

19 July 2021

Views on the 'End Conversion Therapy' petition

Submitted online: <https://yourviews.parliament.scot/ehrc/petition-end-conversion-therapy-views/consultation/intro/>

1. What are your views on the action called for in the petition?

This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit, non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

We welcome the opportunity to respond to the Scottish Parliament's consultation on the petition to 'End Conversion Therapy' (PE1817). We advocate a secular approach to healthcare, including in the field of mental health. We campaign to protect patients from harm caused by the imposition of religious values. We advocate for a secular approach to current major health issues. We are opposed to religious influences in medicine where these adversely affect the manner in which medical practice is performed.

We note that all reputable medical and psychological experts agree that 'conversion therapy' is ineffective, inherently homophobic, harmful and unethical. All societies throughout the world should work towards ending the practice.

We recognise that what is considered 'conversion therapy' can be broad and often difficult to define. The 'End Conversion Therapy' petition does not set out a detailed definition of the practice. Neither does the submission of written evidence from Stonewall Scotland, Equality Network, Scottish Trans Alliance and LGBT Youth Scotland (PE1817/B).

Without a clear definition of what the Scottish Government considers 'conversion therapy' for the purposes of legislation, it will be extremely difficult to formulate clear, effective and balanced law. Some groups and individuals restrict the definition of 'conversion therapy' to practices that advertise themselves quite explicitly as 'therapy', i.e. a medical or psychological approach, for example the approach taken by Northern Ireland-based charity Core Issues Trust (It should be noted that Core Issues Trust rejects the term 'conversion therapy' and terms its practices 'change oriented therapy').

Others include explicitly religious practices within the definition of 'conversion therapy', including prayers for deliverance, 'laying hands' and 'exorcism' rituals. Organisations that have practised these forms of conversion therapy include Mountain of Fire and Miracles Ministries and Winners Chapel.

Finally, some consider the advocacy of celibacy for LGBT+ people, which is very common among religious groups, a form of ‘conversion therapy’ because it encourages individuals to repress their natural same-sex attractions, sometimes even pressurising them to do so, on pain of exclusion.

Any legislation would need to define ‘conversion therapy’ precisely or risk confusion and inconsistency.

It has been suggested that proposals to end conversion therapy would place individual freedom and religious freedom in jeopardy.

Given the well-documented psychological harm of conversion therapy on already-vulnerable individuals, and the power imbalance between those undergoing conversion therapy and those giving it, any necessary balancing of rights should weigh heavily in favour of protecting those seeking or being subjected to harm.

We also acknowledge that without careful drafting, legislation to ban conversion therapy may inadvertently place restrictions on therapy to help explore one’s sexuality or gender identity. For example, if a person is seeking therapy because they are unsure whether they are gay or transgender, a clumsily-drafted conversion therapy law could compel therapists to affirm sexual orientation over transgender identity – or vice versa.

We note that PE1817 refers to conversion therapy as “forced conditioning”. We think this is a good starting point for any legislation against conversion therapy, as any attempt to compel or coerce an individual into activities aimed at changing their sexual orientation or gender identity should be prohibited. Indeed, existing legislation may already prohibit coerced conversion therapy, just as extreme forms of conversion therapy including forced starvation and correct rape are, rightfully, already banned by existing laws.

While anti-LGBT+ narratives in society that fuel the desire to change one’s identity should be rigorously tackled, we should recognise that a conflict exists between protecting people from exploitation and harm through ‘conversion therapy’, and giving consenting adults personal autonomy and freedom of religion. For this reason, any proposals to legislate against ‘conversion therapy’ for adults must proceed carefully to ensure the law is proportionate and prioritises individual human rights.

It is important that any legal distinction between ‘medicalised’ forms of conversion therapy (i.e. techniques resembling counselling, cognitive behaviour therapy or other treatments used in psychology), and religious attempts to change sexual orientation (i.e. through prayer, faith-healing etc.) should not amount to a blanket ‘religious exemption’ to conversion therapy laws. A large number of the organisations and individuals who practise ‘secular’ forms of conversion therapy are religious and attempt to ‘cure’ same-sex attraction because same-sex relationships are prohibited in their religion. Core Issues Trust is an example of a deeply religious organisation, clearly motivated by biblical teachings on sexuality, which practises secular forms of conversion therapy techniques. Legislation on conversion therapy should consider the degree to which a particular type of practice or ‘therapy’ may be harmful, not whether or not the practice is religious or religiously-motivated.

We agree entirely with the non-legislative measures proposed in PE1817/B.

2. What action would you like to see the Scottish Government take, within the powers available to it?

We advise the Scottish Government to take the following actions:

#1 Formulate a working definition of 'conversion therapy': As expressed in Q1, the Scottish Government should not draft legislation on conversion therapy without agreeing upon a clear definition. We encourage the Scottish Government to work closely with experts in the field of psychology and psychotherapy, as well as legal experts in relevant fields, to develop such a definition.

#2 Legislate against forced conversion therapy: Any attempts to coerce a person into activities that meet the Government's definition of 'conversion therapy' should be prohibited by law. This should be extended to a complete ban on 'conversion therapy' on individuals under 18, even if those individuals profess to be participating voluntarily, in recognition of the particular vulnerabilities of minors to manipulation by adults. This would be similar to laws passed in other countries, including Germany and Canada.

#3 Enable those harmed by conversion therapy to seek proper redress: Victims who can demonstrate they suffered physical or psychological harm by attempts to change their sexuality should be able to seek compensation. There should be no religious exemptions.

#4 Make it a criminal offence for any healthcare professional to practise, promote or make a referral for conversion therapy: We are disturbed by findings published in 2009 in BMC Psychiatry that over 200 accredited mental health professionals had offered some form of conversion therapy, with 35 per cent of patients referred to them for treatment by GPs and 40 per cent treated inside an NHS practice.

Such referrals and "treatment" by medical professionals, even more so if within the NHS, are likely to be accepted by the individuals as being in their best interests and the young and/or vulnerable may feel powerless to resist it. There also needs to be a formal investigation into this, regulations made to prohibit it, enforcement mechanisms introduced, and appropriate disciplinary action taken against those involved both professionally and, where appropriate, in the NHS. Those practitioners acting in this way are likely to be highly motivated, often by their faith, and prevention measures need to be robust.

The vast majority of medical professionals agree that conversion therapy is pseudoscience – and harmful pseudoscience at that. Like any other pseudoscience it has no place in medicine. Therefore, the law should protect individuals from being harmed by techniques practiced or promoted by an accredited 'professional', or someone else who claims the technique is grounded in science and medicine. Any accredited professional who practices, promotes or refers an individual for conversion therapy should lose that accreditation.

#5 Improve education among health professionals about conversion therapy: BMC Psychiatry's survey revealed considerable ignorance about sexual orientation and confused medical ethics among mental health care professionals who had offered conversion therapy. Some believed same-sex sexual activity was inherently wrong or posed greater risks to health than opposite-sex sexual activity. Others thought that clients' views of shame or distress caused by same-sex attraction should be addressed by attempting to 'cure' the same-sex attraction, rather than reassuring the

client that same-sex attraction should not be a source of shame or distress. Others expressed the view that clients who came from religious or cultural backgrounds where homosexuality is taboo should be assisted in 'curing' feelings of same-sex attraction in order to fit the ideals and norms of that religion or culture.

All of these views are misguided and go against modern-day ideas of mental health ethics. Greater education and awareness-building may be necessary throughout the field of mental health to ensure no practitioners bring such views into their work.

#6 Prevent any organisation that promotes conversion therapy from becoming registered charities, and remove the charitable status of any organisation that promotes conversion therapy:

We are extremely concerned that so many of the organisations that have promoted, or are currently promoting, forms of 'conversion therapy' are registered charities. We note that Mountain of Fire and Miracles and Winners Chapel, two religious organisations that have practiced conversion therapy, have branches registered as charities by OSCR.

We think no organisation promoting these harmful practices should be eligible for charity status, with all the tax exemptions, gift aid and other benefits charitable status entails, because charities are supposed to benefit the public and not cause harm. Charities that do promote conversion therapy should lose their charitable status and be removed from the charities register. This is similar to legislation in the Netherlands, where organisations offering conversion therapy are not eligible for subsidies.

We note that many of the charities promoting conversion therapy, including all those named in this response, are registered under the charitable purpose of "the advancement of religion". We suspect this helps them to register with less scrutiny. We think removing "the advancement of religion" as a charitable purpose would help ensure harmful religious organisations cannot attain charitable status; religious organisations that do provide a genuine public benefit can easily register under a different charitable purpose. More information about this can be found in our 2019 report on religious charities: <https://www.secularism.org.uk/charities/charity-report.html>

#7 Prevent any organisations that actively promote homophobic ideology from becoming registered charities, and remove the charitable status of any organisations that promote homophobic ideology:

We think the best way to end conversion therapy is to end the demand, by working towards a society that treats LGBT+ people as equals and challenging those institutions, including religious institutions, that espouse homophobic views. This should include preventing any organisations that actively promote homophobia from becoming registered charities, and gaining both the tax benefits and veneer of respectability that this status entails.

For example:

- The Free Presbyterian Church of Scotland, which has multiple charities registered in Scotland, refers to same-sex relationships as "heinous", "vile", "great evil", an "abominable practice" and "a lifestyle of disease and death" on its website: <https://www.fpchurch.org.uk/publications/the-free-presbyterian-magazine/1998-to-2003/march-1999/article-heaven-provoking-legislation-199/> Another part of its website quotes the Bible's assertion that those who wear clothes of the opposite sex are "abomination unto the Lord thy God", and laments: "What fearful uncleanness ensues from 'cross-dressing' and other deliberate and extreme 'trans-gender' sins against this requirement": <https://www.fpchurch.org.uk/about-us/what-we-contend-for/distinctions-between-male-and-female/distinct-clothing-for-men-and-women/>

- The registered website of Glasgow branch of Mountain Of Fire And Miracles (MFM) Ministries International Scotland says that homosexuality "redefined as sexual preference" is the result of "bewitchment": <https://www.mountainoffire.org/messages/archives/2014-11-02>
MFM's founder Daniel Olukoya preaches that gay people are possessed by "the spirit of the dog" and believes that prayer can save those "in the bondage of homosexuality":
<https://www.thetimes.co.uk/article/amazon-supports-mountain-of-fire-and-miracles-ministries-church-that-backs-gay-conversion-snczllxt0>

While we do not think that these statements should be considered conversion therapy, we should recognise that they promote a hateful ideology that legitimises and fuels the demand for conversion therapy by pushing the idea that being LGBT+ is shameful, evil and 'unclean'. This completely contradicts the requirements that registered charities must promote a public benefit, must not cause harm, and must not promote extremist ideologies. For this reason, religious organisations that promote such ideas should not be registered charities.

The vast majority of charities promoting anti-LGBT+ propaganda, including those named above, are registered under the charitable purpose of "the advancement of religion". Indeed, this is exactly what they are doing – the homophobia they advance happens to be based on religious ideology. This is why such charities seem to 'get away with' making homophobic statements that would not be tolerated from non-religious charities. And this is why the charitable purpose of "the advancement of religion" needs reviewing – what many religions teach is not conducive to the public benefit and is harmful to minorities.

We think removing "the advancement of religion" as a charitable purpose would help ensure religious organisations that promote the underlying homophobia that fuels conversion therapy cannot attain charitable status; religious organisations that do provide a genuine public benefit can easily register under a different charitable purpose. More information about this can be found in our 2019 report on religious charities: <https://www.secularism.org.uk/charities/charity-report.html>

#8 Ensure all schools teach an LGBT+ inclusive education: We are aware that there are some UK faith schools, including state-funded faith schools, that include stigmatising ideas about same-sex relationships in their policies. For example, we have found UK schools that say homosexuality is "intrinsically disordered", and that same-sex relationships are morally wrong, in their relationships and sex education (RSE) policies. No school, regardless of its ethos, should foster the idea that being gay is shameful, sinful or somehow less valid than being heterosexual.

Similarly, some schools in the UK have been pressured by external religious groups to censor teachings about same-sex relationships. All schools should be supported by the government to ensure they can teach about LGBT+ issues in an age-appropriate manner without fear of intimidation.

3. Do you have suggestions on how the Committee can take forward its consideration of the petition?

For example:

- who should it talk to?
- who should it hear from?

‘Conversion therapy’ is, first and foremost, a mental health issue. As such, the views of psychologists, psychotherapists, representatives of reputable organisations in the field of mental health and other mental healthcare workers should take particular priority in the Committee’s considerations.

As expressed above, legislation is complex due to the broad spectrum of practices that many consider to fall under the term ‘conversion therapy’, and a rushed, ill-drafted law could do more harm than good. We therefore also urge the Committee to consult legal experts in relevant fields, including human rights law and medical law. Lawyers should consider how an appropriate legal balance can be struck between the need to protect people from harm, discrimination and hatred, and ensuring consenting adults’ rights to autonomy and freedom of religion or belief are not undermined.

The Committee should naturally continue to engage with survivors of conversion therapy, and those who have been offered conversion therapy.

The Committee should also consult OSCR on the problem of conversion therapy and other anti-LGBT activities and ideas promoted by charities, and the barriers OSCR faces in preventing charities from supporting these harmful causes.

Finally, the Committee should analyse conversion therapy bans in other jurisdictions to determine what sort of law would work well for Scotland. The Netherlands, Germany and Canada have already been mentioned; other countries that have implemented some form of local or national restrictions on ‘conversion therapy’ include Australia, Brazil, Ecuador, Malta, Spain and the United States.