

Transforming Tasmania Submission to Tasmanian Law Reform Institute Report on Conversion Practices

Transforming Tasmania is an advocacy organisation that aims to reduce and remove structural transphobia in Tasmania and enhance the lives of sex and gender diverse people. Our responses to the questions in the Issues Paper are based on the lived experiences of people in our community, and of parents/carers of trans children. They are also informed by listening to the voices and experiences of people with lived experience of conversion practices.¹

After our responses to the questions, we present testimonies of trans and gender diverse Tasmanians who have been subject to conversion practices. We believe they illustrate the immense and ongoing harm influenced by these practices and underscore the need to attach criminal and civil sanctions to their use.

Question 1 After considering the background and working definition (see [1.3.23] on page 13), in your opinion, what are and are not ‘sexual orientation and gender identity conversion practices’?

We support the definition proposed in the Issues Paper, with one suggested change. Instead of the use of the word ‘non-conforming’, implying that there are sexual orientations or gender identities which do conform or are ‘the norm’, we suggest wording to the effect of ‘a sexual orientation that is not heterosexuality or a gender identity that is not cisgender’.

Transforming Tasmania also believes the definition of conversion practices must include all practices whether formal or informal, by someone paid or unpaid, with relevant qualifications or without qualifications, which to date have no proven history of providing therapeutic benefit, or are similar in nature to existing practices which have no proven therapeutic benefit, or which, in all likelihood given current research, are unlikely to have a therapeutic benefit.

Any legislation that addresses conversion practices must also include practices that are intended to change or suppress gender identity. We know that many young trans and gender diverse people experience attempts to change or suppress their gender identity. We also know these practices are incredibly harmful and contribute to high rates of self-harm, mental ill health and suicide.

Conversely, we know that practices, treatment and support that affirm the identities of trans and gender diverse people contribute to well-being in many life domains. The process of gender affirmation in Australia has robust safeguards and the evidence shows that providing this care is literally life-saving, especially for young trans and gender diverse people. In *Re Imogen*, the Family Court of Australia accepted that the way transgender and gender diverse children and young people are given treatment in Australia is the ‘orthodox middle ground’ and currently accepted by the majority of Australian Medical Professionals.²

The definition should therefore not include practices that accord with current professional therapeutic guidelines such as the Australian Standards of Care and Treatment Guidelines for trans and gender diverse children and adults, the RACGP Treatment Guidelines and the Guidelines for

¹ For example SOGICE Survivor Statement, written by survivors of Sexual Orientation & Gender Identity Change Efforts, and the LGBTQA+ Conversion movement, [Survivor-Statement-A4-Doc-v1-2-Digital.pdf](https://socesurvivors.com.au) (socesurvivors.com.au)

² <https://gendercentre.org.au/polare-magazines/item/a-quick-guide-to-the-keisha-bell-verdict-in-the-uk-and-the-effect-on-families-supported-by-the-gender-centre>; See [The Australian Standards](#)

Psychological Practice With Transgender and Gender Nonconforming People and the World Professional Association for Transgender Health Standards of Care - Version 7.³

The legislation we advocate will not outlaw parents discussing gender or sexual orientation with their children. The legislation would, however, outlaw persistent attempts based on false and pseudoscientific fraudulent claims that gender identity or sexual orientation can be changed or suppressed through conversion practices.

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

Transforming Tasmania does not believe that it is possible to give informed consent to practices that are based on false or misleading claims and have their origins in ideology rather than evidence.

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?

Under Question 9 we provide 3 testimonies of Tasmanians who have been subject to conversion efforts. Members of Transforming Tasmania and people in contact with us have also made private submissions and/or responded to the survey with responses to this question.

Question 4 Do you think that Tasmanian law should be changed to address SOGI conversion practices? If so, should this be through comprehensive reform, amendment or both (a hybrid)?

We believe that legislation should be introduced to ban conversion practices. Stand-alone legislation would send the strongest possible message that these practices have no place in any jurisdiction that aims to uphold human rights.

Question 5 Should some or all forms of SOGI conversion practices be criminalised in Tasmania? If so, which, if any, should be dealt with as serious (indictable) crimes and which, if any, should be dealt with as less serious (summary) offences?

Conversion practices should be criminal offences because of the immense harm they cause. Just as has occurred in relation to child sexual abuses as a result of the Royal Commission into Institutional Responses to Child Sexual Abuse, institutions that permit conversion practices to be conducted on people who engage with that institution should also be held liable.

A possible model for Tasmania is the Victorian legislation *Change or Suppression (Conversion) Practices Prohibition Bill 2020*.⁴ It prohibits practices that cause injury or serious injury and sets out sanctions that are appropriate to the level of harm caused by the practices.

³ <https://www.racgp.org.au/publications/goodpractice/201704/transgender-health/>; <https://www.apa.org/practice/guidelines/transgender.pdf>; <https://www.wpath.org/publications/soc>

⁴ Government of Victoria, *Change or Suppression (Conversion) Practices Prohibition Bill 2020* [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020 \(legislation.vic.gov.au\)](https://www.legislation.vic.gov.au/Change-or-Suppression-(Conversion)-Practices-Prohibition-Bill-2020)

Question 6 Should some or all forms of SOGI conversion practices be made civil wrongs in Tasmania? If so, what sort of practices should people be liable for and how should those subject to such practices be compensated?

We believe that conversion practices should also be made civil wrongs, in order to allow survivors to seek financial compensation. A redress or compensation scheme should be introduced for all survivors. This scheme should be funded by the Government and by fines paid by perpetrators.

Question 7 Should any existing Tasmanian laws (besides criminal laws or the Civil Liability Act 2002 (Tas)) be amended to cover SOGI conversion practices? If so, which ones and in what way?

Transforming Tasmania is aware that some critics of legislation to ban conversion practices assert that such legislation threatens the right to free speech and/or freedom of religion. We believe that the right to free speech is not absolute; there is no right to speech that deliberately harms others. As Article 18(3) of the *International Covenant on Civil and Political Rights* makes clear:

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

We believe that the appropriate way to ensure everyone's human rights and freedoms are protected is through a Human Rights Act.

Question 8 Are there any other models or approaches that are preferable to, or should complement, changing the law?

We believe that a community education program would make legislation to ban conversion practices more effective. Transforming Tasmania is aware, for example, that the effectiveness of Tasmania's consent laws in relation to sexual assault has been weakened by the lack of education amongst the legal profession and the community more generally. An education campaign in addition to a legislative ban on conversion practices would be help to ensure that the law would have the intended effect.

Question 9 Are there any other matters that you consider relevant to this Inquiry and would like to raise?

We would like to address concerns that have been raised on issues beyond the scope of the questions above.

We are aware of submissions to the current TLRI inquiry (publicly available on the TLRI Inquiry webpage) that claim that preventing conversion practices against TGD people infringes free speech, religious freedom and parental rights to slow or stop young people transitioning. The legislation we advocate will not outlaw parents discussing gender or sexual orientation with their children, or ministers of religious expressing their views about gender from the pulpit. To suggest otherwise is fear mongering and dishonest. The legislation will outlaw persistent attempts based on false and pseudoscientific fraudulent claims that change or suppression can be achieved through particular practices.

Some public submissions also claim that a ban on conversion practices will result in an erasure of young, gender-non-conforming lesbians and gay men by encouraging them to see themselves as trans or gender diverse. However, the evidence and lived experience of trans and gender diverse people do not support this claim. The Australian Trans and Gender Diverse Sexual Health survey

showed that 73% of trans men have cis male sexual partners⁵; these trans men would be unlikely to use the label "lesbian" regardless of whether their gender identity was affirmed or not.

The sexual orientations of trans and gender diverse people are extremely diverse. Although critics of gender affirmation fear that trans men may have been lesbians who were "converted", many trans men are gay or not in relationships with cis women at all. Sexual orientation and gender identity are distinct and attempts to change or suppress one in order to achieve a certain result in the other is misguided at best and extremely harmful at worst.

Misinformation also exists in relation to the UK Bell v. Tavistock decision, which has been wrongly interpreted as ending trans affirmation for young people⁶, with some arguing Australia should follow suit. However as noted in our response to Question 1, Australia's Family Court found that the Australian standards of care and treatment for trans and gender diverse children and adolescents represented "the orthodox middle" and are accepted by the majority of the medical profession. We know from the experiences of trans and gender diverse people, especially young people, that providing this care is literally life-saving.

Finally, media reports suggest that some doctors and psychiatrists are seeking changes to Victoria's bill to ban conversion practices, due to concerns it will discourage some practitioners from treating vulnerable patients. The bill includes penalties of up to 10 years in jail and maximum fines of \$10,000 for anyone caught trying to suppress or change someone's sexuality. According to media reports, Dr Kerryn Rubin, chair of the college's Victorian branch, said "[The bill] is too much of a blanket statement on what constitutes a conversion practice versus exploratory therapies," he said. "Our concern is that there needs to be clarity around what is a conversion practice and what are acceptable practices when you are helping people."⁷

However, as Victoria's Attorney General Jaclyn Symes pointed out, the proposed legislation was based on extensive consultation with survivors and other interested parties. "This bill contains necessary caveats so health services and health professionals can still do their jobs and does not prevent them from following their professional guidelines," she said. "They also clearly set out the kinds of actions that constitute change or suppression practices – anyone doing the wrong thing should and will be captured by these laws." Nathan Despott, a survivor of 10 years of conversion practices and a steering committee member at the Brave Network, a support group for LGBTIQ+ people of faith, said the Bill "is precise and nuanced. It targets harm where it occurs."⁸ We believe that survivors are the experts in what support they need and what constitutes harmful practices, and we believe that the Victorian legislation strikes the right balance.

We now wish to highlight the immense harm and ongoing costs of conversion practices with three testimonies from Tasmanians who have been exposed to these practices. The following personal stories have been anonymised. Some details have been changed to avoid identification, and some have been combined from multiple individuals.

⁵ <https://kirby.unsw.edu.au/report/2018-australian-trans-and-gender-diverse-sexual-health-survey-report-findings>

⁶ <https://www.familylawweek.co.uk/site.aspx?i=ed215789>

⁷ <https://www.theage.com.au/politics/victoria/doctors-fear-conversion-therapy-ban-will-deny-treatment-to-vulnerable-patients-20210202-p56yuy.html>

⁸ <https://www.abc.net.au/news/2021-02-04/victorian-gay-conversion-bill-what-is-it/13116998>

"Rae" - nonbinary, aged 32

Shortly after I came out to myself as nonbinary, and started coming out to the world, I was dealing with a lot of depression- not from my identity, but from unrelated health and disability issues. I saw a psychiatrist to try and get some help.

After we did introductions in the first session, the psychiatrist immediately started in on me. "You're not transgender. Nonbinary isn't a real thing; that's just a mental illness. You're damaged, and what you need is therapy and then you'll realise you're just a girl who's attention-seeking because you need to feel special."

The psychiatrist put me on a course of CBT to try and "train" me back towards being cis and straight. When it didn't seem to be working, he told me I was deliberately deluding myself and that I wasn't trying hard enough, that I didn't want to "get better". At the time, I was devastated by it all, but the full damage of it didn't really become clear to me until years later. I'm still unpicking it. I had never before, and have never since, been so systematically undermined and invalidated and traumatised by someone who was meant to be helping me. When I told my dad about what had happened- a man of fierce and fearless Christian faith- he cried, because of how they'd hurt me.

The next couple of years after that were a hellish storm of suicidality.

Although religion was never mentioned, I definitely got the sense that he was operating from a religiously conservative moral framework. I bounced between protestant denominations until I was fifteen, and I remember what it felt like.

When I told people I knew about what the psychiatrist had done and said, everyone said, "Surely they can't do that. That's so wrong." But what could I do? As far as I knew at the time, the psychiatrist was within his rights to say and do that. I know now that he wasn't, but even then, all I could have done would be to make a complaint to the regulatory body. At which point it's his word against mine, on a very poorly defined issue... and here I am, someone whose mental illness is defined entirely by the way he, the respected medical professional, describes it. That sort of power dynamic is basically insurmountable.

I didn't go back to a psychiatrist for years after that, even though I needed to. Eventually I was forced to, after a couple of instances of becoming so suicidal I had to go to the ER. By that point, I'd finally *just* managed to start HRT, but was having a lot of trouble coming to terms with it because part of me still believed what that first psychiatrist had tried to train me to- that my transness wasn't real, that I was just wrong and broken and attention-seeking.

The new psychiatrist I was referred to told me she wouldn't review my medications or treat me unless I stopped taking my HRT. At least that time it made me so angry I walked out and decided I was going to live, if only out of spite to prove her wrong. She made it clear that my stopping being trans was more important than making sure I was going to survive.

I really believe that if there had been legislation explicitly banning conversion practices, with real and meaningful penalties, it wouldn't have happened to me like it did- or if it still had, I would have had far more of a chance to do something about it.

I know who I am now. Frankly I'm shocked I made it this far, though. And I'm so scared of psychiatrists that I can't engage with them properly, which has caused me a lot of problems trying to deal with my other health issues. Hopefully that bit won't kill me in the long run.

"Ben" - trans man, aged 25

My faith is a huge part of who I am. It's the foundation of me. Back when I was at [education provider], I wanted to join a social group for my faith, and since service to others and the community is a core value of my faith, I wanted to be an active part of that group. For a while, it was great- I was part of the group's music crew and volunteered at events, and it seemed to be a really warm, loving community dynamic.

And then they found out I was trans.

Suddenly I got booted out of the music crew and got banned from volunteering. I was told by the group's leadership that I could still be a member, but only if I "abstained" from being who I am and didn't ever mention it again. They prayed for me to be "healed".

The sense of whiplash was incredible. Being cut off from my faith community so suddenly, it was like I couldn't breathe. They said I could rejoin the music crew, on the condition that I denounced my identity publicly and went to regular "healing" prayer sessions. For a while I tried to continue attending the group's events, pretending I was a good little cis-het girl just to be there, but I couldn't keep it up. Everyone had suddenly become so cold, and knowing that my acceptance in that community was contingent on me lying about who I am- that damage was done. I couldn't be at home there any more, and I couldn't trust any of those people. It hurt so bad, like my family had died but was somehow still standing around making small talk with each other.

It totally destroyed my self worth, I hated myself. I started drinking myself into oblivion every night, sleeping with strangers compulsively and putting myself in unsafe situations. I thought I deserved to suffer, and I was going to hell anyway, so I might as well get there a bit quicker.

I guess I'm one of the lucky ones, in that it didn't end up actually stopping me transitioning, and I made it to a better place eventually. But I lost so much.

Honestly, I still don't trust any faith groups. I haven't been able to be part of any since. I don't know how to find a church community where I'll be able to feel safe, and not like they might suddenly turn on me. My faith is still the core of my identity, but trying to find other people to share that with is too much for me most of the time.

"Chloe" - trans woman, age 28

When I was 17, my family kicked me out- we'd never had good relationships. I was on my own, depressed, anxious, living in totally gross conditions, couldn't afford to eat properly. What kept me going was the support of my pastor and my girlfriend at the time. My pastor made so much time for me- he always checked in, counselled me about so many things, listened to me, helped me out with food and care packages. Our church- my girlfriend and I went to the same one- became my real home.

