New Zealand Psychological Society
Rōpū Mātai Hinengaro o Aotearoa

New Zealand Psychological Society Submission to the Parliamentary Justice Select Committee - on the Conversion Practices Prohibition Legislation Bill

Submission prepared by: Veronica Pitt, Executive Director, NZPsS
Brian Dixon, Director of Scientific Issues, NZPsS
Janet Peters, Director of Social Issues, NZPsS

Contact for NZPsS: Veronica Pitt, Executive Director, NZPsS.
executivedirector@psychology.org.nz
PO Box 10536, Wellington Box Lobby l Wellington 6011
www.psychology.org.nz Ph: 04 473 4883

Please note: The Society requests to represent this submission in person at hearings

Introduction

The Psychological Society

The New Zealand Psychological Society (NZPsS, "the Society") is the premier professional and scientific association for psychologists in Aotearoa/ New Zealand and is committed to supporting quality practice, education and research in psychology. The Society is making a submission on the Conversion Practices Prohibition Legislation Bill in consistency with our Position Statement on 'Conversion Therapy' and our commitment to promote ethically-sound psychological practice in Aotearoa/New Zealand.

The NZPsS represents over 2000 members and associates and encompasses a broad range of practice in psychology in Aotearoa/New Zealand, including clinical, counselling, organisational and educational. We are committed to bicultural perspectives and practice and have substantial Māori representation on our decision-making bodies, including Executive, having recognised the significance of our partnership with Māori, consistent with Te Tiriti, through the establishment of a National Standing Committee on Bicultural Issues in 1985

The Society advocated for and, with other professional and regulatory bodies, established a new Code of Ethics in 2002 that strongly reflects our commitment to Te Tiriti and to principles relating to the pursuit of social justice and social wellbeing. These principles underlie the Society's Position Statement (see appendix)

Our Position

The NZPsS strongly supports the intent and direction of the Conversion Practices Prohibition Legislation and welcomes the introduction of this bill.

The NZPsS, in conjunction with other psychological bodies, has been involved in this area for some time. We developed a clear Position Statement, in line with the Best Practice Guidelines produced by the NZ Psychologists Board and comparable to positions and statements by Psychological Societies around the world – including the Australian Psychological Society, the American Psychological Association and the British Psychological Society.

As outlined in our Position Statement (see Appendix 1), the Society requires that psychologists abstain from offering any form of so-called 'reparative' or 'conversion' therapies. We note that same-sex or non-heterosexual orientation, attractions, desires, identities and behaviours, non-cisgender gender identities and expressions, and diverse sex characteristics are normal and healthy variations of human functioning, relationships and bodies; these are not psychological illnesses, syndromes, or disorders.

Psychologists undertake their work from evidence-based practice, and we note that there is no research-based evidence that any attempts to alter people's sexual orientation, attractions, desires, identities, behaviours, gender identities and expressions or diverse sex characteristics are successful. There is however research evidence that conversion practices are harmful to **all** those subjected to them. The 2019 Counting Ourselves research with transgender and non-binary people, provides local New Zealand data which shows that exposure to conversion practices is associated with worse mental health. The study found that participants who had experienced gender identity conversion practices were more likely than those who did not to report each of the following: psychological distress, non-suicidal self-injury (NSSI), suicidal ideation and suicide attempts.

The above findings align with international research- including a 2019 survey by The Trevor Project on LGBT+ youth mental health, which found a considerable difference in rates of attempted suicide between respondents who were not coerced into trying to change their sexual orientation or gender identity and those who underwent conversion therapy (Link here: https://www.thetrevorproject.org/survey-2019/?section=Conversion-Therapy-Change-Attempts). Specifically, people who experience conversion therapy are almost twice as likely to have suicidal thoughts and to have attempted suicide when compared to LGBT+ who have not undertaken conversion therapy.

Psychologists also operate according to a well-established Code of Ethics that requires us to show respect for the dignity of persons and peoples, a commitment to social justice, and responsibility to society. All individuals have the right to live with dignity as themselves and be free from discrimination and harm. The banning of conversion practices is important legislation to provide the legal framework to enforce this.

The NZPsS is committed to developing and promoting biculturalism and cultural diversity in the work that it does. In seeking to achieve its goals and objects the Society actively seeks to encourage policies and practices which reflect New Zealand's cultural diversity and in particular, the spirit and intent of Te Tiriti o Waitangi. Historical and modern accounts indicate that Māori were traditionally accepting of sexual and gender diversity and celebrated such differences. Conversion practices are an ongoing colonial practice that impact directly on Māori and Pacific takatāpui identities, culture and tikanga. The importance of enacting this ban therefore needs to be considered in relation to our obligations under Te Tiriti o Waitangi.

We do, however, have some concerns and recommendations regarding the specifics of the proposed bill that are outlined below:

Exclusion of Health Services:

Clause 5(2)(a) excludes '*a health service provided by a health practitioner in accordance with the practitioner's scope of practice'* from being considered a conversion practice. The inclusion of this clause

is concerning and the reasoning behind the need for this exclusion is unclear. As practitioners regulated under the Health Practitioners Competence Assurance Act, we recognise that such individuals should be regulated by their various professions and legislation already. However, the Counting Ourselves (2019) transgender research report found that more than one in six of all participants (17%) reported that a professional, "such as a psychiatrist, psychologist or counsellor", had tried to stop them being trans or non-binary. This shows that existing legislation and processes like the Code of Health and Disability Services Consumers' Rights have not prevented conversion practices towards trans people in medical settings.

Removing clause 5(2)(a) ensures that any individuals who experience conversion practices by their health practitioner have a clear path of recourse. The general public is unlikely to be conversant in the various regulations/bodies/guidelines that are set for the different health practitioner regulators, and thus may find it difficult to raise a complaint or concern if they experience conversion practices in this setting. Individuals are also often at significant disadvantage in terms of the relative power imbalance compared to 'expert' professionals. Ensuring that actions by health practitioners are also covered by this bill helps make the message clear to the **public** as well as practitioners that these types of practice are unacceptable and make it more likely that anyone undertaking such practices is reported.

We support the need for individuals to receive support and gender-affirming care from all health professionals they encounter. Psychologists will in certain situations need to be able to discuss their client's sexual orientation or gender identity with them, and to provide support and tools when working through any internal conflicts or internalised homophobia or transphobia. Clauses 5(2)(b)-(e) provide the necessary safeguards for these practices to occur without contravening the legislation or criminalising gender-affirming care.

Inclusion of diverse sex characteristics:

The NZPsS position statement also recognises that people with diverse sex characteristics can be subject to unethical and harmful conversion practices. We recommend that the Select Committee consult with Intersex representatives to ensure appropriate wording and clauses are included to prohibit practices that attempt to change or suppress an intersex person's innate sex characteristics.

Self definition

To strengthen the intent of subclause 5(1)(a) and 5(1)(b), we recommend including phrasing to reflect the principle of self-determination of a person's sexual orientation and gender.
Individuals can be under intense pressure from family or influential community members to change or suppress their identity or sexual orientation and this can lead to or take the form of conversion practices seeking to be prohibited by this bill. The focus must therefore be squarely on self-definition, as highlighted in Principle 3 of the Yogyakarta Principles:

> "*Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom".*

Consent not possible:

We strongly support section 10 of the bill, noting that Consent is not a defence to prosecution under this proposed legislation. We note that given the broader societal context within which conversion practices

occur it is not possible for an individual to give truly informed consent. Consent requires the ability to make a decision without undue pressure. Individuals are enmeshed within their societal context and pressures from family, friends or institutions such as the media or religious organisations are ever present. It is therefore difficult to imagine a situation where an individual could be free of this pressure in order to make such a decision.

Removal of Age limit

The distinction between Clause 8 and Clause 9 seems to be predicated upon the ability of an individual to consent to the conversion practice, with it only being an offence for those over 18 if it causes serious harm. NZPsS disputes the need for an age or 'decision-making capacity' variable in the criminalisation of these practices. Conversion practices cause harm at any age, and as discussed above it is very difficult for an individual to be sufficiently removed from the ideological context in order to truly consent. The drafters of the bill seem to have recognised the issue with consent in Clause 10, but have not recognised it here. Constant messages from family, friends, the media and/or one's religion put considerable psychosocial pressure on individual, such that they may feel they need to attempt to change or suppress their identity or sexual orientation in order to meet others' expectations. Instead individuals in this position should be given the opportunity to work with a psychologist, therapist or counsellor to come to terms with their self-determined identity or orientation, address any internalised homophobia or transphobia and develop tools to manage the stress and pressure from external sources.

We recommend removing the age limit and reference to decision-making capacity in Clause 8.

Inclusion of support

While this bill takes the vital step of recognising the harm caused by conversation practices, it also needs to provide options to address that harm for the survivors, alongside the prosecution of perpetrators. Access to psychosocial support should be provided for within the bill. Expanding the scope of ACC to cover mental injury as a result of conversion practices would be one simple way that this could be achieved within existing structures. Alternative ways to increase access to trained mental health professionals who can provide appropriate support that meets the needs of LGBTQI+ Takatāpui communities, should also be considered.

We are very aware of the severe impact that conversion practices have on individuals who have been subjected to them. Providing a practical pathway to support to address the increased risk of self-harm, depression, and suicide must not be overlooked as part of this bill.

Exemption for parents

The Society does not support the call to include an exemption for parents in this bill. As noted above it is often family that are pressuring the individual to undergo conversion practices and placing their children in a very difficult position Given their emotional and financial dependence on parents, adolescents and children are particularly vulnerable to pressure by their parents. Research has found that parents who attempt to change the sexual orientation of LGBT+ adolescents via conversion therapy and associated techniques contribute to multiple health and adjustment problems in young adulthood. This includes increased incidence of depression, suicide, lowered self-esteem, and lower overall levels of education and adult income (Link here: https://www.sciencedaily.com/releases/2018/11/181108130522.htm). The bill as it stands does not criminalise parents for discussing issues with their children, but if a parent undertakes a conversion practice the distress and harm caused warrants being covered by this legislation.

The civil redress process proposed can offer an opportunity for parents to gain education and restore positive relationships with their child should this be required.

Attorney General's Consent

Section 12 imposes an unnecessarily high barrier for prosecution under this legislation.
Individuals who have been subjected to conversion practices may not have the resources or mental wellbeing in order to negotiate the additional bureaucracy required for this step. We therefore recommend that this clause is removed and prosecution be a decision for the justice system, in the same way that most other crimes are.

Appendix

NZPsS Position Statement on 'Conversion' Therapy

Summary

The New Zealand Psychological Society opposes the use of so-called 'reparative' or 'conversion' therapies. These so-called therapies include any psychological approach or intervention that seeks to convert, repress and/or eliminate any person's same-sex or non-heterosexual orientation, attractions, desires, identities and behaviours, or any person's gender identity or gender expression that does not meet expectations based on their sex assigned at birth. The Society considers these so-called therapeutic practices unethical and contrary to the interests, wellbeing and safety of takatāpui and LGBTQI+ people[i]. In opposing these practices, we join with many other professional bodies including the New Zealand Psychologists Board, Australian Psychological Society, Psychotherapy and Counselling Federation of Australia, The Royal Australian and New Zealand College of Psychiatrists, New Zealand Association of Counsellors, British Psychological Society and the American Psychological Association. We are also a signatory to the international IPsyNet Statement on LGBTQI+ concerns - https://www.apa.org/ipsynet/advocacy/policy/statement-commitment

Accordingly, the New Zealand Psychological Society requires that Psychologists in Aotearoa/New Zealand, must abstain from being involved in any 'reparative' or 'conversion therapies', and adhere to and be directed in their work with people with diverse genders, sexualities, and sex characteristics by the New Zealand Psychologists Board published best-practice guidelines Working *With Sex, Sexuality and Gender Diverse Clients (2019)* and the *Code of Ethics for Psychologists Working in Aotearoa/New Zealand (2002)*.

Position Statement

1. Same-sex or non-heterosexual orientation, attractions, desires, identities and behaviours, non-cisgender[ii] gender identities and expressions, and diverse sex characteristics are normal and healthy variations of human functioning, relationships and bodies; these are not psychological illnesses, syndromes, or disorders (American Psychological Association, 1975; Coleman et al., 2011; New Zealand Psychologists Board, 2019), and therefore they do not require therapeutic interventions to change them.

2. There is no research-based evidence to suggest that so-called 'reparative' or 'conversion therapies and interventions' are effective or successful. To the contrary, there is research-based evidence to suggest that such so called 'reparative' and 'conversion therapies' can be and are frequently harmful, distressing and indeed dangerous (Cheers et al., 2020; Fish & Russell, 2020; Green et al, 2020; Turban et al, 2020)

3. People with diverse genders, sexualities and sex characteristics are particularly vulnerable, due to experiences of minority stress[iii] and might be under considerable influence to comply with the normative expectations of others. The presence of minority stress is often misconstrued by advocates and supporters of so-called 'conversion therapies' to be part of the psychopathology inherent to diverse genders and sexual orientations and unethically used as a motivation to practice 'conversion therapy' (Mental Health Foundation NZ, 2018; Rosik, 2001).

4. Psychologists in Aotearoa New Zealand are subject to and must operate within their Code of Ethics. The NZ Psychological Society argues that registered psychologists who are involved with the production, offering, delivery, or support of so-called 'reparative' or 'conversion therapies and interventions' are doing so in violation of the NZ Psychologists Code of Ethics.

5. For best practice guidelines, psychologists in Aotearoa/New Zealand should refer to The New Zealand Psychologists Board Best Practice Guidelines *Working With Sex, Sexuality and Gender Diverse clients*, published in 2019. This is available on their website.

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i **Takatāpui**: Takatāpui refers to Māori who are not heterosexual and/or not cisgender. It is used both as a gender identity (similar to transgender), as an attraction or sexual orientation (similar to lesbian, gay, bi or pansexual). It is also used as an umbrella term for all non-heterosexual and/or non-cisgender Māori people (similar to rainbow community). Note that not all Māori who are not heterosexual and/or non-cisgender will identify with the term Takatāpui. (Trans 101: Glossary of trans words and how to use them, Gender Minorities Aotearoa, Wellington New Zealand, 2020, https://genderminorities.com/database/glossary-transgender/)

LGBTQI+: Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, + other non-heterosexual and/or non-cisgender people. Often used as an umbrella term.

ii **Cisgender**: Cisgender (cis) is a term for people whose gender is the same as their assigned sex at birth.
iii "Minority stress refers to the stress associated with being marginalised, discriminated against, or having different cultural and/or social frameworks to the majority of the population." NZ Psychologists Board (2019) Best Practice Guidelines on Working with sex, sexuality and gender diverse clients, 7