

The following submission to this review has been received

Organisation Name

FREE SPEECH UNION OF AUSTRALIA PTY LTD

1. Has the Act reduced or stopped change or suppression practices? Describe any impact you think the Act has had on the occurrence or the nature of change or suppression practices.

Our submission will focus on the key free speech issues that arise out of the legislation, so we will only comment on the most relevant questions.

2. To what extent do you think the community is aware of and understands: a. the Act and how it works b. what change or suppression practices are and c. the harm caused by change or suppression practices

We are aware that many members of the community, including amongst our membership, are concerned by the chilling effect and censorship character. of the legislation. It appears to be designed to restrict discussion of the abuses of gender ideology, especially by medical practitioners.

3. Could the Act's operation and effectiveness be improved? If so, how?

We would repeal the legislation. It is merely a censorship provision, that particularly undermines effective discussion around vulnerable people. The result has been medical mutilation, as has been shown by detransitioners.

4. How clear is the Act's definition of what is and what is not a change or suppression practice? If further clarity is needed, what forms of clarification would be most helpful?

It lacks clarity compared to the NSW provision, which instead sets out what conversion practices are and then spends a significant amount of time indicating what they are not.

The difference is not just, as the terms of reference and the call for submissions incorrectly assert, that the NSW Act contains explicit examples of possible clinically appropriate interventions that are captured by the exclusion. Instead a clear difference in framing can be observed.

The Victorian act creates the general prohibition against change or suppression practices, then emphasises that psychiatric, psychological, treatment or therapy which falls outside of the protection granted by the exclusion will still be prohibited conduct.

The Victorian act, through its lack of clarity, imposes a considerable chilling effect. In particular, the "implied negative" definition of change or suppression practice as including psychological treatments or therapeutic interventions, without providing clear examples of such interventions that will not be change or suppression practices, creates the presumption that a treatment or intervention would be illegal under the Act unless the (extremely unclear, especially relative to the NSW Act) exclusion applies.

5. How clear is the exclusion for health service providers? If further clarity is needed, how could

this best be achieved?

The answer to this question depends on what the desired purpose of the exclusion is.

- If the desired purpose of the exclusion is to ensure protection for medical professionals providing healthcare and treatment that falls within the range of clinically appropriate worldwide evidence based standards, the exclusion is failing.

- If the desired purpose of the exclusion is to convey the impression that any treatment or clinical intervention which does not automatically affirm a person's gender identity as expressed by that person - in particular a minor - may be a breach of the prohibition, then the exclusion as currently expressed in Victorian Law is working. This would be a most troubling intervention in respect of Free Speech of medical practitioners.

We note that in re: Devin, the Court and the evidence did more than simply observe a lack of clarity or a difficulty in obtaining expert evidence. An expert engaged by the Independent Childrens Lawyer opined that they "did not know of any practitioners within State S who are willing to undertake such an approach" (any approach not considered to be gender affirming).

The framing difference - "necessary" in Vic versus "clinically appropriate" in NSW - is not a minor drafting concern. It is decisive, and its importance has grown materially since the Victorian Act was enacted in 2021, due to the presence and ongoing implications of the Cass Review.

They further stated that anecdotally, they had heard practitioners have heard practitioners express concern that if they do not automatically affirm a child's declared gender identity they would find themselves accused of "conversion therapy".

The father in that matter gave evidence that he had contacted hundreds of therapists who were unwilling to treat children presenting with gender issues, with practitioners specifically citing the chilling effect of the Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic).

6. Is greater clarity needed about how people of faith can hold and express their beliefs to support clear understanding and compliance with the Act? What forms of clarification would be most helpful?

To say the least, the answer is yes. As is the case in relation to the medical exclusion, there is little to provide clarity on what faith based teachings, counselling and practices remain lawful under the prohibition.

There is also no defence of consent, which deprives LGBT people of faith from seeking counselling or advice on how to live in a way that is consistent with their religious or philosophical beliefs.

A adult who is considering transitioning (or indeed, detransitioning) cannot reliably obtain independent points of view. This limits their access to effective discussion about their medical treatment too. We are aware of cases where religious people have sought to transition: if they can't have an honest conversation with a respected religious leader, than this may also undermine that process, regardless of direction.

There is a distinction between the enforcement of state orthodoxy, and preventing conversion, Unfortunately, the emphasis is more on state orthodoxy, rather than any genuine concern for vulnerable people.

7. How effective are VEOHRC's awareness and education materials on change or suppression practices? What improvements, if any, could help strengthen community understanding and compliance?

No comment.

If so, please describe what those barriers are.

No comment.

9. Are there changes that could help support VEOHRC to carry out its functions or improve the

effectiveness of the civil response scheme? If so, please describe any changes.

No comment.

10. Are there barriers to reporting, investigating and prosecuting criminal change or suppression offences? If so, what are they?

No comment.

11. Are there other aspects of the criminal offences in the Act that limit their effective operation? If so, what changes or supports could improve their operation?

No comment.

12. Do existing avenues for redress adequately meet the needs of victim-survivors of change or suppression practices? Are there gaps, harms or barriers that require an additional or separate redress mechanism?

We would suggest that resources be put in place to support detransitioners, for example by providing them with free legal assistance. This is a group whose rights have been undermined by the censorship caused by this legislation.

13. Should a civil cause of action be introduced under the Act? What distinct purpose would it serve compared to existing pathways?

We oppose this, as it will be used to conduct vexatious litigation. This is a theme with any gender identity protection.

Tort law already provides appropriate mechanisms for (genuine) medical malpractice. We understand that there is litigation by detransitioners on this very issue. The focus should be on supporting them.

