

Submission to the Tasmanian Law Reform Institute *Sexual Orientation and Gender Identity Conversion Practices Consultation*

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Dear Acting Director,

The Australian Association of Christian Schools (AACS) welcomes the opportunity to provide a submission in response to the Tasmanian Law Reform Institute's (TLRI) community consultation into 'sexual orientation and gender identity' (SOGI) conversion practices. AACS has significant concerns about the practical implications of the recent introduction of conversion practice laws in Qld, ACT and currently under consideration by the Victorian Parliament for our staff and parents. These concerns are outlined below in response to the consultation by the TLRI and some of the questions provided in the Issues Paper.

Introducing the Australian Association of Christian Schools (AACS)

The AACS represents over a hundred schools and thousands of Australian families from a wide variety of backgrounds, cultures and denominations. AACS schools are located in every state and territory across Australia, including the following schools in Tasmania:

- Calvin Christian School
- Channel Christian School
- Circular Head Christian School
- Devonport Christian School
- Emmanuel Christian School
- Launceston Christian School
- Launceston John Calvin School
- Leighland Christian School
- Newstead Christian School
- Northern Christian School

Our schools were established by parents out of a desire to see their children grow up in a teaching and learning environment where they could be nurtured in the Christian faith. Characterised as low-fee schools that operate from an authentic faith-based foundation, our schools operate autonomously and are accountable to their parent and school communities. Our parents make a deliberate choice, and a financial commitment, to place their children in a school that teaches, nurtures and models a value

and belief system that is consistent with what is expressed in the home environment. Our schools work in close partnership with parents to promote Christian values within a Biblical perspective.

Response to Issues Paper

It is important to clearly state from the outset that our schools do not attempt to forcibly change, suppress or eradicate the sexual orientation or gender identity of any child, nor do we support this practice. We do promote a Biblical worldview on these topics consistent with the religious teachings of the Christian faith. Our schools believe that God designed two biological genders, male and female, and that families are formed through marriage which is a commitment between one man and one woman, to the exclusion of all others for life and is the rightful place for sexual activity and procreation.¹

AACS agrees that education of the whole child is not complete unless it includes spiritual and moral development alongside the intellectual domains, as clearly stated in the Alice Springs (Mparntwe) Declaration in its Preamble:

“Education plays a vital role in promoting the intellectual, physical, social, emotional, moral, spiritual and aesthetic development and wellbeing of young Australians, and in ensuring the nation’s ongoing economic prosperity and social cohesion.”²

Our schools take seriously their responsibility to nurture children’s moral and spiritual development in accordance with the values and beliefs of the Christian faith. We partner with families in teaching children that the world and everything in it belong to God. Christian schools weave this understanding all through their curriculum and in their everyday practices.³

AACS is concerned that new SOGI conversion practice laws could infringe upon the rights of parents to provide guidance to children in their social, emotional, moral and spiritual development, including the areas of sexuality and gender. Students in our schools must be able to discuss their sexuality or gender identity with school staff, and staff must be free to respond to those questions without fear of breaking the law.

Open and honest conversations about big decisions in life are an essential component of the student wellbeing programs of all schools, including Christian schools within AACS.

Question 1: Definition of SOGI conversion practices

The TLRI Issues Paper describes different definitions of SOGI conversion practices and adopts a working definition as:

¹See Gen. 1:27–28, Gen. 2:24, Gen 17:7, Matt. 19:4–6, Matt. 19:14, Acts 2:39, Eph. 5:22–32

²Education Council, *Alice Springs (Mparntwe) Education Declaration*, December 2019, p.2 <http://www.educationcouncil.edu.au/Alice-Springs--Mparntwe--Education-Declaration.aspx> accessed 30 December 2020.

³ See Deut. 6:6–7, Deut. 10:14, Ps. 24:1, Eph. 6:4

acts or statements that are aimed at changing, suppressing, or eradicating the sexual orientation or gender identity of another person and are based on a claim, assertion or notion, either express or implied, that non-conforming sexual orientation or gender identity is a physical or psychological dysfunction that can be suppressed or changed.⁴

AACS believes that the current proposed defined should be carefully defined to apply only to coercive and aversive clinical therapies. The current inclusion in the definition of the word ‘statements’ is too restrictive and should be narrowed to ensure that talking about one’s religious beliefs about these topics is not considered a conversion practice. Also, the word ‘implied’ should be removed from the definition as it is highly subjective and open to misinterpretation. The terms ‘non-conforming sexual orientation or gender identity’ warrant further consideration. Which values and belief system will be used as the comparison point to determine whether the orientation or gender identity being expressed is ‘non-conforming’? Could school leaders be caught up by this definition for expecting students to conform to certain codes of behaviour in terms of how they express their sexuality within the school grounds? Could a Christian teacher, expressing a biological view of gender in the classroom be caught up by this definition?

In 2019, a New Zealand Parliamentary Committee considered petitions to ban ‘conversion therapy’ and recognised “the inherent difficulty in designing rules to outlaw conversion therapy” and that it would “be a challenge to determine which practices should be defined as conversion therapy and which should be legitimate activities for religious and other groups.”⁵ The Committee ultimately did not recommend a ban, indicating that more consideration was needed. Significantly, the Committee recognised the vital need to allow questioning and advice:

“It is important that anyone with questions about their sexuality or gender identity feels comfortable seeking advice. This may be from a professional counsellor, family and friends, or within their religious community. A ban on conversion therapy should not prevent anyone from seeking or providing such advice.”⁶

AACS agrees with the New Zealand Committee that conversations and advice to young people about these topics should be protected. The current proposed TLRI definition of SOGI conversion practices needs to be overhauled as there are too many grey areas open to misinterpretation which could negatively impact the ability of our schools to provide appropriate care and support for our students. The definition must clearly describe what acts are prohibited and what acts are allowable. The practical outworking of such broadly defined SOGI conversion practices could be to stifle or potentially outlaw any non-coercive teaching, advice and discussion about issues related to sexuality or identity by teachers, mentors, counsellors, chaplains or other school staff.

⁴ Tasmania Law Reform Institute, *Sexual Orientation and Gender Identity Conversion Practices* (Issues Paper No 31, November 2020) p. 13.

⁵ New Zealand House of Representatives, Report of the Justice Committee: *Petition of Max Tweedie for Young Labour and the Young Greens: Ban Gay Conversion Therapy, Petition of Amanda Ashley: Ban Conversion Therapy in New Zealand*, October 2019 https://www.parliament.nz/resource/en-NZ/SCR_92751/c6e6e71725e1e313965f8cf736f3813fd9bf9f06 accessed 30 December 2020.

⁶ *Ibid.*

AACS recommends the TLRI adopt a much narrower definition of SOGI conversion practices to prohibit coercive acts and exclude non-coercive statements of belief, teaching, advice and guidance about issues related to gender identity and sexuality.

Question 2: Should people be allowed to consent to SOGI conversion practices? If so, at what age and under what conditions?

All Tasmanians should be free to seek out any spiritual, psychological or medical assistance they require when working through questions or concerns about their sexual or gender identity. Parents seeking to support their children with complex issues such as gender dysphoria should also have a broad range of care options available to them to explore these issues. The ability of children to give informed consent to begin the process of medically transitioning away from their biological sex through the use of puberty blockers was recently considered in the United Kingdom by the High Court in the Tavistock case.⁷

The court held that in order for a child to be competent to give valid consent the child would have to understand, retain and weigh the following information:

- (i) the immediate consequences of the treatment in physical and psychological terms;
- (ii) the fact that the vast majority of patients taking puberty blocking drugs proceed to taking cross-sex hormones and are, therefore, a pathway to much greater medical interventions;
- (iii) the relationship between taking cross-sex hormones and subsequent surgery, with the implications of such surgery;
- (iv) the fact that cross-sex hormones may well lead to a loss of fertility;
- (v) the impact of cross-sex hormones on sexual function;
- (vi) the impact that taking this step on this treatment pathway may have on future and life-long relationships;
- (vii) the unknown physical consequences of taking puberty blocking drugs; and
- (viii) the fact that the evidence base for this treatment is as yet highly uncertain.

The court considered that it was highly unlikely that a child aged 13 or under would be competent to give consent to the administration of puberty blockers. It was also doubtful that a child aged 14 or 15 could understand and weigh the long-term risks and consequences of the administration of puberty blocking drugs. The court also acknowledged that medical treatments for gender dysphoria are still ‘innovative and experimental’.⁸

Considering the life-long implications of puberty blockers and other medical interventions, parents must be free to seek medical and spiritual guidance for their children about gender identity, in accordance with their values and beliefs, without the fear of falling foul of SOGI conversion practice laws.

⁷ R (on the application of) Quincy Bell and A -v- Tavistock and Portman NHS Trust and others [2020] EWHC 3274 (Admin) <https://www.judiciary.uk/wp-content/uploads/2020/12/Bell-v-Tavistock-Clinic-and-ors-Summary.pdf> accessed 29 December 2020.

⁸ Ibid.



AACS recommends that the TLRI consider the implications of the recent Tavistock judgement when considering whether children under the age of 18 can fully consent to commencing medical gender transitioning interventions given the significant lifelong spiritual, relational and health implications.

Question 3 Have you been involved in or offered, or are you aware of, any forms of SOGI conversion practices in Tasmania? If so, what were the effects on you, or the person exposed to them?

AACS is not aware of any Tasmanian Christian school having been involved in, or having offered or supported, any form of coercive SOGI conversion practices. It is important to clearly state that AACS does not support any coercive and abusive gay conversion practices. They are abhorrent. We acknowledge that some people have been deeply hurt through these terrible practices and they have no place in modern Australia. Whether there is a need for the Tasmanian Parliament to introduce new legislation to address these archaic practices is, however, questionable. There has been no compelling evidence provided by the TLRI that these abusive practices remain in use in Tasmania. And if they were, they would be covered by existing health regulations and professional standards, as stated in the Issues Paper.⁹

For our schools, as they journey alongside emerging adults establishing their identity and developing personhood, the freedom to have conversations about a wide range of topics and ideas is essential. Any new law which mandates a teacher's or counsellor's response to a particular student's concerns about their sexuality or gender under the guise of banning 'conversion practices' is unjustified and potentially harmful. Generations of young people have sought the advice of teachers and other staff in matters far beyond the subject matter of a classroom. Staff do not attempt to force their beliefs and values upon any student in relation to these deeply personal matters which go to the heart of someone's identity and faith. We do, however, seek to lovingly support young people as they explore questions about their identity in the context of their faith in Christ on a broad range of topics including gender, sexuality and personal relationships.

AACS believes the TLRI has not adequately demonstrated a need for a new law to outlaw SOGI conversion practices and recommends that further research be undertaken to gather a comprehensive evidence base of conversion practices currently taking place in Tasmania to inform the development of any proposed new laws in this area.

Question 4- 8: Should Tasmanian law should be changed to address SOGI conversion practices?

AACS believes that any law banning SOGI conversion practices which prevents parents from discussing and teaching their children a Biblical view of sexuality and gender identity is an unacceptable infringement upon the rights of parents to raise their children in accordance with their religious values and beliefs. The rights of parents to 'ensure the religious and moral education of their children in

⁹ Tasmania Law Reform Institute, *Sexual Orientation and Gender Identity Conversion Practices* (Issues Paper No 31, November 2020) p. 23.



conformity with their own convictions' is recognised in international law.¹⁰ Similar rights are also recognised in the Convention on the Rights of the Child (CROC) to which Australia is a signatory. It would be a grave attack on these fundamental rights if any Bill seeking to ban SOGI 'conversion practices' had the unintended result, directly or indirectly, of impacting what is taught by parents within the home or by teachers within faith-based schools.

AACS urges the Tasmanian Government to guarantee that the freedom of thought, conscience and religious belief is protected so that parents and teachers can continue to teach children a Biblical sexual ethic and a biologically and medically accurate view of gender.

Conclusion

In sum, AACS would support legislation that is aimed at banning abusive, coercive SOGI conversion practices. We believe the current working definition of SOGI conversion practices proposed by the TLRI does not adequately balance the goal of harm prevention with other human rights like freedom of religion and the rights of parents. It also imposes a simplistic 'one size fits all' treatment pathway for children experiencing confusion about their gender identity. It is far too broad and subjective with the potential for much confusion about what is allowed or not allowed when talking about these topics. Christian parents and teachers would be forced to agree with a narrow ideological position on these issues in discussions with children and students, which may be in conflict with their religious beliefs. We strongly recommend the TLRI gather more scientific research on current conversion practices and consult more broadly with a wider range of groups, including faith-based schools, before recommending legislative responses to this issue.

AACS would welcome the opportunity to elaborate further on any of the points outlined above and is grateful for the opportunity to provide a submission to this consultation.

Yours sincerely,

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Australian Association of Christian Schools

¹⁰ *International Covenant on Civil and Political Rights (ICCPR) Article 18*