bodies, this would appear to be the promotion of a form of gay conversion therapy to young people.

Do you know of any examples of broadcasting that you consider to be endorsing or promoting conversion therapy?

Yes

If yes, can you tell us what these examples are?

Please write in:

Butterfly (ITV) presented a gender non-conforming pre-adolescent boy experiencing gender dysphoria as transgender, and showed him using self-harm to convince his parents that he was really a girl. We know that gender dysphoria mostly resolves during adolescence, and that the likelihood of the child or young person eventually coming out as lesbian or gay is significantly increased. The presentation of a single explanation of the boy's gender dysphoria as him being 'really' a girl can be understood in this context as gay conversion therapy since left unmedicated, there would be every chance that the boy would grow into a happy gay man.

I Am Leo (CBBC) told the story of a 13-year-old who had been transitioned at the age of five. Aimed at children, the programme suggested to children that it is possible to be a boy born in a girl's body or vice versa. There is no scientific basis for such assertions, which present a deeply confusing as well as potentially dangerous message to children. Again, given the statistical increased probability of gender dysphoric and gender non-conforming children growing up to be gay, this can be understood to be a form of conversion therapy.

The Government considers that the existing codes set out by the Advertising Standards Authority and the Committee of Advertising Practice already prohibits the advertisement of conversion therapy. How far do you agree or disagree with this?

Neither agree or disagree

Do you know of any examples of advertisements that you consider to be endorsing or promoting conversion therapy?

No

If yes, can you tell us what these examples are?

Please write in:

Protecting people from conversion therapy overseas

The consultation document describes proposals to introduce conversion therapy protection orders to tackle a gap in provision for victims of the practice. To what extent do you agree or disagree that there is a gap in the provision for victims of conversion therapy?

Neither agree or disagree

To what extent do you agree or disagree with our proposals for addressing this gap we have identified?

Strongly disagree

Why do you think this?

Please explain the reasons for your answer:

The proposed protection orders may have unintended perverse consequences, for instance in preventing parents from going abroad to live with their children. It would be hard to prove parental intent, putting charity workers and teachers in a difficult position where they need to make decisions based on incomplete evidence that could have far-reaching consequences.

Ensuring charities do not support conversion therapy

Charity trustees are the people who are responsible for governing a charity and directing how it is managed and run. The consultation document describes proposals whereby anyone found guilty of carrying out conversion therapy will have the case against them for being disqualified from serving as a trustee at any charity strengthened. To what extent do you agree or disagree with this approach?

Strongly disagree

Why do you think this?

Please explain the reasons for your answer:

In relation to gender identity, the definitions provided for conversion therapy are insufficiently articulated, and appear to be ideologically-driven, starting from the unscientific assumption that individuals, including young children, have an innate and objectively knowable (to the individual concerned) gender identity. This is the basis for the therapeutic approach known as 'unconditional affirmation'. However, as already discussed, the affirmative approach is potentially dangerous, as it closes down therapeutic, non-judgemental space in which a child or young person can explore their psycho-social world in depth. It potentially puts children and young people who may otherwise grow up to be lesbian or gay, on the path to major and lifelong medical treatment.

The proposals risk practitioners who take a 'watchful waiting' approach, opening non-judgemental therapeutic space for children and young people, being summarily found guilty of conversion therapy, and being thus precluded from serving as trustees in the charity sector.

Recognition by authorities of conversion therapy as a problem

To what extent do you agree or disagree that the following organisations are providing adequate action against people who might already be carrying out conversion therapy?

Services action against people carrying out CT - Police:

Neither agree or disagree

Services action against people carrying out CT - Crown Prosecution Service:

Neither agree or disagree

Services action against people carrying out CT - OTHER statutory service:

Neither agree or disagree

Why do you think this?

Please explain the reasons for your answer:

The definitions of conversion therapy provided in the proposals are insufficiently clear for us to answer this question in a properly informed way.

We note, however, that many statutory services are, or have been until recently, members of the Stonewall Diversity Champions Scheme. Stonewall's position is that anything other than unconditional affirmation is conversion therapy: it is likely that organisations which are accredited Diversity Champions have adopted this view into their policies and procedures, and staff have been trained accordingly. This should be investigated and, where necessary, addressed.

To what extent do you agree or disagree that the following organisations are providing adequate support for victims of conversion therapy?

Services support for victims of CT - Police:

Somewhat disagree

Services support for victims of CT - Crown Prosecution Service:

Somewhat disagree

Services support for victims of CT - OTHER statutory service:

Somewhat disagree

Why do you think this?

Please explain the reasons for your answer:

We are aware of young lesbians who underwent transition (including medical intervention) without proper exploration of the possible causes, and who have since 'detransitioned'. Some of these lesbians believe themselves to have been victims of a form of conversion therapy. They are reluctant to approach statutory organisations and services for support, since these include the services that let them down originally.

Do you think that these services can do more to support victims of conversion therapy?

Yes

If yes, what more do you think they could do?

Please explain the reasons for your answer:

There is a serious need for support for detransitioners, many of whom can be considered victims of lesbian and gay conversion therapy. They are likely to need therapeutic as well as medical care in managing the ongoing psychological and physical effects of irreversible surgery and hormone treatment.

Economic appraisal

Do you have any evidence on the economic or financial costs or benefits of any of the proposals set out in the consultation?

No

If yes, please can you provide us with details of this evidence, including where possible, any references to publications?

Please write in:

Equalities impacts appraisal

There is a duty on public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act 2010. Do you have any evidence of the equalities impacts of any proposals set out in the consultation?

Yes

If yes, can you provide us with details of this evidence, including where possible, any references to publications?

Please write in:

There are a range of protected characteristics whose needs should be considered as part of a full Equality Impact Assessment.

"Gender: A Wider Lens" is a series of podcasts exploring issues relating to transition and gender identity, which contains a wealth of relevant evidence and further references including issues relating to:

De-transitioners (protected characteristic of gender reassignment);

Lesbian and gay adults and young people (protected characteristic of sexual orientation);

Gender-dysphoric adults and young people (protected characteristic of gender reassignment);

People on the autism spectrum (protected characteristic of disability);

Adults and young people with long-term emotional or mental health issues (protected characteristic of disability);

Teachers and other professionals with gender-critical views (protected characteristic of religion or belief)

The podcasts are available here: <https://gender-a-wider-lens.captivate.fm>

The impact of the 'affirmative approach' on girls (protected characteristics of sex and age) and gay and lesbian young people (protected characteristics of sexual orientation and age) is explored in this publication:

Littman, L. (2021) Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition Who Subsequently Detransitioned: A Survey of 100 Detransitioners. Available at: <https://pubmed.ncbi.nlm.nih.gov/34665380/>

Confidentiality

Would you like your response to be treated as confidential?

No