



SUBMISSION ON THE BANNING LGBTQ+ CONVERSION PRACTICES CONSULTATION (NSW)

INTRODUCTION

Thank you for the opportunity to provide a submission to the NSW Department of Communities and Justice and NSW Ministry of Health on the Banning LGBTQ+ Conversion Practices Consultation.

Women's Forum Australia is an independent think tank established in 2005 that undertakes research, education, and public policy advocacy about economic, social and health issues affecting women and girls, with a particular focus on addressing behaviours and practices that are harmful and abusive to them. We have thousands of supporters across NSW.

PART 1: PREMISE OF THE CONSULTATION PAPER AND CRITICAL CONTEXT

We are concerned that this paper has been formed on the premise that gender dysphoria is not a medical condition or culturally-driven phenomenon, but an innate part of a person's development and something to be supported in all circumstances. Conversion practices in this paper are reduced to practises that deviate from the 'affirmation only' approach to helping someone with gender dysphoria. Detransitioners¹ and evolving medical data show this is very dangerous.²

Conversion practices – also known as conversion therapy

Women's Forum Australia opposes all coercive conversion therapy practices. Conversion therapy has traditionally been associated with cruel physical and

¹ <https://www.detransawareness.org/>

² Women's Forum Australia has written extensively about the rise of gender dysphoria in young women and girls, the underlying causes, the negligence of healthcare professionals, and the harms that come with medical and social 'transitioning'. See for example the following articles on our website which **we request you consider as part of this submission** (www.womensforumaustralia.org/news): [Mother pens powerful letter slamming Victoria's harmful approach to gender confused teens](#) (2022); [The debate on 'gender affirming' care is long overdue](#) (2022); [Australian gender clinics could face similar mass legal action to Tavistock](#) (2022); [Australian doctor pens powerful warning about harmful 'gender affirmation treatments' for children](#) (2022); [Increasing numbers of detransitioners call into question the 'affirmation only' approach](#) (2022); [Australia needs to reconsider laws that restrict helpful psychological interventions for children](#) (2022); [Tavistock gender clinic unsafe for children](#) (2022); [Psychiatrists' college emphasises need for 'comprehensive assessment' of those experiencing gender dysphoria](#) (2021); [Prominent trans doctors speak out on reckless treatment of children by gender healthcare providers](#) (2021); [UK Court of Appeal overturns decision restricting puberty blockers for under-16s](#) (2021); [As more women and girls present to clinics with gender dysphoria, serious legal questions are being raised about the medical interventions prescribed](#) (2021); [It's time we listened to those who regret their transgender 'treatments'](#) (2021); [Caution over transgender surgery and hormonal treatment for minors](#) (2020).

emotional 'treatments' including aversion therapy, shock therapy, lobotomies, castration, and drug treatments inflicted on people to change behaviours and tendencies, including same-sex attraction. These practices are abhorrent and are rightly condemned by international human rights organisations such as the United Nations.

Gender dysphoria

Social contagion

Women's Forum Australia is equally concerned that the rapid increase in gender dysphoria, particularly amongst minors and young adults, results from social contagion amongst peers through social media, the education system and popular culture.³ Social contagion refers to the spread of a harmful idea or practice through close social contacts or networks. Historical examples of social contagion include measurable increases in copy-cat youth suicide rates immediately following a celebrity suicide or the sharp rise in bulimia cases after the inclusion of this diagnosis in the DSM-III (*Diagnostic and Statistical Manual of Mental Disorders, Third Edition (US)*).

Women and girls overrepresented

Over the past decade, there has been a significant shift in the demographics of those presenting with gender dysphoria. The number of adolescents presenting with gender dysphoria has been rising rapidly since 2004, with young women and girls being significantly overrepresented in those presenting at gender clinics. Researchers in the UK found an approximately 4,000% increase in teenage girls seeking treatment at a ratio of 7.58 females to 1 male in the past decade.⁴ Between 2016 and 2017, the number of transgender surgeries for females in the US quadrupled.⁵ In the US, the number of young people presenting with gender dysphoria is 140 times higher (males) and 350 times higher (females) than estimates of the prevalence of gender dysphoria in the general population.⁶

There are limited statistics in Australia, however Dianna Kenny, formerly a Professor of Psychology at the University of Sydney, has observed similar patterns from Australian figures.⁷ She notes that the Australian figures also demonstrate “clustering”⁸ in WA and Victoria, where children seeking treatment for gender dysphoria are “grossly overrepresented”. These are states that strongly promote the work of gender clinics, which Kenny calls “hubs of social contagion”. By contrast, NSW is currently underrepresented when it comes to the number of children seeking

³ Kenny, D. *The Social Contagion of Gender Dysphoria*, Professor Dianna Kenny's Blog, <https://diannakenny.com.au/the-social-contagion-of-gender-dysphoria/>; Shrier, A., 2020, *Irreversible Damage: The Transgender Craze Seducing Our Daughters*.

⁴ Marchiano, L. (2021). Gender detransition: a case study. *J Anal Psychol*, 66(4), 813–832. <https://doi.org/10.1111/1468-5922.12711>

⁵ Shrier, A., 2020, *How 'peer contagion' may play a part into the rise of teen girls transitioning*, New York Post, 27 June, <https://nypost.com/2020/06/27/how-peer-contagion-plays-into-the-rise-of-teens-transitioning/>

⁶ Kenny, D., 2022, *ROGD, faulty science and social contagion: Origins of a psychic epidemic*, Coalition for Biological Reality: Gender Identity in Law, <https://www.youtube.com/watch?v=RI14Ck78rtA&t=10s>

⁷ Kenny, D., 2022, *ROGD, faulty science and social contagion: Origins of a psychic epidemic*, Coalition for Biological Reality: Gender Identity in Law, <https://www.youtube.com/watch?v=RI14Ck78rtA&t=10s>

⁸ Clustering is a major phenomenon seen in other social contagions throughout history: Kenny, D., 2022, *ROGD, faulty science and social contagion: Origins of a psychic epidemic*, Coalition for Biological Reality: Gender Identity in Law, <https://www.youtube.com/watch?v=RI14Ck78rtA&t=10s>

treatment for gender dysphoria. Kenny maintains that the rapid increase in adolescents – particularly young women and girls – declaring a transgender identity, “cannot be explained by anything other than social contagion phenomenon”.

Underlying issues and causes

Along with social contagion, the rise in gender dysphoria in young women and girls needs to be considered in light of the unique pressures they face in the areas of sexual violence, objectification in porn, entertainment and advertising, and the more general body image issues resulting from phenomena like social media, eating disorders, unhealthy interpersonal relationships, gender stereotypes, or other cultural expectations, which can cause them to hate their bodies and indeed being female. Indeed, American psychotherapist Lisa Marchiano notes that the young women she has worked with became trans-identified during adolescence, and frequently did so in the context of significant family dysfunction, complex psycho-social issues, sexual assault and eating disorders.⁹

Legislation to ban ‘conversion practices’ in other jurisdictions, such as Queensland, Australian Capital Territory and Victoria,¹⁰ has not considered this, resulting in adverse patient outcomes and a chilling effect on parents and doctors who fear prosecution under those laws. The definition of conversion practices in their legislation is so broad it limits the ability of medical practitioners to treat a patient presenting with gender dysphoria holistically and instead forces them to act immediately on physical and medical gender transition therapies without assessing underlying issues that may manifest into gender dysphoria and need addressing first.

A study published in the Sage Journal on the gender clinic at Westmead Hospital, NSW in 2021, found that high rates of adolescent patients presenting with gender dysphoria had a history of childhood trauma, family dysfunction and sexual abuse. There were also correlating factors of comorbid mental health issues, including anxiety, depression, behaviour disorders and autism.¹¹

Detransitioners

A recent example of this is the case of 19-year-old Jay Langadinos, who struggled with anxiety, depression and discomfort with same-sex attraction and believed she had gender dysphoria. Despite her psychologist and psychiatrist being aware of her underlying issues, they supported her in undergoing hormone therapy and surgery, including a double mastectomy and hysterectomy. Following her medical transition, Ms Langadinos sought further mental health treatment and realised her transition was

⁹ Marchiano, L., 2020, *The ranks of gender detransitioners are growing. We need to understand why*, Quillette, 2 January, <https://quillette.com/2020/01/02/the-ranks-of-gender-detransitioners-are-growing-we-need-to-understand-why/>

¹⁰ Lever, C., 2022, *Distraught parents now face prosecution if they don't accept gender transition of their vulnerable kids - as experts slam radical new law based on 'ideology and falsehood'*, Daily Mail, 14 August, <https://www.dailymail.co.uk/news/article-11101415/Parents-counsellors-face-prosecution-gender-transition-children-suppression-law.html>

¹¹ Kozłowska, K., McClure, G., Chudleigh, C., Maguire, A. M., Gessler, D., Scher, S., & Ambler, G. R. (2021). Australian children and adolescents with gender dysphoria: Clinical presentations and challenges experienced by a multidisciplinary team and gender service. *Human Systems*, 1(1), 70–95. <https://doi.org/10.1177/26344041211010777>

a mistake. She has now 'detransitioned' and has lifelong regret that she cannot have children.¹²

Sadly, Ms Langadinos is just one of many in the growing ranks¹³ of young female detransitioners,¹⁴ whose similarly tragic transition stories, have strikingly repetitive themes: undiagnosed mental issues, trauma, peer group 'encouragement' to transition, with no (or inadequate) questions asked by the therapists who prescribed medication or recommended surgery. Their detransition stories are also similar: unresolved ongoing mental issues now compounded by medical and surgical damage to their bodies (including infertility, vaginal atrophy, loss of breasts and inability to breastfeed, loss of sexual function, osteoporosis, and more), feelings of bitterness towards the therapists who failed to safeguard their welfare, and experiences of rejection from the 'trans community' they formerly called home. Collectively, these personal testimonies offer a devastating challenge to the 'affirmation only' approach to gender transition.

PART 2: RESPONSE TO CONSULTATION QUESTIONS

Legislative definition of 'conversion practices'

Base definition of conversion practices (questions 1-2)

We are concerned by the inclusion of gender identity under the proposed definition of conversion practices. On the one hand, gender is considered fluid when aligning with biological sex. Yet, this legislation seeks to criminalise anyone who does not affirm a person's gender identity. There is no consideration in this definition for the consequences of affirming someone's gender identity when they believe they are gender diverse by not conforming to gender stereotypes.

Given the irreversible effects of affirming a person's gender identity when it does not align with the biological sex, which includes drugs, hormone therapies and surgeries that permanently alter their appearance, health, and well-being, we believe it is in the interest of gender questioning or dysphoric patients for it to be excluded. The definition of conversion practices should be limited to coercive and abusive therapies and practices that cause harm to an individual.

Exceptions or exclusions (questions 3-7)

We are concerned that the exceptions in this paper fail to protect individuals from practices that seek to change or influence a person to question their gender. An example of this was recently published in Australia, where a gender-non-conforming father was found to have influenced his children into questioning their gender, resulting

¹² Szego, J., 2022, *Absolutely devastating: woman sues psychiatrist over gender transition*, The Sydney Morning Herald, 24 August, <https://www.smh.com.au/national/absolutely-devastating-woman-sues-psychiatrist-over-gender-transition-20220823-p5bbyr.html>

¹³ Marchiano, L., 2020, *The ranks of gender detransitioners are growing. We need to understand why*, Quillette, 2 January, <https://quillette.com/2020/01/02/the-ranks-of-gender-detransitioners-are-growing-we-need-to-understand-why/>

¹⁴ Women's Forum Australia, 2022, *Increasing numbers of detransitioners call into question affirmation only approach*, 20 May, https://www.womensforumaustralia.org/increasing_numbers_of_detransitioners_call_into_question_the_affirmation_only_approach

in his eldest child going on cross-sex hormones and seeking a double mastectomy.¹⁵ At the same time, his younger two began identifying as non-binary. There are significant consequences for individuals affirmed in a 'gender identity' that does not align with their biological sex because of the extreme life-changing outcomes of medical transitions.

A person struggling with gender dysphoria may not want to transition physically to align their appearance with their perceived gender identity. They should have the right to seek help and support that delivers an outcome according to their wishes, including suppressing that gender identity. There are many reasons a person may wish to suppress their current gender identity, including the hope they grow out of it, move past it, or for the avoidance of the lifelong side effects of medical transition.

As discussed above, it is well documented that the rise in gender dysphoria and, in particular, rapid onset gender dysphoria, has strong links to social contagion. Any proposed legislation should include support for a holistic approach to gender dysphoria rather than criminalising anything other than the 'gender affirmation' approach.

Gender detransitioning is a growing phenomenon.¹⁶ Any proposed legislation should support a person seeking to 'detransition' without those helping them being at risk of breaking the law.

Criminal law responses

Actus reus: conduct covered by an offence (questions 8-10)

We strongly oppose imposing criminal penalties for this paper's definition of conversion practices both in NSW and extraterritorially unless prosecuting an individual for inflicting physical or psychological harm resulting from abusive conversion practices mentioned above, including aversion therapy, shock therapy, lobotomies, castration, and drug treatments, which should carry the same penalties as assault or abuse.

Best medical practice in treating gender dysphoria is rapidly evolving, and leading clinics worldwide, such as in Sweden and the United Kingdom¹⁷ are changing their approach, particularly regarding medical transition. Parents, counsellors, or medical professionals who adopt a more cautious approach to caring for those with gender dysphoria (including delaying the medical transition of minors, seeking second opinions on treating an individual with gender dysphoria, including exploring underlying reasons for their condition) should not be at risk of criminal prosecution, which risks jeopardising best medical practice and patient outcomes.

¹⁵ Dudley, E., 2023, *Family court judge rules father's gender non-conformity 'confused' his children*, The Australian, 21 August, <https://www.theaustralian.com.au/nation/family-court-judge-rules-fathers-gender-nonconformity-confused-his-children/news-story/6b18e0341d4974c40bf0b18627162a56?amp>

¹⁶ <https://www.detransawareness.org/>

¹⁷ Cohen, J., 2023, *Increasing Number Of European Nations Adopt A More Cautious Approach To Gender-Affirming Care Among Minors*, Forbes, 6 June <https://www.forbes.com/sites/joshuacohen/2023/06/06/increasing-number-of-european-nations-adopt-a-more-cautious-approach-to-gender-affirming-care-among-minors/?sh=531e0ebb7efb>

Mens rea: mental element of an offence (questions 11-13)

We oppose the mental element of an offence on the same grounds as imposing criminal penalties for this paper's definition of conversion practices unless it is being applied to the intentional physical or psychological harm to an individual using physical or psychologically abusive practices, as mentioned above.

Offence for removal from jurisdiction (questions 14-15)

We oppose an offence for removal from jurisdiction. We are concerned that criminalising the removal of someone with gender dysphoria in NSW to seek support, advice or alternative medical treatments in other jurisdictions will suppress best medical practices and outcomes for the individual.

Civil law responses (questions 16-22)

Like criminal penalties, civil penalties should only be available to those seeking compensation or loss due to being subjected to coercive and abusive conversion practices intended to inflict physical or psychological harm.

Regulation of health practitioners and health service providers (question 23)

Medical professionals should be exempt from all conversion practice laws to pursue best medical practice. Any medical malpractice can be prosecuted through the relevant health acts and medical oversight bodies.

Supporting non-legislative actions (questions 24-25)

If legislation is to be pursued, we support a delayed commencement period. Best medical practice for people with gender dysphoria is evolving rapidly overseas due to the issues of transition regret and adverse outcomes for patients who transition without proper diagnosis. The tide has already started turning in Australia in this regard despite the best efforts from activists to stop it by silencing parents and, more importantly, medical practitioners working in the field. If legislation is rushed through without striking the right balance between guarding against genuinely abusive conversion practices and providing medical freedom to pursue best care and practice, it will result in adverse patient outcomes and deter medical professionals from working in the field.

CONCLUSION

In light of the concerns outlined above, Women's Forum Australia opposes the introduction of proposed legislation to ban 'conversion practices' in NSW outlined in the consultation paper.

We encourage the NSW Department of Communities and Justice and NSW Ministry of Health to consider the mounting medical evidence against the 'affirmation only' approach to gender dysphoria, the phenomena that have given rise to the rapid increase in gender dysphoria, the regrets of detransitioners, and the harms resulting from medical transitioning.