

**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?**

The Victorian Law Reform Commission's consultation on the Change or Suppression (Conversion) Practices Prohibition Act 2021 raises concerns regarding the definition of prohibited conduct. This provision is overly broad and fails to clearly protect exploratory or Socratic questioning, which is essential in certain therapeutic contexts. For instance, a healthcare professional may need to explore alternative possibilities, such as same-sex attraction, or rule out other diagnoses, like autism spectrum disorder, in order to provide comprehensive care. However, the Act's definition may be interpreted as prohibiting such exploratory discussions. The definition defaults to an affirmation-only approach, which may hinder a nuanced and thorough therapeutic process.

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

The Victorian Law Reform Commission's consultation on the Change or Suppression (Conversion) Practices Prohibition Act 2021 raises concerns regarding the limits on reasonable professional judgment in the provision of mental health services. Given the contested evidence base surrounding gender dysphoria and the diversity of clinical approaches, it is essential that healthcare professionals be allowed to exercise minority or dissenting judgments in the best interests of their clients. However, the Act's necessity exemption, which permits non-affirming interventions only in circumstances where they are deemed "necessary to alleviate mental distress," sets a higher threshold than is applied to affirming interventions, in contrast to the equivalent NSW legislation. This disparity is concerning, as it may lead to unequal treatment of clients with differing needs and preferences. Furthermore, the explicit classification of psychotherapy as a prohibited suppression activity unless exempted creates a chilling effect on clinical practice, potentially deterring healthcare professionals from providing necessary and supportive care to vulnerable individuals.

**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?**

The Act's broad definition of "change or suppression practice" raises concerns that a pastor or faith-based counsellor who provides support to an individual who voluntarily seeks guidance on managing same-sex attraction in accordance with their religious beliefs may be held liable under the Act, despite the individual's free and informed consent.

**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?**

The provision of consultation materials that frame ordinary conversations, pastoral care, and clinical practice as potential conversion practices is concerning. This approach deters Victorians from engaging in lawful speech and activity, and undermines the intent of the Change or Suppression (Conversion) Practices Prohibition Act 2021. The materials' advocacy tone, rather than a neutral

description of the law, seeks to maximise the reach of the Act beyond its legislative requirements. This biased approach is problematic, as it proceeds from the assumption that affirmation of gender identity is the only medically appropriate option, a position not supported by the best available evidence, including the Cass Review. The consultation process is therefore compromised, and cannot produce balanced or evidence-based recommendations, as it embeds an assumption that chills free and open discussion.

**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.**

The Victorian Equal Opportunity and Human Rights Commission should engage with the findings of the Cass Review, a comprehensive and independent examination of gender medicine for children and young people, to ensure a balanced and informed approach to the issues at hand. By failing to critically evaluate the affirmation-only model and instead presenting it as the sole medically appropriate option, VEOHRC materials risk causing serious harm to vulnerable young people who may be in need of more nuanced and individualized care.

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

The creation of a private right of action through civil tribunals under the Change or Suppression (Conversion) Practices Prohibition Act 2021 is an extreme measure that poses a significant threat to freedom of speech. By allowing any individual to bring a claim with a lower standard of proof and shifting the costs to the respondent regardless of the outcome, the Act creates a pervasive chilling effect on speech that far exceeds any legitimate regulatory purpose.