

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 Change or Suppression (Conversion) Practices Prohibition Act 2021's definition of prohibited conduct is concerning, as it fails to clearly safeguard exploratory or Socratic questioning in a therapeutic setting. This lack of clarity may lead to unintended consequences, where clinicians are hesitant to explore alternative possibilities with clients, such as same-sex attraction, or to rule out other diagnoses like autism spectrum disorder. A genuinely neutral law would not privilege one clinical approach over another, allowing for a range of therapeutic methods to be employed. However, the Act's definition appears to default to an affirmation-only approach, which may not be the most effective or appropriate method for all individuals. The carve-out for practices that encourage or promote gender transition further reinforces this concern, explicitly protecting affirmation while leaving non-affirmation approaches exposed to liability.

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 about the impact on legitimate clinical practice. Practitioners who hold non-affirming clinical views, yet engage in evidence-based practice with informed consent, cannot be confident that their ordinary professional activities are protected under the Act. This uncertainty arises from the broad definitions and vague exemptions in the legislation, which may capture ordinary clinical practice as prohibited suppression activities. The express example that psychotherapy is a prohibited suppression activity unless it falls within the exemption exacerbates this concern, creating a chilling effect on clinical practice and potentially deterring practitioners from providing necessary care. As a result, the Act may inadvertently compromise the provision of mental health services in Victoria.

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 Change or Suppression (Conversion) Practices Prohibition Act 2021 raises significant concerns regarding its impact on religious freedom and individual autonomy, as a pastor or faith-based counsellor who responds to a person's request for support may risk liability under the Act, despite the individual seeking out that support freely. This provision is an extraordinary intrusion into both religious freedom and individual autonomy, and fails to cater for the needs of an LGB person of faith who consensually seeks support to live and practise their religion consistent with their same-sex attraction.

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 consultation materials accompanying the Change or Suppression (Conversion) Practices

Prohibition Act 2021 do not provide a neutral description of the law, but rather an advocacy document that seeks to extend the Act's reach beyond its legislative requirements. This bias is evident in the materials' assumption that affirmation of gender identity is the only medically appropriate option, disregarding alternative perspectives and approaches. By casting the broadest possible range of conduct as potentially prohibited, the consultation materials create a chilling effect, undermining the potential for a balanced and evidence-based consultation process.

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 (VEOHRC) should be required to consider current best-evidence guidance when developing materials under the Change or Suppression (Conversion) Practices Prohibition Act 2021, to ensure that its resources are grounded in the most reliable and up-to-date research. The Commission's materials should also reflect a critical engagement with the findings of the Cass Review and other systematic reviews of the evidence on gender-affirming care, rather than uncritically adopting affirmation of gender identity as the only medically appropriate option, which risks causing serious harm to vulnerable young people.

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 a deeply concerning development, as it constitutes the most chilling form of speech regulation available. The broad definition of change or suppression practices, coupled with the low threshold for bringing a civil claim, means that individuals may be deterred from expressing sincerely held views in various settings, including conversations, sermons, therapy sessions, and public forums, for fear of incurring significant costs and reputational damage, regardless of the outcome.