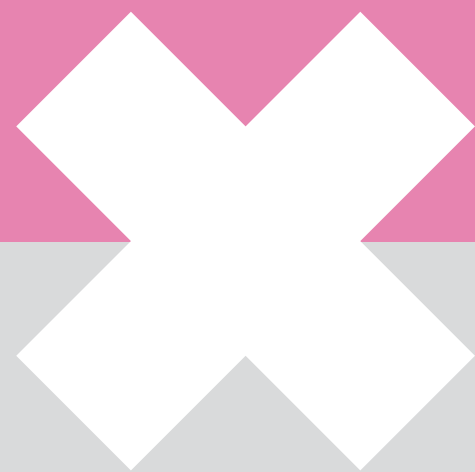


CONVERSION PRACTICES PRIVATE MEMBERS' BILL CONSULTATION GUIDANCE



Prepared by



with support from the Ban Conversion Practices Coalition

Contents

Introduction	1
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Defining Conversion Practices

3. Do you agree or disagree that legislation is necessary to ban conversion practices?	3
4. Do you support an approach to defining conversion practices which covers 'techniques intended to change or suppress a person's sexual orientation or gender identity'?	4

Offence of Engaging in Conversion Practice

5. Do you agree or disagree with an approach that creates a new criminal offence of engaging in conversion practice?	6
6. Do you agree or disagree with the proposal that the offence will cover provision of a service intended to suppress or change an individual's sexual orientation or gender identity?	7
7. Do you agree or disagree that an 'avoidance of doubt' clause should be included in the proposed legislation?	8
8. Do you agree or disagree with the proposal that the offence will cover a coercive course of behaviour intended to suppress or change an individual's sexual orientation or gender identity?	9
9. Do you agree or disagree that the conduct of the perpetrator must have caused the victim to suffer physical or psychological harm (including fear, alarm or substantial distress) in order for it to be an offence?	10
10. Do you agree or disagree with the inclusion of a defence of reasonableness?	11
11. The proposal does not include a defence of consent for conversion practices. Do you agree or disagree with this approach?	12
12. Do you consider that the following sentencing range would be appropriate for this offence?	13

Contents continued

Offence of Removing a Person from Northern Ireland for Purposes of Conversion Practice

13. Do you agree or disagree that it should be a criminal offence to remove someone who is habitually resident in Northern Ireland from Northern Ireland for the purpose of subjecting them to conversion practice? 15
14. Do you consider that the following sentencing range would be appropriate for this offence? 16

Human Rights and Financial Implications

15. How, if at all, do you think the proposed legislation will impact on human rights? 18
16. Do you have any comments on the likely cost/financial implications of the proposed legislation? 18
17. In your view, could the proposal have any unintended consequences? (positive or negative)? 19
18. Do you have any other comments on the proposed legislation? 19

Thank You

With thanks to the steering group of the Ban Conversion Practices Coalition, which includes the Rainbow Project, HereNI, Cara-Friend, Mermaids NI and the Belfast Trans Resource Centre, and to all members of the Ban Conversion Practices Coalition for supporting this work.

Introduction

This brief guide has been drafted by the Ban Conversion Practices Coalition, comprised of LGBTQIA+ and other human rights organisations, to assist individuals in responding to the consultation on Eóin Tennyson MLA's Private Members' Bill on banning conversion practices.

Conversion practices (or so called 'conversion therapies') are acts which deliberately try to change or suppress a person's sexual orientation and/or gender identity. They are based on the belief that it is better to be heterosexual and/or cisgender, and that other sexual orientations and gender identities are somehow flawed, wrong or "broken".

These practices come in a wide range of forms, from pseudo-psychological treatments (hence the term 'conversion therapies'), to acts that take place in the home, and practices that are religious or spiritual in nature. Sometimes they are carried out by an individual, but they can also involve wider communities, friends and/or family members. At their most extreme, conversion practices can involve physical and sexual violence even death.

Research undertaken over the last decade has attempted to establish both the scale and the impact of conversion practices in the UK and Ireland, as well as around the world. The UK Government's National LGBT Survey¹ found that 5% of LGBTQIA+ people across the UK had been offered or undergone conversion practices; this figure rose to 12% when looking specifically at Northern Ireland.

Recent research (May 2024) commissioned on behalf of the LGBTQIA+ sector, 'A Study of Conversion Practices in Northern Ireland'², conducted and authored by Prof. Fidelma Ashe and Dr Danielle Mackle, explored the experiences of 10 individuals who had undergone some form of conversion practices within the past decade. The research explored the contexts within which these practices were carried out, the impact on those subjected to them, and recommended a comprehensive and inclusive ban.

The Ban Conversion Practices Coalition supports the development of this Private Members' Bill, and encourages responses from LGBTQIA+ individuals and allies to ensure the legislation is free from loopholes or exemptions, and adequately captures the ways in which conversion practices are promoted and conducted here in Northern Ireland.

¹ gov.uk/government/publications/national-lgbt-survey-summary-report

² rainbow-project.org/wp-content/uploads/2024/05/Conversion-Practices-Research-Report.pdf

DEFINING CONVERSION PRACTICES

The LGBTQIA+ Strategy Expert Panel¹ defined conversion practices as ‘techniques intended to change or suppress someone’s sexual orientation or gender identity’, recognising that this includes attempts to stop someone expressing their sexual orientation or gender identity. It is proposed that the Bill will adopt a similar definition.

¹ communities-ni.gov.uk/publications/report-sexual-orientation-strategy-expert-advisory-panel

3

Do you agree or disagree that legislation is necessary to ban conversion practices?

AGREE

Please state the reason for your answer (optional)

- ✘ There is currently no ban on these practices, and existing legislation is unable to capture all forms of so-called conversion therapy.
- ✘ The UK Government's National LGBT Survey demonstrated that Northern Ireland has a higher rate of LGBTQIA+ people being offered and undergoing conversion practices than the rest of the UK.
- ✘ Research commissioned by local LGBTQIA+ organisations demonstrated the harm that is inflicted through conversion practices, recommending a comprehensive and inclusive ban.



4

Do you support an approach to defining conversion practices which covers ‘techniques intended to change or suppress a person’s sexual orientation or gender identity’?

YES

- ✘ The ban conversion practices coalition supports a comprehensive and inclusive ban; this includes trans people and those who are asexual. This language would cover all LGBTQIA+ identities.
- ✘ Some conversion practices encourage lifelong celibacy or abstinence from engaging in same-sex relationships, rather than overtly encouraging a change of sexual orientation or gender identity. Both of these techniques should be covered.



OFFENCE OF ENGAGING IN CONVERSION PRACTICE

The proposed Bill would create a new offence of engaging in conversion practices whereby all of the following elements apply:

Intent: the individual accused of engaging in conversion practices did so with the intention that the sexual orientation or gender identity of the victim would be suppressed or changed.

Acts: that either the provision of a service or a course of coercive behaviour took place.

Victim: that the service or course of behaviour pertains to a specific, identified individual.

Harm: that the act has caused the individual physical or psychological harm.

Defence: the accused person has a defence if their conduct was reasonable in the circumstances.

5

Do you agree or disagree with an approach that creates a new criminal offence of engaging in conversion practice?

AGREE

- ✘ Creating a criminal offence is vital – both for ensuring perpetrators are brought to justice, and also to send a strong message that these practices are unacceptable.
- ✘ While some conversion practices can be captured under existing legislation, many practices fall through the cracks. A standalone offence is a key way to close that loophole.
- ✘ Creating new offences isn't the be all and end all – we also need public education about these practices, meaningful rehabilitation for offenders, and civil protection orders for practices which don't meet a criminal threshold.



6

Do you agree or disagree with the proposal that the offence will cover provision of a service intended to suppress or change an individual's sexual orientation or gender identity?

This will address situations whereby a conversion practice is undertaken by a person who claims to have particular knowledge, skill or expertise and where the act is purported to be delivered as a method to effect a change or suppression. For example, counselling, talking therapy, coaching or instructing, or a purported treatment.

AGREE

Please state the reason for your answer.

- ✘ Current legislation does not protect people who experience conversion practices in counselling, therapy, coaching or instructing, particularly in the unregulated space.
- ✘ A significant proportion of conversion practices take place within an organisation or service based in the community, such as a youth service or a pseudo-psychotherapeutic organisation.
- ✘ It is vital that the law can capture all the ways in which these practices may occur, including in a community organisation through the provision of a service.



7

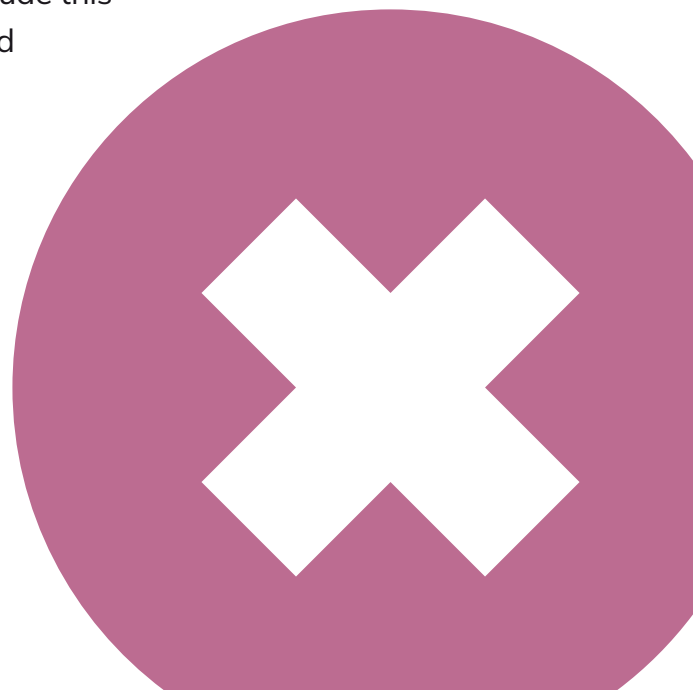
Do you agree or disagree that an ‘avoidance of doubt’ clause should be included in the proposed legislation?

The Bill is not intended to interfere with legitimate psychological or medical healthcare provision, conducted ethically and in accordance with professional guidelines. Whilst we do not believe such care would fall under the requirements of the offence, it is proposed that an ‘avoidance of doubt’ clause is included in the Bill to place this beyond doubt.

DISAGREE

Please state the reason for your answer.

- ✘ A significant number of medical professionals’ regulatory bodies have signed a Memorandum of Understanding, agreeing that conversion practices are ‘unethical, potentially harmful, [and] not supported by evidence.’
- ✘ As such, regulated healthcare professionals who maintain membership of their regulatory body would already be in breach of their professional guidelines if they engaged in these practices as defined within this proposal.
- ✘ We do not feel that there is a need to include this clause, and if it must be included, it should apply exclusively to regulated healthcare professionals.



8

Do you agree or disagree with the proposal that the offence will cover a coercive course of behaviour intended to suppress or change an individual's sexual orientation or gender identity?

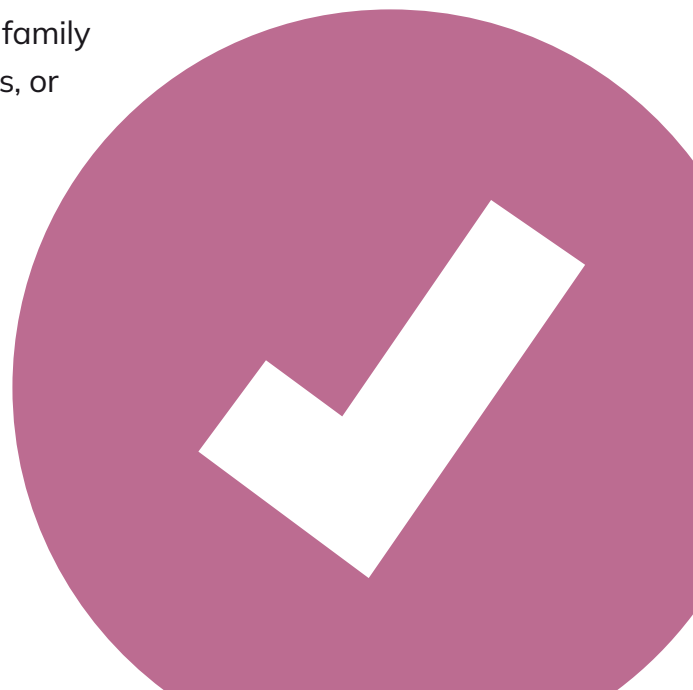
Drawing on the approach taken to domestic abuse, it is proposed that a coercive course of behaviour in the context of conversion practices would be defined as:

- a) behaviour directed at the victim that is violent;
- b) behaviour directed at the victim that is threatening;
- c) controlling, regulating or monitoring the victim's day-to-day activities;
- d) depriving the victim of, or restricting the victim's, freedom of action; or
- e) making the victim feel frightened, humiliated, degraded, punished or intimidated

AGREE

Please state the reason for your answer.

- ✘ This would cover other instances of conversion practices where they do not fall under the 'provision of a service' framing. It is vital that all methods of conversion practice are covered under the law.
- ✘ Many individuals experience conversion practices through coercive behaviours, whether by family or friends, youth workers, religious leaders, or others within their community.
- ✘ This may be carried out through the monitoring of the victim's communications and activity, withholding e.g. makeup and clothing for trans people, or threatening or abusing them to discourage them from expressing their identity.



9

Do you agree or disagree that the conduct of the perpetrator must have caused the victim to suffer physical or psychological harm (including fear, alarm or substantial distress) in order for it to be an offence?

AGREE

Please state the reason for your answer.

- ✘ Conversion practices, by their nature, cause physical or psychological harm to their victim. While this may not be immediately apparent to an individual who experienced them, these practices can result in lifelong trauma and distress.
- ✘ The intention of a ban is not to outlaw any discussion, prayer etc which does not support an individual's identity – it is to ensure that where an activity meets these thresholds that it is able to be dealt with appropriately.
- ✘ The requirement for harm solidifies the threshold over which a practice must reach to be prosecutable as a conversion practice: that it causes harm, that it had the intent to change or suppress an individual's identity, and that it pertains to a specific victim.



10

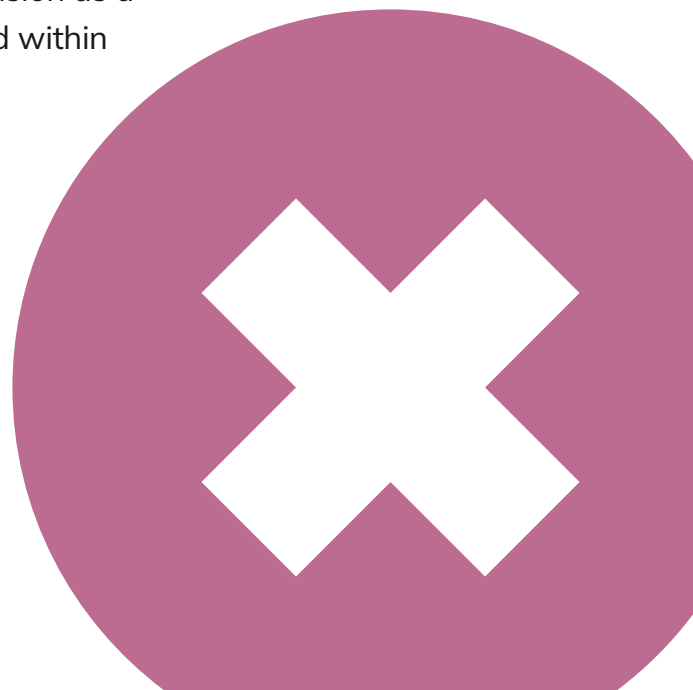
Do you agree or disagree with the inclusion of a defence of reasonableness?

It is proposed that it is a defence for the accused to show that the course of behaviour was, in the particular circumstances, reasonable. A similar defence is offered in offences dealing with domestic abuse, stalking and harassment.

DISAGREE

Please state the reason for your answer.

- ✘ We understand that the defence of reasonableness was included in other draft conversion practices bans, including the Scottish ban, and that it is present in other areas of legislation locally.
- ✘ We are, however, concerned that this 'reasonableness' defence is currently quite ill-defined, and its inclusion within recent Domestic Abuse legislation was opposed by the women's sector for this reason.
- ✘ We are particularly concerned that this 'reasonableness' defence could be used to undermine legal protections for particularly marginalised groups including transgender people, who are currently the subject of dramatically shifting public narratives and discourse.
- ✘ As such, while we understand the reasoning behind its inclusion, we recommend against its inclusion as a potential limiter on the protections offered within this proposal.



11

The proposal does not include a defence of consent for conversion practices. Do you agree or disagree with this approach?

The proposal does not include a defence that the victim consented to conversion practice. Individuals will often consent due to external pressure or imbalanced power dynamics. Often, consent is given in the absence of full knowledge that the change in question is not, in fact, possible; or of the harm that can be caused. There may also be instances whereby the victim is subject to an act which they do not initially realise to be conversion practice.

AGREE

Please state the reason for your answer.

- ✘ Research commissioned by local LGBTQIA+ organisations explored the issue of 'consenting' to conversion practices in depth. It came to the conclusion that one cannot reasonably 'consent' to these practices in an informed way.
- ✘ The reasons for this are clear. Conversion practices categorically do not work, and have been debunked by various studies around the world. It is difficult to see how fully informed consent can be obtained for a practice that does not work as intended and often causes harm.
- ✘ Further, there are always power dynamics at play, whether between the conversion practitioner and the victim, or within a wider societal context that views being LGBTQIA+ as inherently 'wrong' or 'flawed'.



12

Do you consider that the following sentencing range would be appropriate for this offence?

on summary conviction: imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.

on conviction on indictment: imprisonment for a term not exceeding 7 years, or a fine, or both.

AGREE

Please state the reason for your answer.

- ✘ We believe these sentencing guidelines are proportionate and in line with both domestic legislation in areas such as domestic abuse, as well as international comparisons of bans on conversion practices.
- ✘ We would recommend, as part of sentencing, to recognise vulnerability as an aggravating factor in sentencing. This particularly applies where young people are subjected to these practices.
- ✘ We also believe that conversion practices should be an aggravating factor on existing offences: for instance, if a victim experienced so-called 'corrective rape' as a method of attempting to change or suppress their sexual orientation, the sentence for sexual assault should be aggravated by its use as a form of conversion practice.



OFFENCE OF REMOVING A PERSON FROM NORTHERN IRELAND FOR PURPOSES OF CONVERSION PRACTICE

It is proposed that a new offence is created to make it illegal to cause someone who is habitually resident in Northern Ireland to leave Northern Ireland with the intention that they will undergo conversion practices. Illustrative examples of behaviours which are likely to demonstrate that one person forced another to leave Northern Ireland for the purposes of conversion practice include:

Paying travel and accommodation costs;

Making travel arrangements.

13

Do you agree or disagree that it should be a criminal offence to remove someone who is habitually resident in Northern Ireland from Northern Ireland for the purpose of subjecting them to conversion practice?

AGREE

Please state the reason for your answer.

- ✘ There is currently no ban on conversion practices in Britain or the Republic of Ireland. There must be protections for individuals being removed from Northern Ireland to these jurisdictions or others to be subjected to conversion practices.
- ✘ Often, the most serious and traumatic conversion practices are delivered overseas, in jurisdictions where LGBTQIA+ rights and social perceptions are much worse than in Northern Ireland. Individuals must be protected from these practices.
- ✘ This clause is particularly important for LGBTQIA+ migrants and refugees, who may be removed to their country of origin by family members or their wider community to be subjected to these practices.



14

Do you consider that the following sentencing range would be appropriate for this offence?

on summary conviction: imprisonment for a term not exceeding 12 months, or a fine, or both.

on conviction on indictment: imprisonment for a term not exceeding 3 years, or fine, or both.

AGREE

Please state the reason for your answer.

- ✘ We believe these sentencing guidelines are proportionate and in line with international comparisons of bans on conversion practices.
- ✘ The lesser sentences recognise that the individual facilitating these practices is not the one delivering them.
- ✘ As above, we would recommend a recognition of vulnerability as an aggravating factor within sentencing for this offence, with particular consideration given to young people.



HUMAN RIGHTS AND FINANCIAL IMPLICATIONS



15

How, if at all, do you think the proposed legislation will impact on human rights?

SIGNIFICANT POSITIVE IMPACT

Please state the reason for your answer.

- ✘ The proposed legislation would protect and strengthen human rights, in particular, European Convention Articles 3 (prohibition of torture) and 8 (right to private and family life).
- ✘ The former UN Independent Expert on Sexual Orientation and Gender Identity (IE SOGI) recognised that conversion practices can amount to torture, and as a result should be banned.
- ✘ Further, the interference with an individual's right to live as their true selves, whether that be in relation to their sexual orientation or gender identity, through attempts to change or suppress these characteristics can be deemed an intrusion of the right to private and family life.

16

Do you have any comments on the likely cost/financial implications of the proposed legislation?

- ✘ There may be some financial implications, but this legislation is unlikely to incur significant costs
- ✘ Any costs are reasonable when viewed in the context of the harm caused by these practices.



17

In your view, could the proposal have any unintended consequences? (positive or negative)

18

Do you have any other comments on the proposed legislation?

- ✘ The proposal, as drafted, is narrow in scope in recognition of the Assembly Speaker's guidance that Private Member's Legislation should not place 'undue pressure on the public purse'.
- ✘ Despite this, we believe that this proposal could be strengthened through the addition of a number of provisions: a ban on the promotion of conversion practices, as well as the introduction of civil protection orders.
- ✘ In other jurisdictions, civil protection orders are a method of recognising lower-level conversion practices through civil rather than criminal courts. These are often useful in cases where a victim of practices may feel reluctant to report to the police, often because the practices have been carried out by a family member, friend, or close religious community.
- ✘ They also often involve providing investigative powers to a region's Equality and/or Human Rights Commission(s), to ensure that practices are identified and tackled without the need for an individual victim to come forward.

