

FAMILY EDUCATION TRUST

RESPONSE TO THE GOVERNMENT'S CONSULTATION ON BANNING CONVERSION THERAPY

Views on banning conversion therapy

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

Strongly disagree

We outline below our principal reasons for disagreement with a ban on so-called 'conversion therapy'.

Effect on Families and Children

As a charity interested in protecting the welfare of families and children, we are deeply concerned about the potential impact on children of a ban on so called 'conversion therapy'.

The law needs to protect the right of parents to bring up their children up in a way that is consistent with their moral and/or religious beliefs. Parents must not be reluctant to discuss issues around sexuality and gender with their children for fear of being accused of 'conversion therapy'.

Children and young people as they grow up, and especially during puberty, often have questions around their sexuality and identity and it is important they are supported to explore their feelings and beliefs around this without fear of those providing support being accused of 'conversion therapy' whether this is in an informal family or pastoral support context or a more formal counselling or therapeutic context.

There is no consistent definition of what 'conversion therapy' is. Coercive and abusive practices are clearly wrong but the proposed ban is so broad it appears to attempt to impose highly contested social and political views in a manner that discriminates against those who don't share such views. The recent resignation of Prof Kathleen Stock is but one recent example. To us, the statements made by those promoting a broadly scoped ban would criminalise anything other than immediate acceptance, encouragement and celebration of a child's sexual or gender identity regardless of their age. The freedom of parents to sensitively discuss these issues with their children needs to be protected and parents should not have to fear prosecution for doing so.

Since the ban on conversion therapy would cover individuals who self-define as 'transgender' we fear that there could be a lack of help for vulnerable children and young people with gender identity issues and that qualified medical professionals who attempt to help these young people more broadly than simply affirming the child's beliefs without looking at the wider context could be at risk of criminal sanctions. The proposed ban could have a similarly chilling effect upon parents who seek to help a gender dysphoric child. Under the current potentially wide definition of conversion therapy any exploration of underlying issues contributing to gender dysphoria could be deemed conversion therapy leaving the child or young

person unable to be provided with the help they may well require and leading to subsequent regret as witnessed by the thousands of detransitioners now being documented in Europe and the US.¹

This would be a tragedy because the evidence shows us that gender dysphoric feelings, especially in the young, are often fleeting and among young people who experience gender dysphoria only a minority persist with these feelings through into adulthood. For example, according to the American Psychiatric Association, in biological males, persistence has ranged from 2.2 to 30 per cent, and in biological females, from 12 to 50 per cent.² NHS England cites research showing that only 12-27 per cent of children who experience gender dysphoric feelings continue with them into adulthood.³

The report of the Care Quality Commission on the Gender Identity Development Service at the Tavistock and Portman NHS Trust was highly critical of that service's failure in many cases to assess the competency and capacity of young people receiving treatment for gender dysphoria and its lack of respect for staff who raised concerns.⁴ A conversion therapy ban risks making the situation of such staff even more difficult and multiplying the deficits and errors found by the CQC.

The CQC report on the Tavistock referred to a parent who *'said they felt like they were being pushed into doing things they didn't want to do.'* Dr David Bell affirmed that 35-40% of children presenting for gender dysphoria at the Tavistock were on the autistic spectrum.⁵ The CQC criticised the Tavistock for giving insufficient consideration to the special needs of these children. Such abuses may be exacerbated by a conversion therapy ban.

We acknowledge that the judgment in Keira Bell's case has now been overturned pending a likely further appeal but this case remains instructive. Permanent damage was done to Keira Bell's body. She stated: *'I don't know if I will ever really look like a woman again...I feel I was a guinea pig at the Tavistock, and I don't think anyone knows what will happen to my body in the future'*.⁶ Clearly, Keira Bell changed her gender identity. From self-defining as transgender she subsequently repudiated this identity. If a conversion therapy ban were passed it may make it more difficult for vulnerable young people like Keira Bell to speak out for fear of being accused of conversion therapy. And would anyone be allowed to help her other than to affirm her in a transgender identity which she ultimately didn't want?

Laws have consequences. A teenager in genuine need of help with gender identity issues may not seek it for fear that they would fall under the ban

Freedom of choice, speech and religion

The proposed ban would deal a terrible blow to the freedom and autonomy of the individual as well as to freedom of choice, freedom of speech and freedom of religion. We do not believe that a person who may feel trapped in a particular sexual lifestyle should be forbidden by law from seeking counselling or other forms of help should they desire it. Nor should it be a crime to offer such counselling, whether it be of a religious nature or of the more clinical variety. We find it puzzling and more than a little ironic that while British law defends the right of an individual to change their sex via surgery, we are now proposing to criminalise those who would seek to change their 'sexual orientation' via sensitive counselling.

Consultation questions

¹ See <https://post-trans.com/Detransition-English>

² American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, DSM-5, 5th edition, 2013, 302.85, Gender Dysphoria in Adolescents and Adults, p.455.

³ NHS England, 'NHS Standard Contract For Gender Identity Development Service For Children And Adolescents', 2019.

⁴ Care Quality Commission, Tavistock and Portman NHS Foundation Trust Gender Identity services Inspection report, 20 January 2021.

⁵ Cathy Newman, 'Children have been very seriously damaged' by NHS gender clinic, says former Tavistock staff governor, Channel 4, 23 January 2021.

⁶ Quoted in Amie Gordon, Campaigners say 'common sense has prevailed' as High Court rules children under 16 are unlikely to be able to give 'informed consent' to take puberty blockers, *Daily Mail*, 1 December 2020.

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?

Neither agree or disagree

We commend the government for recognizing that 'No act of physical violence done in the name of conversion therapy is legal in this country.' All violence is wrong and should be banned. But violence and therapy are not the same thing. Therapy is a non-violent practice. Violence is not therapy and should never be seen as such.

Question 2

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

We recognise that the government is attempting to draw a careful balance between protecting freedom of choice and cracking down on abusive and coercive practices. However, we are deeply concerned about the effects of such a ban on families and children. The government is taking the position that those under 18 cannot consent to talking therapy. But if that is the case how can one under 18 possibly consent to taking puberty-blocking drugs that will permanently change their body. The government's proposals would create a legal concept of a 'transgender child' based on the child's self-identification and people would be prohibited by law from challenging such an acquired self-identification. At such a young age, parents serve as their children's legal guardians and are responsible for their welfare. But this relationship and parental authority will be undermined if such a ban is put in place.

The law needs to protect the right of parents to bring up their children up in a way that is consistent with their moral and/or religious beliefs. Parents must not be reluctant to discuss issues around sexuality and gender with their children for fear of being accused of 'conversion therapy'.

Children and young people as they grow up, and especially during puberty, often have questions around their sexuality and identity and it is important they are supported to explore their feelings and beliefs around this without fear of those providing support being accused of 'conversion therapy' whether this is in an informal family or pastoral support context or a more formal counselling or therapeutic context.

The government's proposals effectively criminalise anything other than immediate acceptance, encouragement and celebration of a child's sexual or gender identity regardless of their age. The freedom of parents to sensitively discuss these issues with their children needs to be protected and parents should not have to fear prosecution for doing so.

Since the ban on talking therapy would cover individuals who self-define as 'transgender' we fear that there could be a lack of help for vulnerable children and young people with gender identity issues and that qualified medical professionals who attempt to help these young people more broadly than simply affirming the child's beliefs without looking at the wider context could be at risk of criminal sanctions. The proposed ban could have a similarly chilling effect upon parents who seek to help a gender dysphoric child. Under the current potentially wide definition of conversion therapy any exploration of underlying issues contributing to gender dysphoria could be deemed conversion therapy leaving the child or young

person unable to be provided with the help they may well require and to subsequent regret as witnessed by the thousands of detransitioners now being documented in Europe and the US.⁷

This would be a tragedy because the evidence shows us that gender dysphoric feelings, especially in the young, are often fleeting and among young people who experience gender dysphoria only a minority persist with these feelings through into adulthood. For example, according to the American Psychiatric Association, in biological males, persistence has ranged from 2.2 to 30 per cent, and in biological females, from 12 to 50 per cent.⁸ NHS England cites research showing that only 12-27 per cent of children who experience gender dysphoric feelings continue with them into adulthood.⁹

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Laws have consequences. A teenager in genuine need of help with gender identity issues may not seek it for fear that they would fall under the ban

Question 3

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

Strongly disagree

Question 4

⁷ See <https://post-trans.com/Detransition-English>

⁸ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, DSM-5, 5th edition, 2013, 302.85, Gender Dysphoria in Adolescents and Adults, p.455.

⁹ NHS England, 'NHS Standard Contract For Gender Identity Development Service For Children And Adolescents', 2019. <https://www.england.nhs.uk/wp-content/uploads/2017/04/gender-development-service-children-adolescents.pdf>

¹⁰ Care Quality Commission, Tavistock and Portman NHS Foundation Trust Gender Identity services Inspection report, 20 January 2021.

¹¹ Cathy Newman, 'Children have been very seriously damaged' by NHS gender clinic, says former Tavistock staff governor, Channel 4, 23 January 2021.

¹² Quoted in Amie Gordon, Campaigners say 'common sense has prevailed' as High Court rules children under 16 are unlikely to be able to give 'informed consent' to take puberty blockers, *Daily Mail*, 1 December 2020.

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

We would refer you to our response to question 2. The proposal fails to acknowledge that parents have responsibility for their children and should be able to have sensitive conversations with them about gender and sexuality without fear that they are doing something illegal. Children should be free to ask their parents about these matters and share worries and concerns they may have about their sexuality or gender.

Under the Gender Recognition Act 2004, a Gender Recognition Certificate cannot be obtained by a person under 18. It would therefore be premature to treat a young person under 18 as definitively 'transgender' as they cannot be legally recognised in anything other than their birth sex.

Question 5

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?

Strongly agree

The ban is de-facto rather than de-jure but there is an absence of legitimate discussion on this matter. Those who claim to have benefited from conversion therapy should be able to have their voices heard. For example, the Core Issues Trust is an organization that works with those who have unwanted same-sex attraction and run by those who have overcome such attraction. If the government wants to view the issue of 'conversion therapy' in an objective, fair and balanced light then the voices of such people need to be heard.

Neither the government nor Ofcom should restrict public debate on the potential effects of a conversion therapy ban but should respect free speech and expression.

Question 6

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

Question 7

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

Question 8

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

Question 9

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?

Strongly disagree

Question 10

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

Strongly disagree

We are not aware of anyone being taken abroad for conversion therapy. It is not clear who exactly can apply for these protection orders. We fear that they could be abused by activist teachers or social workers who disapprove of a child's parents views of sexual orientation or gender identity. If a parent does not immediately affirm and celebrate their child's proclaimed orientation or identity, they could be targeted and have their children removed.

The CQC report into the Gender Identity Development Service at the Tavistock and Portman NHS Trust referred to a parent who *'said they felt like they were being pushed into doing things they didn't want to do.'*¹³ Under the proposed legislation would the Tavistock be able to issue a protection order for this parent's child? This would exacerbate the Tavistock's abuses that were so criticised by the CQC.

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? Why do you think this?

Strongly disagree

This proposal constitutes serious discrimination against those who do not agree with the aims of the LGBT lobby. Religious charities with such beliefs may have to close as a result. Since many churches are registered charities whole religious communities could effectively cease to exist. Since talking conversion therapies frequently take place in a religious context, this proposal has serious implications for freedom of speech and religion.

Question 12

To what extent do you agree or disagree that the following organisations are providing adequate action against people who might already be carrying out conversion therapy? (Police; Crown Prosecution Service; OTHER statutory service)? Why do you think this?

Prefer not to say

Since conversion therapy involves a private conversation between an individual and their therapist/religious leader we do not believe it is the business of the state to be getting involved in this.

¹³ Care Quality Commission, Tavistock and Portman NHS Foundation Trust Gender Identity services Inspection report, 20 January 2021.

Question 13

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

Prefer not to say

It should not be the role of the state to police consensual private conversations.

We believe that the proposed conversion therapy ban would deal a terrible blow to the freedom and autonomy of the individual as well as to freedom of choice, freedom of speech and freedom of religion. We do not believe that a person who may feel trapped in a particular sexual lifestyle should be forbidden by law from seeking counselling or other forms of help should they desire it. Nor should it be a crime to offer such counselling, whether it be of a religious nature or of the more clinical variety. We find it puzzling and more than a little ironic that while British law defends the right of an individual to change their sex via surgery, we are now proposing to criminalise those who would seek to change their 'sexual orientation' via sensitive counselling.

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?

Prefer not to say

It should not be the role of the state to police consensual private conversations.

We believe that the proposed conversion therapy ban would deal a terrible blow to the freedom and autonomy of the individual as well as to freedom of choice, freedom of speech and freedom of religion. We do not believe that a person who may feel trapped in a particular sexual lifestyle should be forbidden by law from seeking counselling or other forms of help should they desire it. Nor should it be a crime to offer such counselling, whether it be of a religious nature or of the more clinical variety. We find it puzzling and more than a little ironic that while British law defends the right of an individual to change their sex via surgery, we are now proposing to criminalise those who would seek to change their 'sexual orientation' via sensitive counselling.

The police or courts should only intervene when there is clear evidence of abusive or coercive methods being used.

Economic appraisal

Question 15

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

But attempting to police consensual private conversations would undoubtedly be a great waste of police resources that should be used to focus on more serious crime.

Equalities impacts appraisal

Question 16

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

Christian, Muslim, Jewish and other religious groups whose views on sexuality and gender identity do not match those of the LGBT lobby may well face discrimination as a result of the proposed legislation. This would violate the Equality Act's protection of religion and belief.

Those who once described themselves as LGBT but no longer define themselves as such may also face attacks and discrimination. The thousands of detransitioners may also come under attack.

We also believe that a conversion therapy ban may discriminate against parents who do not give immediate affirmation to a child's proclaimed sexual orientation or gender identity. Teachers and others who care for children may also be vulnerable in this respect.