

**Stonewall**

# ABOUT THIS RESOURCE

**This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.**

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at [www.stonewall.org.uk](http://www.stonewall.org.uk)

**Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)**

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

# Stonewall

## CONSULTATION RESPONSE

**Banning Conversion Therapy  
February 2022**

# Government Open Consultation Response: Banning Conversion Therapy

## Stonewall

1. At Stonewall, we stand for all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.
2. We imagine a world where LGBTQ+ people everywhere are free to be themselves and can live their lives to the full.
3. Over the last 30 years, we have helped create transformative change in the lives of LGBTQ+ people across communities in the UK. We have travelled a path from Section 28, and the total suppression of LGBTQ+ identities in schools, to every child learning about our lives, families, and relationships as part of the national curriculum in most of the UK. That same path has taken us from a world where our relationships were criminalised to one where we have equal rights to love. And, for those of us who want to, equal rights to marry, or to have children.
4. We are proud of who we are and what we have achieved together, but we know more change is desperately needed. We can't create the world we imagine, the world our communities deserve, without you.

# VIEWS ON BANNING CONVERSION THERAPY

## PRELIMINARY QUESTION

**Do you agree or disagree that the Government should intervene to end conversion therapy in principle? Why do you think this?**

### Principle of banning conversion practices in law

6. Conversion practices – all actions that seek to change, “cure”, or suppress a person’s sexual orientation and/or gender identity – are discriminatory, harmful, and abusive.
7. At the UN Human Rights Council Forty-Fourth Session, the UN Independent Expert on SOGIESC, Victor Madrigal presented his report and called for a global ban on conversion practices.
8. The UN Independent Expert’s report is based on testimony from around the world, but also draws in particular on the conclusions reached by the Independent Forensic Expert Group (International Rehabilitation Council for Torture Victims):

*“All forms of conversion therapy, including talk or psychotherapy, can cause intense psychological pain and suffering. All practices attempting conversion are inherently humiliating, demeaning, and discriminatory. The combined effects of feeling powerless and extreme humiliation generate profound feelings of shame, guilt, self-disgust, and worthlessness, which can result in a damaged self-concept and enduring personality changes. The injury caused by conversion therapy begins with the notion that an individual is sick, diseased, and abnormal due to their sexual orientation or gender identity and must therefore be treated.*

*“This starts a process of victimisation through conversion therapy. Individuals who have undergone the practice often experience a decrease in self-esteem, episodes of significant anxiety, depressive tendencies, depressive syndromes, social isolation, intimacy difficulties, self-hatred, sexual dysfunction, and suicidal thoughts. In many studies, the rates of suicidal ideation and suicide attempt are several times higher than in other lesbian, gay, bisexual, trans, and gender diverse populations who have not been exposed to conversion therapy.”*

9. The balance of evidence both internationally and in the UK shows that conversion practices are associated with significant harms for all LGBTQ+ people. The UK Government should legislate to ban such practices in all instances and for all people. Arguments against the banning of conversion practices whether wholly, in some instances, or for some sections of the LGBTQ+ community, are arguments to maintain the legality of significant harms being inflicted on LGBTQ+ people.
10. The Cooper Report, produced by the Ban Conversion Therapy Legal Forum comprised of leading human rights lawyers, academics and experts, also addresses the fact that conversion practices are incompatible with international human rights law:

*“Conversion practices, at a minimum, amount to degrading treatment prohibited by Article 3 of the European Convention on Human Rights (ECHR) and affect the most intimate aspects of private life protected by Article 8, due to the significant impact on a victim’s psychological and physical health and wellbeing. The discriminatory nature of conversion*

*practices is demeaning and perpetuates a continuum of violence towards the LGBT+ community, which also violates Article 3 ECHR.”*

11. The Cooper Report further states there is a legal obligation on the UK Government to legislate for a ban on conversion practices:

*“It is an established principle of international human rights law that conduct that amounts to degrading or inhuman treatment or torture must be prohibited by law. Failure to have legal and other relevant measures designed to ensure that individuals are not subjected to proscribed ill-treatment, including ill-treatment administered by private individuals, is a violation of human rights law. An example of this is A v United Kingdom (1999) EHRR 611, where the European Court of Human Rights held that the UK’s failure to provide an adequate framework of protection from ill-treatment was a violation of Article 3 ECHR.”*

12. It is therefore not just a moral and ethical imperative for the Government to ban conversion practices, but also it would be a violation of human rights law to fail to provide an adequate framework of protection from the ill-treatment individuals are subjected to by conversion practices.

## **Banning Conversion Therapy in England and Wales**

13. The National LGBT Survey (2018) found that 2.4 per cent of LGBT people have been subjected to conversion therapy, and a further 5.4 per cent have been offered conversion therapy. These figures were higher for trans people (4.3 per cent and 8.3 per cent respectively) and asexual people (2.3 per cent and 7.9 per cent respectively).
14. In order to ensure the data collected would more accurately reflect the UK population as a whole, the data was reweighted, using the APS data as a reference point, published in the Government’s research ‘The prevalence of conversion therapy in the UK’ published 29 October 2021.
15. The weighted data showed that 2.9 per cent of LGBT people had been subjected to conversion therapy in their lifetimes, and a further 5.0 per cent had been offered conversion therapy.
16. While the figures for those who had been subjected to conversion practices were higher for those aged 55-64 (3.5 per cent) and significantly higher for those aged 64+ (5.4 per cent), experiences of being subjected to or offered conversion practices were reported across all age ranges surveyed from 16 upwards.
17. Conversion practices are therefore not solely a historic abuse that has been driven out of the UK, but an ongoing form of discriminatory harm affecting a significant minority of the LGBTQ+ community in the UK today. Stonewall uses LGBTQ+ people here to include lesbian, bi, gay, trans, non-binary, queer, gender diverse and asexual people.
18. Conversion practices cover a spectrum of activities including non-physical forms of pseudo-therapy and faith-based directive or so-called “healing” prayer; controlling behaviour such as barring people from access to LGBTQ+ supportive information or friends or networks or threatening eviction from one’s home; and activities that are covered by current criminal law such as violent assault or sexual abuse or rape.
19. All forms of conversion practices are inherently discriminatory as their driving belief is that being LGBTQ+ is inferior, broken, an illness, and/or morally or ethically wrong or sinful, and that to be heterosexual or cisgender is superior, healthier, and/or the only acceptable way of being.

20. All forms of conversion practices are misleading, as they do not work. There is no reputable evidence of conversion practices being able to change a person's sexual orientation or gender identity. The Government's commissioned research by Coventry University ('Conversion therapy: an evidence assessment and qualitative study', Jowett et al, published 29 October 2021) found that:

*"There is very little robust evidence to support claims that conversion therapy can be effective in achieving its aim of changing a person's sexual orientation or gender identity.*

*"A number of studies have found very few people who undergo sexual orientation change efforts report any change. There are some studies that report higher levels of success, however, such studies have serious limitations or fatal flaws in study designs. Inconsistency in findings is likely due to a lack of scientific rigor.*

*"Qualitative evidence has found that some individuals who have undergone conversion therapy report having been in denial about having changed. Some also report pretending to have changed in order to conform to others' expectations. Self-reports of success should be interpreted with this in mind."*

21. Similarly, the Independent Forensics Expert Group in their 'Statement on Conversion Therapy' (May 2020) also concluded:

*"To our knowledge, there also are no credible scientific peer-reviewed studies that demonstrate that conversion therapy in any form is effective. Practices that purport to change an individual's sexual orientation or gender identity [...] lack any foundation in science or medicine and are unlikely to be effective. Instead, they are based on an antiquated misconception about the nature of sexual orientation and gender identity"*

22. In 2012, the Pan American Health Organization noted that "conversion therapies" had no medical justification and represented a severe threat to the health and human rights of the affected persons, and in 2016, the World Psychiatric Association found that "there is no sound scientific evidence that innate sexual orientation can be changed."
23. All forms of conversion practices are abusive and harmful. All forms, both physical and non-physical, subject individuals to ongoing messages that they are wrong, broken, or ill, and cause lasting psychological damage with higher rates of anxiety, depression, suicidal ideation, and suicide attempts. Physical forms of conversion practice can involve severe violent abuse and/or sexual assault or rape.
24. The Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity presented at the Forty-Fourth Session of the UN Human Rights Council (1 May 2020) reported:

*"All evidence provided to the Independent Expert depicting, among other harmful acts, beatings, rape, forced nudity, force-feeding or food deprivation, isolation and confinement, forced medication, verbal abuse, humiliation and electrocution, suggests that the methods and means commonly utilized to implement practices of "conversion therapy" are conducive to psychological and physical pain and suffering.*

*"The deep impact on individuals includes significant loss of self-esteem, anxiety, depressive syndrome, social isolation, intimacy difficulty, self-hatred, shame and guilt, sexual dysfunction, suicidal ideation and suicide attempts and symptoms of post-traumatic stress disorder, as well as often significant physical pain and suffering.*

*"The psychological pain and suffering inflicted by practices of "conversion therapy" are deep and long-lasting and often exacerbate the risk of suicide."*

25. The dangers of conversion practices led leading psychological, psychotherapy, therapy, counselling and mental health organisations, along with NHS England and NHS Scotland to sign a Memorandum of Understanding to commit to ending the practice:

*“The primary purpose of this Memorandum of Understanding (MoU) is the protection of the public through a commitment to ending the practice of ‘conversion therapy’ in the UK.*

*“For the purposes of this document ‘conversion therapy’ is an umbrella term for a therapeutic approach, or any model or individual viewpoint that demonstrates an assumption that any sexual orientation or gender identity is inherently preferable to any other, and which attempts to bring about a change of sexual orientation or gender identity, or seeks to suppress an individual’s expression of sexual orientation or gender identity on that basis.”*

26. Stonewall strongly agrees that the Government should drive forward both legislation and practical actions to end conversion practices, to act against those who offer or perform conversion practices, to protect those who are victims or potential victims of conversion practices, and to provide support to those who are survivors of conversion practices.

# TARGETING PHYSICAL CONVERSION THERAPY

## QUESTION 1

**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?**

27. Stonewall strongly supports the Government's proposals for addressing physical acts of conversion therapy. Stonewall believes this is a useful and effective proposal from the Government for dealing with the serious violent and sexual offences that conversion practices can involve.
28. We agree that attempts to change, "cure", or suppress a person's sexual orientation and/or gender identity should be considered by sentencing judges as an aggravating factor in violent or sexual offences.
29. Crimes that are motivated by an intent to change, "cure", or suppress on the basis of sexual orientation and/or gender identity are crimes that are motivated by hostility towards a person on the basis of a protected characteristic. Due to the intent and motivation of the crime conversion practices, like hate crimes, have exacerbated impacts on the victims.
30. The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, in his report to the UN Human Rights Council Forty-Fourth Session stated:

*"The deep impact on individuals includes significant loss of self-esteem, anxiety, depressive syndrome, social isolation, intimacy difficulty, self-hatred, shame and guilt, sexual dysfunction, suicidal ideation and suicide attempts and symptoms of post-traumatic stress disorder, as well as often significant physical pain and suffering."*
31. Similarly, the Government's commission research by Coventry University (Jowett et al, 29 October 2021) found:

*"There is a growing body of quantitative evidence that exposure to sexual orientation change efforts is statistically associated with multiple negative health outcomes (including suicidal thoughts and suicide attempts). This body of evidence is larger for sexual orientation change efforts, however, one recent study has also found that gender identity change efforts are associated with similar negative health outcomes. Although we need to interpret this data with care, such associations are consistent with verbal accounts of individuals who have undergone conversion therapy."*
32. We believe that adding a sentence uplift is an appropriate way to recognise the additional harm caused by conversion practices, and to ensure that conversion attempts are recorded as a motive in violent and sexual offences against LGBTQ+ people.

# TARGETING TALKING CONVERSION THERAPY

## QUESTIONS 2, 3 & 4

**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? How far do you agree or disagree with the penalties being proposed? Do you think that these proposals miss anything?**

33. Stonewall somewhat agrees the proposals to introduce new criminal law capture talking conversion practices. Stonewall somewhat agrees with the penalties being proposed.
34. We see five areas in which the Government's proposals fall short of protecting all LGBTQ+ people from conversion practices.

### Area 1: Consent

35. The proposals introduce a consent loophole that will leave some adult victims of conversion practices at risk. The document suggests that it is possible for a non-vulnerable adult to give consent to talking conversion practices where they are fully informed of the risks and the efficacy of such practices and they do so voluntarily, and without coercion.
36. However, research commissioned by the Government on conversion practices (the Coventry University Report) found that informed consent in the context of conversion practices is a misnomer.
37. The research involved interviewing 30 victims of conversion therapy, all aged over 20, the majority of whom were subjected to the abuse aged 18 or over. The lead researcher, Dr Jowett, in an article on that research stated:

*“Most of the people we spoke to felt they were not given accurate information free from bias, were not informed of the risks of conversion efforts, or offered an alternative.”*

38. The Government's proposals for an informed consent loophole are misguided in that they overlook the intentions of the perpetrator to cure or suppress a person's sexual orientation or gender identity, and conflate conversion practices with seeking counselling. The proposals state:

*“We recognise there is a plurality of experience in this area and that there are adults who seek counselling to help them live a life that they feel is more in line with their personal beliefs. We do not intend to ban adults from seeking such counselling freely, but consent requirements will be robust and stringent.”*

39. The question is not whether an adult should be able to seek counselling of any sort, but whether an individual or organisation should be able to provide harmful conversion practices that are presented as counselling.

40. Similarly, the Minister for Equalities, Mike Freer MP, in oral evidence to the Women and Equalities Select Committee, stated:

*“In a free society people should have the right to make an informed decision. Even if it is one that you and I would disagree with or think was bonkers, they have that right, as long as they have the ability to be informed that what they are doing is wrong and harmful, and will not work. That strikes a balance.”*

41. That is why we believe that the legislation to ban conversion practices should be targeted at the provision of conversion practices, and at the individuals or organisations who provide or advertise these practices. If, as the Government argues in its introduction to its proposals, *“there is no justification for these coercive and abhorrent practices and the evidence is clear that it does not work: it does not change a person from being LGBT and can cause long lasting damage to those who go through it”* then there can be no justification for an individual or organisation to practice conversion therapy legally.

42. It is irrelevant in terms of banning conversion practices whether a victim consents to or voluntarily seeks out these practices or not, the law must clearly criminalise the provision of the practices in all circumstances.

43. As the Cooper Report explains:

*“In the case of conversion practices, a ban is necessary in a democratic society (as required by Article 9(2) ECHR) as it protects the public safety of LGBT+ individuals, their right to health, and their general enjoyment of Convention rights, such as the right to private life under Article 8.”*

44. The subsequent paper focused on the issue of consent by the Conversion Therapy Legal Forum, ‘How to Legislate against Conversion Practices: Consent, Autonomy and the Law’ points out that:

*“Legislation in relation to domestic violence, female genital mutilation and forced marriage all provide examples of circumstances in which Parliament has recognised the danger of permitting consent in respect of harmful or potentially harmful practices and activities.”*

45. The proposals also incorrectly assert that a form of “meaningful consent” can be possible in regard to conversion practices. The proposals contend that:

*“The person entering the arrangement must have freely consented and received all the appropriate information about the potential impacts, short and longer term, of such counselling to allow them to do so.”*

46. Given that conversion practices do not work and are associated with greater risks of severe psychological harm, it is difficult to imagine a situation in which a provider would freely and frankly provide sufficient information. A perpetrator of conversion practices, or any form of abuse, is unlikely to sufficiently inform a potential recipient that what they propose to do to them will risk severe psychological damage and has no evidence of efficacy.

47. Conversion practices always involve an imbalance of power making meaningful consent impossible. The victims, if “consenting”, are acting under extreme duress in which they believe, and are being told by the perpetrators, that there is something wrong with them that can and should be fixed.

48. The perpetrators hold themselves as an authority who can solve their problems. In the majority of cases, perpetrators are religious figures, medical professionals, or parents, guardians or other family members – all holding power and authority over the decisions in an individual's life or implicit acceptance in their religious community or family. This is an imbalance of power that makes the concept of informed consent meaningless in context.

49. As the Cooper Report's subsequent paper on consent explained:

*“Conversion practices invariably involve an imbalance of power. The persons receiving such intervention understand their sexual orientation or gender identity to be undesirable, pathological or transgressive in the view of a social group of which they are a part, and are often emotionally and/or financially dependent (e.g. a family or faith community). In contrast, the persons offering this intervention hold themselves out as being able to resolve this. This context creates an inevitable imbalance of power and pressure to acquiesce, rendering consent nugatory in the vast majority of cases.”*

50. The research commissioned by the Government found:

*“Although most people who have conversion therapy appear to do so voluntarily, they also describe being led into conversion therapy by people in a position of authority in their religious institutions or families.”*

51. There is a significant danger that by justifying informed consent in the context of conversion practices, protections for people who suffer other forms of abuse that they under duress and when subjected to it by a person in a position of authority may consent to – such as domestic violence or forced marriage – will be weakened.

52. Stonewall would strongly recommend review the Government's proposals in light of the potential risks of introducing informed consent loopholes into the prosecution of domestic abuse, female genital mutilation or forced marriage.

53. The loophole on adult consent will leave the majority of adult victims at risk of conversion practices, and will fail to meet the stated aim of ending this abhorrent practice.

## **Area 2: Definition**

54. The definition of conversion practices in these proposals does not cover 'suppressing' sexual orientation or gender identity. While the Government has clarified that the definition used in the proposals is not intended to be understood as the definition that will be used in legislation, it is vital that the definition of conversion practices is clear from the start to ensure clarity of what is and is not being proposed to be banned.

55. The proposals only refer to 'changing' a person's sexual orientation, or from or to being transgender. This ignores that conversion practices, can also be an attempt to suppress someone's sexual orientation or transgender identity. Practices to get a person to never act or, or feel, or think about their LGBTQ+ identity are equally damaging.

56. This can be a particular issue for bi people, and non-binary or gender fluid people who may experience conversion practice to suppress certain aspects of their sexuality or gender identity.

57. Without including ‘suppress’ in addition to ‘change’, the Government could leave a loophole for perpetrators to argue their conversion practices are not about changing a LGBTQA+ person’s sexual orientation or gender identity, but rather trying to get to them to not act upon it. They would then be able to continue providing conversion practices.

### **Area 3: Protecting all LGBTQ+ People**

58. Similarly, the definition in the proposals makes it unclear whether all LGBTQA+ people will be protected. The proposals refer to protecting LGBT people, prevent changing a person’s sexual orientation or from or to being transgender, and from being same-sex attracted to opposite-sex attracted and the reverse.

59. These terms do not clarify who the Government seeks to protect, which could leave worrying gaps for sections of the LGBTQA+ community.

60. Referring to a change from same-sex attracted to opposite-sex attracted would not cover bi people.

61. LGBT does not cover intersex people or people on the asexual or aromantic spectrum. And it is important that the Government clarified that non-binary people, gender diverse people or people with other minority gender identities are included within these proposals. In light of the recent recommendations of the Law Commission, we would recommend explicitly including asexual people and gender diverse people within the language of the bill.

62. Stonewall recommends the use of a definition of conversion therapy as practices that seek to change, cure, or suppress a person’s sexual orientation or gender identity. This definition has the benefit of:

- a. Covering all forms of sexual orientations and gender identities without needing to provide a specific list.
- b. Being in line with international terminology, e.g. the terminology used by the UN Independent Expert on sexual orientation and gender identity.
- c. Advancing the Government’s stated aim in the consultation of ensuring “Our approach is in line with our international counterparts and precedent for similar issues” given that enacted and proposed legislation banning conversion therapy in Australia, Canada, France, Germany, Ireland, New Zealand and Malta all refer to sexual orientation and gender identity.

### **Area 4: Religious and Faith-Based Settings**

63. The proposals do not clearly set out how conversion practices in religious settings will be effectively banned. Religious and faith-based conversion practices constitute just over half of conversion practices in the UK and internationally.

64. It is concerning that there is very little in the proposals about preventing the largest form of conversion practices. As the proposals stand, there are clear loopholes that represent a failure to protect LGBTQ+ people of faith from conversion therapy, and we are concerned that they leave the Government open to challenge on whether they are fulfilling the Public Sector Equality Duty in regard to people who hold the protected characteristics of faith, sexual orientation and gender reassignment.

65. Individual private prayer should not be banned, but without further definition ‘private prayer’ may be interpreted to include group private prayer. Private prayer which involves at least two people can be a form of conversion practice where it is directed against an individual to try to change or suppress their sexual orientation or gender identity.
66. The Coventry University research report commissioned by the Government states that religious or spiritual therapy can include *“Prayer ‘healing’ (including exorcising spirits), confession and repentance, faith declarations, fasting, pilgrimages, Bible reading, attending religious courses.”*
67. Many religious and faith-based conversion practices are forms of ‘communication’, which the proposals state won’t be covered by the ban. If these practices are not part of the definition of “talking conversion therapy” the majority of victims will have no protection and the ban will fail to end these abhorrent practices.
68. ‘Private prayer’ is not clearly defined in the Government’s proposals, and as the Coventry University research defines prayer ‘healing’ as a form of conversion practice it is unclear whether or why this would be exempt.
69. A ban that exempts *‘casual conversation, exchange of views, private prayer or pure speech acts’* which can constitute forms of conversion practice in certain circumstances would not in effect ban conversion practices or their associated harms. This approach invites conversion practices to continue within religious settings.
70. The Cooper Report proposals explains:

*“The freedom of religion can be justifiably restricted where limitations are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. There are numerous examples where practices considered to be motivated by faith have been outlawed. For example, in *Abrahamsson v Sweden* it was found that a father’s wish to inflict corporal punishment as a form of chastisement on his child was not protected by Article 9. The House of Lords found a similar ban on corporal punishment to be compatible with Article 9. Importantly, there is no recognised right, be it in a religious or cultural context, to harm others physically or psychologically, or to expose individuals to a significant risk of harm.”*
71. It is therefore important that a ban on conversion practices clearly states which practices that occur within religious setting are recognised as physically or psychologically damaging forms of conversion practice. This should not include holding a certain belief or preaching to a congregation from a sacred text, nor indeed any form of prayer that does not have a predetermined outcome but rather seeks give pastoral support and comfort.
72. Similarly, the only reference to parents and family members is that they will continue being able to bring up their children according to their beliefs. While this is correct, the proposals do not set out how victims who are subjected to conversion practices by their family members - comprising 16% of conversion practice victims in the Government’s 2018 National LGBT survey – will be protected. Legislation must clearly define what practices carried out by parents and family members would be considered as criminal conversion practices.
73. The proposals must clearly set out which practices will be defined as conversion practices and under which circumstances. The proposals must make clear that there are practices that occur within families or faith-based settings that are conversion practices and will be banned.

## Area 5: Gender Transition Services and Healthcare

74. The Government should make clear, either directly in legislation or in statutory guidance accompanying a Bill, that gender transition services, gender transition healthcare and legitimate and explorative gender identity therapy (i.e. therapy which accepts a person's autonomous understanding of themselves without a predetermined or preferred outcome) are not forms of conversion therapy and therefore would not be an offence under its proposals.

75. The Memorandum of Understanding sets out the importance of distinguishing conversion practices from all supportive therapy, explorative conversations and the provision of gender transition services and healthcare:

*“Nor is it intended to stop psychological and medical professionals who work with trans and gender questioning clients from performing a clinical assessment of suitability prior to medical intervention. Nor is it intended to stop medical professionals from prescribing hormone treatments and other medications to trans patients and people experiencing gender dysphoria.”*

*“For people who are unhappy about their sexual orientation or their gender identity, there may be grounds for exploring therapeutic options to help them live more comfortably with it, reduce their distress and reach a greater degree of self-acceptance. Some people may benefit from the support of psychotherapy and counselling to help them manage unhappiness and to clarify their sense of themselves. Clients make healthy choices when they understand themselves better.”*

76. There must be a clear distinction between legitimate treatment and healthcare that supports people to be themselves, and targeted conversion practices that only seek to change, “cure”, or suppress. Government clarity on this issue is vital, as confusion or ambiguity could lead to further obstacles, such as litigation, to challenge access to necessary legitimate healthcare and support for trans young people and adults who already face extensive waiting times for transition-related healthcare.

77. Under existing NHS protocols, children and young people who consistently and persistently identify as a different gender to the sex they were assigned at birth, they can be directed to specialist support – such as NHS Gender Identity Development Services (GIDS), which supports under-18s. In England, there is only one gender identity clinic for young people, the GIDS service at the NHS Tavistock & Portman Trust. There is one other clinic in Scotland, and no provision at all in Wales.

78. Access to this specialist support involves a lengthy wait for referral and yet further waits before receiving treatment. Waiting lists for GIDS are over two years long, far exceeding patients' legal entitlements under the NHS Constitution. This is leaving trans young people and their families without the expert support they need, and putting further pressure on overstretched Child and Adolescent Mental Health Services (CAMHS).

79. Treatment is then a long and ongoing support pathway – it requires extensive checks and assessment by multiple clinicians and healthcare professionals. Some of the young people who attend GIDS consider some sort of medical transition. No fully irreversible medical interventions are offered to children and young people. The decision to begin taking hormone blockers or cross-sex hormones is made between specialist clinicians, the young person and their family.

80. The Government should clearly state these established medical pathways for children and young people are not within scope of the proposed legislation. It should refute the

assertions that children and young people with gender dysphoria are being 'rushed' into gender transition services as factually incorrect, and ensure that legislation does not inadvertently create further barriers to children, young people and their families accessing support and healthcare. The Government should commit to improving access to gender identity services for children and young people experiencing gender dysphoria, providing access to much needed legitimate and professional support.

# RESTRICTING THE PROMOTION OF CONVERSION THERAPY

## QUESTIONS 5 & 6

**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?**

81. Stonewall somewhat disagrees that Ofcom's Broadcasting Code already provides measures against the broadcast and promotion of conversion therapy. It is difficult to assess whether the Broadcasting Code already provides measures against the promotion of conversion practices as there is little evidence of it ever doing so.
82. Given that the Government is only now seeking to ban conversion practices, it is evident that conversion practices has not widely been considered a harm outside the LGBTQA+ community and therapeutic sector.
83. The Government should therefore take more active steps to assess the Broadcasting Code and the understanding of Ofcom in applying it to the issue of conversion practices. This may require specific guidance given that conversion practices have not been covered as an offence previously.
84. This answer also applies to the advertisement of conversion practice, the Advertising Standards Authority and the Committee of Advertising Practice. Given that these practices have not been and are not currently defined, it is unclear how the Government could consider that the existing codes already prohibit conversion practices.
85. Stonewall supports the Government's proposals to investigate how the Online Safety Bill can be used to prevent advertising of conversion practices online.

## QUESTIONS 7 & 8

**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?**

86. Stonewall somewhat disagrees that the existing codes set out by the Advertising Standards Authority and the Committee of Advertising Practice already prohibits the advertisement of conversion practices.
87. Stonewall are aware of companies and registered charities that promote conversion practices online. We would be happy to share in-depth examples with the Government if necessary.

# PROTECTING PEOPLE FROM CONVERSION THERAPY OVERSEAS

## QUESTIONS 9 & 10

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

88. Stonewall strongly agrees that there is a gap in the provision for victims of conversion therapy and Stonewall somewhat agrees that the Government's proposals address this gap.
89. A Conversion Therapy Protection Order, in line with similar protection orders to prevent FGM and forced marriage, will help to prevent a person under 18, and over 18 in exceptional circumstances, from leaving the country for the purpose of conversion practice. Stonewall supports this form of protection for vulnerable LGBTQA+ children and young people.
90. However, to make the proposals stronger, the Government should set out a new offence for the aiding or abetting of removing a person from the UK for the purpose of conversion practices.
91. Aiding or abetting in the removal of a person from the UK for the purpose of FGM or forced marriage are criminal offences, and the Government should consider introducing a similar offence. Without a clear offence in law, families and communities who would have sought to subject a person to conversion practices in the UK may look to countries without legal bans to send their LGBTQA+ children or community members to in order to carry out the abuse.
92. It is also unclear how victims of conversion practices where the perpetrator is based outside the UK but conducts conversion practices over the phone or virtually, over Skype, Zoom or comparable video-conferencing platforms, will be protected. The Government should investigate how to protect victims in these circumstances and how to ban these forms of international conversion practices.

# ENSURING CHARITIES DO NOT SUPPORT CONVERSION THERAPY

## QUESTION 11

**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?**

93. Stonewall supports the proposals to enable individuals who have perpetrated conversion practices to be disqualified from serving as a trustee at any charity. The Government will be aware that there are of Charity Commission registered organisations which actively promote and provide conversion practices.

# RECOGNITION BY AUTHORITIES OF CONVERSION THERAPY AS A PROBLEM

## QUESTION 12

**To what extent do you agree or disagree that the following organisations (police, Crown Prosecution Service, other statutory services) are providing adequate action against people who might already be carrying out conversion therapy?**

94. Stonewall strongly disagrees that statutory services are providing adequate action against people who might already be carrying out conversion practices. Evidence from LGBT+ anti-abuse charity Galop finds that statutory services do not recognise when an individual is being subjected to conversion practices. The response of statutory services is too often absent or inadequate in taking action against people who might be carrying out conversion practices. Statutory agencies will require significant guidance and training in terms of acting against perpetrators.
95. This problem is compounded by conversion practices often taking place in environments that otherwise appear to be loving, caring and supportive – in communities or families – and do not register as a cause for concern within existing frameworks.
96. Cases of conversion practices, including those with elements of abuse already recognised in law, are in some cases viewed by statutory services as cultural or generational disagreements between homophobic, biphobic, or transphobic parents and LGBTQA+ children.
97. No intervention is taken in the absence of frameworks, leaving victims of conversion practices in ongoing abusive situations.

## QUESTION 13

**To what extent do you agree or disagree that the following organisations (police, Crown Prosecution Service, other statutory services) are providing adequate support for victims of conversion therapy?**

98. Stonewall strongly disagrees that statutory services are providing adequate support for victims of conversion practices. Statutory services do not recognise when an individual is being subjected to conversion practices. Their response is therefore absent or inadequate in taking action to provide adequate support for victims of conversion practices. Statutory agencies will require significant guidance and training in terms of protecting LGBTQA+ people from this abuse.
99. In the absence of statutory frameworks and guidelines the personal belief of individual professionals can inform their response. This can lead to minimising or dismissing the concerns and risks of potential and actual victims of conversion practices.
100. As conversion practices are currently legal, the threshold for intervention is high, i.e. evidence of criminal assault. In the absence of clear statutory frameworks, statutory authorities are not currently in a position to identify, assess or act on evidence of conversion practices.

## QUESTION 14

### 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?

- 101.** Identification of conversion practices cases is key to supporting victims and survivors. Frameworks and training to identify it need to exist within a wide range of statutory services and professional training courses beyond those that are known to work with victims and survivors. These should include education, homelessness services, drug and alcohol services, suicide prevention services and health services.
- 102.** A way to appropriately risk assess adults subjected to conversion practices could be to include it in the Domestic Abuse, Stalking and Harassment and Honour Based Violence Risk Identification and Assessment and Management Model (DASH) which would inform the Multi-Agency Risk Assessment Conference (MARAC) process, which exists in every local authority. Combined with the inclusion of conversion practices within training and guidance to statutory services, this will help to robustly risk assess each so-called conversion therapy situation.
- 103.** In many instances, family members, faith leaders and community members perpetrate conversion practices within private homes. For a ban to be effective, emergency housing must be provided for those at risk of or being subjected to so-called conversion therapy where appropriate. This requires appropriate risk assessment as well as the provision of such housing.
- 104.** Provision of emergency safe accommodation for victims of conversion practices should be assessed as priority need for housing in the same way as domestic abuse, for example, as outlined in the Homelessness Code of Guidance for local authorities (Chapter 21).
- 105.** It is likely that this will increase the burden of emergency housing needed by local authorities and funding should be available for this. This support-based accommodation will need to be available for all LGBTQA+ people including trans women, GBTQA+ men, and gender diverse and non-binary people. This need should be included within local authorities' needs assessments and strategies for support-based accommodation as part of their obligations under Part 4 of the Domestic Abuse Act 2021.
- 106.** To appropriately protect children being subjected to or at risk of conversion practices, under 18s should be risk assessed under the Children's Act 1989/2004 and the statutory guidance for the Children's Acts – Working Together to Safeguard Children – should be updated to recognise this category of harm explicitly.
- 107.** Victims and survivors of conversion practices may additionally require extra protections to ensure anonymity and confidentiality. There may be risks from a person's family/community if they are 'outed' and/or located and steps must be taken to assess this and protect against it. This could include integrating it into existing risk-assessment structures as outlined above.
- 108.** Additionally, lifelong anonymity for victims or those at risk of conversion practices could be given to survivors if requested, similarly to the anonymity given to victims of forced marriage under part 10 of the Anti-social Behaviour, Crime and Policing Act 2014, as inserted by section 173 of the Policing and Crime Act 2017.
- 109.** There are likely to be wider anonymity issues in dealing with conversion practices cases within GPs and health professionals, schools and voluntary

organisations. Conversion practices could be brought into the Working Together to Safeguard Children statutory guidance to protect against this.

- 110.** Giving evidence in court may be difficult for conversion practices survivors and given power imbalances prevalent in conversion practices cases as well as the traumatic nature of the experiences, and they may feel intimidated by seeing the perpetrator(s). To ease this difficulty all victims of conversion practices should be eligible for special measures.
- 111.** Previous research has shown that LGBTQA+ victims are very unlikely to report crimes to the police. Stonewall's LGBT in Britain: Hate Crime Report (2017) found that 81% of LGBT people had not reported hate incidents to the police, in line with other research into rates of reporting among LGBTQ+ communities. Training for statutory services must include understand focus on LGBTQA+ identities as part of broader efforts to improve experiences for LGBTQA+ people within the Criminal Justice System. The police and other agencies should also refer victims to specialist support services.

## **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?**

112. No.

# 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?**

**113.** There are significant impacts on those covered by the following protected characteristics:

- Gender reassignment
- Race
- Religion or belief
- Sexual orientation

**114.** The current proposals leave a significant number of LGBTQ+ people without protection from abusive and harmful conversion practices – directly affecting those with the protected characteristics of gender reassignment and sexual orientation. Allowing a legislative consent loophole for a form of abuse directed at individuals on the basis of their sexual orientation and/or gender reassignment – a loophole that does not exist for any other form of abuse in law – is indirect discrimination on the basis of these protected characteristics.

**115.** Leaving open a loophole for consent allows discrimination against people with these two protected characteristics particularly affects, and therefore indirectly discriminates against, LGBTQ+ people of faith. The Government's commissioned research showed that more than half of all conversion practices happen in religious or faith-based settings, meaning a significant number of victims of conversion practices are discriminated against on the basis of their religion or belief as well as their sexual orientation and/or gender identity - specifically proposals to exempt private prayer, which is not defined, and to exempt consent, when a large proportion of victims voluntarily seek out conversion practices particularly from religious authorities.

**116.** The disproportionate impact on LGBTQ+ people based on religion or belief also indirectly leads to discrimination on the basis of race. As the National LGBT Survey (2018) showed, there was a higher proportion of people from ethnic minorities subjected to conversion practices through religious or faith-based settings. This reflects the generally higher proportions of religious belief amongst British people from ethnic minority backgrounds. The proposals affecting religion or faith, the consent and private prayer exemptions, would therefore also have a disproportionate negative impact on LGBTQ+ people of colour.