

Gay Men's Network **G**

BANNING CONVERSION THERAPY

Gay men respond to the UK Government consultation

Table of Contents

1	WHO WE ARE	1
2	THE SERIOUSNESS OF THE PRESENT MOMENT	2
3	OUR CORE PRINCIPLES	4
4	RESPONSES TO CHAPTER 3 OF THE CONSULTATION: PREVALENCE OF CONVERSION THERAPY	6
5	OUR SPECIFIC OBSERVATIONS AND CRITICISMS OF THE COVENTRY DATA	7
6	THE DANGERS OF BASING POLICY ON "GENDER IDENTITY"	9
7	BASIS OF RESPONSE	11
8	RESPONSES TO INDIVIDUAL QUESTIONS	11
9	EQUALITIES IMPACTS APPRAISAL	23

1 Who we are

1. We are a group of gay men and supporters of all sexualities largely based in the UK. We come from a diverse range of backgrounds and professions, and we have pooled our expertise and resources to come together to respond on this vital issue. Our primary objective is to provide the perspective of gay males on a debate which is often framed as the conflict between women's and trans rights. Young gay males are also adversely affected where conversion therapy practices take place and our aim is to give those males a voice in this response - we have among our number males who have actually experienced conversion therapy so we can speak with authority on this issue.
2. While we commend any and all efforts to eradicate gay conversion therapy from our society, we are alarmed that criminalising talking therapies and other non-affirming treatments for young people presenting with gender dysphoria would lead to the conversion of many hundreds or thousands of people who would otherwise grow up to be happy and well-adjusted homosexuals. We believe that gender identity ideology, which encourages young people to transition based on a belief that they are "born in the wrong body" is a new and particularly insidious form of gay conversion therapy, made all the worse for its enthusiastic embrace by mainstream gay rights charities.
3. As members of a wider gay community, we are concerned that gender identity ideology is harmful to young gay, lesbian, and bisexual people; perpetuates regressive stereotypes about men, women, and homosexuals; encourages self-loathing among young homosexual people; drives people to make profound, irreversible, and often regretted changes to their bodies; and perhaps most cruelly, contributes to a culture in which young people are no longer glad to be gay. We also note that while, conversion therapy practices seriously harm gay people generally, lesbians are disproportionately by conversion based on gender dysphoria and changing patient cohort data from the Tavistock show. While gay conversion therapy has a history based in religious practices, the principal cause of modern gay conversion practices is the embrace of gender identity ideology which medicalises gender non-conforming young people. Gender non-conforming children who are often same-sex attracted live in an age where they are likely to be told they are born in the wrong body. While some youth transition without incident and go onto live happy lives, the existence of detransitioners shows that homophobically informed transition is a problem (which the Government recognises) and we offer our support and suggestions on that basis.

2 The seriousness of the present moment

4. Gay people in the United Kingdom face a political climate that is more homophobic than many of us can remember. Most alarmingly, our opponents today often come from the least expected direction. Earlier this year, for example, the CEO of Stonewall compared the same-sex attraction of lesbians to racism¹. She has similarly compared dissent from gender identity ideology to antisemitism². We are not lone voices in lamenting the embrace of gender identity by the mainstream gay rights movement, or the fact that former charities have turned, in just a few years, from good causes to extremist organisations. Our view is shared by several of Stonewall's founders such as Matthew Parris, who said that the organisation has become "tangled up in the trans issue" and "cornered into an extremist stance"³. This context is essential for the Government fully to understand why so many gay people in the United Kingdom now fear the extraordinarily wide influence of the organisations which once represented us, and which many people assume still speak for us.
5. We are concerned that mainstream gay rights organisations are blind to the homophobia inherent to Gender identity ideology. In *Appleby v Tavistock*⁴ (Case No. 2204772/2019) the court found clear evidence that the chief safeguarding officer at the Gender Identity Service, Ms. Sonia Appleby raised concerns that homophobic parents were, in effect, seeking gender-based conversion therapy for their same-sex attracted children. Prominent detransitioners (many of them same-sex attracted) speak to the reality of a new homophobia. We, as a group, are deeply concerned that mainstream gay organisations are fundamentally failing their constituency by refusing to speak about this issue because it exposes the logical contradictions of gender identity theory and homophobia embedded within however well-intentioned the doctrines may originally have been.
6. Conversion therapy as traditionally understood - compelling people to change their sexuality through threats, bullying, prayer, 'counselling', aversion 'therapy' etc. - is thankfully rare in this country. In the last few years, however, we have seen the rise of a new and even more insidious form of conversion therapy in the form of homophobically motivated gender identity "treatment" for gender non-conforming youth, both in the

1<https://www.dailymail.co.uk/news/article-10225111/Stonewall-brands-lesbians-sexual-racists-raising-concerns-sex-transgender-women.html>

2<https://www.thejc.com/news/uk/anger-grows-over-stonewall-boss-antisemitism-comment-1.517532>

3<https://www.thetimes.co.uk/article/stonewall-should-stay-out-of-trans-rights-war-xcz25nhdt>

4https://assets.publishing.service.gov.uk/media/6149eb48d3bf7f05ac396f79/Ms_S_Appleby_vs_Tavistock_and_Portman_NHS_Foundation_Trust.pdf

United Kingdom and in other countries that have embraced gender identity theory. As noted by the court in the *Appleby* case, this is the conversion of young same-sex attracted people by ideologically-driven adults and organisations, who tell them they are born in the wrong body. This concern was repeated by Dr David Bell, a former employee and governor of the Gender Identity Development Service (GIDS) at the Tavistock & Portman NHS Foundation Trust (“the Tavistock”) both in an internally commissioned report⁵ and subsequently in the media. Dr Bell told the BBC investigative series “Nolan investigates⁶” that many gender non-conforming children referred to the Tavistock were simply gay and would, as they grew and developed naturally, accept this was the case. These concerns are wholly ignored by mainstream gay rights organisations; the result is that gay boys and lesbian girls are being put on a path that leads to lifelong medicalisation, sterilisation, and loss of sexual function. We believe this is self-evidently wrong and homophobic, in effect, gay youth are treated as second class patients to be “fixed” according to the principles of gender ideology which effectively punishes gender non-conformity with medicalisation while at the same denying any underpinning pathology.

7. We appreciate that the government is alive to this concern and note what the Secretary of State for Foreign, Commonwealth and Development Affairs and the Minister for Women and Equalities wrote in chapter 2 of the consultation document:

“This is also the case should a person try to change another from being transgender or to being transgender. It is important that a person experiencing gender dysphoria is able to openly explore what works for them without feeling pressured into any particular outcome. The government is determined to ensure that no person is put on a clinical pathway that is not right for them, and that young people are supported in exploring their identity without being encouraged towards one particular path. Forcing or coercing a person into this position would be considered conversion therapy.”

We share this concern and many of us feel compelled to prevent a situation in which same-sex attracted youth are pushed into trans identification on the basis of ideology, rather than a proper examination of what is right for them. Many (if not all) of the signatories to this response have remarked that they could easily have been candidates for gender-based conversion therapy because they were in some way “gender non-conforming” / academic / autistic or a combination thereof when they were young men

⁵ <https://www.theguardian.com/society/2019/feb/23/child-transgender-service-governor-quits-chaos>

⁶ <https://www.bbc.co.uk/sounds/play/p09yk7dh>

and women. All have grown into same-sex attracted adults happy with their sexualities and gender presentation.

3 Our core principles

8. Our general approach to this area of policy is governed by the following core principles shared by all signatories:
 - a. We believe in evidence-based policy making and the highest standards of legal protection for same-sex attracted and trans people. We believe some of the evidence provided to the government (particularly the Coventry University study) is of poor quality and that the conclusions are simply not justified by the data. We note that the author appears⁷ to have taken ideological positions on social media.
 - b. We believe ideologically driven policymaking can misanalyse problems, pose safeguarding risk and lead to unworkable legislation that will not achieve its own objectives, or worse, harm same-sex attracted and other people. Some consultation respondents will bring an ideological perspective to this issue; we believe that giving weight to emotional arguments over empirical data and expert opinion can only lead to ill-defined legislation which serves ideological rather than practical and legal goals.
 - c. We believe it is important to recognise that this area of discussion takes place in a wider, highly charged debate about gay and trans rights where views are often polarised. Conversion Therapy bans have been enacted across the globe and in some cases the bans have functioned as a way of furthering the objectives of those who believe in the concept of "gender identity".
 - d. The signatories to this response do not accept gender identity theory; we believe it is regressive, intrinsically homophobic and reduces masculinity and femininity to a set of outdated stereotypes based on superficial gender presentation. We believe that young lesbians in particular are extremely vulnerable to messaging suggesting they are "born in the wrong body" as is evidenced from an unaccountable increase in the number of girls presenting as such at NHS gender services. (According to the Tavistock's own figures, between 2009 - 2019 the number of girls presenting at GIDS rose by 5337%) We are concerned that other respondents to this consultation

⁷ <https://twitter.com/TwisterFilm/status/1456100507047632898?s=20>

will see in this legislation an opportunity to advocate for an “affirmation only” approach (a policy which forbids medical practitioners from exploring the reasons why a patient might feel themselves to be at odds with their sexed body). This risks the very thing this legislation is designed to avoid; namely, the conversion of young lesbians into trans ‘males’ which means double mastectomies, hysterectomies, loss of sexual function and potentially other serious complications.

- e. We believe that same-sex attraction is a fundamentally different concept from being a trans-identified person. Both constituencies are entitled to dignity, respect and to the rights in law we collectively enjoy. No party should lose any rights, but we believe different policy solutions should be tailored to the different needs of these constituencies.
- f. We believe the case for banning gay conversion therapy is clear and compelling on the evidence and that the government’s case on banning “symmetrical” conversion therapy is unanswerable. We are concerned that the Government may not be sufficiently alive to instances of non-symmetrical conversion therapy where homophobia drives parents to seek gender treatment for children who would otherwise grow up happily gay or lesbian.
- g. We do not accept that it is useful or accurate to speak about “Trans identity conversion therapy”. Treatment for gender dysphoria is in its infancy; the rapid increase in trans-identifying children is little understood and poorly investigated; and there are compelling reasons (such as the work of the Cass Review) to pause work in this area while legislating in the more straightforward case of gay conversion therapy. Where the much larger body of evidence demonstrates that conversion therapy fails to achieve its stated aim of changing sexual orientation.
- h. We believe there is a paucity of evidence around the phenomenon of gender identity and that such research as there is in this area is highly politicised. We believe there are sound evidence-based reasons for pausing to collect more evidence such that children can be adequately protected. We regret very much that some respondents seem to want to rush legislation in this area and have even argued there should be no consultation at all; we are grateful to the Government for resisting such calls which can only make for poor and insufficiently scrutinised legislation.

- i. The vast majority of children presenting with gender dysphoria desist, many go on to accept the fact they are same-sex attracted and cite “internalised homophobia⁸” as the reason for their transition.

4 Responses to Chapter 3 of the consultation: prevalence of conversion therapy

9. We agree that gay conversion therapy can and does happen, as evidenced by the fact some of the signatories to this response have themselves been victims of it. We note from the Government’s own evidence that minority ethnic boys and girls are more likely to experience some form of conversion therapy and for this reason we believe the appropriate state bodies charged with ensuring equality and fairness, particular for those from minority ethnic backgrounds have a role to play in protecting children from those backgrounds.
10. Coherent with principles (g-i) above we do not believe it is helpful, accurate or evidenced-based to speak of the concept of “gender identity conversion therapy” and we note with some concern the flaws in the data models and conclusions set out by the organisation “Sex Matters” in its rapid review of the Coventry evidence⁹. We adopt those observations and note in particular:
 - a. The stated aim of the Coventry report appears to be to elide the well-evidenced phenomenon of gay conversion therapy with treatment for gender dysphoria with the report commenting

“The boundaries between religious and psychological approaches are often unclear with many combining the two in a way that could be described as pseudo-scientific”.

We agree with Sex Matters that there is no evidence of this, and we are concerned this is an ideological attempt to confuse the two matters.

- b. The independent Cass Review¹⁰ of the Tavistock Gender Identity Service (GIDS) has yet to report. As gender dysphoria is a complex medical matter, we agree the

8 <https://link.springer.com/article/10.1007/s10508-021-02163-w#citeas>

9 <https://sex-matters.org/posts/updates/geo-research/>

10 <https://cass.independent-review.uk/>

government should await this expert medical evidence before proceeding in this area. (Which is not to say that the government cannot or should not act on the more straightforward matter of gay conversion therapy at this point).

- c. The case of *Bell v Tavistock* is likely to be taken up by the Supreme Court as it raises matters of public importance. This case is likely to centre on whether a child can ever be Gillick competent to consent to puberty blockers (which are presently experimental).
11. We add to these observations the following. Detransitioners are marginalised and often speak against the flow of the ideological discourse promoted by mainstream gay organisations. We believe this to be wrong. As we will go on to develop, we believe detransitioners are a neglected group who should be offered more care and assistance. They should also be consulted about their experiences so policy makers can get a better understanding of how (and how often) gender services can go wrong.

5 Our specific observations and criticisms of the Coventry data

12. In addition to the observations we adopt from Sex Matters, we make the following points regarding the evidence submitted to the Government.
13. It is clear from the outset that both the Coventry University report and the evidence on which it is based suffer from some significant shortcomings. The report is based a data set of articles obtained through a search of the academic literature on the subject published between 2000 and 2020. For a practice with as long a history as gay conversion therapy, a 20-year window is decidedly narrow. Furthermore, in terms of gender identity conversion therapy, the earliest study was from 2018.
14. Of the 46 studies selected as being relevant to the report only three were from the UK. One focused on sexual orientation conversion therapy, one on gender identity conversion therapy and covering both. Put another way 85% of the material used to inform the report was from North America. There were virtually no studies - particularly in relation to gay men - from the UK perspective.

15. The authors do acknowledge the methodological limitations of the studies used in the report. Specifically, they point to a lack of randomised controlled studies, reliance on retrospective self-reporting, lack of longitudinal studies to assess long-term effects of conversion therapies, the reliance on self-selecting samples rendering it difficult to generalise any conclusions to the wider population and the difficulty in defining what counts as a measure of 'success' in the context of conversion therapy. It is difficult to understand how a dataset with such glaring faults – several of which, the authors admit, the report itself falls victim to – can be used as the basis for drawing any meaningful conclusions beyond the already well-established conclusion that conversion therapy fails to change sexual orientation.

16. With respect to gender identity conversion therapy, of the 46 studies used in the report only four addressed the conversion therapy to change gender identity and two of these were based on the same survey dataset. In addition to the studies, the report authors carried out interviews with 30 people who had experience of conversion therapy. Of these 30 people, only six were transgender (which includes people identifying as 'non-binary'). Three of these said they had experienced efforts to change their gender identity while three reported attempts to change both the gender identity and sexual orientation. As the Sex Matters response to the report points out:

“This is the entirety of the evidence presented in support of the proposed ban: four articles based on three datasets, and interviews with six individuals”

17. A further, glaring omission from the report's data set is the failure to include desisters or detransitioners – a rapidly growing but nevertheless still marginalised population of people who change their mind before, during or after medical transition – in any of the samples studied. The failure to address this population and their experiences is a serious oversight where a case is being made to ban talking therapies for people presenting with gender dysphoria. Many detransitioners have been physically and psychologically harmed by “affirmation-only” approaches to treating their gender dysphoria and would have benefitted from interventions that helped them explore their feelings of being at odds with their sexed body and successfully resolve their gender dysphoria without recourse to medical and/or surgical intervention.

18. Our greatest concern, however, is that the conclusions regarding conversion therapy as it is applied to sexual orientation where there is a substantial body of evidence showing that it is both ineffective and harmful are being generalised to draw conclusions regarding conversion therapy for gender identity where the evidential basis is at best

scant. Without clear, stable definitions of gender identity (which, in other areas of the wider debate is framed as being fluid anyway) and when what constitutes an attempt to change gender identity is so widely drawn, it is difficult to see what a ban on gender identity conversion therapy would achieve other than making it more difficult for people – young people in particular – to fully explore their sense of disconnection with their sexed body prior to taking drastic and irreversible steps to alter their physical body in line with their feelings regarding a gender identity.

19. Set against the backdrop of a political landscape where influential lobby groups are inserting language and concepts such as “sex assigned at birth” and being “born in the wrong body” into the national discourse, we are deeply concerned by attempts to criminalise legitimate and necessary therapeutic exploration of gender dysphoria on such a paucity of evidence.

6 The dangers of basing policy on “gender identity”

20. We note that the Government does not use the term “gender identity” and we believe this is the right approach. The law contains a definition of “transsexual” in s.7(2) Equality Act 2010 which is defined as a person proposing to undergo, is undergoing, or has undergone a process or part of a process for the purpose of reassigning their sex by change of physiological attributes. This definition was intended to offer protection at law primarily to a category of adult making claims under the Equality Act and we take no objection to how it functions in law for that purpose. We observe that there are difficulties in applying this to young people, the most common targets of conversion therapy and there are even greater difficulties in basing law or policy on the concept of “gender identity” which we fear some may try to elide with the government’s consultation wording of “being transgender”.
21. A young person presenting at a gender identity clinic may “propose” to undergo whole or part of a gender reassignment process which would prima facie bring them within the protected characteristic at law. As the Secretary of State recognises in her desire not to see children making irreversible medical decisions, it would entirely thwart her perfectly sensible approach if the law in this area adopted the characteristic as drafted in the Equality Act. The Secretary of State (much like the High Court at first instance in the case

of *Bell v Tavistock*¹¹) is no doubt mindful of the fact that there has been a vast expansion in the number of trans-identifying children and that females and autistic children are overrepresented in that cohort for reasons that cannot be adequately explained. We firmly believe that the push to teach the concept of gender identity in schools, social contagion and the proliferation of material available on the internet has played a role in convincing teenagers who are uncomfortable with the onset of puberty and their developing sexed bodies that they are “born in the wrong body”. We believe that these questions require urgent research. Plainly, it is not the Government’s objective, nor would it be right, to draft into law that therapists and doctors cannot inquire into or question a child’s proposal to undergo gender reassignment without risk of criminalisation. Gender dysphoria in children, many of whom are gay, will abate naturally in the vast majority of cases and medical pathways ought to reflect that as a matter of public interest.

22. We suspect many responses will encourage the government to adopt the term “gender identity” or otherwise attempt to use the phrase “being transgender” as synonymous. There are serious difficulties with a policy based on this concept and we believe it to be dangerous. Gender Identity is not a stable concept nor is it uniformly defined. Stonewall, for example, takes the view that a part time cross-dressing person has a “trans” gender identity and accordingly membership of that group and the protections it affords. More problematically so far as precision in law is concerned, a constantly growing variety of novel “gender identities” are now said to exist, of which asexual, demi, grey, genderfluid, genderqueer, non-binary are the most commonly known¹². One thing unites this multiplicity of new identities: they all rely on regressive sexist stereotypes, where ‘feeling like a man or woman’ is defined as taking part in or enjoying stereotypical gendered activities, clothing, interests etc.
23. Any legislation based on “gender identity” would be open to abuse, unworkable and would yield results that would bring the law into disrepute. For example, were an academic to make precisely the point above regarding one or more of these gender identities and frame an argument to the effect that it was regressive and to be deprecated, under the proposed legislation a prosecution could potentially lie for “conversion therapy” on the basis of an intention to change the gender identity of the viewer. We believe this would be a nonsense and deeply unwise because this area is fiercely contested where meritless complaints to police are not unknown¹³.

11 <https://www.judiciary.uk/wp-content/uploads/2020/12/Bell-v-Tavistock-Judgment.pdf>

12 <https://www.stonewall.org.uk/help-advice/faqs-and-glossary/list-lgbtq-terms>

13 <https://www.judiciary.uk/wp-content/uploads/2020/02/miller-v-college-of-police-judgment.pdf>

7 Basis of response

24. It follows from the above that our response is that gay conversion therapy is sufficiently precise in law and so self-evidently a social ill that the government should ban it and build legislation around that aim. In contrast, banning gender identity conversion therapy as a concept in effect mandates an “affirmation only” approach to treating young people presenting with gender dysphoria which, following evidence from the Tavistock referred to above, can reasonably be viewed a form of gay conversion therapy.

8 Responses to individual questions

Q1: To what extent do you support, or not support, the Government's proposal for addressing physical acts of conversion therapy? Why do you think this?

25. The government makes two main proposals; to introduce an intention to cause conversion therapy as an aggravating factor on sentence and training for the Crown Prosecution Service and other statutory organisations to recognise conversion therapy as a problem. So far as this is limited to the conversion of same-sex attracted persons, we agree with this proposal. So far as this is suggested as a policy response to the treatment of gender dysphoria, we strongly disagree.
26. In the case of same sex attracted persons who are victims of crime there is obvious value in recognising an intention to bring about conversion therapy as an aggravating factor on sentence and this change could be quickly affected by the Sentencing Council. Conversion therapy in this context should not be restricted to the administration of pseudo-medical or religious interventions. Corrective rape of lesbians happens, and we believe that where this occurs it should attract the aggravation the Government suggests.
27. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity.

Q2: The Government considers that delivering talking conversion 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?

28. So far as same-sex attracted persons are concerned, we agree with this proposal and make the following observations. First, the consultation proposes this matter be an "either way" offence meaning that it is possible it be dealt with in the Magistrates' Court. That court is limited in the case of an either way offence to a period of imprisonment of 6 months in the case of one offence and 12 months maximum where there are two or more either way offences. We find it difficult to reconcile the serious harm that gay conversion therapy causes with the suggestion that it be treated in the same offence bracket as common assault or obstructing the highway. For this reason, we suggest that this offence be indictable only, triable only by jury and sentence only handed down by Judges of the Crown Court; we believe this reflects the serious harm conversion therapy causes and sends out an appropriate signal as to how seriously the Government takes the practice.
29. Second, we note that the Government has considered adopting consent provisions for persons over 18 in order to ascertain lawful consent. We register a concern that this would bring the concept into caselaw on ss.74/76 of the Sexual Offences Act 2003 and that the law as to conditional consent is currently in flux. We take the view that for over 18s there is a simpler and clearer way to deal with the social harm of conversion therapy where ostensible consent exists which is simply to criminalise "engaging in or facilitating a same sex conversion therapy practice causing harm". This would remove consent as an issue entirely and place the burden on the practitioner of such conversion practices to ensure their programs do not cause harm. This provides a less complicated law and one far more likely to focus the mind of any court on harm rather than the question of consent. We believe this would also render the law more consistent with present case law to the effect that one cannot consent to harm. The Government will be aware that harm in criminal law connotes both physical and psychological harm.

30. Third, we are concerned as to the misuse of law in this general area and mainstream gay rights industry charities potentially misusing any law which they may do via a private prosecution. For this reason, we suggest that an Attorney-General's permission provision is built into any new offence (as exists for many serious offences) effectively placing them outside the reach of private prosecutors.
31. Finally, we note that the Government sensibly proposes prevention orders where a conversion therapy practice is apprehended. We believe this provision should be mirrored in a post-conviction setting to prevent reoffending. This objective can either be achieved by using the existing Criminal Behaviour Order mechanism¹⁴ or by introducing new orders in any forthcoming legislation. Such orders should in any event any repeat behaviour and breach thereof should be a further criminal offence.
32. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity. Any attempt to make such a thing a criminal offence would carry grave risks and be contrary to the public interest. The Government have sensibly commented in the following terms:

“Banning conversion therapy must not result in interference for professional psychologists, psychiatrists, psychotherapists, counsellors and other clinicians and healthcare staff providing legitimate support for those who may be questioning if they are LGBT. The ban will complement the existing clinical regulatory framework...”

33. We agree. The existence of a criminal offence for conversion based on a young person “being transgender” could only have a serious and chilling effect on therapeutic environments and it is not clear how they would be excluded from the scope of a criminal offence. Further, non-therapeutic discussions between children and their parents, teachers, friends online or others could potentially be captured by the new offence. If such an offence embraces gender identity, even a discussion as to whether someone was or not “non binary” (a term we believe to be nonsensical and circular/dependent on regressive stereotypes in definition) could amount to an offence. Criminalising this area of public and private life would be fraught with pronounced difficulties. In the first place it could well achieve the opposite of the intention of the bill, with therapists too scared to challenge a stated gender identity; and in the second it could lead to frankly ludicrous

¹⁴ <https://www.cps.gov.uk/legal-guidance/criminal-behaviour-orders>

prosecutions based around terms like “gender queer” or “nonbinary” likely to bring the law into disrepute.

Q3. How far do you agree or disagree with the penalties being proposed?

34. Precise penalties are not proposed in the consultation paper beyond the question of criminalisation and the categorisation of offence. We have already made clear that we do not believe this offence should ever start or end life in a Magistrates Court because the practice is sufficiently destructive of lives that a message should be sent that it is taken seriously. So far as conversion therapy applies to same sex attracted persons we would suggest a maximum sentence on conviction on indictment of 14 year to allow the legislation scope to reflect the worst examples of the practice where lifelong psychological harm is caused. Further, we suggest that this offence be classified as a “specified offence” for the purposes of dangerous offender sentencing because of the pronounced harm it causes to same-sex attracted persons.
35. We further suggest that in order to deal with cases where commercial conversion therapy has taking place and the Defendant has made gains the offence should be classified as a “lifestyle offence” according to the statutory scheme of the Proceeds of Crime Act 2002 allowing for wholesale confiscation of criminal property. We believe such a measure would also indicate to domestic prosecutors that where conversion therapy is offered at cost over the internet that such schemes should be targets for proceeds of crime act prosecutions. Given the cross-jurisdictional reach of that Act, we believe this could play an important role in helping same-sex attracted youth from ethnic minorities where such programs are offered for gain.
36. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity nor should penalties be considered for those helping young people with gender dysphoria or particularly given the evidenced risks we have identified of homophobia being a potential motivation for such.

Q4. Do you think that these proposals miss anything? If yes, can you tell us what you think we have missed?

37. We believe the Secretary of State is alive to the risks of same-sex attracted young people being referred to gender identity services because or internalised or external

homophobia and this is reflected in her introductory remarks; however, we wish to emphasise that we believe this to be the single greatest challenge faced by young same-sex attracted people and a modern form of conversion therapy.

38. We take the view that there are matters the Government may wish to consider beyond the matters suggested in the consultation that could help achieve the aims of the policy. First, we note that a number of legal cases have taken place in the last 36 months or so in this area and many of them have involved government bodies. We ask the government to consider building into any legislation a positive duty on all state bodies to take such steps as are reasonable and necessary in their respective fields to protect persons from conversion therapy. We believe this small change could radically alter the legal landscape of this country and act to protect same-sex attracted youth. Had the Tavistock in *Bell v Tavistock* been under such a duty it would likely not have lost in the case of Appleby where we believe the evidence shows an apparent indifference to homophobia as a driver of parents and indeed young people seeking treatment. Further, such a positive obligation would embolden statutory and state bodies to protect the citizens they are duty-bound to protect. We observe that the Children's Commissioner could have applied to intervene in *Bell*, that the BBC might consider some children's output on gender identity or that such state bodies as safeguard autistic people might investigate the explosion of trans-identified autistic youth with more vigor if such a statutory duty existed.
39. We also believe there is a place for such a duty in the charity sector where the uniform embrace of gender identity has produced what we consider to be a deeply homophobic monoculture. We are encouraged to see the government explicitly recognise issues with the charity sector in the consultation document and we suggest that the government build into law an explicit duty upon the Charity Commission to ensure those whom it regulates do not promote conversion therapy practices for same-sex attracted persons. Like many members of the public, we have been alarmed at charities promoting medically damaging breast binders to girls and the wider discourse around same sex attraction in which same-sex attracted are now commonly described as "genital fetishists" who must "widen their dating pool". These sentiments are not confined to recognisably LGBT charities and staff turnover in the sector as between one charity and other appears to have produced a uniform approach to this matter, opposed only by the charity LGB Alliance. For example, in October 2021 persons carrying placards from Amnesty UK picketing a conference on women's rights claiming to represent trans people carried

placards reading “suck my dick you transphobic cunts¹⁵”. Amnesty subsequently distanced themselves from this behaviour and condemned it¹⁶, but we believe the confidence of the protestors having Amnesty signs alongside their own obscene signs (which Amnesty were no part of) demonstrates an unhealthy coalescence and groupthink in the UK charity sector where each produces social media material on gender identity that is virtually indistinguishable from one another.

40. We are also concerned as to institutional capture of UK government bodies including the NHS and police forces by the said charities. Many produce social media output and enact policies on the basis “gender identity” exists and is a protected characteristic in law (see Essex University as an example). It is not. While such policies ostensibly affect matters beyond the scope of conversion therapy such as single sex space provision, they stem from an ideology that brands homosexuals “genital fetishists” or “sexual racists”. We support Sex Matters in calling for an inquiry into institutional capture and, while the CPS have now left the Stonewall Diversity Champions scheme, given our suggestion that a wider public duty to prevent conversion therapy is assumed, we believe it is time for the Government to confront the creeping capture of state bodies by those espousing a metaphysical belief in a “gender identity” separate to the sexed body.
41. Finally, we believe that detransitioners are a maligned and ignored group in society and that their voices must be heard. We urge the government to make efforts to locate and speak to groups representing detransitioners and to engage with them on the process towards shaping legislation. Detransitioners can speak with authenticity and authority and many of them are able to speak directly to the concerns we raise regarding same-sex attracted people referred to gender services.

Q5. 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? Why do you think this?

42. The Broadcasting Code applies to broadcast media on television, radio and on-demand services and we agree with the Government that the code is extensive such that it generally protects against same-sex conversion practices being portrayed in a manner likely to cause harm and that hatred and abuse are generally prohibited. We note that

¹⁵ <https://twitter.com/mforstater/status/1450018838049873920>

¹⁶ <https://www.amnesty.org.uk/statement-section-following-portsmouth-conference-october-2021>

3.3 of the code specifically prohibits the abusive or derogatory treatment of individuals. Believers in metaphysical gender identities often refer to same-sex attracted persons as “genital fetishists” or, as in the case of the CEO of Stonewall, have said on television that same-sex attracted women are of morally equivalent to racists. These statements are intended to communicate to homosexuals that their same-sex attraction is morally wrong, the precise message of conversion practices.

43. The statements are also demonstrably abusive and derogatory. While the code is wide enough to encompass such statements and we have no desire to limit freedom of speech, we cannot see how it can possibly be right in 2021 to liken lesbians to racists and we encourage the government to consider whether the DCMS can issue guidance to protect minorities from abuse of this nature.
44. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity and we do not support an application of the broadcasting code which might prevent legitimate discussion in this area. We of course support the application of the code more generally insofar as it operates to protect trans-identified persons from abuse and harm as much as any other minority group.

Q6. Do you know of any examples of broadcasting that you consider to be endorsing or promoting conversion therapy? If yes, can you tell us what these examples are?

45. As referred to in paragraph 30 we regret that interviews with persons with a belief in gender identity frequently include explicit denigration of homosexuals, including (as seen in the case cited above) likening us to racists. We consider these to be inspired by a conversion practice mindset because, in that case, the message conveyed was that lesbianism is morally blameworthy. Parties in favour of gender identity theory frequently make such claims of homosexuals and many of us are deeply insulted when they do. More widely, prior to the BBC leaving various Stonewall schemes, we take the view that output was tendentious, unduly influenced by organisations promoting gender ideology, and that programming and editorial choices reflected that. We draw attention to material reported in the “Nolan Investigates” podcast in which children were taught there were over 100 genders and BBC staff were trained according to a controversial gender identity diagram called the “gender bread” person. We lament that activists’ call to “no platform” LGB Alliance appear to have been largely successful, and that the wider public (until

recently) when dealing with the presentation of the view from within the gay community were afforded a view of only one side of the debate. This now appears to have changed for the better.

46. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity and we are not aware of any programming whatsoever that examines detransitioners or otherwise criticises a narrative to the effect that transition is always successful and positive life outcome. This seems to us to be a deep bias causing harm to the general public interest.

Q7. 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?

47. We agree with the Government that ASA and CAP codes are sufficient, but we urge vigilance, conversion of homosexuals by way of assuming trans identities is a growing market and a growing problem. We note the recent case of a cosmetics store popular with young people partnering with a charity and offering a promotion based on breast binders. Before this, the charity Mermaids (which markets gender identity to children) entered into a commercial arrangement with a high street coffee shop. These arrangements have the effect of normalising the theory of gender identity generally and in the case cited binders are being normalised to children and young people. We believe there is therefore a place for work in this area to ensure that a creeping normalisation of bodily self-hatred is properly recognised for the obvious breach of the code that it is. We would ask that the government separately investigate breast binders and the Department for Health offer guidance on the mental and physical health outcomes for constricting vital parts of the body or adopting a philosophy based on rejection of one's own sexed body.
48. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity.

Q8. Do you know of any examples of advertisements that you consider to be endorsing or promoting conversion therapy? If yes, can you tell us what these examples are?

49. As per paragraph 35 we believe there are commercial endeavors that support conversion therapy because a substantial portion of those, for example, persuaded to use breast binders will inevitably be lesbians, who are overrepresented among gender non-conforming children / young people. We similarly consider commercial arrangements from charities based on the theory of gender identity to constitute examples.
50. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity nor to our knowledge do any examples of advertisements based on this exist.

Q9: 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?

And

Q10: To what extent do you agree or disagree with our proposals for addressing the gap we have identified? Why do you think this?

51. We agree with the government that an injunctive remedy such as exists pursuant to schedule 2 of the Female Genital Mutilation Act 2003 should be available. As with that legislation we take the view that it is sensible such orders are available in criminal and family courts for this purpose. We have offered the view that the criminal offence of engaging in or facilitation a conversion therapy practice be indictable only, if adopted, this might leave a person in danger as between the first hearing of a case in a Magistrates Court and hearing thereafter in the Crown Court. For this reason, we suggest the machinery of the Female Genital Mutilation Act 2003 be adapted wholesale to this situation such that a Magistrates Court may make such an order.
52. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity and we

foresee enormous dangers if the legislative structure suggested were available in this context. A third party wishing to enshrine gender identity in law or create test cases could seek orders as against reasonable therapists, parents or those providing healthcare.

Q11: 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? Why do you think this?

53. So far as conversion therapy practices are applied to same-sex attracted persons we agree with the Government for the need to strengthen the likelihood that such persons are removed as trustees or senior figures or that such charities are brought swiftly to an end. Following on from our suggestion at paragraph 27, we believe there should be a positive duty on the Charity Commission to ensure such persons who support or promote these practices are kept out of positions in the charity sector where they might thereby harm young people. We support the suggestion that a criminal conviction for engaging in or facilitating a same sex-attraction conversion practice should strengthen the hand of the charity commission to remove such persons, but we would go further. We suggest any sentencing judge in the Crown Court have available ancillary to sentence a power to direct the charity commission to remove such a trustee or senior officer. Engaging in same-sex conversion practices should be a serious offence and we believe the public would expect such persons not to occupy positions of power or influence and that their removal should be swift and effective. We note with some concern the activity of the charity sector generally in this area and in particular the Court's remarks that one such charity made the treatment of children at the Tavistock "more difficult" in the case of *Appleby*.
54. We suspect the Cass Review will have more to say on this topic, but it is a matter of great concern that charities professing a belief in gender identity theory have operated in this manner apparently without sanction. As we have commented, we take the view that the case for proper oversight in this area is unanswerable. Campaigning, ideological charities such as the in *Appleby* have no place in the highly specialised field of medicine for young people with complex problems. We urge the government therefore to go further here and commission the Department of Health to consider whether it is

appropriate for ideologically driven charities to play any role at all around the provision of healthcare.

55. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity and we are concerned that if this concept were enshrined in law in this aspect of the consultation that it might be misused. The single charity in the UK supporting those who fit the Equality Act 2010 definition of a gay person as same-sex attracted, LGB Alliance, are presently subject to an attempt to have their charitable status revoked by a company "The Good Law Project" and the charity Mermaids. We fear that any material directed towards trustees on the basis they do not accept gender identity may be used by such parties.

Q12. 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? (Police; Crown Prosecution Service; OTHER statutory service)? Why do you think this?

56. As conversion therapy is presently not a criminal offence the degree to which the listed criminal justice organisations might act to protect victims is limited other than where such practices overlap with existing offences (such as in the case of "corrective rape"). We have commented previously as to the extent of institutional capture by parties supportive of gender identity theory and we comment here that significant retraining would likely be necessary particularly in the case of many police forces who appear to have (without any public mandate) wholesale adopted the core tenets of gender ideology.
57. We believe as we commented in paragraph 26 that wider statutory bodies have a vital role to play in ensuring cases such as *Bell v Tavistock* are not repeated. Gender non-conforming youth who would grow out of trans identities presently risk lifelong medicalisation and life-changing surgery. There are a vast number of bodies, particularly those charged with child safeguarding which can and should intervene to protect such children and young persons. Fear of entering a fraught debate (as noted by the court in *Appleby v Tavistock*) has discouraged any criticism or intervention in this area and we firmly believe same-sex attracted children and young people have come to desperate harm as a result. For this reason, we repeat that we are in favour of a general statutory duty on all relevant bodies to take measures to prevent conversion practices as directed towards same-sex attracted persons.

58. In line with paragraphs 4-24 above we do not believe the government should act on the basis of there being such a concept as conversion therapy for gender identity and we can thus identify no instances of a state body acting in respect of "victims" who we believe are better described as patients presenting with assumed trans identities.

Q13. To what extent do you agree or disagree that the following organisations are providing adequate support for victims of conversion therapy? (Police; Crown Prosecution Service; OTHER statutory service)? Why do you think this?

And

Q14. Do you think that these services can do more to support victims of conversion therapy? If yes, what more do you think they could do?

59. The victims of modern gay conversion therapy are primarily detransitioners. Almost no support is available on the NHS and their voices are marginalised and often castigated by mainstream discourse. We believe this is a hugely neglected area of public policy where the Government has a moral obligation to act decisively. Detransitioners are badly in need of counselling, medical advice as to lifetime complications and wider support services to assist with the various secondary problems persons with lifelong medical conditions face.
60. As we suggested earlier, we believe the government should consult with detransitioners and the very few groups that represent and support them to work on building services for this currently neglected cohort.

9 Equalities impacts appraisal

Q16. 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?

61. This legislation will disproportionately affect same-sex attracted young persons who are the cohort most likely to present as gender non-conforming youths and for this reason we take the view that the government ought to consider the potential dangers of an "affirmation only" approach, as will doubtless be suggested by those supportive of a "gender identity conversion" therapy ban. We take the view that such a policy, as argued herein, will be cause of, rather than a solution to the real and pressing issue of same-sex conversion practice in the UK.