

Banning Conversion Therapy: Government Consultation Response for England and Wales

This consultation ran from 9:30am on 29 October 2021 to 11:45pm on 4 February 2022

This open consultation response was produced for England and Wales only, however, we shall continue to share our response with the respective administrations.

The British Association of Social Workers (BASW) is the UK's professional membership organisation for social work. We are the independent voice of social work. We champion social work and help members achieve the highest professional standards.

BASW is committed to raising social work's voice, perspectives and influence on issues of equality, diversity and inclusion, and oppression across wider society. We recognise the need for actions against all forms of oppression and breaches of human rights experienced by people of diverse identities and protected characteristics.

The Social Workers Union (SWU) is a trade union serving and representing the social work profession across the UK. SWU's mission is to improve the terms and conditions of social workers, fight for better resources for the people who use these services and support the principles of human rights and social justice worldwide.

The joint key aims of our two organisations are:

- Improved professional support, recognition, and rights at work for social workers.
- Better social work for the benefit of people who need our services.
- A fairer society.

A note on terminology

We note that conversion therapy includes both harmful practices that seek alter sexual orientation and gender conversion therapy. Any definition must clearly cover **all practices** that seek to suppress, "cure" or change sexual orientation or gender identity. BASW and SWU consider that conversion therapy can be best described as '[a set of practices that aim to eradicate LGBTIQ+ sexualities and gender identities](#)'.

We strongly believe that the term 'conversion therapy' is misleading and inaccurate considering the harm involved. We support that the term 'conversion practices' be used as an umbrella term to capture a multitude of harmful practices with the aim to change or suppress an individual's sexuality or gender identity. However, we recommend the term 'conversion abuse' which covers all harmful practices and sends a clear message to everyone that any practices relating to conversion are harmful and unlawful. Conversion

practices must be criminalised. We recognise that conversion practices come in many forms with varying acts which may include assault, rape, abduction, and other already criminalised acts which must be included in its definition.

For the purpose of this consultation, we shall continue to primarily use the term ‘conversion therapy’ however, may use ‘conversion practices’ and/or ‘conversion abuse’ to elaborate a key point.

We continue to use the term LGBTQIA+ as an umbrella term to capture all identities. The plan uses this acronym to support lesbian, gay, bisexual, transgender and queer/questioning people, intersex, asexual (LGBTQIA+) with the + representing other identities including non-binary.

Introduction

BASW and SWU acknowledge that this consultation is not about a question of whether the UK Government will ban conversion therapy, but rather ‘how’ conversion therapy should be banned in legislation. Legislation is being prepared for spring 2022, which will likely result in a Government Bill being tabled in Parliament in May or June 2022.

BASW and SWU do not support any form of ‘conversion therapy’ or practice. We believe it endangers the health and lives of LGBTQIA+ people. We agree with the view that ‘*all forms of ‘conversion therapy’ share one autonomy-diminishing goal: to restrict a host of profoundly important interests in relation to sexuality and gender identity*’ (Raz, J. (1986), *The Morality of Freedom* (OUP 1986) 416–17).

Since ‘conversion therapy’ represents a profound and unjustified interference with personal freedom’, we welcome legitimate state intervention. We fully support the ending of harmful practices of sexual orientation and gender identity conversion therapy by introducing a legal ban and we welcome the opportunity to respond to this consultation.

Any ban must not impede free exploration of sexual orientation and gender identity and have a negative impact on trans individuals accessing healthcare and affirmative care. Any ban on conversion therapy must be human rights compliant with the European Convention on Human Rights (ECHR) and with the Human Rights Act.

Preliminary Question

Do you agree or disagree that the Government should intervene to end conversion therapy in principle? Why do you think this?

BASW and SWU strongly agree that the Government should intervene to ban any attempt to change a person's sexual orientation or gender identity. We fully support a ban on conversion therapy.

BASW and SWU do not support any form of 'conversion therapy' or practice. We believe it endangers the health and lives of LGBTQIA+ people. We agree with the view that '*all forms of 'conversion therapy' share one autonomy-diminishing goal: to restrict a host of profoundly important interests in relation to sexuality and gender identity*' (Raz, 1986). Since 'conversion therapy' aims to diminish autonomy and represents a profound and unjustified interference with personal freedom, we welcome legitimate state intervention. We fully support the ending of harmful practices of sexual orientation and gender conversion therapy by introducing a legal ban and we welcome the opportunity to respond to this consultation. Any ban must not impede free exploration of sexual orientation and gender identity and must not have a negative impact on trans individuals accessing healthcare and affirmative care. Any ban on conversion therapy must be human rights compliant with the European Convention on Human Rights (ECHR) and with the Human Rights Act.

Our position is justified in the responses to the questions within this consultation and is detailed in our responses to the following questions.

Consultation question on proposal for targeting physical conversion therapy

Question 1. To what extent do you support, or not support, the government's proposal for addressing physical acts of conversion therapy? Why do you think this?

A non-exhaustive list of conversion therapy includes exorcisms, pseudo-scientific counselling sessions, corrective rape, deprivation of liberty, being threatened with abduction or torture, attempts to abduct, forced marriage, being threatened with forced marriage, being prayed over as a form of "healing", and other physical and/or verbal abuse. Hence, we acknowledge that there are crimes that already exist in English and Welsh law that are also acts that form part of conversion therapy.

We understand that in order not to duplicate these laws that could lead to judicial inconsistency, the Government proposals ensure that if the judiciary finds conversion therapy was an aggravating factor in the violent offences, that the court should take this into account and lengthen the perpetrator's sentence accordingly. We support this proposal. We

understand that this will enable prosecutors to make a case that the attempt to change a person's sexual orientation or gender identity was a motivating factor in a violent crime, and for a judge to "uplift" the sentence in a similar way to how hate crime legislation works.

Homophobic, biphobic, and transphobic hate crime has increased at a rapid rate over the years. This form of [hate crime](#) must be acknowledged when considering a sentencing uplift. The court should have the powers to treat any offence more seriously when it can be shown to be aggravated by hostility towards an individual of a particular sexual orientation or gender identity. We fully support and welcome the provision that courts should treat an offence more seriously if it has been motivated by a desire to suppress, cure, or change an individual's sexuality or gender identity. This will lead to effective social justice for survivors of the many forms of conversion practices that exist. Considering aggravating factors within the sentencing systems allows for 'hostility' and 'intention' to be identified and recognised which will consequently achieve social justice for survivors. This is likely to also allow for more effective preventative/protection initiatives to be developed within communities by health and social care.

Consultation questions on the proposal for targeting talking conversion therapy

Question 2. The government considers that delivering talking conversion therapy with the intention of changing a person's sexual orientation or changing them from being transgender or to being transgender either to someone who is under 18, or to someone who is 18 or over and who has not consented or lacks the capacity to do so should be considered a criminal offence. The consultation document describes proposals to introduce new criminal law that will capture this. How far do you agree or disagree with this?

We note that in the Government's Consultation document, 'suppressing' one's sexual orientation and gender identity has not been acknowledged. Without the full definition applied to all practices, the state shall not achieve a comprehensive and effective ban which would leave many without protection. We reiterate that any legal definition must clearly cover all practices that seek to suppress, "cure", or change sexual orientation or gender identity. Conversion therapy can be best described as '[a set of practices that aim to eradicate LGBTIQ+ sexualities and gender identities](#)'.

We know that conversion therapy occurs in secrecy and is a worldwide problem. The [International Rehabilitation Council of Torture Victims \(IRCT\)](#) shared their global overview of conversion therapy in their thematic report and reported conversion practices to include:

- *Talk therapy or psychotherapy, including group therapy (e.g., exploring life events to identify the cause)*
- *Medication (including anti-psychotics, anti-depressants, anti-anxiety, psychoactive drugs, and hormone injections)*

- *Eye Movement Desensitization and Reprocessing (where an individual focuses on a traumatic memory while simultaneously experiencing bilateral stimulation)*
- *Electroshock or electroconvulsive therapy (ECT) (where electrodes are attached to the head and electric current is passed between them to induce seizure)*
- *Aversive treatments (including electric shock to the hands and/or genitals or nausea-inducing medication administered with presentation of homoerotic stimuli)*
- *Exorcism (e.g., beating the individual with a broomstick while reading holy verses or burning the individual's head, back, and palms)*
- *Force-feeding or food deprivation*
- *Forcing an individual to be nude or undressed usually in the presence of others*
- *Behavioural conditioning (e.g., being forced to dress or walk in a particular way)*
- *Isolation (sometimes for long periods of time, which may include solitary confinement or being kept from interacting with the outside world)*
- *Verbal abuse and humiliation*
- *Hypnosis*
- *Hospital confinement*
- *Beatings and other 'corrective' violence, including rape*

The above practices are used to 'suppress' and this should be reflected without any uncertainty.

In addition to the aforementioned, we believe that referring to a change from same-sex attracted to opposite-sex attracted would only cover some people – it would not cover bi people at all. 'LGBT' does not cover intersex people or people on the asexual or aromantic spectrum. It remains unclear whether the Government considers non-binary people or people with other minority gender identities as being transgender for the purposes of this consultation.

There must be no ambiguity. It is discriminatory to leave individuals from the LGBTQIA+ community unprotected. Furthermore, this ambiguity is likely to negatively affect prosecutions. It is also likely to place the judiciary under undue pressure to interpret the law accurately and consistently in the context of sexual orientation and gender identity. Consequently, this is likely to lead to significant failings in the criminal justice system and leave the state with a legal ban that is ineffective.

We are disappointed to see a lack of attention and clarification as to wording. However, we acknowledge that a full definition has been used in the Ban Conversion Therapy document and we support the use of a definition of conversion therapy as practices that seek to change or suppress a person's sexual orientation or gender identity. This definition has the benefit of covering all forms of sexual orientations and gender identities without needing to provide a specific list. It is also in line with international terminology. We recommend the Government to be more vigilant when using terminology and clarify in its proposals that these also cover non-binary, intersex, and asexual and aromantic people for the avoidance of doubt.

All states are under a positive legal obligation under Article 3 ECHR to set up an effective system deterring and punishing acts of ill-treatment, backed by enforcement mechanisms for the prevention, suppression, and punishment of breaches.

It can be argued that such physical and violent conversion practices clearly breach the basic human rights of their victims amounting to degrading or inhuman treatment and may in many circumstances constitute torture (International Rehabilitation Council for Torture Victims, [‘Conversion Therapy is Torture’](#) (23/4/2020)). Conversion therapy relies heavily upon treatments which may violate article 3 ECHR precisely because they were forced on someone.

In addition, it can be argued that there is a clear violation when considering the ‘ill-treatment’ aspect of article 3. Any serious violation of human dignity may be classified as degrading treatment under article 3, even when no bodily injury and no intense physical or mental suffering is involved. Based on this principle, the ECtHR has found several forms of ill-treatment, which have not caused sustained injuries or suffering, in violation of article 3. This suggests that all ‘conversion therapies’ – even in mild ‘talking’ forms – are more than likely to amount to degrading treatment. BASW and SWU believe that the conduct within conversion therapy falls within the scope of prohibited ill-treatment which must be regulated by the criminal law, hence the requirement for immediate legislative measures. Notably, these harmful practices also breach an individual’s right to a private life, protected by Article 8 ECHR.

These specific harms are often perpetrated by those closest to the victims e.g. family members, friends, local faith groups. [TransActual’s Trans lives survey 2021: Enduring the UK’s hostile environment](#) found that 85% of trans people have experienced transphobia from family members. The survey also highlights that more than half (53%) of disabled trans people reported experiencing transphobia from their carers. We believe that there can be no exemptions for ‘consenting’ adults who agree to participate in conversion practices despite the harm involved, specifically because there is harm involved. We agree with the [Cooper Report 2021](#) which states that *‘consent cannot be a defence to any conduct that amounts to a violation of Article 3 ECHR’*. Pressures and imbalances of power cast doubt on if a person can freely ‘consent’ to be subjected to conversion practices and allowing ‘voluntary’ conversion practices to continue would put a significant number of vulnerable people at risk.

We encourage the Government to avoid the ‘consent loophole’ as it will leave many LGBTQIA+ people vulnerable placing them at risk of significant harm. BASW and SWU believe the Government’s proposal regarding consent is unacceptable and harmful. It is also contradictory to their own findings in their [research](#) where victims claim they were not given accurate information free from bias, were not informed of the risks of conversion efforts or offered an alternative. The research also found increasing evidence that attempts to change a person’s gender identity can cause serious harm. We would hope the Government has learned from dealing with similar abuse such as domestic abuse, FGM, and forced marriage

that 'consent' has no place in conversations about individuals being harmed. Having a consent loophole will leave many adult victims unprotected.

BASW and SWU support a comprehensive ban which leaves no grey area about consent as this will ensure that no LGBTQIA+ person is at risk of significant harm from any such practice (violent or non-violent) that aims to change, suppress, or cure their sexual orientation or gender identity. We must have clear protections for gender explorative therapy and for gender transition services.

The [Government's National LGBT+ Survey 2018](#) of over 108,000 LGBT+ people living in the UK found that of those who had undergone conversion practices, only 19% were conducted by a healthcare provider or medical professional. [There is no known medical or scientific validity of conversion therapy](#). We recognise the [Independent Forensic Expert Group's 'Statement on Conversion Therapy' \(2020\)](#) that "*Variation in sexual orientation and gender identity is not a disease or disorder. Health professionals, therefore, have no role in diagnosing it or treating it. The provision of any intervention purporting to treat something that is not a disease or disorder is wholly unethical.*" In addition, the survey found that 51% of conversion practices were conducted by a faith organization or group. This evidences that conversion therapy is predominantly performed in religious and cultural contexts. We know from other similar forms of abuse such as female genital mutilation (FGM) that the religious and cultural context can force it to go underground and remain active behind a veil of silence. At the time of writing this response there have been no successful prosecutions in the UK for FGM, but it is relevant to note that the FGM civil protection now offered has been almost universally welcomed as a better solution than criminal sanctions. How will the Government learn from this and monitor and review their proposed legislative measures to ensure LGBTQIA+ people are not placed at further risk and away from detection?

The survey findings also signify a high proportion of children, young people, and adults who identify as LGBTQIA+ being subjected to harmful practices and in need of social care support and safeguarding. Local community faith organisations/groups perpetrating conversion therapy/practices freely in a community is a safeguarding concern for the local authority and the police.

[The number of homophobic hate crime reports in the UK has tripled and the number of transphobic hate crime reports has quadrupled over the last six years.](#) This form of [hate crime](#) must be acknowledged when considering a sentencing uplift. The judiciary should consider and treat any offence more seriously when it can be shown to be aggravated by hostility towards an individual of a particular sexual orientation or gender identity. We fully support and welcome the provision that courts should treat an offence more seriously if it has been motivated by a desire to suppress, cure, or change an individual's sexuality or gender identity. This will lead to effective social justice for survivors of the many forms of conversion practices that exist. Considering aggravating factors within the sentencing systems allows for 'hostility' and 'intention' to be identified and recognised which will consequently achieve social justice for survivors. This is likely to also allow for more

effective preventative/protection initiatives to be developed within communities by health and social care.

[An assessment of the evidence on conversion therapy for sexual orientation and gender identity](#) published in October 2021 details participants' experience and the outcomes of conversion therapy. We know that LGBTQIA+ people who are subjected to conversion therapy have a higher risk of severe mental health difficulties including depression, anxiety, and suicidal ideation. Conversion therapy also increases the risk of suicide attempts. Notably, we know that trans people are at the greatest risk of all; the report substantiates that '*there is indicative evidence from surveys that transgender respondents were as likely or more likely to be offered and receive conversion therapy than non-transgender lesbian, gay or bisexual (LGB) respondents*'. The LGBT+ anti-abuse charity Galop states that "[a significant proportion of young people in our service are experiencing abuse aimed at changing or "curing" who they are.](#)"

There is a clear justification for action to safeguard individuals from significant harm which relies on more than our current safeguarding legislation and policies. In addition, this review reports that the evidence base for opposing conversion therapy for sexual orientation is long-established, extending over 20 years, while for gender identity the evidence base is newer. The state has failed to safeguard vulnerable children and adults who identify as LGBTQIA+ for many decades and without effective action now this shall continue and leave more people susceptible to this harmful abuse.

Conversion therapy is a form of abuse that is still actively practiced across the UK. 2.4% of LGBTQIA+ people have been subjected to conversion therapy, and a further 5% have been offered conversion therapy. These figures are higher for trans and asexual people. There is a lack of understanding of the risks of non-violent conversion therapy which means social care services and other public services are not recognising abuse. Consequently, social care services including child protection and adults safeguarding teams across the UK are not currently safeguarding victims from non-violent conversion practices or violent conversion practices. We know from survivor lived experiences that non-violent conversion practices ultimately tend to increase in risk – this means that victims go on to being subjected to violent conversion therapy. Individuals who identify as LGBTQIA+ in some communities may also be subjected to forced-marriage and be subjected to honour-base abuse. BASW and SWU would welcome further research in this area to explore and evidence this correlation.

We believe that conversion therapy perpetuates harmful stigmas. It suggests that there is something wrong with identifying as LGBTQIA+ which requires medical and social intervention. The social work profession believes in supporting individuals to safely be their authentic selves and have a strong sense of belonging. Social Workers challenge stigma, oppression, and discrimination in all its forms which is evidenced within our [Code of Ethics](#). This stigma contributes to homophobia, biphobia, and transphobia in wider society. This affects all LGBTQIA+ people and research shows that LGBTQIA+ people have a reduced

standard of mental health and wellbeing compared to cisgender heterosexual people. They have reduced physical, emotional, and psychological safety in society. Any ban on conversion therapy must not affect legitimate therapy and mental health support for LGBTQIA+ people. We strongly recommend that the Government should protect and appropriately fund safe and supportive therapies – delivered by suitable qualified and regulated practitioners – that assist people to explore and better understand their sexuality and/or gender identity with no pre-determined outcome. We acknowledge the key role that social workers play in supporting LGBTQIA+ people to remain safe in society and achieve better health (including mental health) outcomes.

An effective legislative conversion therapy ban would support social workers and relevant practitioners by providing them with clear guidance and powers to act promptly when dealing with such cases and ensuring the safety and wellbeing of those most vulnerable in our society.

We note that the proposals do not clearly set out how conversion therapy in religious settings will be effectively banned which is concerning as we have discussed from the offset that religious and faith-based conversion practices constitute the majority of conversion practices in the UK and internationally. We further note that talking conversion therapy could be reasonably understood to include communication such as private prayer sessions that a targeted individual is invited to or told about as a form of social pressure. We understand that individual private prayer should not be covered, however, prayer can be a form of conversion therapy where it is an activity directed against an individual to try to change or suppress their sexual orientation or gender identity. The Government's own research states that techniques of a religious or spiritual framework of conversion therapy include "*Prayer 'healing' (including exorcising spirits), confession and repentance, faith declarations, fasting, pilgrimages, Bible reading, attending religious courses*". This suggests that the majority of religious and faith-based conversion therapy are therefore forms of communication which the Government states will not form part of the legislative ban.

This is a major concern considering what we already know about conversion therapy. We refer the Government to the [Cooper Report 2021](#) commissioned by the [Ozanne Foundation](#) which details recommendations on effective legislation for a ban on conversion practices published by the [Ban Conversion Therapy Legal Forum](#). The Legal Forum states *'the right to manifest religion and belief, such as through prayer, cannot be construed to license and permit individuals to inflict physical or psychological harm, or significantly risk a person to suffer harm. There can therefore be no exemption for such conversion practices on the basis that they take the form of worship or other practices rooted in spirituality.'*

The Legal Forum also recognises that *'exempting prayer that is directed at an individual with a predetermined purpose would lead to a significant loophole that would be open to abuse, especially as this exemption would also exclude exorcisms that are conducted as a form of conversion practice from a ban. This type of exemption would be misguided given that a great number of conversion practices are prayer based and given that they are often*

conducted in a religious context and environment...The Forum stresses that the ban would not criminalise any prayer that seeks to help an individual come to a point of peace and acceptance about their sexual orientation or gender identity, that is which does not have a predetermined purpose.'

It is relevant to note that on 18 March 2021 the Northern Ireland Assembly passed a motion seeking to "ban conversion therapy in all its forms." The motion is non-binding so it won't have any affect without legislative change, but the wording indicates there would be no support for a consent loophole as is the case in the proposals for England and Wales. An amendment to the motion was sought by the DUP to state that "legitimate religious activities" do not constitute conversion therapy but this was rejected, so that also does not leave a loophole permitting conversation therapy in religious contexts.

We support these views and urge the Government to reconsider this aspect of the ban as it will leave many victims at risk of significant harm as they will be subjected to ill-treatment which is a clear breach of their human rights. As a part of reconsidering this aspect of the ban, the Government must also consider that new criminal legislation on this issue can result in disproportionate targeting of ethnic and cultural minority groups and that this needs to be guarded against.

The Government should make clear, either directly in legislation or in guidance accompanying a Bill, that gender transition services, gender transition healthcare, and legitimate and explorative gender identity therapy (i.e. gender affirmative therapy which accepts a person's autonomous understanding of themselves without a predetermined or preferred outcome) are not forms of conversion therapy and therefore would not be an offence under its proposals. Government clarity is crucial on this issue, as confusion or ambiguity could lead to further obstacles to necessary legitimate healthcare and support for trans people who already face unacceptable waiting times for healthcare.

Question 3. How far do you agree or disagree with the penalties being proposed?

The proposals do not clearly set out how conversion therapy in religious settings will be effectively banned. The proposals continue to leave people from the LGBTQIA+ community without protection and support with the issue of consent being accepted as permission.

Question 4. Do you think that these proposals miss anything? If yes, can you tell us what you think we have missed?

Terminology

- We advise the Government to be clear in who it seeks to protect; terminology must incorporate and clearly offer protection to LGBTQIA+ individuals. The current proposal to safeguard individuals specifies the term 'LGBT people'. Referring to a change from same-sex attracted to opposite-sex attracted would only cover some people – it would not cover bi people at all. Who will the legislative measures protect? We hope that it will not leave anyone unprotected.

Advocacy

- We advise having a robust advocacy service in place to support LGBTQIA+ people involved in the legal system.

Housing

- Safeguarding frameworks must also include a priority for emergency housing. Victims are likely to be ostracised from their communities and more likely to become homeless fleeing conversion therapy. Research shows that this is particularly prevalent in homeless youth who identify as LGBTQIA+ and flee their homes to escape conversion therapy. The [akt lgbtq+ youth homelessness report \(2021\)](#) found that "over half (59 per cent) of LGBTQ+ young people have faced some form of discrimination or harassment while accessing services." Therefore, BASW and SWU propose a statutory mandate is essential for emergency housing for victims of conversion practices forced to flee their homes. The [TransActual's Trans lives survey 2021: Enduring the UK's hostile environment](#) also found that overall, '40% of respondents reported having experienced transphobia when seeking housing. However, trans Black and People of Colour (BPOC) were clearly more disadvantaged than non-BPOC, as a greater proportion reported having experienced transphobia while trying to access housing (61% compared to 36%). About half of the disabled people surveyed also reported this experience (compared to 28% of non-disabled people)'. Transphobia within the housing sector must be challenged if safe spaces are to be provided to all survivors of conversion abuse.

Reporting, Response, & Recovery

There must be clear pathways to report and challenge any heteronormative and cisnormative assumptions encountered when using public services. We understand from [research](#) that perpetrators of this form of abuse include police, security officers, doctors, psychologists, psychiatrists, psychotherapists, sexologists, professional counsellors, and alternative medicine practitioners. This leads to 'corrective violence' and 'corrective nonviolence' being ignored when relating to sexual orientation and gender identity. Some

faith groups believe that being homosexual is a sin from a past life carried into this lifetime and can be removed via conversion practices including exorcism.

We acknowledge the findings below and strongly support the recommendations in the [Transphobic Hate Crime Report 2020](#). We wish to highlight that there are many difficulties with reporting transphobia which are detailed below:

- *Only 1 in 7 respondents reported their experience to the police,*
- *more than 1 in 3 respondents who did not report chose not to do so because they were fearful of transphobia from the police,*
- *7 in 10 felt that the police could not help them, and*
- *1 in 3 said that they experienced too many incidents to report them all.*

Therefore, we believe that even with legislative measures that reporting conversion therapy abuse is likely to continue to be difficult and request that the Government consider special measures to encourage disclosures about conversion practices. This must include clear action to improve police response to reports of transphobic hate crime and increase confidence in the police within trans communities. As a professional body (BASW) and a trade union (SWU) we are also keen to improve health and social care responses to disclosures and to build trust within trans communities. The [IRCT](#) report that '*when the police refuse to investigate complaints of corrective violence, the state becomes complicit in these acts*'. This must be an area of focus.

- The Government must provide appropriate funding to develop specialist support and assistance for people recovering from homophobic, biphobic, and transphobic violence and abuse. This includes community-based LGBTQIA+ social and support services – of which trans social and support services must be a part as [the number of transphobic hate crime reports in the UK has quadrupled over the last six years](#) (compared to the number of homophobic hate crime reports in the UK over the same period of time which have tripled).
- There must be processes in place and clear legislation to challenge and reduce homophobic, biphobic, and transphobic prejudices within the mainstream press and social media including an online focus. Focussing solely on advertising and broadcasts is ineffective.
- Transphobic activists who fuel hate crime and support conversion therapy are likely to go underground and online. [Research](#) shows that 6 in 10 respondents had experienced transphobia online, nearly 5 in 10 had received transphobic abuse from a transphobic 'activist', and 2 in 10 had been targeted by a coordinated group. We know from the work on banning female genital mutilation that harmful practices adapt rapidly to avoid conviction, and this is likely to happen with conversion therapy abuse. We encourage the Government to be proactive rather than reactive in this area as the harmful outcomes from such abuse cannot

be undone. We encourage the Government to do more to recognise trans identities and safeguard all LGBTQIA+ Identities.

- Anonymity. We fully support that – akin to legislative reforms for [female genital mutilation](#) and [forced marriage](#) – that lifelong anonymity for victims of conversion practices should be granted, if requested. Anonymity should commence as soon as an allegation of conversion therapy/abuse is made by the victim. This ensures that the victim is protected whatever the outcome of the investigation or prosecution. This will offer victims and survivors assurance of anonymity throughout the reporting process and afterwards. We believe that this is likely to give victims more confidence to come forward and report. This should also allow them to receive the support they need and deserve while enabling perpetrators to be brought more effectively to justice.
- Disclosing any harm/abuse will leave them at greater risk of further significant harm. This period of fleeing their perpetrator(s) is akin to those escaping domestic abuse and can be deemed as high-risk. This must be understood by all agencies supporting victims and survivors.
- Whistleblowing provision must be in place to allow for an effective method of reporting and uncovering this form of abuse which predominantly occurs in private residences rather than public or religious buildings. This will make it more likely that any covert abuse will be reported. We also support the [Legal Forum](#) recommendations which sets out that *'in line with the Public Interest Disclosure Act 1998, institutions must have clear policies in place for raising concerns regarding conversion practices. The Forum recommends that an external regulator be appointed that is accessible to those who seek to whistle-blow. Whilst it may be appropriate to establish a new regulator specifically for conversion practices, it is possible that an existing regulator could be considered, such as the Equality and Human Rights Commission or the Care Quality Commission. The regulatory body must have a hotline for reporting suspected conversion practices'*.
- We recommend that the Government gather intelligence and have tracking systems in place to identify repeat offenders and networks underground who continue to promote conversion therapy placing LGBTQIA+ people at high risk of harm. This intelligence can be shared with relevant agencies in the interest of public safety.

Statutory safeguarding multi-agency guidelines

- We call for priority to also be given for multi-agency safeguarding guidelines for sectors such as the police, health, social care, education, housing etc. We recommend any legislation to be accompanied by clear statutory guidance for those working with people and in public

settings on working together to safeguard children, young people, and adults from conversion practices.

Specialist pathways

- There must be a clear pathway for supporting people with specific needs. For example, people with learning disabilities require specific and structured support, people with neurodevelopment conditions require specific and structured support etc. This should be considered when planning support services, regardless of a clinical diagnosis.

Workforce

- Clear and adequate funding packages for ongoing training for practitioners within health and social care and relevant sectors. Specialist training must be provided; understanding intersectionality and local communities and cultural competence is key. It should be mandatory and effective. Learning and hearing from those with lived experiences is a significant part of this work. There is no room for toxic debate about the validity of LGBTQIA+ identities.
- Ensuring that the workforce receives cultural competence training, which is updated throughout their careers, is required. This training should be quality assured, co-designed and co-delivered by LGBTQIA+ people from a wide range of cultural backgrounds to achieve a better shared experience, knowledge, and skill set. Clear evaluation mechanisms must be designed to evidence impact of such training on those receiving care and support and unpaid carers.
- Cultural competence should be seen as gateway training and continuing education and learning, which deepens knowledge and understanding in anti-discriminatory/intersectionality must be made **mandatory** on all social work programmes and in post qualifying education and training.

Leadership

- Modelling anti-discriminatory and anti-oppressive thinking and behaviours within the current structures of white, heteronormative, and cisnormative privilege will not result in fast or meaningful change; it will simply reinforce the oppression, disadvantage, and trauma experienced by the LGBTQ+ workforce and those in society needing care and support. There need to be clearly defined timeframes and processes in place for recruiting LGBTQ+ people into leadership roles and clear procedures for ensuring accountability if this doesn't happen.

Governance

- We make the following suggestion regarding measuring a legislative review in regard to the conversion ban:
 - Gather intelligence from the Crown Prosecution Service, police, health and social care, housing, education, and relevant parties.
 - Reviewing outcomes honestly and transparently; what went well and also not so well.

Translation and clear messages that conversion therapy is unlawful

- The Government must provide widespread education on sexual orientation and gender identity and human rights principles.
- Language is important when considering understanding and expression of individuals with learning disabilities and cognitive difficulties who often feel safe expressing their identity in ways they feel comfortable with; this must be taken into consideration when exploring the acronyms used.
- We also encourage the Government to consider producing guidance in a variety of languages so communities where English is not their first language have access.

Consultation questions on the promotion of conversion therapy

Question 5. The government considers that Ofcom's Broadcasting Code already provides measures against the broadcast and promotion of conversion therapy. How far do you agree or disagree with this? Why do you think this?

It is difficult to assess whether the Ofcom's Broadcasting Code's current measures are effective. Conversion therapy has been practiced for more than two decades and yet we are only recently tackling this form of abuse. We would welcome a comprehensive review of these measures to ensure that they are effective and how they could be more effective once the legislative reforms are enacted to ban conversion therapy.

Question 6. Do you know of any examples of broadcasting that you consider to be endorsing or promoting conversion therapy? If yes, can you tell us what these examples are?

We are currently unaware of any such broadcasting. As a social work profession, we have a duty to report any incidents promoting harmful conversion therapy that we are made aware of in the context of safeguarding individuals from significant harm.

Question 7. The government considers that the existing codes set out by the Advertising Standards Authority and the Committee of Advertising Practice already prohibits the advertisement of conversion therapy. How far do you agree or disagree with this?

It is difficult to assess whether the Advertising Standards Authority and the Committee of Advertising Practice measures are effective. Conversion therapy has been practiced for more than two decades and yet we are only recently tackling this form of abuse. We would welcome a comprehensive review of these measures to ensure that they are effective and how they could be more effective once the legislative reforms are enacted to ban conversion therapy.

Question 8. Do you know of any examples of advertisements that you consider to be endorsing or promoting conversion therapy? If yes, can you tell us what these examples are?

To the best of our knowledge, to date we have no known examples to share. However, this does not mean that this is not a live issue. We would urge the Government to ensure they consider the presence and development of online advertisement of conversion therapy as it is likely to become underground and more discreet. The Government must take this into consideration during the planning stages of the legislative reforms and not hope to rely on existing measures.

Consultation questions on protecting people from being taken overseas

Question 9. The consultation document describes proposals to introduce conversion therapy protection orders to tackle a gap in provision for victims of the practice. To what extent do you agree or disagree that there is a gap in the provision for victims of conversion therapy?

A Conversion Therapy Protection Order, in line with similar protection orders to prevent FGM and forced marriage, will help to prevent a person under 18, and over 18 in exceptional circumstances, from leaving the country for the purpose of conversion therapy. We welcome this form of protection for vulnerable individuals.

There must be adequate provisions and measures in place for vulnerable individuals who are at risk of conversion therapy. This includes relying on criminal law and civil law. Protection orders have been used effectively in cases involving female genital mutilation, forced marriage, and honour-based violence. BASW and SWU support a robust framework akin to these to safeguard children, young people, and adults from conversion therapy/practices.

We recognise and understand that abduction forms a key part of conversion therapy. Evidence shows that many LGBTQIA+ individuals are forcibly taken abroad to undergo extreme forms of conversion practices. This is likely to increase once a ban is in place and we recommend that the legislation must include provisions that clearly classify attempts of abduction and criminalise any attempt to take someone out of the jurisdiction to undergo conversion practices. Like forced marriage, this should be deemed a criminal offence regardless of whether conversion therapy actually occurs. We note that Abduction is an offence under the common law of England and Wales and it involves the taking of one person by another by force or fraud without the consent of the person taken or carried away and without lawful excuse.

We support similar initiatives such as when the UK-based charity Karma Nirvana pioneered a "spoon-in-the-knickers technique" to help women who think they are being taken abroad for forced marriage or female genital mutilation (FGM). This means that potential victims can alert security staff discreetly as they cross over the metal detectors when they require immediate assistance as they are being forced to leave the country for conversion therapy.

Any breach of the order must result in an immediate criminal offence to provide immediate protection for the victim. Waiting for a criminal conviction or police investigation is not feasible in these situations.

The proposals do not set out a new offence for the aiding or abetting of removing a person from the UK for the purpose of conversion therapy. Aiding or abetting in the removal of a person from the UK for the purpose of FGM or forced marriage are criminal offences, and the government should consider introducing a similar offence for conversion therapy. Without a clear offence in law, families and communities who would have sought to subject a person to conversion therapy in the UK may look to countries without legal bans to send their LGBTQIA+ children or community members to in order to carry out the abuse.

It is also unclear how victims of online conversion therapy – where the perpetrator is based outside the UK but conducts conversion therapy virtually over Skype, Zoom, or similar platforms – will be protected. The Government should investigate how to protect victims in these circumstances and how to ban these forms of international conversion therapy.

Prosecutions must not be seen as the only measure to deter perpetrators of this harmful practice. We note that protection orders have been more effective at safeguarding children, young people and vulnerable adults from such harms who are perpetrated by those closest

to them e.g. family members, friends, local faith groups. [TransActual's Trans lives survey 2021: Enduring the UK's hostile environment](#) found that 85% of trans people have experienced transphobia from family members. The survey also highlights that more than half (53%) of disabled trans people reported experiencing transphobia from their carers. We believe that there can be no exemptions for 'consenting' adults who seek out conversion practices despite the harm involved. Pressures and imbalances of power cast doubt on if a person can freely 'consent' to be subjected to conversion practices, and allowing 'voluntary' conversion practices to continue would put a significant number of vulnerable people at risk.

We encourage the Government to avoid the 'consent loophole' as it will leave many LGBTQIA+ people vulnerable placing them at risk of significant harm. BASW and SWU believe the Government's proposal of consent is unacceptable and harmful. It is also contradictory to their own findings in their [research](#) where victims claim they were not given accurate information free from bias, were not informed of the risks of conversion efforts or offered an alternative. The research also found increasing evidence that attempts to change a person's gender identity can cause serious harm.

Question 10. To what extent do you agree or disagree with our proposals for addressing the gap we have identified? Why do you think this?

Please see our response for question 9. We do believe that there is more that can be done to address gaps in the proposed legislative reforms.

Consultation question on the proposals to ensure charities do not support conversion therapy

Question 11. Charity trustees are the people who are responsible for governing a charity and directing how it is managed and run. The consultation document describes proposals whereby anyone found guilty of carrying out conversion therapy will have the case against them for being disqualified from serving as a trustee at any charity strengthened. To what extent do you agree or disagree with this approach? Why do you think this?

BASW and SWU welcome these proposals which support the protection of LGBTQIA+ people. Perpetrators should not be able to abuse positions of power and authority to influence others to perform conversion therapy.

We must also end financial support to institutions performing the practice.

The Government should make clear, either directly in legislation or in guidance accompanying a Bill, that gender transition services, gender transition healthcare, and legitimate and explorative gender identity therapy (i.e. gender affirmative therapy which accepts a person's autonomous understanding of themselves without a predetermined or preferred outcome) are not forms of conversion therapy and therefore would not be an offence under its proposals. Government clarity is crucial on this issue, as confusion or ambiguity could lead to further obstacles to necessary legitimate healthcare and support for trans people who already face unacceptable waiting times for healthcare.

Consultation questions on recognition by authorities of conversion therapy as a problem

Question 12. To what extent do you agree or disagree that the following organisations are providing adequate action against people who might already be carrying out conversion therapy? (Police, Crown Prosecution Service, other statutory service)? Why do you think this?

We have highlighted that within frontline services that there are discriminatory and harmful attitudes towards LGBTQIA+ people. We have discussed hate crime in previous responses; hate plays a very significant role.

Conversion practices often take place in environments that can easily be assumed to be caring and supportive, therefore this may not be easily identified within the current systems/frameworks that we have in place to protect people harm. The current assumption that there is no cause of concern to flag up and this is due to the lack of awareness regarding conversion practices. This is similar to other forms of abuse such as FGM, forced marriage, and honour-based violence.

There is a lack of knowledge and awareness about conversion therapy. In addition, those that work for public services often avoid discussions about religious and cultural practices out of fear of being called a racist. Officers of the state do not wish to enter and explore faith-based organisations without legislative powers of investigation. Practitioners are often not fully aware and confident to explore questions about faith, sexuality, and gender identity. We propose the following as there is a lack of understanding and acceptance:

- There must be clear pathways to report and challenge any heteronormative and cisnormative assumptions encountered when using public services.
- We acknowledge the findings below and strongly support the recommendations in the [Transphobic Hate Crime Report 2020](#) We wish to highlight that there are many difficulties with reporting transphobia which are detailed below:

- Only 1 in 7 respondents reported their experience to the police,
- more than 1 in 3 respondents who did not report chose not to do so because they were fearful of transphobia from the police,
- 7 in 10 felt that the police could not help them, and
- 1 in 3 said that they experienced too many incidents to report them all.

Therefore, we believe that, even with legislative measures, reporting conversion therapy abuse is likely to continue to be difficult and request that the Government consider special measures to encourage disclosures about conversion practices. This must include clear action to improve police response to reports of transphobic hate crime and increase confidence in the police within the LGBTQIA+ communities, especially trans communities. As a professional body (BASW) and a trade union (SWU) we are also keen to improve health and social care responses to disclosures and to build trust within LGBTQIA+ communities, including trans communities.

- The Government must provide appropriate funding to develop specialist support and assistance for people recovering from homophobic, biphobic, and transphobic violence and abuse. This includes community-based social and support services.

Question 13. To what extent do you agree or disagree that the following organisations are providing adequate support for victims of conversion therapy? (Police, Crown Prosecution Service, other statutory service)? Why do you think this?

Conversion therapy does not come under the immediate radar of statutory services. We must upskill the workforce to be able to recognise and identify all aspects of conversion abuse. This includes teaching university students who come into these professions.

In addition, we know personal beliefs play a part too. Without clear statutory frameworks and guidance there is nothing to safeguard victims. More must be done to highlight the duty of care we all have towards LGBTQIA+ people regardless of the environment or setting. We have discussed in our previous responses how personal beliefs or views have resulted in victims being unable to access support.

Question 14. Do you think that these services can do more to support victims of conversion therapy? If yes, what more do you think they could do?

More must be done to identify cases of conversion therapy. Conversion abuse must be recognised to exist and knowledge of it must be incorporated into current risk assessments and existing safeguarding frameworks. These frameworks must be present in education, homelessness services, drug and alcohol services, suicide prevention services, and health services.

To appropriately protect children being subjected to or at risk of so-called conversion therapies, under 18s could be risk assessed under the Children Act 1989/2004 with powers given to remove them from abusive home environments when necessary. Education and awareness will play a significant part as previously discussed. Special measures should be put in place to support victims giving evidence against perpetrators. A robust victim witness service is crucial.

As discussed previously, extra protections to ensure anonymity and confidentiality. There may be risks from a person's family/community if they are 'outed' and/or located and steps must be taken to assess this and protect against it.

Criminal and civil law including the judiciary must start to use inclusive legislative language. This applies to agencies and public bodies too. This means ensuring there are appropriate measures in place within the justice system to ensure that the terminology being used is understood by those we are supporting – for example, the acronym LGBTQIA+ is often not fully understood by individuals with learning disabilities. Services for older LGBTQIA+ people and those with mental health difficulties should also be a vital part of building trust and community cohesion.

We must do better to empower and support people to express their identities within the systems that they seek protection and justice.

***BASW and SWU consents to parts, or all of this consultation response being made public.**

February 2022

For further information contact:

Narinder Sidhu
BASW UK Equality, Diversity & Inclusion Lead
narinder.sidhu@basw.co.uk

Dr Shawn Major
SWU Communications, Policy & Engagement Officer
shawn.major@swu-union.org.uk