

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

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Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

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

Stonewall Scotland, Equality Network, Scottish Trans Alliance, and LGBT Youth Scotland strongly support the principles of petition PE1817, to urge the Scottish Government to ban the provision or promotion of LGBT+ conversion therapy in Scotland.

As noted in the call for views, our organisations jointly submitted written evidence to the Scottish Parliament in September 2020 and January 2021, as the petition received initial consideration from the Public Petitions Committee and the Equalities and Human Rights Committee, respectively. We welcomed that the Equalities and Human Rights Committee in Session 5 agreed to keep petition PE1817 open for its successor committee to consider, and that the Equalities, Human Rights and Civil Justice Committee has since launched this call for views on the petition. This joint response builds on our previous submissions.

We agree that action must be taken to prohibit conversion therapy practices from being provided or promoted in Scotland to protect LGBTQ+ communities from harm. So-called 'conversion therapy' – also known as conversion practices, suppression practices, reparative therapies, and cure therapies – is a damaging, degrading and discriminatory practice that seeks to change someone's sexual orientation and/or gender identity. These practices may also aim to stop a person expressing their sexual orientation and/or gender identity – for example, by persuading them to change or deny their sexual orientation or suppress their gender identity or expression. Conversion therapy can take many forms, ranging from pseudo-psychological treatment and aversion therapies to practices that are religiously based, such as 'purification' or fasting. At its most extreme, there is evidence that this can also involve physical and sexual violence, including so-called 'corrective rape'.

The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity ('IE SOGI') called for [a global ban on conversion therapy](#) in a 2020 report to the Human Rights Council, stating that conversion therapy practices "inflict severe pain and suffering and result in psychological and physical damage" and are "by their very nature degrading, inhuman and cruel and create a significant risk of torture". The IE SOGI further stated that these practices are based on the "incorrect and harmful notion that sexual and gender diversity are disorders to be corrected". The [Independent Forensic Expert Group](#) recognise conversion therapies as having "no medical or scientific validity", with no sound scientific evidence that conversion therapy in any form is effective in changing LGBTQ+ identities, and "no medical justification for inflicting on individuals torture or other cruel, inhuman, or degrading treatment or punishment."

Our organisations believe that all forms of practice of either a coercive or non-coercive nature – in any setting – that seek to change, cure, convert or cancel a person's sexual orientation and/or gender identity are inherently abusive and harmful and should be banned.

Testimonies from people across the UK who have experienced conversion therapy are available to view on the Ban Conversion Therapy website at www.banconversiontherapy.com/stories.

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

As noted in response to Question 1, our organisations support a ban on LGBT+ conversion therapy practices from being provided or promoted in Scotland. In our [joint manifesto](#) for the 2021-26 Scottish Parliament, we called upon the Scottish Government to end the harmful practice of sexual orientation and gender identity 'conversion therapy', including through introducing a comprehensive legal ban,

working with the UK Government where necessary. We welcomed that all five political parties elected to the Scottish Parliament committed to ending conversion therapy in their manifestos.

Below, we will set out our views on action that could be taken by the Scottish and/or UK Governments, the key features that we consider to be necessary as part of any legislative ban, and the wrap-around support that could be provided to complement any ban.

Legislative ban

Any action to end sexual orientation and gender identity conversion therapy practices **must include a comprehensive legislative ban**.

The UK Government's [National LGBT Survey \(2018\)](#) of 108,000 LGBTQ+ people across the UK identified the scale of the provision and promotion of conversion therapy practices in the UK. It found that 7 per cent of LGBTQ+ people in Scotland had either undergone or been offered conversion therapy, including 10 per cent of trans people in Scotland. **A ban must therefore cover conversion practices for both sexual orientation *and* gender identity, thereby providing equal protection to all LGBTQ+ people.**

To effectively end conversion therapy, **a ban must also cover practices that occur across all public and private spheres, including in religious and faith-based settings**, where conversion therapy practices predominantly take place. This aligns with the recommendations of the UN IE SOGI that conversion therapy practices should be banned from being "advertised and carried out in healthcare, religious, education, community, commercial or any other settings, public or private". Of those respondents to the National LGBT Survey from Scotland who had undergone conversion therapy, 46 per cent said it had been conducted by a faith organisation or group, 22 per cent said it had either been conducted by a parent or a person from their community, and 16 per cent said it had been conducted by healthcare providers or medical professionals. The UN Special Rapporteur on Freedom of Religion or Belief [stated](#) in April 2021 that "international human rights law is clear that the right to freedom of religion or belief does not limit the state's obligation to protect the life, dignity, health and equality of LGBT+ persons" and that "banning such discredited, ineffective, and unsafe practices that misguidedly try to change or suppress people's sexual orientation and gender is not a violation of the right to freedom of religion or belief under international law."

There should be no other restrictions on who is protected by a ban, with children and young people, and adults, equally protected from these abusive and harmful practices. Furthermore, any exemption for those who "consented" to conversion practices would leave many at risk of serious physical and psychological harm from these inhumane and degrading practices. The Australian State of Victoria's [Change or Suppression \(Conversion\) Practices Prohibition Act 2021](#) bans 'change or suppression practices' carried out "whether with or without the person's consent". The Independent Forensic Expert Group notes that for an individual to give 'informed consent' to conversion therapy it "would require that an individual is informed about the practices that will be applied, as well as their ineffectiveness, the likely physical and psychological harm that will result, and the inability to achieve the desired result."

It is important to note that conversion therapy is not neutral and is targeted at stopping LGBTQ+ people from being themselves. Any practice that is conducted with a predetermined, one-directional outcome to change, convert, cure, or cancel a person's sexual orientation and/or gender identity is harmful and denigrating, and must be banned. On the contrary, supportive and affirming therapies that allow people to explore, better understand, and accept their sexual orientation and/or gender identity, should not be precluded by a ban on conversion therapy. The IE SOGI recommends that states "adopt and facilitate health-care and other services related to the exploration, free development and/or affirmation of sexual orientation and/or gender identity."

Wider support package

Our organisations believe that a legislative ban on conversion therapy should be accompanied by a wider package of work to eradicate conversion therapy in all its forms, seeking to *end* the practice in addition to *banning* it, and providing crucial support for survivors.

Organisations across the UK that form the Ban Conversion Therapy coalition, including LGBT+ service providers, have recommended the following important measures as a support package to accompany a legal ban:

- Immediate statutory provision of publicly funded specialist support services for **current survivors**, including: a helpline for current survivors and those at risk; specialist advocates to support survivors, provide advocacy in engaging with relevant generalist services, and provide appropriate support for those who are involved as survivors in ongoing criminal prosecutions; and safe and appropriate mental health support.
- Statutory provision of publicly funded specialist support services for **survivors of historical cases**, including a helpline to provide signposting to mental health support services, and funding to enable reporting on the long-term impact of conversion practices.
- A programme of work to reach current survivors of conversion practices and those most at risk of the practices, to give them the language to understand their experiences, awareness that it is illegal and that support systems are available, and insight into the harm that has been done to them.
- A centralised needs assessment underpinned by research to understand the prevalence, forms, and locations in which conversion practices occurs, both currently and historically, to inform the future commissioning of services for current and historical survivors. This review should also include identification of which institutions and regulatory bodies are most likely to come into contact with survivors of conversion practices.
- A comprehensive programme of professionally accredited specialist trainings that should cover safeguarding and awareness issues and competence in providing safe and effective support for all medical and mental health providers, social workers, counsellors, psychotherapists and psychological therapists and related professions, as well as all religious organisations to identify those at risk of or currently undergoing conversion practices.
- Development of regulatory standards through professional practice guidelines for medical, psychological, social care, counselling, and psychotherapy practitioners. Regulatory standards must also be developed to cover pastoral care and spiritual guidance provision whose aim is to improve mental and spiritual health.

We recognise that it may be necessary for the Scottish Government to work collaboratively with the UK Government on some of these areas, whether due to their reserved nature, or where there may be cross-border considerations.

UK and Scottish Governments

The UK Government committed in their [LGBT Action Plan \(2018\)](#) to bringing forward proposals to end the practice of conversion therapy in the UK. It later [announced](#) in the Queen's Speech in May 2021 that it planned to legislate to ban conversion therapy, and would consult on proposals. It has been [confirmed](#)

that this consultation will be launched in September 2021. The Scottish Government have since [stated](#) that they are "awaiting precise details of the UK Government's proposals, including in terms of whether they are likely to apply to Scotland." They further note: "if the proposed actions do not result in the banning of this discriminatory and harmful practice in Scotland, we will consider our next steps in banning conversion therapy, in so far as is possible within the powers of the Scottish Parliament."

If it is made clear that the UK Government's proposals are not likely to apply to Scotland, the Scottish Government should promptly bring forward its own plans to deliver a comprehensive ban on conversion therapy. Any significant delays will lead to further harm being caused to those LGBTQ+ people in Scotland at risk of being offered or undergoing these practices.

If the UK Government does indeed intend to legislate on behalf of Scotland, and the Scottish Government is agreeable to this, we would strongly call upon the Scottish Government to challenge the UK Government to ensure that any legislative ban brought forward:

- Applies to all public and private settings in which conversion therapy takes place, including faith-based, medical, traditional, domestic, and cultural settings
- Applies to conversion practices for both sexual orientation **and** gender identity
- Protects LGBTQ+ people of all ages
- Does not include an exemption for those who "consented" to the practice.

In our view, the Scottish Government should not consent to legislation which falls short of this standard, should the powers available to it enable a more effective ban to be introduced in the Scottish Parliament.

We would strongly encourage the Scottish Government to introduce legislation in the Scottish Parliament to ban conversion therapy, within its devolved competence, if:

- The UK Government does not make timely progress on banning conversion therapy across the UK, and particularly if
- The proposals made by the UK Government to ban conversion therapy would be insufficient in effectively protecting all LGBTQ+ people, or rooting out conversion therapy in all its forms.

We therefore consider it vital that the Scottish Government urgently develops a policy position on how the harmful practice of conversion therapy should be ended in Scotland, against which any UK Government proposals can be measured, and which may form the basis for any necessary action in devolved areas. Establishing such a position would further be useful for being able to act promptly should a decision be taken to ban conversion therapy through an Act of the Scottish Parliament. We hope that the Committee's call for views will be able to inform the development of detailed policy proposals.

Question 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?

We would strongly encourage the Equalities, Human Rights, and Civil Justice Committee to continue to keep the petition open for further consideration, particularly while action has not yet been taken forward to ban conversion therapy in Scotland. We would further encourage the Committee to hold the Scottish

Government accountable to their commitments on conversion therapy, particularly as details of the UK Government's proposals, and whether they are likely to apply to Scotland, become clear. We would hope these details would become apparent when the UK Government consults on its proposals in September.

In terms of who the Committee should hear from, it will be important to consider the views of survivors and LGBTQ+ communities, while recognising that relaying experiences of abuse can be retraumatising for many survivors of conversion therapy. The Committee may wish to consider holding a private evidence session to hear from survivors, as its predecessor committee did to hear from people with historical discriminatory convictions for “homosexual offences”. The views of legal experts, human rights organisations, and signatories of the Memorandum of Understanding will also be beneficial to the Committee's consideration of the petition.

The Committee may also wish to hear from representatives of jurisdictions that have implemented legal bans on conversion therapy. Several countries have introduced national bans on conversion therapy, including Germany, while others such as Canada, France, and New Zealand are considering introducing bans. At a regional level, states and provinces in the United States, Spain, and Australia have also implemented conversion therapy bans. The Australian State of Victoria's [Change or Suppression \(Conversion\) Practices Prohibition Act 2021](#) has been recognised as a world leading piece of legislation.

