

Conversion Practices Prohibition Legislation Bill

Submission to the Justice Select Committee

The NZ College of Clinical Psychologists is a professional association that represents the interests of more than 1600 Clinical Psychologists registered in New Zealand. Clinical Psychologists are experts in mental wellbeing and disability, working across a large range of specialties and employers- including District Health Boards, ACC, Oranga Tamariki, Corrections, NGOs, PHOs and as private practitioners.

This submission was prepared by members of the College's Executive Committee and is based on the feedback submitted by our members.

1 Introduction

In preparing this submission, we (the College) recognise the provisions of this Bill represent a highly emotive issue- one which has implications for the ways in which many New Zealanders define and conduct themselves. Whether it is how they define themselves in terms of their sexuality, their gender, their religion, as parents or as professionals, many of those who have commented have expressed strongly felt concerns that this legislation will impact upon who they are and how they live.

While our membership represents a sample of New Zealand society, with a diverse range of backgrounds and beliefs, the College is a professional organisation for Clinical Psychologists and we have therefore chosen to speak primarily to those areas that can be considered within our scope of knowledge- that is, psychological evidence and consensus amongst psychologists in this submission. While we appreciate that there are legal, ethical and philosophical arguments to be made on the Bill, the College's submission is particularly focussed upon the impacts of Conversion Practices and other, legitimate psychological therapies provided to sex, sexuality and gender diverse New Zealanders.

2 Consensus on the Aim to Prevent Harm Caused by Conversion Practices

As the committee will be aware, there is no scientifically substantiated evidence to show that practices that seek to change a person's sexual orientationⁱ or gender identityⁱⁱ achieve their aims. At the same time, there is substantial and growing evidence of the psychological harm caused by efforts to change a person's sexual or gender identity^{i,ii}.

For that reason, we would like to direct the Committee to the large number of psychology, psychiatry, counselling and psychotherapy organisations from across the world that have issued statements against the use of 'conversion' practices:

- [The American Psychological Association](#)
- [The American Psychiatric Association](#)
- [The American Counselling Association](#)
- [The Association of Christian Counsellors \(UK\)](#)
- [The Australian Psychological Society](#)
- [The Brazilian Federal Council of Psychology](#)

- [The British Psychological Society](#)
- [The British Psychoanalytic Council](#)
- [The British Association for Counselling and Psychotherapy](#)
- [The British Association for Behavioural and Cognitive Psychotherapies](#)
- [The Canadian Psychological Society](#)
- [The Chilean College of Psychologists](#)
- [The Hong Kong Psychological Society](#)
- [The Hong Kong College of Psychiatrists](#)
- [The Irish Association for Counselling and Psychotherapy](#)
- [The Irish Council for Psychotherapy](#)
- [The Indian Psychiatric Society](#)
- [The Lebanese Psychiatric Society](#)
- [The Lebanese Psychological Association](#)
- [National Counselling Society \(UK\)](#)
- [The Norwegian Psychiatric Association](#)
- [The Psychological Society of Ireland](#)
- [The Psychological Society of South Africa](#)
- [The Royal College of Psychiatrists \(UK\)](#)
- [The Singapore Psychological Society](#)
- [The South African Society of Psychiatrists](#)
- [The Spanish Psychological Association](#)
- [The UK Council for Psychotherapy](#)

In Aotearoa New Zealand, the [New Zealand Psychologists Board](#), the [College of Clinical Psychologists](#), the [New Zealand Psychological Society](#), [New Zealand Association of Counsellors](#) and the [Royal Australian and New Zealand College of Psychiatrists](#) have also all issued statements against the use of conversion practices.

There is a significant consensus amongst psychologists, psychiatrists, counsellors and therapists, that these practices are harmful and should not be practiced. Despite this consensus, we are aware that these practices continueⁱⁱⁱ, and that this leads to ongoing harm to New Zealanders. Given that many countries around the world have already moved to make conversion practices illegal, members of the College of Clinical Psychologists have strongly indicated their support for the introduction of legislation.

2 Feedback on the Specific Wording of the Current Bill

In the context of broad support for the stated purpose of the Bill, members of the College of Clinical Psychologists have raised a number of specific issues that they would like the Committee to consider in order to improve the proposed legislation.

2.1 The Importance of Supportive Psychological Therapies to Sex, Sexuality and Gender Diverse New Zealanders

While we wish to discourage harmful practices, our members have stressed to us that access to *appropriate* psychological care is vital to supporting sex, sexuality and gender diverse New Zealanders. Sex, sexuality and gender diverse New Zealanders are at significantly greater risk of mental distress than their peers, yet access to appropriate psychological therapies in the public system remains extremely limited^{iv}. Our members have asked that the Committee consider this

carefully- both in terms of the provisions for psychological care of people who are sex, sexuality and gender diverse, as well as the protections for therapists who engage in this work.

Given the significant harms occurring as a result of conversion practices, several of our members asked the Committee to consider whether survivors should be able to access further psychological supports, including cover for 'Mental Injury' under the Accident Compensation Act.

2.2 S5.2 (a) - Definitions of a 'Health Service' and 'Health Practitioner'

College members have requested that greater clarity be given to the definition of a 'health service' and a 'health practitioner' as exclusions from this Bill. The College is aware of individuals who have offered conversion practices, claiming this to be a legitimate health service, and whose practice may be excluded by the current broad definition.

Clinical Psychologists are *registered* practitioners under the Health Professionals Competency Assurance Act (HPCAA; 2003) and therefore have clearly defined scopes of practice and regulation by the New Zealand Psychologists Board, providing a relatively strong level of protection for the public. However, there remain a number of professions, such as counsellors, who do not currently have statutory registration. Counsellors are likely to provide significant and important supports to sex, sexuality and gender diverse New Zealanders, yet they do not have the same proscribed Scope of Practice under the HPCA and do not currently have statutory registration.

We would suggest that greater clarity in this definition would be desirable to both protect the public and to protect those genuine health professionals who offer health services to sex, sexuality and gender diverse clients.

2.3 S5.1 – Definition of Conversion Practices

Several of our members have raised concerns that the definition in the draft Bill potentially captures advice, counselling or cautions given to sex, sexually and gender diverse clients- particularly when giving advice to gender diverse clients considering gender-affirming medical interventions^v.

We would suggest that the Committee consider revising the definition of conversion practices under S5.1 to include:-

“any *sustained* practice...”

As we understand it, the intention of the Bill is to capture those active, sustained practices, intended to change or suppress an individual's sexual identity, gender or gender expression, rather than the provision information, advice or guidance. We would suggest that this change would be in keeping with the stated aim of the Bill in S3(a) “to promote open discussions regarding sexuality and gender”.

2.4 The Scope of the Proposed Bill

Several of our members noted that sex characteristics are not explicitly included in S5.1, and therefore this Bill may be seen to lack protection for Intersex people. Given that the Bill, with this addition, encompasses protections for a wide range of individuals, with their own distinct needs and experiences, a number of members suggested that the committee might consider provisions for these groups separately within the Bill, rather than as a single entity.

3 Summary

There is a significant consensus amongst psychologists, psychiatrists, counsellors and therapists in New Zealand and across the world, that ‘conversion’ practices are harmful and should not be practiced. Despite the consensus, there is evidence that these practices continue to occur in New Zealand and, for those reasons, members of the NZ College of Clinical Psychologists have indicated their broad support for the introduction of this legislation.

In that context, our members have raised a number of recommendations regarding the current wording of the Bill, including a clarification of the definition of ‘conversion practices’, of ‘health services’ and ‘health practitioners’, including protections for intersex people and improving the availability of psychological supports for sex, sexually and gender diverse people in New Zealand.

ⁱ [APA Resolution on Sexual Orientation Change Efforts](#). American Psychological Association, February 2021

ⁱⁱ [APA Resolution on Gender Identity Change Efforts](#). American Psychological Association, February 2021

ⁱⁱⁱ Veale J, Byrne J, Tan K, Guy S, Yee A, Nopera T & Bentham R (2019) [Counting Ourselves](#): The health and wellbeing of trans and non-binary people in Aotearoa New Zealand. Transgender Health Research Lab, University of Waikato: Hamilton NZ

^{iv} Recognising and Addressing the Mental Health Needs of the LGBTIQ+ Population. [Position Statement 83](#). Royal Australia and New Zealand College of Psychiatrists, September 2019

^v Although an exclusion is listed in S5.2(b), the current use of the word ‘assisting’ could be interpreted to exclude those advising caution or highlighting potential negative effects of gender transition)