

## **Humanist Society Scotland response to the Scottish Government consultation: Ending Conversion Practices in Scotland**

**April 2024**

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**Question 1: Do you support our approach to defining conversion practices which focuses on behaviour motivated by the intention to change or suppress a person's sexual orientation or gender identity?**

Yes.

**Question 2: Please give the reasons for your answer to Question 1.**

As humanists, we believe in creating a society that allows people to freely embrace and explore their identities on their own terms<sup>1 2</sup>. In our view, the state has a moral and social responsibility to promote equality and tackle discrimination against LGBT+ people.

Humanist Society Scotland has a long history of promoting and defending the rights of the LGBT+ community. Any conduct which seeks to undermine, devalue, or delegitimise LGBT+ identities must not be tolerated. We have proudly provided same-sex commitment ceremonies for couples throughout our existence. We also campaigned to change the law for legal recognition in this regard and carried out the first same-sex marriages<sup>3</sup> after legal reform<sup>4</sup>. The UK-wide Gay and Lesbian Humanist Association, now known as LGBT Humanists, was founded in 1979 in response to the *Gay News* blasphemy trial<sup>5</sup>, and continues to fight against religious opposition to LGBT rights.

Conversion practices remain one of the most harmful and intrusive expressions of anti-LGBT+ sentiment. Hence we support legislative and civil action that protects people from attempts to 'cure' or suppress their sexuality or gender identity. As a society of individuals who believe in rational, evidence-based decision making, we would also

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<sup>1</sup> Understanding Humanism, [Humanism: Five Core Features](#), 2024.

<sup>2</sup> Religion Media Centre, [Factsheet: Humanism](#), 2022.

<sup>3</sup> Humanist Society Scotland, [Well done Joe and Max!](#), 2014.

<sup>4</sup> Humanist Society Scotland, [Humanists address love equally march](#), 2012.

<sup>5</sup> Bishopsgate Institute, [Gay and Lesbian Humanist Association \(GALHA\)](#), 2009.

highlight that conversion practices are not only harmful and degrading, but rooted in pseudoscientific beliefs and widely discredited as illegitimate and ineffective.

For example, in the late 2000s the American Psychological Association, the largest psychological association in the world, carried out a major review into evidence regarding what they then termed 'Sexual Orientation Distress and Change Efforts'<sup>6</sup>. They found no evidence to support the effectiveness of conversion practices. In 2012 a senior leading psychiatrist, Dr Robert Spicer, apologised for allowing the promotion of pseudoscientific views to permeate through major psychiatric research<sup>7</sup>. Additional evidence has been collated by Cornell University's public summary of research into this area, again concluding "that there is no credible evidence that sexual orientation can be changed through therapeutic intervention"<sup>8</sup>.

We fully support the definition of conversion practices proposed by the government. We are satisfied that the intent requirement in the threshold will prevent any behaviour which is non-directive and non-coercive from being criminalised.

We also welcome the government's recognition that all LGBT+ people must be protected from these abhorrent practices and support the inclusion of both sexual orientation and gender identity within the scope of the legislation. We reject the assessment made by opponents of the proposals that trans and non-binary people should be treated as a separate case and left out of a ban on conversion practices. The 2018 UK LGBT Survey<sup>9</sup> found that trans people were twice as likely to have been offered conversion therapy, so it is vital that they are afforded equal protection under any new law.

**Question 3: Do you think that the legislation should cover acts or courses of behaviour intended to 'suppress' another person's sexual orientation or gender identity?**

It should be covered.

**Question 4: Please give the reasons for your answer to Question 3.**

To ensure that LGBT+ people are given the fullest possible protection against conversion practices, suppression must be included as part of any future legislative and civil action. As Humanists, we believe that individuals should be empowered to embrace their desired identity and exercise personal autonomy over their own life. In the case of sexual orientation, the *Oxford Handbook of Humanism* describes how:

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<sup>6</sup> American Psychological Association, [Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts](#).

<sup>7</sup> The New York Times, [Psychiatry Giant Sorry for Backing Gay 'Cure'](#), 2012.

<sup>8</sup> Cornell University, [What does the scholarly research say about whether conversion therapy can alter sexual orientation without causing harm?](#)

<sup>9</sup> UK Government Equalities Office, [National LGBT Survey: Summary report](#), 2018.

Humanists see sex as a means of positive personal expression, pleasure, intimacy and/or bonding, and communication, as well as sometimes for reproduction. The principles of humanism assert that all people—the LGBTQ community, and women and men equally—should be able to enjoyably explore their sexuality, and that this is a part of every person’s full humanity<sup>10</sup>.

Attempts to suppress a person’s sexual orientation or gender identity still seek to restrict their personal autonomy and are based on the same underlying belief that LGBT+ identities are ‘sinful’, ‘shameful’ or ‘wrong’. We would also highlight the broad consensus among legal<sup>11</sup> and healthcare professionals<sup>12</sup> that conversion practices with the intention to suppress can be equally as harmful to victims as efforts to change their sexuality or gender identity.

We are clear that no LGBTQ+ person should be forced or coerced into hiding who they are. If suppression was left out of the proposed offences, the government’s ability to prevent, prosecute, and ultimately end conversion practices in Scotland would be severely impaired. It would send the message that suppressing another person’s sexuality or gender identity is an acceptable practice and significantly limit the protection afforded to victims.

There is also a wider social impact from the attempts to frame LGBT+ identity as shameful in that it helps drive discrimination. While restricting conversion practices primarily helps those directly impacted, it will also help to further reduce anti-LGBT+ sentiment in the population as a whole. It has been seen, for example, the positive impact that legal recognition of same-sex marriage had on population acceptance of LGBT+ identity<sup>13</sup> and we believe this work will likewise help further reduce social stigma and discrimination.

**Question 5: Do you support or not support an approach which uses a package of both criminal and civil measures to address conversion practices in legislation?**

Support.

**Question 6: Please give the reasons for your answer to Question 5.**

We agree with an approach that sees only the most egregious and harmful acts criminalised and civil measures implemented to protect victims and prevent conversion practices from taking place. The introduction of a stand-alone offence and statutory aggravation will serve an important practical purpose in ensuring that conversion practices are fully addressed in criminal law. However, we also recognise the limitations of criminalisation in preventing harm and inducing a cultural shift in communities where conversion practices still take

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<sup>10</sup> Abby Hafer, *Humanism, Sex, and Sexuality*, in Anthony B. Pinn (ed.), *The Oxford Handbook of Humanism*, 2021.

<sup>11</sup> The Ozanne Foundation, [The Cooper Report](#), 2021.

<sup>12</sup> [Memorandum of Understanding on Conversion Therapy in the UK](#), 2022.

<sup>13</sup> TFN, [Attitudes towards LGBT+ people have changed for the better](#), 2016.

place. We therefore support the introduction of a new civil protection order, which would provide a way to stop or prevent conversion practices without involving criminal prosecution or the Police.

We also believe that the government's non-legislative work will be key to ensuring the proposed criminal and civil measures are effective in ending conversion practices. The general public – including faith leaders and congregations, youth leaders, teachers and healthcare professionals – must be knowledgeable about conversion practices and able to identify and report concerns to the authorities. Crucially, victims must also feel supported and empowered to share their own experiences with Police Scotland or a relevant body.

**Question 7: What are your views on the proposal that the offence will address the provision of a service?**

Support.

**Question 8: Please give the reasons for your answer to Question 7.**

We agree that the proposed criminal offence should address the provision of a service. This recognises the fact that conversion practices commonly occur in formal settings by so-called therapists, counsellors or instructors who claim they can convert or suppress an individual's sexuality or gender identity.

In one high-profile example, an undercover investigation carried out by the *Liverpool Echo* in 2018 found that the Mountain of Fire and Miracles Ministry was offering a residential programme of therapy claiming to 'cure' gay people. The programme involved hours-long prayer sessions and a three-day period of starvation<sup>14</sup>.

Services which claim to provide conversion therapies, treatments, or coaching – none of which have any legitimate scientific basis – are inherently unethical and coercive, and can cause significant physical or psychological harm. We are satisfied that the proposed definition of a service is broad enough to capture the various guises that 'formal' conversion practices can take and ensure the individuals involved can be held to account.

**Question 9: What are your views on the proposal that the offence will address a coercive course of behaviour?**

Support.

**Question 10: Please give the reasons for your answer to Question 9.**

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<sup>14</sup> The Liverpool Echo, [This is the reality of gay 'cure' conversion therapy taking place in Liverpool](#), 2017

In our view, all forms of conversion practices are in some way directly or indirectly coercive and we agree that the proposed offence must address a coercive course of behaviour. We would draw attention to the Expert Advisory Group on Ending Conversion Practices report:

People are both ‘pushed’ and ‘pulled’ towards conversion practices. The ‘push’ often refers to an overarching culture and environment of anti-LGBT+ sentiment, derogatory language, messages, and sometimes accompanied by threats of abuse, force, violence, and coercion. The ‘pull’ refers to factors that make people more likely to want to undergo conversion practices - the desire to be accepted, fit into the norm, to not bring ‘dishonour’ and ‘shame’, and to not feel ‘wrong’ or be isolated from their community<sup>15</sup>.

This element of the offence also addresses situations where someone is engaging in a conversion practice outwith a formal service or setting. Repeated coercive and harmful behaviour cannot be justified and is rightly criminalised when applied to current or past partners under the Domestic Abuse (Scotland) Act 2018. The new offence would likewise extend this protection for LGBT+ people to cover anyone who engages in a coercive course of behaviour aimed at ‘curing’ their sexuality or gender identity.

We would further draw attention to the following account of an individual having conversion practices ‘thrust upon them’ by their family, which involved extensive and prolonged coercive control:

I was kept indoors [and] not allowed to choose friend[s] until I was about 17. My younger brothers and siblings had freedom to choose friends. I was not allowed to do that. I received a lot of verbal abuse from the family. Also physical abuse, with the stick he (my dad) cut out of [the] hedge on a regular basis. My brothers were violent towards me and were allowed to be. I had a career planned and I wasn’t allowed to follow that career and was to follow my brother in a career that would ’’make a man out of me’.<sup>16</sup>

**Question 11: What are your views on the requirement that the conduct of the perpetrator must have caused the victim to suffer physical or psychological harm (including fear, alarm or distress)?**

Agree.

**Question 12: Please give the reasons for your answer to Question 11.**

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<sup>15</sup> Scottish Government, *Expert Advisory Group on Ending Conversion Practices Report and Recommendations*, 2022

<sup>16</sup> End Conversion Practices engagement session in private with the Scottish Parliament Equality, Human Rights and Civil Justice Committee and individuals with lived experience, [Participant JM](#).

As a humanist organisation, we vigorously oppose the discrimination and oppression of LGBT+ people, much of which is based on moral codes grounded in the supernatural. Ultimately, Humanists are committed to treating individuals as having inherent worth and dignity and always seek to avoid harm to others<sup>17</sup>. Hence we support laws and initiatives which aim to tackle the stigma, harm and inequalities experienced by LGBT+ people.

A 2022 NHS Scotland report noted how LGBT+ individuals experience higher levels of mental ill-health, including depression, anxiety and stress, as a direct consequence of the discrimination, social isolation and loneliness that many in the community continue to face<sup>18</sup>. The evidence is clear that conversion practices are not only an ineffective and illegitimate course of action, but can cause real psychological and physical harm<sup>19</sup> to victims and further exacerbate health inequalities. This was further highlighted by the 2020 report from the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity:

In recent global studies, many respondents spoke of the profound damage resulting from being subjected to “conversion therapy”, including in a survey with 8,000 respondents from 100 countries, in which a staggering 98 per cent of the 940 persons who reported having undergone those practices testified to having suffered damage. When asked to report the main consequence of the practice, 4.5 per cent of the victims reported suicidal thoughts, and other main forms of consequential damage reported were permanent physical harm (1.8 per cent of victims), suicidal attempts (2.9 per cent), depression (5.9 per cent), anxiety (6.3 per cent), shame (6.1 per cent), self-hatred (4.1 per cent) and loss of faith (3.5 per cent)<sup>20</sup>.

We agree that perpetrators must have caused harm to fall within the scope of the criminal offence and support the definition of harm proposed by the government. Importantly, only evidence of a risk of harm needs to be demonstrated in order for a court to make a conversion practices protection order. Civil measures will be key to preventing harm and ensuring that victims are protected from harm before the perpetrators' behaviour becomes a criminal offence.

**Question 13: Do you agree with the inclusion of a defence of reasonableness?**

Don't know.

**Question 14: Please give the reasons for your answer to Question 13.**

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<sup>17</sup> Abby Hafer, *Humanism, Sex, and Sexuality*, in Anthony B. Pinn (ed.), *The Oxford Handbook of Humanism*, 2021.

<sup>18</sup> NHS Greater Glasgow and Clyde, [NHS report reveals significant health and social inequalities faced by Scotland's LGBT+ communities](#), 2022.

<sup>19</sup> Timothy Jones et al, [Preventing Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia](#), 2018.

<sup>20</sup> Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, [Report on Conversion Therapy](#), 2020.

While we recognise that similar provisions are used in other areas of criminal law, we are not convinced of the need to include a defence of reasonableness in the proposed offence. We share the government's own assessment that it is nigh on impossible to envisage a scenario where behaviour meeting the threshold of the offence could ever be described as 'reasonable'. We are also concerned that this could be exploited by those who claim that prejudice against LGBT+ people – and trying to convert them – is reasonable.

In our view, the government has not provided a clear rationale for why it is proposing to include a defence of reasonableness. It is not obvious to us how engaging in conversion practices would be an appropriate or 'reasonable' course of action in any of the examples cited in paragraph 124. We are satisfied that the "four tests" outlined in the offence create a high enough threshold that any individual truly acting 'reasonably' would not be inadvertently or unjustly criminalised.

If the government intends to include this provision in a forthcoming Bill following the outcome of this consultation, it must make clear its reasoning for this decision.

**Question 15: Do you agree with the proposed penalties for the offence of engaging in conversion practices?**

Agree.

**Question 16: Please give reasons for your answer to Question 15.**

While we are broadly supportive of the proposed penalties, we ultimately believe that criminal law should be a last resort and prison sentences reserved for the most harmful and egregious acts. As humanists, we promote a rational, evidence-based approach to justice that delivers positively for victims and communities<sup>21</sup>. We have continually highlighted the overwhelming evidence against the effectiveness of short-term prison sentences in reducing recidivism.

We have supported the introduction of the "Presumption Against Short Periods of Imprisonment" by the Scottish Parliament in 2010 and 2019. Most recently, we welcomed the commitment by the Scottish Government to establish an independent review of sentencing and penal policy in Scotland. In the Justice Secretary's statement, she highlighted that the reconviction rate for those completing custodial sentences of one year or less (52.1%) was almost double that of those given Community Payback Orders (CPOs) (29.8%)<sup>22</sup>. We understand the review will examine how community interventions could be developed and expanded to deliver reduced crime and reoffending rates and look forward to the outcome of this work.

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<sup>21</sup> Humanist Society Scotland, [Humanism on... Justice](#), 2022.

<sup>22</sup> Scottish Government, [Scotland's prison population: Ministerial statement](#), 2024.

There is consistent evidence that many individuals who engage in conversion practices are doing so because they believe they are helping the victim. As one individual with lived experience of conversion practices remarked in their evidence to the Equality, Human Rights and Civil Justice (EHRCJ) committee:

I really struggle because for the most part, I believe the people did it with good intentions. But despite all the good intentions, the damage has still been done and isn't any less harmful. In some ways I feel like that can be worse, because you can still have a fondness for those purporting it. It's confusing. It has stolen joy<sup>23</sup>.

Where shorter prison sentences are under consideration, we would strongly support the use of a CPO programme requirement that aims to reduce the prejudice felt by offenders towards the LGBTQ+ community and help them understand the individual and collective impact of their behaviour. This form of restorative justice has been successful in reducing reoffending and creating better community cohesion<sup>24</sup>. In a recent article published in the *Alternative Law Journal* examining contemporary LGBT+ human rights issues, the authors noted that:

While advocating for hate crime laws, it is important to recognise that carceral responses to social inequalities have to be adopted with caution. Queer and trans scholars note that punitive attempts to single out a few 'bad people' for punishment can further obscure the structural nature of homo/bi/transphobia and places already over-policed groups... at risk of enhanced criminalisation. Therefore, it may be better to seek accountability for hate crimes through restorative justice and community centred initiatives, rather than prison sentences<sup>25</sup>.

However, in line with the Expert Advisory Group, we support an approach that puts survivor autonomy first and foremost and ensures victims do not feel pressured to participate in restorative programmes intended to reform the perpetrator.

**Question 17: Do you agree that there should be no defence of consent for conversion practices?**

Yes.

**Question 18: Please give reasons for your answer to Question 17.**

We fully support the government's intention not to include a defence of consent for conversion practices.

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<sup>23</sup> End Conversion Practices engagement session in private with the Scottish Parliament Equality, Human Rights and Civil Justice Committee and individuals with lived experience, [Participant R](#).

<sup>24</sup> United Nations Office on Drugs and Crime, [Handbook on restorative justice programmes](#), 2006.

<sup>25</sup> Paula Gerber et.al., [Protecting the rights of LGBTIQ people around the world: Beyond marriage equality and the decriminalisation of homosexuality](#), 2021.



The fact is, notwithstanding recent shifts in public attitudes, Scotland is a country where LGBT+ identities are still not fully accepted. Many LGBT+ individuals face a multitude of pressures from relatives, friends, their communities and wider society to conform to traditional heteronormative standards, with the failure to do so often resulting in social exclusion or feelings of shame, guilt, and self-hatred.

LGBT+ people living in certain communities even report having to choose between their family and their sense of self. This issue was raised in a 2024 NSPCC report highlighting the pressures faced by LGBT young people. In one Childline counselling session, a 16-year-old girl stated:

My family is religious and they completely don't agree with me being a lesbian, as they think it's a choice. They are now making me choose between being straight and returning to a religion I don't agree with, or I choose to be a lesbian and they cut me off completely. I don't want to lose my family but I can't bear forcing myself to be who I'm not.<sup>26</sup>

In the case of conversion practices, such pressures are rooted in the false notion that LGBT+ individuals are somehow inferior to heterosexual and cisgender citizens and require 'fixing' or 'curing'. As Boulos & González-Cantón (2022) argue, people seeking out a remedy for "unwanted same-sex attraction" or "gender confusion" does not preclude the fact that conversion practices are inherently debasing, stigmatising, and tantamount to discrimination<sup>27</sup>.

It also needs noting and accepting by government that many of the individuals who self-report to those offering conversion practices are often motivated by socially conservative religious teachings on sexual morality. There is widespread reporting<sup>28</sup> from those impacted that their understanding of their feelings and sexual orientation as 'sinful', 'demonic', and worthy of 'eternal damnation' leads to a genuine desire on the part of many to 'correct' themselves. This is despite the fact the desired outcome is impossible. Fear induced by the threat of punishment in the afterlife is for many vulnerable people a strong pressure. Were such individuals not repeatedly taught in formative years, particularly as children and adolescents, that LGBT+ identities are wrong, there is a strong question as to whether such feelings of self-loathing or the need to find a 'cure' would exist.

No individual can genuinely consent to conversion practices. We ask that the government always be mindful of the sociocultural pressures and power dynamics experienced by LGBT+ people when considering this issue. The inclusion of a defence of consent would leave the legislation wide open to abuse by those who seek to continue engaging in conversion practices, often on extremely vulnerable people.

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<sup>26</sup> NSPCC, [Challenges young people are facing around sexuality and gender identity](#), 2024.

<sup>27</sup> Sonia Boulos and César González-Cantón, *No Such Thing as Acceptable Sexual Orientation Change Efforts: An International Human Rights Analysis*, 2022.

<sup>28</sup> Time Magazine, [My Hellish Youth in Gay Conversion Therapy and How I Got Out](#), 2014.

**Question 19: Do you have any other comments regarding the criminal offence as set out in Parts 8 and 9?**

N/A

**Question 20: What are your views on it being a criminal offence to take a person out of Scotland for the purpose of subjecting them to conversion practices?**

Support.

**Question 21: Please give your reasons for your answer to Question 20.**

Conversion practices are currently legal in all four UK nations. In the current political and constitutional context, Scotland will likely be the first jurisdiction in the UK where conversion practices are outlawed should the Scottish Parliament legislate to implement the government's proposals. On an international level, a recent UN report noted that conversion practices occur in at least 68 countries and exist in all regions of the world<sup>29</sup>.

The government has a duty to ensure that LGBT+ people living in Scotland are protected from harmful and degrading conversion practices, irrespective of where those practices take place. A qualitative study undertaken by the UK Government found evidence that LGBT+ people already travel abroad to attend psychotherapy sessions and conversion therapy 'retreats'<sup>30</sup>. It is therefore imperative that the risk of people exploiting opportunities in other jurisdictions is fully addressed, which is why we support criminalising the act of taking someone outside of Scotland for the purpose of subjecting them to conversion practices.

In the absence of this offence, we believe that conservative religious bodies with strong international ties would be well-positioned to exploit this loophole and develop programmes offering LGBT+ people the opportunity to travel abroad (or to other UK nations) to be 'cured'.

**Question 22: What are your views on the proposed penalties for taking a person outside of Scotland for the purposes of conversion practices?**

Support.

**Question 23: Please explain your answer to Question 22.**

Please see our response to Question 16.

**Question 24: What are your views on the proposal that conversion practices should be an aggravating factor for existing offences?**

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<sup>29</sup> Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, [Report on Conversion Therapy](#), 2020.

<sup>30</sup> UK Government Equalities Office, [Conversion therapy: an evidence assessment and qualitative study](#), 2021.

Support.

**Question 25: Please explain your answer to Question 24.**

We fully support the proposal to make conversion practices an aggravating factor for existing offences. Some of the most serious and harmful forms of conversion practices, including sexual and physical assault, can already be prosecuted within existing offences. In such cases, a new statutory aggravator would address the fact that the COPFS currently has no way of formally recognising the perpetrator's intention to change or suppress the victim's sexual orientation or gender identity. Moreover, we agree that the COPFS and courts should be required to consider the proposed aggravating factor when reaching prosecutorial and sentencing decisions, respectively.

Taken together with the two new offences, the proposed statutory aggravation will allow for proper recording of criminal acts involving conversion practices. Comprehensive data will enable policymakers to develop tailored non-legislative strategies and initiatives that more directly address the specific nature and extent of conversion practices in Scotland.

**Question 26: Do you have any views on the steps we have taken to ensure the proposals are compatible with rights protected by the European Convention of Human Rights?**

In our opinion, the government's proposals are not only fully compatible with rights protected by the ECHR, but work positively to strengthen and uphold a number of convention rights.

Under the terms of Articles 2, 3, and 8, states have a duty to uphold and protect the fundamental rights of life, equality, and freedom from cruel, inhumane and degrading treatment of LGBT+ people. It is broadly accepted that conversion practices amount to a violation of these specific rights and freedoms<sup>31</sup>. By providing adequate legal and civil protections against conversion practices on LGBT+ people, we believe the government would be taking necessary and meaningful action to enforce ECHR rights in Scotland.

Opponents have sought to present a legislative ban on conversion practices as an unfair restriction on freedom of religion or belief (Article 9) and expression (Article 10)<sup>32</sup>. We do not agree with this assessment. In broader terms, we reject the notion of an inherent conflict between freedom of thought, conscience, and religion and the right of LGBT+ people to non-discrimination and equality under the law.

As a humanist organisation, we value the diversity of faith and belief systems in public life. We are unequivocal in our support for anyone to hold, express, and practice their religion

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<sup>31</sup> Scottish Government, *Expert Advisory Group on Ending Conversion Practices Report and Recommendations*, 2022.

<sup>32</sup> The Herald, [Church leaders intervene in Scots conversion therapy ban](#), 2024.

where it does not restrict others' fundamental rights<sup>33</sup>. The proposals rightly place no restriction on ordinary religious teaching or the right of LGBT+ people to engage in prayer or pastoral care, nor to discuss their identity in open, explorative, and non-directive contexts. As Jen Ang of JustRight Scotland remarked in her evidence to the EHRCJ committee, "for some people it is a religious setting where they would best be able to access a non-judgemental and supportive environment in which to explore their gender identity and sexual orientation."<sup>34</sup>

It is also important to recognise the intersection between sexuality and changes in religion/belief which are recognised in a number of studies of humanist and atheist communities, not only in Scotland but in other jurisdictions. In one 2017 study by University of Glasgow Professor Callum Brown, he explores personal testimony of those who 'lose' their faith on recognising their sexuality<sup>35</sup>. Another 2020 study<sup>36</sup> in the *Journal for the Scientific Study of Religion* found that LGBT+ Christians quit their church at double the rate of others. In this context it is important to recognise that protections against conversion practices are not a threat to Article 9 and 10 rights. In fact for those targeted by such practices, who may be more likely to be humanist, atheist, or otherwise non-religious, this bill and its protections actually seek to provide support for protecting their Article 9 and 10 rights.

The scope of the proposed offence is narrowly defined and specifically covers coercive and harmful acts that are motivated by the intention to suppress or change another person's sexual orientation or gender identity, irrespective of the views or belief system of the perpetrator. To this end, the proposals also make clear the distinction between holding (or even preaching) anti-LGBT positions and behaviour that would meet the threshold of engaging in conversion practices.

It should be highlighted that the freedom to manifest one's religion or other beliefs is a qualified right and can (and should) be legally restricted in a proportionate way to achieve a legitimate aim, e.g. when necessary to restrict harm and protect the fundamental rights of others. This view is underlined by the UN independent expert Victor Madrigal-Borloz, who notes that "violent and discriminatory positions of prejudice are beyond the international legal protections of religious or other beliefs"<sup>37</sup>.

In specific reference to conversion practices, the UN Special Rapporteur on Freedom of Religion or Belief Dr Ahmed Shaheed has confirmed that:

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<sup>33</sup> Understanding Humanism, [Humanism: Five Core Features](#), 2024.

<sup>34</sup> The Scottish Parliament, [Equalities, Human Rights and Civil Justice Committee Report on Petition PE1817: End Conversion Therapy](#), 2022.

<sup>35</sup> *Becoming Athiest* (C. Brown, 2017, Bloomsbury)

<sup>36</sup> Brandi Woodell and Philip Schwadel, *Changes in Religiosity Among Lesbian, Gay, and Bisexual Emerging Adults*, 2020.

<sup>37</sup> United Nations OHCHR, [Freedom of religion or belief not incompatible with equality for LGBT persons](#), 2023.

[A]n individual's ability to believe whatever they wish about sexuality or gender diversity, including whether it requires treatment, is protected by the right to freedom of religion or belief. However, manifesting that belief by targeting LGBT+ persons with attempts to change or suppress their sexual orientation or gender identity that inflict harm is not a practice protected by international human rights law.<sup>38</sup>

In legislating to end conversion practices, the government will be working to fulfil its human rights obligations and send a clear message that no particular belief, religious or otherwise, can be invoked to justify degrading, harmful, or discriminatory actions against LGBT+ people.

The government should also be mindful of the widespread support among faith and belief communities in Scotland for legislation to end conversion practices. The EHRCJ committee noted in their report that "the majority of religious organisations they heard from were in favour of a ban on conversion practices." This included the Quakers in Scotland, the United Reformed Church, the Hindu Council UK, the Buddhist Dharma Centre, the Methodist Church and the Church of England<sup>39</sup>. In addition, the General Assembly of the Church of Scotland voted in 2022 to condemn conversion practices and support the Scottish Government's commitment to bring forward legislation<sup>40</sup>. It is clear that those who believe that freedom of expression and freedom of religion or belief would be unfairly restricted by the government's proposals are a small but vocal minority.

Further, while it is also true that the doctrine and leadership of numerous religions do not affirm LGBT+ identities, the evidence shows that individual followers of religions often diverge from leadership positions. This was clearly demonstrated during the passage of the Marriage and Civil Partnership (Scotland) Bill in 2013, which legalised marriage for same-sex couples and was robustly opposed by the Catholic Church in Scotland<sup>41</sup>. Despite strong and united resistance from senior officials, the Scottish Social Attitudes Survey published the following year found that support among individual Catholics for legalising same-sex marriage stood at 60%<sup>42</sup>.

Anti-LGBT positions are not a fundamental characteristic of any religion. Similarly, individuals for whom LGBT+ equality is an intrinsic part of their religious practice are found in every faith. It is disingenuous to suggest that people of faith and LGBT+ people belong to two mutually exclusive and diametrically opposed groups. Rather, these communities overlap and intersect. Moreover, within many such encounters, opportunities for dialogue and mutual understanding and respect can and should be found. In our view, the proposals will therefore have a positive impact under the terms of Article 9 on LGBT+ people of faith,

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<sup>38</sup> The Guardian, [There is no legal defence of LGBT+ conversions](#), 2021.

<sup>39</sup> Scottish Government, *Expert Advisory Group on Ending Conversion Practices Report and Recommendations*, 2022.

<sup>40</sup> The Church of Scotland General Assembly, [Report of the Faith Impact Forum](#), 2022.

<sup>41</sup> The Guardian, [Catholic church in Scotland steps up campaign against gay marriage](#), 2012.

<sup>42</sup> Equality Network, [Record Support for Same-Sex Marriage in Scotland](#), 2014.

members of religious organisations which are inclusive of LGBT+ people, as well as members of faith and belief groups who disagree with the tenets of their religious teachings that reject LGBTQ+ identities.

The proposals will also support people of faith who disagree on a personal level with LGBT+ identities but believe everyone has the right to live their lives free from persecution and harm. Moreover, faith leaders and congregations who have doctrinal views on marriage, sexual morality, and gender identity will still be free to hold, express, and manifest those views in a non-directive and non-coercive way.

**Question 27: What are your views on the purposes of the proposed conversion practices protection order?**

Support.

**Question 28: Please explain your answer to Question 27.**

As set out in our previous answers, we do not anticipate that criminal charges will be a proportionate or effective way to stop conversion practices being carried out in the vast majority of cases. Moreover, we share the view of the Expert Advisory Group that civil measures must act as “an interface between those affected by conversion practices and the criminal justice system”, and create a route by which victims can report their experience and receive support and protection without involving Police Scotland or the COPFS. We therefore support the creation of a specific conversion practices civil protection order (CPO) which will, in principle, provide this route within existing civil law frameworks. Where multiple people attend a single service carrying out conversion practices, we welcome that civil courts would be given new powers to protect individuals and prevent harm on a larger scale.

As the government acknowledges, the fact that conversion practices often either directly or indirectly involve those closest to the victim - whether that be relatives, friends, community or faith leaders - may lead to a reluctance on the part of victims to involve the Police or invoke criminal proceedings. In a wider context, it should also be noted that LGBT+ people - while at greater risk than the general population of falling victim to crime - are already less inclined to report abuse and crime directed towards them to the authorities. This was highlighted by the 2018 UK LGBT Report which found that 91% of the most serious incidents experienced by respondents, some of which included physical violence and harassment, went unreported. When respondents were asked why they hadn't reported the most serious incidents involving someone they lived with, almost 16% answered that they didn't want to get the perpetrator into trouble - the 5th most common response<sup>43</sup>.

With this context and background, we are keen to understand more about how the government intends to encourage and support victims, relevant third party individuals and

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<sup>43</sup> UK Government Equalities Office, [National LGBT survey: research report](#), 2018.

LGBT+ organisations to apply for the proposed CPO. In our view, it is vital that the government establishes tailored avenues for victims to report their experience and receive support and guidance which reflect the diverse and challenging contexts under which conversion practices take place. So too should key groups such as healthcare professionals, social workers, teachers, college and university staff, youth workers, faith leaders and congregations be given suitable training and guidance on the new CPO that equips them to identify and escalate concerns.

**Question 29: Do you agree or disagree with the proposals for who should be able to apply for a conversion practices civil order?**

Not sure.

**Question 30: Please explain your answer to Question 29.**

We have a number of concerns with regard to who should be able to apply for a conversion practices civil order.

First, it is not clear to us how the role of local authorities in making applications to protect an individual at risk will function in practice. The proposals do not explain who would be responsible for making applications within a local authority and what relationship they might have with the individual concerned. For example, we would be supportive of mechanisms that empower trusted individuals employed by a local council such as teachers, social workers and community/youth workers to make an application, should they have concerns that a pupil, group member, service user etc. is at risk of harm from conversion practices. Given that CPOs intended to protect the wider community would be granted to address the provision of a service, there is also little detail on how local authorities will monitor and identify businesses, support or prayer groups that could be carrying out conversion practices. We would welcome clarity from the government on both these points.

Second, the government does not provide a rationale for why only the Police and local authorities would be able to apply for a civil order to protect the wider community. If the government plans to retain this eligibility criteria in a forthcoming Bill, it must provide more information on how third party individuals and relevant organisations can report concerns about a service to those with the power to apply for a CPO.

Third, we do not believe the government has fully considered the role of key LGBT stakeholders and service providers in applying for CPOs. For example, the charity *LGBT Health and Wellbeing* currently operates a free helpline that people with lived-experience of conversion practices can contact for help, advice and support<sup>44</sup>. Given that many victims may not have a close friend, relative or other trusted individual that can confide in about their experiences, organisations like *LGBT Health and Wellbeing* play a key advocacy and support role for those seeking protection from conversion practices. However, under the current proposals, the charity (as a third party) would be required to gain permission from

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<sup>44</sup> <https://www.lgbthealth.org.uk/services-support/conversion-practices/>

the court each and every time they wished to make a CPO application on behalf of a service user. In our view, this would place a significant and unnecessary administrative burden on key victim support organisations and potentially limit their capacity to support individuals through the application process and beyond. We would therefore support removing the requirement for specific third party organisations such as *LGBT Health and Wellbeing* and other relevant victim support services to gain leave of the court before applying for a conversion practices CPO.

**Question 31: Do you have any other comments regarding the civil order as set out in Parts 13 – 15?**

N/A

**Question 32: Do you have any views on the potential impacts of the proposals in this consultation on equality by: a) Age b) Disability c) Gender reassignment d) Civil partnership e) Pregnancy and maternity f) Race g) Religion and belief h) Sex i) Sexual orientation?**

**Please see our response to Question 26.**

**Question 33: Do you have any views on the potential impacts of the proposals in this consultation on children and young people, as set out in the UN Convention on the Rights of the Child?**

As members of Together (the Scottish Alliance for Children’s Rights), Humanist Society Scotland been at the forefront of the campaign to incorporate the UNCRC into Scots Law<sup>45</sup>. Our organisation believes in creating a Scotland that protects, respects and fulfils the rights of children and young people, all of whom should have the opportunity to explore and embrace their sexuality or gender identity in an open, affirming and non-judgemental environment. If implemented, the proposals to end conversion practices will make an important contribution to the government’s work in embedding children’s human rights in all aspects of society.

Under the terms of the UNCRC, conversion practices amount to a violation of children and young people’s right to an identity (Article 8) and freedom from physical and mental violence (Article 19) and degrading and inhumane treatment (Article 37). This assessment was shared by the UN Committee on the Rights of the Child who in 2016 asserted “the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy” and urged States to take effective action to eliminate all forms of conversion practices on LGBT+ or questioning children and young people<sup>46</sup>.

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<sup>45</sup> Humanist Society Scotland, [First Minister announces bill to enshrine UNCRC into Scots law](#), 2020.

<sup>46</sup> Committee on the Rights of the Child, [General Comment No.20 on the implementation of the rights of the child during adolescence](#), 2016.



There are various accounts of LGBT+ young people experiencing conversion practices or facing threats of being sent for ‘therapy’ or ‘treatment’. As noted by the UN Independent Expert<sup>47</sup>, children and young people are also especially vulnerable to coercion and undue influence from those in positions of authority, whether that be parents, relatives or trusted individuals in their community. This is summarised by one individual who told the EHRCJ committee that they first experienced conversion practices aged 11:

It started at a young age. It was predatory on their part. Because of the behaviours and actions as adults, with a clear imbalance of power with me being a literal child and minor. I feel like they had almost “seen” and assumed that I was gay, and because I was a little kid they tried to change me before I realised it myself.<sup>48</sup>

We would also draw attention to a 2024 report published by the NSPCC, which used helpline and counselling call data to explore the challenges experienced by LGBT+ young people<sup>49</sup>. The following statements highlight some of the caller’s experiences in relation to conversion practices:

Mum told me that gay people are an insult to God and nature. She said if I ever decide to ‘go down that route’, we’ll move to the other side of the world and I’ll be sent to conversion therapy. - *Young Person, aged 17*

When I was younger, I told my parents I thought I was bi and they sent me to a counsellor who tried to convince me I was straight, and that my desire to be ‘different’ was purely for attention. Even though that was years ago, the effects of the counselling are still ongoing. It’s left me with a lot of guilt and confusion around who I am and how I’m supposed to act around other people. - *Girl, aged 18*

I went along with the sessions and pretended as if I’d been ‘fixed’, but really I’ve just been repressing my true feelings and I can’t take it anymore. I feel so trapped in my options right now and I don’t know what to do.” - *Boy, aged 17*

It should also be noted that while ‘conversion therapy’ or similar terms were only specifically mentioned in a small minority of case note records in 2022/23, we would consider a number of the examples in the report to constitute coercive behaviour motivated by the intention to change or suppress a young person’s sexual orientation or gender identity. The report highlights cases in which parents had threatened homelessness or physical violence and attempted to isolate or exert undue control over their children in response to them coming out as LGBT+. In the following statements, the actions experienced by young people had restricted their personal autonomy and safety and caused significant distress:

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<sup>47</sup> Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, [Report on Conversion Therapy](#), 2020.

<sup>48</sup> End Conversion Practices engagement session in private with the Scottish Parliament Equality, Human Rights and Civil Justice Committee and individuals with lived experience, [Participant R](#).

<sup>49</sup> NSPCC, [Challenges young people are facing around sexuality and gender identity](#), 2024.

I'm calling about a 15-year-old boy in my daughter's year, who has run away from home and is currently staying at our place. This boy doesn't feel safe living with his parents after he recently came out to them, and the stepfather threatened to 'beat the gayness out of him'. - *Member of the public*

From what I understand, Jack's parents don't accept the fact he's transgender; apparently, they've forbidden him from leaving the house unaccompanied, and they've even placed a tracker on his phone so they can watch his every move. Jack has made it clear to my daughter that he doesn't feel safe where he is and that his mental health is suffering as a result. - *Member of the public*

My mum tries to control every single thing I do, all because of my sexuality. She tried to stop me seeing my friends cos a lot of them are LGBT and she thought they were 'poisoning my mind.' She also makes me hand in my electronics at a certain time each day. It's infuriating. - *Non-binary young person, aged 15*

In developing non-legislative initiatives, the government should consider implementing tailored measures aimed at protecting children and young people from conversion practices. This could include information campaigns targeted at parents that seek to counter misinformation on the legitimacy of conversion practices and highlight the harm and damage they can cause. Crucially, children and young people should be fully informed, via the school curriculum, on how to seek support should they be experiencing, or at risk of, conversion practices. In addition, teachers, school staff and youth/community workers should be well equipped to identify signs that a young person may be experiencing conversion practices and facilitate effective interventions at the earliest possible stage.

**Question 34: Do you have any views on the potential impacts of the proposals in this consultation on socio-economic inequality?**

N/A

**Question 35: Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?**

N/A

**Question 36: Do you have any views on the potential impacts of the proposals in this consultation on privacy and data protection?**

N/A

**Question 37: Do you have any views on the potential impacts of the proposals in this consultation on businesses and the third sector?**

N/A

**Question 38: Do you have any views on the potential impacts of the proposals in this consultation on the environment?**

N/A



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