

# 'Not affirming gender identity' outlawed in Australia

## "Gold Standard"

Those calling for a broad conversion therapy ban have consistently called for legislation in the UK to follow the example of Victoria, Australia. Even the Scottish Parliament's Equalities Committee has suggested Victoria's law is a good model to follow.<sup>1</sup>

But [official guidance](#) brought in as the legislation in Victoria came into force includes some very worrying examples of what is now considered illegal – including “not affirming someone's gender identity” and “a parent refusing to support” their child's request for puberty blockers.

Jayne Ozanne – Chair, Ban Conversion Therapy campaign: “*the [ban] in Victoria is seen as the **gold standard***”<sup>2</sup>

Kieran Aldred – Head of Policy, Stonewall: “*[the conversion therapy ban] must be based off... **best international practice** such as Victoria State, Aus.*”<sup>3</sup>

Alicia Kearns – Conservative MP: “***The model that's been passed in Victoria is a good one** and it includes both criminal and civil response which is really important.*”<sup>4</sup>

## WHAT DOES THE VICTORIA BAN INCLUDE?

Victoria's Change or Suppression (Conversion) Practices Prohibition Act 2021 (CSCPP Act) makes it illegal for a person or organisation to engage in ‘change or suppression practices’. The penalty can be up to ten years in prison and a maximum fine of £100,000.

It defines a ‘change or suppression practice’ as “a practice or conduct directed towards a person, whether with or without the person's consent... On the basis of the person's sexual orientation or gender identity”. The CSCPP Act only came into force in February 2022 so it is untested. Alongside the police, the Victorian Equal Opportunity and Human Rights Commission is empowered by the Act to enforce the ban.

The Commission issued guidance in February 2022. The following are extracts:

### Have you experienced these illegal practices?

Conversion practices and experiences vary widely. Practices ultimately aim to change or suppress someone's sexual orientation and gender identity.

This could be through mixed-orientation marriage, celibacy, or abstinence, as well as not affirming someone's gender identity or insisting that someone does not change their gender.

### Examples of illegal practices

Practices that would be considered illegal under the Act include:

- a religious leader meeting one-to-one and pressuring a member of their congregation to suppress and ignore their feelings of same-sex attraction by practising celibacy;  
...
- a parent refusing to support their child's request for medical treatment that will enable them to prevent physical changes from puberty that do not align with the child's gender identity;  
...
- a religious leader tells a member of their congregation that they will be excommunicated if they continue their same-sex relationship.

## What is not considered illegal

- ...
- a religious sermon expressing a general statement of belief (provided the sermon is not being directed at an individual in a group setting) explaining a religious view of relationships

## WHAT THOSE CALLING FOR A BAN SAY ABOUT VICTORIA

Elliot Colburn – Conservative MP: “**Highly praised** examples already exist in places such as ... Victoria in Australia”<sup>5</sup>

Peter Tatchell – LGBT campaigner: “The Australian state of Victoria recently passed legislation that **could be easily and quickly adapted for the UK.**”<sup>6</sup>

Blair Anderson – End Conversion Therapy Scotland: “We believe that **the best example of international best practice is the Change or Suppression (Conversion) Practices Prohibition Act 2021, which came out of Victoria in Australia this year.**”<sup>7</sup>

Matthew Hyndman – Co-founder, Ban Conversion Therapy (NI): “This Victoria ban is **by far the best example of a complete ban on conversion practices.**”<sup>8</sup>

Tristan Gray – End Conversion Therapy Scotland: “The Australian state of Victoria has what we consider to be **the best practice so far, which includes the criminal ban that we are calling for.**”<sup>9</sup>

## IS SUCH A LAW VIABLE IN THE UK?

It is obviously right to protect people from abuse and coercion. But the most shocking abuses described by campaigners – like ‘corrective rape’ and electrocution – are already illegal. And the UK has comprehensive laws against physical abuse, verbal abuse and coercion. This is why the Westminster Government decided not to proceed with a conversion therapy ban, according to the memo leaked to ITV News.<sup>10</sup> The PM was forced into a U-turn, instead announcing that the ban would no longer cover trans. But activists are furious and Parliament will come under pressure to amend the ban to incorporate trans.

But, with or without trans, if the UK introduces a Victoria-style ban, it will be challengeable in the courts under human rights law. Jason Coppel QC analysed the Victoria law in light of the European Convention on Human Rights and concluded it could breach four fundamental human rights, including the right to free speech. Read Coppel’s opinion at: [the.ci/coppel](https://the.ci/coppel)

In light of Coppel’s advice, The Christian Institute instructed lawyers to write to the Westminster Government in May 2021 indicating our willingness to seek judicial review.<sup>11</sup> We then instructed law firms in Scotland and Northern Ireland to do the same with the administrations there.

Mainstream Christian views on sexuality, and feminist beliefs about gender, have been recognised by the courts as ‘worthy of respect in a democratic society’. This means they are protected by equality and human rights law. They cannot and must not be criminalised.

## PRAYER AND THE ORDINARY WORK OF CHURCHES

The CSCPP Act specifically states that the ban includes “carrying out a religious practice”, such as “a prayer based practice”. Christians often ask their friends to pray with them. But under the CSCPP Act, praying with someone about matters of gender or sexuality could result in criminal prosecution. Society may no longer embrace the Christian sexual ethic, but should it really be illegal to invoke it in your prayers?

## REFERENCES

- <sup>1</sup> Report on Petition PE1817: End Conversion Therapy, Equalities, Human Rights and Civil Justice Committee, Scottish Parliament, SP Paper 88, 25 January 2022, para. 17
- <sup>2</sup> Scottish Parliament, Equalities, Human Rights and Civil Justice Committee Official Report, 2 November 2021, col. 24
- <sup>3</sup> Kieran Aldred tweet, 30 June 2021, see <https://twitter.com/thekieranaldred/status/1410279209734377473?ctx=HhWwGscWpYTeqJlnAAAA> as at 13 April 2022
- <sup>4</sup> BBC Radio 4, ‘Faith, Lies and Conversion Therapy’, 9 March 2021, see <https://www.bbc.co.uk/programmes/m000sz1y> as at 13 April 2022
- <sup>5</sup> House of Commons, Hansard, 8 March 2021, col. 28WH
- <sup>6</sup> Gay Times online, 23 June 2021, see <https://www.gaytimes.co.uk/life/lgbtq-activists-protest-conversion-therapy-at-cabinet-office-government-equalities-office/> as at 13 April 2022
- <sup>7</sup> Scottish Parliament, Equalities, Human Rights and Civil Justice Committee Official Report, 7 September 2021, col. 12
- <sup>8</sup> Matthew Hyndman tweet, 8 February 2021, see <https://twitter.com/thattmattyh/status/1358726947027767297?ctx=HhWwGsc6hb59ldslAAAA> as at 13 April 2022
- <sup>9</sup> Scottish Parliament, Equalities, Human Rights and Civil Justice Committee Official Report, 7 September 2021, col. 12
- <sup>10</sup> ‘Text of leaked Government memo on conversion therapy’, Let Us Pray, 6 April 2022, see <https://letuspray.uk/blog/text-of-leaked-government-memo-on-conversion-therapy-as-at-14-April-2022>
- <sup>11</sup> The Christian Institute, Press Release, *Christians threaten legal challenge to ‘Conversion Therapy’ ban if prayer outlawed*, 5 May 2021