

**Banning Conversion Therapy Consultation
Free Church of Scotland Response**

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

Organisation

B. What is the name of your organisation?

Free Church of Scotland

C. What type of organisation is it?

Religious Organisation

D. Does your organisation work on behalf of any of the following people? (Tick all that apply)

Children

Young People

LGBT People

Religious Beliefs

Women

E. Which country does your organisation work in?

Scotland, England, Outside the UK

F. Approximately how many people work in your organisation?

50 to 249 people

Views on banning conversion therapy

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

Strongly Disagree

Why do you think this?

As Christians we believe that all people are made in the image of God with inherent dignity and worth. We recognise that there are some practices conducted by pseudo-medical practitioners and some sham preachers that are harmful to those struggling with issues of sexual orientation and gender identity. The Free Church of Scotland opposes all abusive practises and rejects the idea that anyone can be forced to live a certain lifestyle. As stated in the consultation document, physical abuse is already illegal, and we support keeping these acts illegal and accordingly there is no need for the Government to intervene. However, the term conversion therapy is too broad and imprecise to be useful.

Our major concern is that other practices might be inadvertently criminalised in the process of “ending conversion therapy”. The ban threatens to criminalise Christian ministers who offer prayer and pastoral support to members of their congregation. A proposed broad ban threatens our rights to freedom of expression and belief. Even if ministers are not criminalised directly, the new law could result in churches being taken to court and being forced to defend themselves at their expense. This will have a chilling effect on free speech.

We note that there is no medical consensus on the best way to help young people who identify as transgender. The recent court cases over the Tavistock clinic have shown the controversy and complexity of the issues involved. NHS England are currently conducting an independent review headed by Dr Hilary Cass OBE, into gender identity services for children and young people, which includes an examination of the issues surrounding children and young people who are prescribed puberty blocking and cross sex hormone drugs. We note that Sweden has ended the prescription of hormone blockers for under 18's and Finland has prioritised psycho-therapy over the use of drugs. The proposed ban on conversion therapy commits the government to a single side in these debates and makes it illegal for health care professionals to offer the full range of options.

It also makes any discussion about issues of gender and sexuality impossible with young people, even between parents and child, unless the adults involved are totally affirming of the young person's gender and sexual identity. In our experience young people are deeply confused about issues connected to gender and sexual orientation and primarily this confusion is being caused by what they are being exposed to in the school environment. In some cases this amounts to something akin to conversion therapy where young people are encouraged to think that they may need to change their gender or sexual orientation. To not allow parents and church leaders to speak into this context is incredibly harmful to young people.

Consultation questions

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

Somewhat support

Why do you think this?

According to the consultation document, 'No act of physical violence done in the name of conversion therapy is legal in this country.' Physical violence and abuse are incompatible with the compassion and love demanded by the Christian faith and we condemn any such acts. The only physical act we recognise in Christian ministry is the consensual laying on of hands for prayer.

We support prosecution of physical acts of conversion therapy under existing law and agree with the government's decision not to introduce a specific new criminal law banning physical conversion therapy acts. However, the government has stated in its citations that less than 5% of LGBT people have experienced conversion therapy and therefore we do not believe it is a wise use of resources to expect statutory services 'to develop policy frameworks that recognise conversion therapy as a problem' as the government proposes.

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?

Strongly Disagree

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

Strongly disagree

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

The definition of 'talking therapy' is far too broad. The government consultation says it is 'a working term' for 'non-physical acts' which have 'the intention of changing a person's sexual orientation or changing them to or from being transgender'. The consultation also includes as talking therapy 'an attempt to remedy or control' feelings of same-sex attraction or being transgender. The consultation goes on to say that 'Legitimate talking therapies that support a person who is questioning if they are LGBT do not start from the basis that being LGBT is a defect or deficiency.'. This brings the proposed legislation into conflict with the teachings of Christianity and would make it impossible to assist someone to live out their Christian faith.

Christianity has always held that identity is found in our relationship with Christ and our behaviour should be conformed to match this identity. Our feelings are not understood to be a totally reliable guide to identity or behaviour. Sexual activity has been understood to only be permissible within the bounds of marriage between one man and one woman. However, the proposed legislation would mean that any young person wishing to have support to have abstinence before marriage, or even lifelong abstinence, would be barred from doing so. Any ministry rooted in the traditional Christian view of sexuality would *de facto* be considered illegitimate by the above definition. Any teaching, sustained prayer or assistance which teaches celibacy could be seen as suppressing or attempting to change a person's sexual orientation. Those in the church who have left LGBT lifestyles out of obedience to Christ would be barred from telling their stories or assisting others to follow the route they took. It would effectively criminalise them for making the decisions they have made.

Further, it would create an inequality in the law between LGBT people and heterosexual people. A heterosexual man would be able to receive help to control his sexuality, for example, to stop using porn. But the same help for a gay man would be considered conversion therapy and therefore would be illegal.

Although the consultation states that 'talking conversion therapy could not be reasonably understood to include communication such as casual conversations, exchanges of views, private prayer or pure speech acts', it leaves open the possibility that pastoral ministry could be understood as a 'talking therapy' if the minister offers guidance or help to members of their congregation. As the proposed law wishes to create a threshold of a one-off offence for prosecution, this increases the chance of an accusation being made against a minister. Even a conversation at the end of a church service could be in violation of the law.

In the case of parents, it would mean that they could be potentially criminalised for teaching their children it is best to live according to their biological sex as this could be seen as trying to change them from being transgender.

It also causes a contradiction in law whereby a teenager is considered able to consent to clinical treatments in line with being transgender, such as hormone blockers, but is not able to consent to discuss whether they should identify as transgendered in the first place if the person helping them in the discussion holds to a Christian view of sex and gender. Further, as the age of consent is 16, the law would recognise the right of some under 18's to consent to sex, but not to be able to discuss whether their sexuality is compatible with their faith.

Also, although it is possible to identify who is under 18, it is not clear what the criteria is for anyone who 'lacks the capacity'. This needs to be explicitly stated in law so that ministers and other church workers are not targeted for an offence.

Finally, it may not always be clear who has not consented to 'talking therapies'. Pastoral ministry is often done in informal settings on *ad hoc* basis, such as after a church service, or when visiting a home. It is not realistic or reasonable to expect ministers and church workers to need a signed consent form before these conversations can take place. Ministers must be free to respond to the needs of the moment.

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?

Prefer not to say

Why do you think this?

The definition of conversion therapy is so broad that legitimate Christian viewpoints could be banned from being broadcast or promoted. A Christian who has chosen celibacy would be prevented from being able to say how this has benefitted them or encouraging others to do the same.

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?

No

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?

Strongly Agree

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?

No

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?

Prefer not to say

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

Prefer not to say

Why do you think this?

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?

Strongly Disagree

Why do you think this?

As the definition of conversion therapy is too broad, and with the risks outlined earlier in this response, this approach could result in ministers, church workers and parents being disqualified from being trustees of charities or holding senior management positions in charities. Moreover, churches and other religious charities holding to orthodox Christian teaching on marriage and gender could find their charitable status withdrawn. Where such a religious charity is a Charitable Incorporated Organisation this could result in loss of property and rights for the organisation.

Churches and other religious charities are involved in many areas of work to support and care for others in our society. They should not be penalised for holding to orthodox Christian teaching on marriage and gender.

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 - Prefer Not to Say

Crown Prosecution Service - Prefer Not to Say

OTHER statutory service - Prefer Not to Say

Why do you think this?

As noted above, the definition of conversion therapy is too broad to be able to agree or disagree that the police, CPS, or other statutory services are taking proper action against it. If passed, the new law would require the states monitoring of almost all pastoral conversations and prayer support between ministers and their congregations.

Q13. To what extent do you agree or disagree that the following organisations are providing adequate support for victims of conversion therapy?

Police - Prefer Not to Say

Crown Prosecution Service - Prefer Not to Say

OTHER statutory service - Prefer Not to Say

Why do you think this?

Q14. Do you think that these services can do more to support victims of conversion therapy?

Prefer not to say.

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

As the consultation notes, physical and abusive practices are already criminalised under UK law. More support for victims of violent crimes is always welcome but it is unclear why this should be done under the heading of conversion therapy.

Q15. Do you have any evidence on the economic or financial costs or benefits of any of the proposals set out in the consultation? If yes, please can you provide us with details of this evidence, including where possible, any references to publications?

No

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?

Yes

Religious belief is a protected characteristic under the Equality Act 2010. The broad definition of conversion therapy in general, and of talking therapy in particular, threaten religious freedom. It impacts the abilities of adults and young people to follow their faith in regards to their identity and sexual practices. Although the consultation states that personal prayer will be protected, there is a need for explicit protection of prayers for others. There is also a need to offer protections so that ministers and church workers cannot be prosecuted for offering pastoral support to adults and young people.

One of the rights enshrined in law is the right to pass on your faith to your children. It is essential that parents are not criminalised for teaching their children Biblical sexual morality or for teaching them to live in conformity to their biological sex.

Any new law should include a specific clause to protect these rights. It should also seek to protect all discussion of sexuality and gender as previous hate crime legislation and same-sex marriage legislation has already done so.

We also note that the Equality Act 2010 currently only recognises Gender Reassignment as a protected characteristic in law. These proposals to ban conversion therapy are predicated on a wide definition of gender identity which is not currently recognised in law. This is a significant extension of the protections under the Equality Act and may have a number of unintended consequences. For example, what effect will such an extension have on other protected characteristics such as sex and the rights of feminists who are critical of gender self-identification.

Q17. Would you like your response to be treated as confidential?

No

Q18. What is your email address? If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

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