SUBMISSION TO THE VICTORIAN LAW REFORM COMMISSION ON ITS FOCUSED REVIEW OF HOW THE CHANGE OR SUPPRESSION PRACTICES BAN IS WORKING

23 March 2026

Thank you for the opportunity to make this submission. This submission responds to the Questions in the Consultation Paper. Permission is given to publish the submission.

Who We are

The Institute for Civil Society is a social policy think tank. Established in August 2016, ICS seeks to:

1. Promote recognition and respect for the institutions of civil society that exist between individuals and the government. Included in this space are clubs, schools, religious organisations, charities and NGOs.

2. Uphold traditional rights and liberties, including the freedoms of association, expression, conscience and religion.

3. Promote a sensible and civil discussion about how to balance competing rights and freedoms in Australian society.

Summary of Submission

1. The very low number of reports under the Act (even assuming they relate to post-Act conduct) and lack of public use by VEOHRC of its enforcement and compliance powers strongly suggests that:-

- the Act and VEOHRC's education efforts have been successful in stopping or reducing CSPs to a trickle; and
- there is no reliable evidence base (including the La Trobe research group reports) that there is a significant continuing problem of CSPs in the community which would justify extending the Act including by introducing a civil cause of action or a redress scheme.

2. Victoria now has the most overbroad and restrictive conversion practices ban in Australia and it should be amended to bring it in line with Australian best practice as set

out in the later South Australian and NSW Acts by including specific clarifications that the following are not CSPs:

- the use by a person, without more, of the following expressions: (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle; (ii) an expression that a belief or principle ought to be followed or applied.
- stating what relevant religious teachings are or what a religion says about a specific topic;
- general requirements in relation to religious orders or membership or leadership of a religious community;
- general rules in educational institutions;
- parents discussing, or providing guidance on, matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

4. The Act could be made more clear and effective in its operation if VEOHRC guidance under the Act for families and religious groups were improved. The guidance focuses too much on extreme examples and should be expanded to reflect the clear answers given by the Attorney-General in parliamentary debate on the Bill as to how the definition of CSPs should be interpreted in relation to family, community and religious advice to young people to abstain from sexual activity.

3. Victoria's Act puts a thumb on the scales of medical, psychiatric and psychological decision making and treatment of gender incongruence, in the form of a legal liability threat for careful holistic assessment of all causes of distress but a free pass from liability for rapid gender affirmation medication. This is not only scaring health practitioners away from treating gender incongruence as evidenced in *Re Devin*; it skews health care provider clinical care choices based on non-clinical reasons. The unbalanced legal liability problem needs to be fixed by amendments to section 5(2)(a) and (b) of the Act to reflect the South Australian and NSW Acts.

Answers to VLRC's Consultation Questions

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.

The very low number of reports of CSPs to VEOHRC and no public enforcement action in relation to those reports suggests that the Act and VEOHRC's education efforts have been very successful in reducing CSPs

After 4 years of operation and considerable efforts by VEOHRC to promote the *Change or Suppression Practices Prohibition Act* 2021 (**Act**) and producing and providing

resources for families and faith groups, VEOHRC has received a total of only 14 reports over those 4 years of change or suppression practices (**CSPs**).[1] VEOHRC accepts reports of conduct occurring before the Act commenced and we are not told if any of the 14 reports relate to pre-Act or post-Act conduct. Even assuming all reports relate to conduct occurring in the 4 years of the Act's operation, that is an average of 3.5 reported CSPs per year, which is a very small number.

Not only is the number of reports to VEOHRC very low, none of the reports lead to any public use by VEOHRC of the enforcement and compliance powers available under the Act. There have been no criminal prosecutions and, as far as we know, no VEOHRC investigations under the Act using its statutory powers, no negotiation and acceptance and registration in VCAT of enforceable undertakings and no issue of enforcement notices against people or bodies engaging in CSPs. This is presumably because the reports received either related to pre-commencement conduct (which was not unlawful under the Act) or were determined by VEOHRC not to be sufficiently serious or systemic to require any use of its enforcement and compliance powers.

An alternative hypothesis is that there were very few CSPs occurring in the recent years before the enactment of the Act and the Act has reduced that number even further

At the time of its enactment, the only publicly available direct evidence of persons who experienced trauma from conversion practices cited by the government was the 2018 La Trobe University/HRLC Report [redacted] *"Preventing Harm Promoting Justice"*. [2]

That report had recounted 15 (anonymised) persons' self-reported stories of trauma and other negative experiences of conversion practices which occurred between 1986 and 2016 (14 in Australia and one outside Australia). The report did not state when each reported conversion practice had occurred so there was no basis for establishing whether they were more recent (nearer 2016) or more historic (nearer to 1986). In any event 14 Australian testimonies of harmful practices was not a large number over the 30 year time period used.

It was asserted by proponents of the Act at the time of enactment, but not evidenced by testimonies, that there were many more cases of harmful conversion practices than those 14.

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[1] 2 in 2022-23, 2 in 2023-24, 5 in 2024-25 and 5 in 2025-26 to 28 February 2026.

[2] https://opal.latrobe.edu.au/articles/report/Preventing_Harm_Promoting_Justice_Responding_to_LGBT_Conversion_Therapy_in_Australia/22826633?file=40583342

In 2021 the La Trobe University research group released a second report *Healing Spiritual Harms* [3] which presented summary data based on 35 in-depth life history interviews with people who had negative experiences of CSPs (including the original 15 reported in 2018), but unlike the 2018 report did not describe the testimonies of the people.

In 2024 in their third and final report *Improving Spiritual Health Care for LGBTQA+ Australians,*[4] the La Trobe researchers said they had extended their interview group from 35 to 45 people with negative experiences of CSPs but gave no updated analysis on the additional 10. Again there was no data on the dates of the practices described in the 35 or 45 interviews so it was impossible to determine how much of what was described was recent in 2016 or historic.

We accept at face value the self-described lived experience and pain described by people in the 14 Australian testimonies of harmful CSPs published in 2018 or summarised in the survey results of the other 30 interviewees.

The point we make is that 44 stories of trauma from harmful CSPs over a 30 year time span is not a large number. It does not support the narrative that there was a widespread problem of harmful conversion practices requiring a major public policy response like the Act to stamp them out.

We also note that a 2021 report [redacted] *Free to Change: Survey of 78 ex-LGBT people.*[5] That report analysed a survey of 78 self-reporting people using their real names (29 of whom were Australians) who had experienced CSPs and who said they had a *beneficial* experience of CSPs, including many (not all) who said they had experienced a change in their sexual orientation or gender identity as a result of the CSPs.[6] The report contains an analysis of the 78 survey responses and 33 of the 78 persons provide video, audio or written testimonies of beneficial impact of CSPs – see https://www.freetochange.org/ex-lgbt-stories-of-change/ The report also provides recency data on those CSP experiences, showing a marked decrease in frequency of CSPs among the survey cohort in the 10 years prior to 2021.

We accept at face value the self-described lived experience and reported beneficial outcomes of CSPs described by 78 people (29 Australians) in the Free to Change report, just as we accept the self-described lived experience of pain and trauma of people from

[3] https://www.latrobe.edu.au/arcshs/documents/arcshs-research-publications/Healing-spiritual-harms-Supporting-recovery-from-LGBTQA-change-and-suppression-practices.pdf
[4]https://opal.latrobe.edu.au/articles/report/Improving_spiritual_healthcare_for_LGBTQA_Australians_Beyond_conversion_practices_-_A_community_Report/26915677?file=49092871
[5] Available at www.freetochange.org
[6] Written stories are in the report, video and audio stories can be seen at https://www.freetochange.org/ex-lgbt-stories-of-change-index-htm

CSPs in the La Trobe study. (The government and the Health Services Commissioner did not mention the existence of a cohort who benefited from CSPs or the possibility of beneficial experience of CSPs at all, presumably because it was contrary to the narrative that all CSPs were always harmful and all had to be banned.)

Even adding the 29 Free to Change Australian stories to the 44 La Trobe Australian stories (both negative and positive experiences from CSPs), there are just 73 public Australian accounts of CSPs over a period of 30 years or more, which is still a very low number of reported CSPs (an average of 2.4 per annum). Only some of those would have occurred in Victoria.

The alternative hypothesis then is that, based on the evidence of reported CSPs prior to 2021, there were not a large number of CSPs occurring in Australia or Victoria (particularly in the 10 to 15 years up to 2016/2021). It is therefore not remarkable that there have been very few reports of CSPs made to VEOHRC under the Act in the 4 years of its operation.

On the alternative hypothesis, the very low number of reports received under the Act (even assuming they relate to post-Act conduct) and lack of public use by VEOHRC of enforcement and compliance powers strongly suggests that:-

- the number of CSPs occurring in the 10-15 years before the Act in Victoria was very low and VEOHRC's education efforts have contributed to keeping the number very low ; and
- there is no evidence base that there is or was a widespread problem of CSPs in the community requiring an extension of the Act including a civil cause of action or a redress scheme.

But is there any evidence of a large number of unreported unlawful CSPs in Victoria which could be but haven't been reported to VEOHRC?

The only candidate for such quantitative evidence is the third La Trobe research group report in 2024: [redacted] *Improving Spiritual Health Care for LGBTQA+ Australians.* That report describes an online survey conducted from August 2022 to July 2023 of 1311 LGBTQA+ adults living in Australia and recruited through advertising to various LGBTQA+ community and online networks.

Unfortunately, the La Trobe report methodology means it does not provide a picture as to ***when the experiences being reported by the respondents occurred*** (more historic or more recent) ***nor*** (because of very broad definitions used) **whether and if so how many of the experiences being reported by the respondents met the definition of *unlawful CSPs*** in the Act.

Like all the La Trobe reports, there is little or no reporting of the date or recency or historicity of the experiences reported. We are told that the average age of respondents

was 38.35 years and that the largest cohort (Millennials) mainly heard "conversion messages" in their childhood and adolescence (covering approximately 1984 to 2013). Note that "conversion messages" as defined need not be unlawful CSPs. As a result, this report cannot support the thesis that there was a large number of unlawful CSPs still occurring in the 10 years before the Act was passed or since it has been passed.

The survey and report also cannot support the thesis of large numbers of unlawful CSPs because the report uses its own very broad definitions of "conversion practices" and "change or suppression efforts" which do not correspond to the definition of unlawful CSPs under the Act.

For example, the report states (at p.17) *"most change or suppression efforts are less formal or invisible [than counselling or family discussions] and [are] often initiated by LGBTQA+ people who have been exposed to conversion ideology and want to change their sexuality or gender identity in order to avoid rejection or punishment … informal conversion practices may involve such things as regularly praying or one's sexuality to change or efforts to suppress attractions or thoughts."* It is clear that a person praying for themselves or seeking by themselves to suppress their attractions or thoughts is not an unlawful CSP under the Act. So the survey result that 37% or 45%[7] of the 1311 respondents (590 people) had reported self-initiated "private behaviour" "conversion practices" does not disclose any unlawful CSP which could be reported to VEOHRC.

48% of respondents reported experiencing "family based conversion practices" and this term includes "being encouraged or advised by family members to change sexuality or gender identity and "being unwelcome at family gatherings unless they hid their gender identity or sexuality". Many of these experiences would have been very painful for the respondents but unless the person encouraging or advising had the purpose of compelling or inducing the person to change or suppress their SOGI, they would not be unlawful CSPs.

The report states that only 8% of the respondents (105 people) reported that they had been part of a "formal conversion practice" such as a counselling or group program or a medical practice. While the definition of "formal conversion practice" by "group effort" in the survey includes examples which would be unlawful after 2022, it also includes "attended a support group for people struggling with their gender or sexuality" which is not an unlawful CSP.

It is clear that survey respondents have heard messages and engaged by themselves or with others in practices based on beliefs that it would be better for them to not manifest same sex attraction or a gender other than their sex. But because the third La Trobe report uses its own very broad definitions for "conversion practices" which don't correspond with that of unlawful CSPs under the Act, it is likely that a great many of

[7] Both figures are reported - see pages 17 and 18.

those practice reported by respondents are not unlawful CSPs and it is impossible to tell how many would have been unlawful if the Act had been in place when they occurred. In addition, because of the lack of data as to when the "conversion practices" reported in the survey occurred, the third La Trobe report provides no reliable support for the thesis that there is still a large number of unreported unlawful CSPs in Victoria occurring since 2021 which could be but haven't been reported to VEOHRC.

There is no publicly available reliable evidence that there is currently a widespread problem of unlawful CSPs in the community, not being reported to VEOHRC, which requires an extension of the Act including a civil cause of action or a redress scheme.

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

c. the harm caused by change or suppression practices.

[In this question we adopt or adapt parts of the submission of Freedom for Faith.]

Much of the community has a narrow understanding that the Act only bans extreme practices such as "shock therapy" or other coercive interventions. It would be a surprise to many that the Act operates as a broad prohibition on families and community groups expressing traditional religious or moral views about sex, sexuality and gender.

There is likewise limited public clarity about what counts as a "change or suppression practice". The statutory definition is very broad, and VEOHRC guidance has not resolved the uncertainty. Many people would readily recognise non-consensual treatment, coercive programs, or aversion-based interventions as falling within the intended scope of the law. But there is much less shared understanding (or acceptance) that parental or family discussions or rules about sexual abstinence or wait and watch medical approaches to distress that may arise from gender dysphoria or some counselling and pastoral conversations, or voluntary support sought by an adult with unwanted desires could be illegal under the Act.

There is also no clear community consensus about the "harm caused by change or suppression practices" as those are defined in the Act. Some practices, such as non-consensual treatment and aversion therapy, are widely accepted as harmful. However, large sections of the community do not accept that a consensual conversation, counselling or pastoral discussion is inherently harmful merely because it relates to sexuality or gender identity. The review should therefore distinguish more carefully between genuinely harmful coercive or abusive conduct, and ordinary consensual interactions where views are expressed, support is sought, or beliefs are discussed.

NSW and South Australia have sought to clarify the intended scope of the Act better than the Victorian Act by introducing clear statements as to what is not a CSP in their legislation and Victoria should follow suit (e.g. discussion within families, statement of religious beliefs, general rules in schools).

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

[In this question we adopt or adapt parts of the submission of Freedom for Faith.]

The Act's operation and effectiveness could be improved, primarily by making it clearer and sharper in its definition of change or suppression practices and VEOHRC's guidance about this.

The definition of change or suppression practice is so broad and vague that it captures conduct most people would not expect to be unlawful. Some of this was clarified in Parliamentary debates by the Attorney-General (e.g. urging teens and young adults not to engage in sexual intercourse (e.g. until married) is not a CSP) but much of it was not. And VEOHRC in its guidance has ignored some of the Attorney-General's parliamentary clarifications.

The Act should be clarified so that it is unmistakably directed to conduct that is coercive, abusive or which on an evidence-based approach is shown to be genuinely harmful. Or if the Act is not amended, VEOHRC's compliance priorities should be focussed on such conduct.

At present, the greatest practical difficulty is not at the extremes, but in the middle ground of family and friend discussions, consensual counselling and pastoral care, parental guidance, religious teaching and other voluntary conversations. Reportedly a grandfather who wrote to his grandchild advising them not to gender transition was sent a letter by VEOHRC warning him to desist as his letter might be a suppression practice. The law and regulators should not be intervening in such non-coercive counsel between family members. The law should expressly protect consensual, non-coercive religious and familial interactions, while continuing to prohibit threats, intimidation, degradation, and sustained pressure intended to force change.

Second, official guidance should be substantially improved. Current examples focus on obvious extremes or rely on distinctions that do not work well in a faith context. VEOHRC guidance should provide practical guidance as to what is permitted in real-world scenarios such as requested prayer, support for chastity or celibacy, mixed-orientation marriage, parental conversations about sexual activity and youth ministry.

Finally, the scheme would be improved by much greater transparency by VEOHRC with de-identified descriptions of reports received and how VEOHRC has been dealing with reports and applying the law, and a stronger emphasis on clarity and education rather than ambiguity and deterrence.

In short, the Act would operate more effectively if it were more precisely targeted at serious harm, and if ordinary parental conduct in discussing sex and gender, general school rules about use of bathrooms and change rooms based on sex, the communication of religious beliefs and non-coercive religious practices of prayer and pastoral care, and holistic medical treatment which does not exclude the possibility of gender transition but does not preference gender transition were all given clearer protection.

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

[In this question we adopt or adapt parts of the submission of Freedom for Faith.]

The official post-enactment guidance from VEOHRC reflects the lack of clarity in the definition. It says the Act "does not prohibit prayer and religious practices, except when they amount to a change or suppression practice", and says private prayer can continue. But the same guidance gives examples where prayer with a person, or with their knowledge, is likely to be unlawful if it conveys that they are broken and need healing, and says sermons or religious explanations may become prohibited if they are directed at a person for the purpose of changing or suppressing orientation or identity. But many religions contend that *all* people are broken and need healing which is available through reconciliation with God. So how is that long-standing religious view to be expressed consistent with the Act?

Further clarity is needed through statutory amendments and better examples. The examples in the Act, VEOHRC guidance and Hansard mostly concern extremes. There is little guidance for the common day-to-day situations faced by religious practitioners caring for people who voluntarily seek to live according to their faith. The Act should expressly protect consensual counselling and pastoral care, parental guidance and consensual, non-coercive prayer and religious teaching.

Victoria now has the most overbroad and restrictive conversion practices ban in Australia:

- Queensland's ban only applies to health service providers;
- ACT's ban only creates a criminal offence, not a civil liability scheme and applies only to change practices, not suppression practices and only to practices in relation to people under 18 or with diminished mental capacity
- Victoria applies to change or suppression practices; it restricts the ability of adults of sound mind as well as children to obtain the counselling and assistance they wish and creates criminal offences and a civil liability scheme and extensive compliance and enforcement powers in VEOHRC and puts a thumb on the scales of health care decision making;

- The South Australian and NSW Acts were made later than Victoria and took account of the overbreadth in Victoria's definition of CSPs by providing clear carve-outs that the following are not CSPs:
    - the use by a person, without more, of the following expressions: (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle; (ii) an expression that a belief or principle ought to be followed or applied.
    - stating what relevant religious teachings are or what a religion says about a specific topic;
    - general requirements in relation to religious orders or membership or leadership of a religious community;
    - general rules in educational institutions;
    - parents discussing, or providing guidance on, matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

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

The current Act hampers good healthcare for people suffering gender incongruity or dysphoria.

The exclusions in section 5(2)(a) and (b) need to be amended to reflect the South Australian Act and to be made neutral as between different healthcare approaches to possible and diagnosed gender dysphoria. Currently the Act puts a thumb on the scales of medical medical/psychiatric and psychological decision making and treatment, in the form of a legal liability threat.

It does this by giving a free pass from liability under the Act in section 5(2)(a) to any health service provider who adopts a medical/psychiatric or psychological approach which affirms or supports a person considering or undergoing a gender transition. But the Act leaves any other healthcare approach (e.g. do a holistic assessment of possible causes of distress including gender) at risk of being an illegal suppression practice, subject to the defence in section 5(2)(b).

Health service providers who do not quickly affirm and support transition have the burden of proving under section 5(2)(b) that their conduct is, in the health service provider's reasonable professional judgement, ***necessary***—

(i) to provide a health service; or

(ii) to comply with the legal or professional obligations of the health service provider.

The government and Parliament cannot know what is in the best interests of each person who seeks healthcare for possible gender dysphoria.

As a result of the Act's legal liability thumb on the scales many health service providers in Victoria refuse to treat those with possible or diagnosed gender dysphoria.[8] This is because they consider that immediate affirmation to transition is not good medical practice and they do not want the legal liability risk that their preferred longer holistic approach will be found ***not*** to be ***necessary*** and be an illegal suppression practice (e.g. because they did not give a diagnosis of gender dysphoria when asked to do so or put a teen on puberty blockers when asked to do so or a person on cross-sex hormones when asked to do so).

The RANZCP in Victoria released guidelines in 2023 noting the need for careful patient-centred consideration of all options in treatment and implicitly opposing an approach of always affirming and supporting gender transition:

> *There is a range of recommendations regarding the care of children and adolescents with gender incongruence/gender dysphoria. These include caution on the use of hormonal and surgical treatment, screening for potential coexisting conditions (e.g., ASD and ADHD), arranging appropriate service provision for these conditions, and offering psychosocial support to explore gender identity during the diagnostic assessment.[18] Some TGD young people, supported by their family and whānau, wish for and commence gender-affirming puberty suppression/sex hormone treatment, and report that they experience it as beneficial.[22-27] While a number of major professional organisations support the use of puberty suppressants and cross sex hormones for adolescents [28-*

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[8] In *Re Devin* [2025] FedCFamC1F 211 a case about whether the court would consent to puberty blockers for a 13 year old boy as recommended by the Adolescent Gender service at the Royal Children's Hospital in Melbourne and as opposed by the father, Justice Strum noted at paras 20-21:

At paragraph 68 of his report annexed to his affidavit filed 11 April 2023, Dr M states:

Unfortunately, I am not aware of any practitioners within [State S [*Victoria*]] who are willing to undertake such an approach. Anecdotally, I 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" as per the legislation. This is despite social transition not being beneficial or harmful, exploratory therapy being an acceptable approach worldwide, and the fact that there would be no need nor intention to "convert" [the child] to have a "cis" identity, just merely not blinding affirming and medicalising. It may be possible to find therapists who are willing to do this, but they will not be at [City K [*Melbourne*] Children's Hospital] Gender Clinic [sic]. [Note italicised location identifiers have been added.]

Further, the father gave evidence that, in his endeavour to garner evidence in support of his case and in opposition to that of the mother, he had contacted very many (in fact, he said, "hundreds" of) therapists who were not interested in treating children with gender issues, because of the Change or Suppression (Conversion) Practices Prohibition Act and like pressure, until he located Dr R, based in State T, who is willing to do so.

30], health authorities in some European countries have recommended restrictions be placed on their use. Australian and New Zealand paediatric services continue to provide multidisciplinary gender-affirming care.[31]

Psychiatrists should remain open and explore the experience and range of support/treatment options that may best address the young person's needs.[32]

In regard to children and adolescents who experience gender dysphoria or are gender questioning, psychiatrists should consider the young person's developmental stage, presence of developmental comorbidities (e.g., ASD), and capacity to give informed consent to treatment, in addition to considering the views of their parents/carers.[33]

In *Re Devin* [2025] FedCFamC1F 211 a case about whether the court would consent to puberty blockers for a 13 year old boy as recommended by the Adolescent Gender service at the Royal Children's Hospital in Melbourne and as opposed by the father, Justice Strum was critical of the gender affirming bias of clinicians at the RCH. His Honour accepted the evidence of Mr CC, a clinical child psychologist, of nearly two decades standing, with a research, teaching, and clinical specialisation in the fields of autism spectrum disorder, specific learning disorders, gender diversity and gender dysphoria, "LGBT [sic] support", child maltreatment, attachment disorders and therapeutic foster care who deposed to providing holistic assessment and individualised support and intervention for children and adolescents with gender dysphoria and gender incongruence.

Justice Strum said of Mr CC's evidence:

"In particular, I take into account, and place weight upon, his evidence that:

- *The presentation of gender identity as innate, internal and immutable is fundamentally contested by a significant number of experts in the field, including those with direct treating experience with gender diverse and gender questioning children.*
- *There is growing concern and disquiet among experts about the appropriateness and effectiveness of the medical gender affirming treatment model of CHGS.*
- *The notion that medical treatments alleviate gender dysphoria in children is simplistic. Medical treatments are not required to affirm a person's gender identity and they do not systematically reduce dysphoria in the mid-to-long-term.*
- *Whilst medical gender affirming treatment is "one possible treatment pathway", it may be a suboptimal option for natal males who seek future surgical intervention in the form of penile inversion (vaginoplasty).*

- *The complexities of these issues can only be informed by detailed assessment of data, evidence-based diagnostic clarity, impartial psychoeducation for young people and their caregivers and a non-biased supportive stance that does not commit to an "essential" treatment pathway a priori of the young person's maturation and development.*
- *In terms of optimal clinical support for a transgender girl, open discussion of puberty, sexual maturity, sexual diversity and strategies to maintain identity, but also to experience puberty through to later stages, are important factors to support optimal body transition options if gender affirming surgery is a preferred option in later life stages."*

The South Australian and NSW Acts do not put a legal liability thumb on the scales of clinical decision making. They took account of the UK Cass report on the treatment of adolescent gender incongruence and the UK ban on the use of puberty blocker until there was evidence that puberty blockers were safe and reversible, and the reversal of the gender affirming approach to healthcare in other parts of Europe and the USA.

The SA and NSW Acts are better in two important respects. First, they use a test of whether the healthcare conduct is *clinically appropriate* in the healthcare provider's reasonable professional judgment rather than *necessary* and this is applied on a level playing field to all healthcare treatment choices.

Secondly and more importantly they do not provide a separate free pass like Victoria's s.5(2)a) to "any conduct which affirms or supports a person considering or undergoing a gender transition". Instead they include an exclusion for "genuinely facilitating an individual's coping skills, development or identity exploration to meet the individual's needs, including by providing acceptance, support or understanding to the individual". That exclusion is similar but not identical to Victoria's s.5(2) (a) (iii), (iv) and (v) but Victoria's s.5(2) (a)(i) and (ii) have been removed in the SA and NSW Acts.

A broader reform would be to consider removing Change or Suppression of Gender Identity from the Act as the application of the provision is incoherent in practice

In gender theory, gender identity is self-determined by the individual and is fluid. Others say it is innate and immutable. It is not clear what policy underlies the Act. Assisting in a gender transition is lawful, but does this include a gender de-transition? The government has legislated to allow people to change their birth certificate gender once each year as they change gender identity.

More fundamentally if gender identity is entirely self-determined by the person and people can change their gender identity throughout their lives, how can anyone (including a counsellor or clinician) who is approached by a person who wants help with unwanted feelings about the person's body sex know whether they are:

- lawfully assisting a person to express their gender identity (clause 5(2)); or
- illegally inducing a person (in accordance with their wishes) to change or suppress their gender identity (clause 5(1))?

Does the answer turn on what the person decides their gender identity is after the interaction or 5 years later?

The Act prohibits inducing someone to "change "or "suppress" a gender identity as defined in clause 5(1). But the Act permits assistance to a person who is considering or undergoing a "gender transition" (see clause 5(2). There is no definition of a "gender transition". This appears to be a street where travel is permitted, even encouraged, in one direction (transition away from identifying as natal sex) and prohibited with harsh penalties including up to 10 years jail in the other.

It is completely unclear what suppressing a gender identity includes. Does this include requiring a person to use sex-based facilities like shared bathrooms or change rooms or dormitories or other sex-based facilities or groups, according to their sex rather than their gender identity? That may be discrimination on the basis of gender identity but is it suppressing a gender identity?

Some people who have their bodies transitioned (altered) by hormones and surgery to resemble the body of a person of the sex other than their natal sex regret that decision and detransition (to the extent they can if they have had genitals or other sex-defining anatomy removed). Litigation in the UK (*Bell v Tavistock*) exposed very poor practices in the NHS about obtaining informed consent from minors to sex hormones and life altering surgery and led to a ban on the prescription of puberty blockers to minors until their safety was proved in rigorous clinical trials.

The number of people regretting their body transition and desisting from it or de-transitioning is increasing. The decisions by some to desist or body de-transition does not invalidate the experience of others who body transition and are happy having done so and vice versa. But the phenomenon of desisting and de-transitioning is a clear warning to clinicians, parents and children to proceed with caution because the effects of body transitioning and de-transitioning are major and often irreversible and those who do not give fully informed consent may later sue. We are now seeing Australian lawsuits by detransitioners and desisters.[9] In February 2026 the first US damages award was made by a jury for $2 million for a 22 year old detransition who underwent a double mastectomy at age 16.

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[9] E.g. [redacted] suing Monash Healthcare in the County Court https://www.theage.com.au/lifestyle/health-and-wellness/as-mel-s-gender-ricocheted-she-went-under-a-surgeon-s-knife-20250521-p5m13t.html and [redacted] suing her psychiatrist in the NSW Supre Court.

The issue for this review is whether the Act's legal liability thumb on the scales (through the free pass in s.5(2)(a)(i) and (ii)) is increasing the likelihood of speedy gender affirming medication and surgery which is not appropriate in a particular case.

These are complex and delicate judgments as to what is right for the specific person. These are not judgments that the Parliament should be trying to drive by threatening criminal prosecution or civil sanctions for parents or doctor who are not uncritically affirming and facilitating a person's desire to transition their bodies to a different gender. Appropriate medical care is a matter for the health practitioner and patient looking at the specific individual patient, not the Parliament making one valid treatment option unlawful and criminal.

The Act does not contemplate regret or desisting or de-transition. It is not clear whether the Act's permission to assist a person to undergo a gender (body) transition includes assisting a person to undergo a gender (body) de-transition. If it does not, people who regret their transition and wish to de-transition will be stranded by the Act without any possibility of getting (legal) help in Victoria to do so.

None of the government inquiries or consultations leading up to this Act or the LaTrobe/HLRC report consider any of these issues.

Gender dysphoria is a complex and difficult issue which is very fact specific to the person involved. There are different clinical approaches clinicians are divided. There may be temporary harms for those who delay transition and lifelong harms for those who are pushed into transition too early and then regret. There are lawsuits in the UK, USA and Australia for commencing body transition for minors without court approval. It is extremely unwise for the government to use legislation to exclude one treatment approach to gender dysphoria for all people on gender ideology grounds.

Gender transitioning and gender identity would be best left out of this legislation altogether. Clinically, it is a completely different topic to sexual orientation change or suppression.

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?

[In this question we adopt parts of the submission of Freedom for Faith.]

The examples used by both Parliament and VEOHRC identify the outer edges of the Act, but they do not adequately explain the large middle ground in which most ordinary religious life actually occurs.

For example, VEOHRC's "real stories" contain only extreme cases: a young person sent to an exorcist, and a man told by church leaders and doctors that he had a mental illness. Examples of permitted activity, by contrast, either describe full affirmation or

rely on distinctions that are unworkable in a faith context. For example, the Attorney-General described a faith leader who "only informs this person that they consider such feelings to be contrary to the teachings of their faith, and does so only to convey their interpretation of those teachings and not to change or suppress the person's sexual orientation or gender identity." That formulation fundamentally misunderstands faith and practice, because it artificially separates the teaching of a belief from the hope that the hearer will accept it and seek to live by it. In this way the Act is inconsistent with international human rights norms which require the State to respect – or at least to not infringe on a person's religious faith - unless it is necessary to do so.
For example, Article 18(1)-(3) of the *International Covenant on Civil and Political Rights* (ICCPR) states: that:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or beliefs in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and **are necessary** to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. [emphasis added]

People are entitled to have, to adopt and to manifest religious beliefs which involve, for example, not engaging in sexual activity outside marriage between one man and one woman.

As noted above, official examples provide little guidance other than in relation to these extremes. A great deal of work is needed to produce workable, consistent advice for faith communities. To do so, the Commission should be required to listen and work collaboratively with leaders from a wide range of faith communities, including those holding traditional beliefs about gender and sexuality. That process should work through real-world examples of religious ministry and provide specific guidance as to whether particular conduct is, or is not, a change or suppression practice.

ICS Submission:

The South Australian and NSW Acts were made later than Victoria and took account of the overbreadth in Victoria's definition of CSPs and provide clear carve-outs of activities related to religion from the definition of CSPs by stating that the following are not CSPs:

o the use by a person, without more, of the following expressions: (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle; (ii) an expression that a belief or principle ought to be followed or applied.

o stating what relevant religious teachings are or what a religion says about a specific topic;

o general requirements in relation to religious orders or membership or leadership of a religious community;

o parents discussing, or providing guidance on, matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

These same carve-outs should be added to the Victorian Act to bring it into line with best Australian practice.

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?

[In this question we adopt part of the submission of Freedom for Faith]

VEOHRC's materials are largely inadequate for religious communities.

The main problem is that the materials explain the law at a high level while leaving the hardest questions unresolved. The Commission's faith page says the Act does not prohibit prayer or religious practice as such, and that private prayer can continue. But it also says prayer with a person, or with their knowledge, is likely to be unlawful if it suggests they are broken and need healing, and that sermons or explanations of religious teaching may become prohibited if directed at a person for the purpose of changing or suppressing orientation or identity.

The repeated use of language such as "may" and "likely" creates uncertainty rather than clarity.

The Commission then admits there is "no history or legal precedent", it cannot advise on specific scenarios, and people may need independent legal advice. That is not adequate support for clergy, parents and volunteers in faith organisations that are often very small, donor funded, and lacking legal resources.

There is also the problem of a government agency dictating theology. The VEOHRC stakeholder kit says it aims to affirm that faith and LGBTQA identity can coexist, and the family materials describe "allowed" conduct almost entirely as affirmation, transition support and affirming peer support. But the animated video explainer for people of faith on the VEOHRC website[10] tells people of faith that there is nothing wrong or broken with LGBTQA people but many religions believe that *everyone* is broken, including in their sexuality, including LGBTQA people. The video says these beliefs are wrong and based on false information. For many religious users this reads as a clear declaration that their

[10] At https://www.humanrights.vic.gov.au/change-or-suppression-practices/for-professionals-institutions-and-communities/#What-is-allowed

faith is wrong and the government wants to change what they believe and teach about gender and sexuality. Section 3(2) of the Act expresses the views of the Parliament but it doesn't make it mandatory in law for everyone to hold them. The Act does not make contrary religious beliefs unlawful and the Attorney-General made clear that people can keep and teach their religious beliefs. So, in its video explainer, VEOHRC is pushing well beyond the Act's boundaries and government policy. The video explainer should be removed and remade consistent with the Act and government policy

VEOHRC's own 2025 scoping report recommended more neutral presentation, better FAQs, and distribution through trusted third parties.

To remove this ambiguity, the Commission needs to undergo a process of listening consultation with a wide range of faith communities who hold "traditional" beliefs about gender and sexuality".

ICS submission:

VEOHRC Guidance on Celibacy and Abstinence omits clear answers provided by the Attorney-General in Parliamentary debates

1. The distinction between sexual orientation and sexual activity

The distinction between sexual orientation and sexual activity was recognised by the Attorney-General as very important in parliamentary debates on the CSP Bill and addressed in detail in questions and answers. The Attorney-General (Ms Symes) made it clear that inducing a person to abstain from sexual *activity* was **not** suppressing the person's sexual *orientation* and that the CSP Bill prohibits suppressing a person's sexual orientation or identity, not activity.

The following questions and answers are recorded in the debate on the CSP Bill in the Legislative Council Hansard for 4 February 2021 at p.283

Mr LIMBRICK: I would like to ask a couple of questions about some things that have been put to me by schools. Firstly, I think one of the problems with the definition of 'suppression' is that it is sort of circular, because the definition actually refers to the word 'suppression' as well. So if it is directed to an individual and it is around their orientation and intent—those three criteria that you talked about—if I am encouraging abstinence, is that equivalent to suppression? So abstinence is a form of suppressing sexuality?

Ms SYMES (Attorney-General): Mr Limbrick, I again bring you back to the elements of what amounts to change and suppression practices. It is on the basis of a person's sexuality, not sexual activity.

Mr LIMBRICK: Thank you, Minister. In that scenario, if someone recommended celibacy only if they were same-sex attracted, for example, but did not in other situations, would that fail this test?

Ms SYMES: My previous answer stands. A change and suppression practice is about trying to change someone's sexual orientation or gender identity, not who or when or even where they may engage in sexual activities.

Mr LIMBRICK: In that case, what is the difference between suppression and change? You said before that they are the same thing. Are you saying that not acting within what you believe to be your sexuality is not suppression unless I am trying to change it?

Ms SYMES: Not for the purposes of this bill. Somebody telling someone or a parent telling their kids that they should not have sex at 16—go for it. Telling your 16-year-old kid that they need to go off to camp and get changed from gay to straight—that is going to enact the change and suppression practices. I am not quite sure why you are going down the avenue of what people physically do. This is about people's identity.

2. Religious instruction to same sex attracted people to abstain from same sex sexual activity, without telling them they are broken and need to change their orientation, is not a CSP according to the Minister's statements in Parliament

In answer to other questions in Parliament on the CSP Bill, the Attorney-General (Ms Symes) made clear that teaching or counselling a person to abstain from sex is not a change or suppression practice because that teaching relates to sexual activity rather than sexual orientation (see Legislative Council Hansard Thursday, 4 February 2021 p.293):

Mr LIMBRICK: One of the specific cases of this that was put to me in a letter from the Board of Imams Victoria was around I think it is a doctrine called nasiha. My understanding is under Islam it is an obligation to provide direct advice, and so their concern they said was that they do not see people as broken or ill or anything like that, but they have an obligation when someone says that they are same-sex attracted to tell them to not engage in same-sex practices. They are not denying their sexual orientation. Can the Attorney confirm that that would not be caught by this definition and it would be safe for them to continue this practice?

Ms SYMES: Without giving my personal views on telling someone what they should and should not do sexually, I would bring you back to the definition of 'change or suppression practice'. Telling someone not to engage in sexual activity does not offend the bill, because it does not induce the person to change or suppress their sexual orientation or gender identity. If just simply the instruction is not to engage in sexual activity, that does not offend the bill.

Mr LIMBRICK: Thank you, Attorney. That does clarify it somewhat. Even if the intent of encouraging them to remain celibate is because they are same-sex attracted, that still would not fall under the provisions of this bill?

Ms SYMES: No. You could tell somebody who is same-sex attracted not to have sex or you could tell somebody who is attracted to the opposite sex not to have sex, and that would not offend this provision. This provision is only enacted if you are seeking to change that person's sexual orientation of who they want to have sex with.

VHREOC's guidance repeats the example from the Minister's second reading speech about a religious leader instructing a same sex attracted person they are broken and need to abstain from sex for the purpose of changing or suppressing their same sex orientation and states that that is a CSP.[11] The guidance goes on to say of counselling celibacy:

> *Denying someone their total self – their sexuality – causes serious and ongoing harm.*
>
> *There is evidence that this can lead to long-term mental health issues and in serious cases, suicide.*

But VHREOC has not mentioned or referenced the Minister's quoted statements that instructing a person of any sexual orientation to be sexually abstinent without a purpose of changing their sexual orientation or gender identity is not a CSP. [12] What a Minister says in Parliament in debate on a Bill she is responsible for is extrinsic material that a court can consider in interpreting the Act. VHEORC's opinions are not used by courts to interpret a statute. VHREOC should be using as guidance the relevant statements of the Minister responsible for the legislation, not its own views.

VEOHRC's guidance on counselling abstinence is thus incomplete and selective. VEOHRC could have provided much clearer guidance to parents and families and faith communities on the legality of counselling celibacy and abstinence relying on the Minister's statements in debate on the Bill. But it has chosen not to, referencing only the extreme example. It has failed to provide the guidance and clarity it should have.

[11] https://www.humanrights.vic.gov.au/change-or-suppression-practices/for-professionals-institutions-and-communities/#What-is-allowed

[12] Likewise in its guidance on prayers, VEOHRC suggests that praying for long term celibacy may be illegal because it could be about changing a sexual orientation.

8. Are there any barriers to:

a. reporting change or suppression practices to VEOHRC

b. VEOHRC facilitating outcomes of reports

c. VEOHRC conducting investigations.

If so, please describe what those barriers are.

None known. If there were such problems, what has VEOHRC been doing about them with its active program on CSPS in the last 4 years?

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.

[In this question we adopt part of the submission of Freedom for Faith]

The most helpful changes are clarification of the law rather than broader powers.

First, VEOHRC's educative and facilitative role will work better if the Act is clarified. The current scheme is built around education, facilitation and investigation, yet there is low awareness, high confusion and a lack of clarity in the educational materials that do exist.

Given the low number of reports under the Act and the publicly available data showing low incidence of CSPs and that VEOHRC has not used its existing powers, there is no warrant for extending the powers of VEOHRC.

Second, VEOHRC should be required to develop neutral, faith-specific guidance in consultation with a broad range of religious communities, including those holding traditional beliefs on sex, marriage and gender. The guidance should contain worked examples on requested prayer, celibacy or chastity support, marriage, parental conversations, youth ministry and ordinary pastoral care.

Thirdly, if VEOHRC retains both facilitative and enforcement roles, there should be stronger safeguards for independence and procedural fairness, including clear separation between education/facilitation staff and investigation/enforcement staff.

Finally, we would not support a broad positive duty or wider compulsory powers. Given the ambiguity and uncertainty in the current legislation, adding a positive duty to prevent the Act being transgressed would create an unworkable burden on faith communities. It is unreasonable to require a positive duty to prevent something that "may" be unlawful "depending on the circumstances".

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

None known.

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?

[In this question we adopt part of the submission of Freedom for Faith]

The main feature limiting the effective operation of the criminal offences is the ambiguity in what constitutes a "change or suppression practice", particularly in relation to ordinary conversations, prayer, pastoral care, and other non-coercive conduct. Criminal offences operate best where the prohibited act is clearly defined. Here, the breadth and uncertainty of the definition make it difficult to identify with confidence what conduct is criminal, and when.

A related difficulty is causation. The offences depend not only on a change or suppression practice having occurred, but on that conduct causing injury or serious injury. In many real-world situations, especially where the alleged conduct consists of words, prayer, or pastoral interactions over time, it may be very difficult to draw a clear and direct causal connection between a particular act and the harm alleged, especially if any alleged harm emerges years later and many have ben contributed to by multiple intervening causes. In any event, with only 14 reports in 4 years, there seems to be so few CSPs that a case suitable for prosecution will be rarer still.

The most important improvement would be to narrow and clarify the definition so that the criminal law is directed only to clearly coercive, abusive, or degrading conduct. The criminal offences should be focused on conduct involving force, threats, intimidation, detention, or organised and sustained duress, rather than leaving ordinary religious or familial interactions to be judged after the fact. Clearer statutory examples and express protection for consensual, non-coercive prayer, pastoral care, and parental guidance would also improve certainty.

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?

No. See our discussion and conclusion under question 1 above that there is no publicly available reliable evidence that there is currently a widespread problem of unlawful CSPs in the community, not being reported to VEOHRC, which requires an extension of the Act with a civil cause of action or a redress scheme.

As regards any CSPs that occurred prior to the Act, most such practices would not have been unlawful at the time, and there is no basis for making them retrospectively compensable under a redress scheme because that in effect makes them retrospectively unlawful.

The analogy with child abuse redress scheme is not apposite. Child abuse was unlawful (and usually a criminal offence) when it occurred in the past. A redress scheme for child abuse was put in place to deal with the difficulties of survivors to get compensation for undoubtedly unlawful historic conduct. That is completely different to the proposition that past conduct, lawful at the time, should now be made the subject of a redress scheme.

As regards CSPs that have occurred since the Act came into force, there is no publicly available reliable evidence that there is currently a widespread problem of unlawful CSPs in the community. VEOHRC has received 14 reports in 4 years and took no public action on any of them. Unless and until there is a surge in reports and VEOHRC takes action on them but cannot achieve compensation for those complaints and the complainants try but cannot achieve civil redress for unlawful conduct, it is extremely premature to talk about a redress scheme.

VLRC notes that Victoria already has several pathways through which a person may seek some form of redress, including VEOHRC facilitation, ordinary civil action, the Financial Assistance Scheme, and compensation orders following conviction. These are sufficient until they are tried and found wanting,

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

No. See our discussion and conclusion under question 1 above that there is no publicly available reliable evidence that there is currently a widespread problem of unlawful CSPs in the community, not being reported to VEOHRC, which requires an extension of the Act with a civil cause of action or a redress scheme.

There are already existing pathways by which a person may seek compensation for unlawful CSPs occurring since the Act commenced, including VEOHRC facilitation, ordinary civil actions, the Financial Assistance Scheme, and compensation orders where criminal liability is established. Those avenues are all untested because of the tiny number of reports and VEOHRC action. If in the future they are fully tested and found wanting, that will be the time to consider a civil cause of action.

Please contact us if you require further information.

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23 March 2026

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