

ACP Statement on Government Proposals on the Banning of Conversion Therapy

January 2022

Who we are

The Association of Child Psychotherapists (ACP) is the professional body for Child and Adolescent Psychotherapists (CAPT) working in the NHS, third sector and independently with children and young people up to age 25. CAPT is the only specialist doctoral-level mental health training that focusses exclusively on this age group and we have clinical expertise in work with children and young people with severe and enduring mental illness, as well as children with less complex difficulties. The ACP is responsible for regulating the training and practice standards of child and adolescent psychotherapy and is an Accredited Registered of the Professional Standards Authority (PSA).

About the government's proposals

On 29 October 2021 the UK government published for consultation proposals that “*will introduce a legislative ban on the practice of so-called conversion therapy.*” The consultation closes on Friday 4 February 2022. This statement is a summary of the ACP’s more detailed submission to the Cabinet Office consultation.

The consultation seeks views on a package of proposed measures that will apply to England and Wales. These include:

- a ban on conversion therapy – introducing a new criminal offence for ‘talking therapies’ alongside sentence uplifts for existing offences for other conversion practices.
- a package of support for victims, restricting promotion of conversion therapies, removing profit streams, and strengthening the case for disqualification from holding a senior role in a charity
- introducing Conversion Therapy Protection Orders to protect potential victims from undergoing the practice including overseas
- exploring further measures to prevent the promotion and advertisement of conversion therapy

The ACP supports a ban on conversion therapy

- The ACP supports government proposals to ban conversion therapy and to introduce a package of measures for those who have been victims of conversion therapy. There is no justification for these coercive and abhorrent practices that cause harm to those who go through it.
- We support proposals to strengthen the UK’s legislative frameworks to prevent and tackle discrimination against LGBT+ people. We know that LGBT+ people, including those under age 18, suffer disproportionate levels of mental ill health and are less likely to receive high quality care and treatment¹.
- We want the proposed legislation to be effective in its intention of ending the practice of conversion therapy and safeguarding vulnerable children and young people. We also want to assist government

¹ Inequality among lesbian, gay bisexual and transgender groups in the UK: a review of evidence (NIESR,2016):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/539682/160719_REPORT_LGBT_evidence_review_NIESR_FINALPDF.pdf; Promoting the health and wellbeing of gay, bisexual and other men who have sex with men (PHE, 2014):

in the intention of ensuring that legitimate forms of psychotherapy and other mental health practices can be delivered safely and effectively to those LGBT+ people who require them.

- We ask that a process of pre-legislative scrutiny is undertaken, to enable a range of experts to contribute to the legislation.

The importance of clear definitions

- Conversion practices cover a wide spectrum from physical abuse, rape, exorcism, to ‘talking therapy’, all of which are to be criminalised. There is a particular focus in the proposals on mental health professionals providing talking therapies although the evidence is that ‘Conversion therapy appears to be most commonly carried out in religious settings by religious individuals or organisations’².
- The proposals introduce the concept of ‘talking conversion therapy’. If this phrase is to appear in the legislation, it will be important that it is carefully defined in order that everyone concerned is clear when a criminal offence may have been committed otherwise there is a high likelihood of false or mistaken allegations. Our view is that the use of the word ‘therapy’ in this context is unhelpful as therapy should only refer to practice which respects the freedom of a patient and enhances their wellbeing. We would suggest that the legislation refer only to ‘conversion practices’.
- In our view the definition of conversion practices needs to make a clear distinction between an ethical professional dialogue and an attempt to pressurise someone into making choices that are not right for them, i.e. to push or coerce them in one direction or another. Specifically, it is important that legislation makes clear that therapeutic interventions that involve supporting children and young people to explore their sexuality and gender preference are not unlawful and criminalised by this legislation.
- Additionally, the wording of the specific offence should make clear how the ‘intent’ to conduct conversion practices is defined and how it would be demonstrated. We suggest that courts would have to be sure that someone accused of the offence had a clear and explicit intention to change the person's sexual orientation or change them to or from being transgender.
- According to current case law, we understand it would certainly not be open to suggest that because an alleged victim had changed their sexual orientation or changed to or from being transgender following a course of psychotherapy that this was in itself proof of intention by the therapist. We would want this to be made clear in the wording of the legislation.
- Government will want to avoid legislation containing unclear definitions as this will result in the law being tested through the courts. This would generate uncertainty for those involved including the potential to disrupt the treatment of children and young people, and the work of legitimate clinicians.

Legislation and associated guidance must reflect the specific needs and circumstances of children and young people

- Our primary interest is that the drafting of legislation fully considers the developmental trajectory and needs of children and young people, and the family and social context in which they live. If this is absent, we fear that it may unintentionally increase the likelihood of harm for those who are particularly vulnerable. Childhood and adolescence are periods of rapid growth and change and it is important that individuals can explore all aspects of their identity in a safe and supported way, without fear of being pushed in one direction or another, or into taking a prematurely rigid position that may

² Coventry University (2021). Conversion therapy: an evidence assessment and qualitative study. Government Equalities Office. Available at: <https://www.gov.uk/government/publications/conversion-therapy-an-evidence-assessment-and-qualitative-study>

have lasting implications. Families, professionals and others need to be able to support them to do this complex task without fear of being accused that this amounts to conversion therapy.

Legislation and associated guidance must reflect the complexities of working therapeutically with children and young people

- We want to ensure that the proposed legislation is sufficiently informed about the complexities of working therapeutically with children and young people. We suggest that further consultation is taken with bodies with expertise in providing specialist clinical care to vulnerable children and young people, including the ACP, to inform the drafting of legislation.
- Psychotherapy for young people encourages open exploration of all identity issues, including sexual orientation, gender identity and/or gender expression. The psychotherapist's position is essentially neutral and enabling of a safe space in which a child or young person can develop a better understanding of themselves. Child psychotherapists would never condone or support any professional 'converting' any patient in any way, but there is concern that we could be accused of this by exploring what has got a young person to the point of seeking or being referred to psychotherapy.

Legislation and associated guidance need to account for the role of parents and carers

- Most children and young people up to the age of 18 are living in families. Their parents have a huge influence over them; will often be involved in decisions about coming to therapy and will bring them to sessions. We are concerned that there is no reference in the document to the role of parents or carers when the wellbeing of children is being considered. Will legislation include the 'procurement' of conversion practices as an offence leading to prosecutions against parents, carers and others?

Legislation must be framed so as to support improved services for LGBT+ children and young people

- Legislation to ban talking conversion therapy must not, unintentionally, work against the need for improved services for LGBT+ children and young people including those who are gender-questioning and who may have co-existing mental health difficulties. It is not in the interest of government, children, young people and their families, or the professionals who support them, for new legislation to result in false or unfounded prosecutions which would be extremely damaging to all concerned.

Legislation should take into account the interim findings of the Cass Review

- The number of gender-questioning young people presenting to services has changed substantially in the last 5-10 years³. Previously the NHS Specialist GIDS service saw approximately 50 young people per annum, who were predominantly birth registered boys who had experienced gender incongruence from a very early age. From about 2014 onwards the numbers increased exponentially and now exceed 3000 per annum, predominantly birth registered girls in early teens who have expressed their gender incongruence much later. Given this exponential rise of referrals, which no-one fully understands yet, we would advise a cautious approach to legislating in this area, especially with the ongoing Independent Review of Gender Identity Services for Children and Young People (Cass Review).

Sexuality and gender should not be unhelpfully conflated

- Whilst conversion practices are wrong in all circumstances, we suggest that the conflation of same sex attraction and gender identity within the proposals is not helpful. In our experience gender identity can be fluid, especially during childhood and adolescence, whilst at the same time there is the

³ Data in this section is taken from <https://cass.independent-review.uk/entry-5-evidence-epidemiology-october-2021/>

possibility of decisions being made that would have life-long consequences. Some young people presenting with gender dysphoria will be prescribed puberty blockers and following this cross-sex hormones with a view to moving onto surgery. This is not the case with sexual orientation. It seems imperative that sufficient opportunities for exploration are offered to young people considering these medical options, some of which bring about lasting and irreversible changes.

Legislation related to over-18s must be consistent with ethical practice

- Age 18 has been chosen as the point at which young people are able to consent to talking conversion therapy if they are not vulnerable. Given the development into adulthood, we would suggest the age of 25 is more appropriate. However, given the likely vulnerability of the individuals concerned and the acknowledged harm it causes, we would question whether consent to conversion therapy is ethical in any circumstances.

Professional regulation could be strengthened to end talking conversion therapy as the primary means of ending conversion therapy

- Further consideration should be given to the ways in which the regulation of healthcare professionals, including psychotherapists, can be strengthened to ensure no registered practitioner is undertaking talking conversion therapy. Given the risks we have identified of unintended consequences associated with legislating for a new criminal offence in this area, could enhanced regulation be the primary means of ending conversion therapy? In relation to people practicing outside of existing regulation, what is required is legislation to ban all forms of un-regulated counselling and psychotherapy, not just talking conversion therapy.

Safeguarding legislation and practice could be strengthened to prevent children and young people being taken to or accessing talking conversion therapy

- The UK has strong and effective legislation for the safeguarding of children, young people and vulnerable adults. In the same way the government is considering adding to current legislation with those over 18, we ask government to consider the extent to which safeguarding or other legislation protects children from being taken to talking conversion therapy and whether this could be strengthened as an effective means of ending conversion therapy.

Will government ensure guidance and training is given to law enforcement bodies so that investigations are sensitively and professionally conducted

- The police, CPS and courts will need training and guidance so that investigation of allegations, decisions to prosecute and disposal of the cases through the justice system are informed by a sound understanding of the work of psychotherapy in helping persons whose problems may include unhappiness about their sexual orientation or gender identity. We would like reassurances that sufficient funding will be made available to ensure the timely provision of detailed guidance and training.

Please direct all queries to:-

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