

The following submission to this review has been received

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 Act's definition of prohibited conduct raises concerns about its potential impact on non-affirming practices, as the carve-out for practices that encourage or promote gender transition explicitly protects affirmation while leaving non-affirmation exposed to liability. This defaults to an affirmation-only approach, which undermines the principle of neutrality. The definition also fails to clearly protect exploratory or Socratic questioning, which is essential for ensuring that individuals are not misdiagnosed or misled about their experiences. A genuinely neutral law would not privilege one clinical approach over another, yet the Act's definition appears to do so. Furthermore, the prohibition's extension to religious practice, including prayer-based practice, creates uncertainty for pastors and faith leaders, who cannot know with certainty whether their teaching constitutes a prohibited practice, as no examples are provided of what will not contravene the prohibition.

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

The explicit inclusion of psychotherapy as a prohibited suppression activity, unless exempted, has a profoundly chilling effect on clinical practice, as mental health professionals may become increasingly hesitant to engage in open and honest discussions with their clients. This provision undermines the very foundation of the therapeutic relationship, which relies on trust, empathy, and a non-judgmental attitude. The Act's framing of psychotherapy in this manner disregards the complexities and nuances of the therapeutic process, where clinicians must navigate a client's deeply personal and often conflicting emotions. Furthermore, the Act's approach treats a clinician's faith perspective as presumptively incompatible with or compromising their professional judgment, which is an unfair and unjustified assumption. This not only stigmatizes clinicians of faith but also neglects the valuable contributions that their diverse perspectives can bring to the therapeutic process.

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 the balance between protecting individuals from harm and respecting fundamental human rights. The Act's broad and ambiguous language has created uncertainty among faith communities, leaving them vulnerable to unintended consequences. To address this, the Act should be amended to provide clear examples of faith-based practices that are explicitly protected, ensuring that individuals can continue to freely exercise their religious beliefs without fear of persecution. This omission is particularly troubling, as it represents an extraordinary intrusion into both religious freedom and individual autonomy, values that are essential to a healthy and diverse society. Ultimately, the Act's failure to provide such clarity undermines its legitimacy and effectiveness.

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 framing of ordinary conversations, pastoral care, and clinical practice as potential conversion practices in the consultation materials is overly broad and deters Victorians from engaging in lawful speech and activity. By characterising the broadest possible range of conduct as potentially prohibited, the materials produce a chilling effect that extends beyond the actual scope of the Change or Suppression (Conversion) Practices Prohibition Act 2021.

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.

Engagement with the Cass Review's findings is crucial, given it is the most comprehensive independent review of gender medicine for children and young people ever conducted, and VEOHRC should be required to consider this and other current best-evidence guidance when developing materials under this Act. Furthermore, VEOHRC materials should not be permitted to stand as authoritative guidance under the Act, and should instead be informed by a range of up-to-date systematic reviews of the evidence on gender-affirming care, lest they uncritically adopt affirmation of gender identity as the only medically appropriate option and risk 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?

Introducing a civil cause of action against faith leaders and pastoral care activities under the Change or Suppression (Conversion) Practices Prohibition Act 2021 would have devastating consequences for religious communities. Such a move would effectively stifle the ability of faith leaders to provide spiritual guidance and support to their congregations, undermining the very fabric of these communities. A private right of action through civil tribunals is a particularly insidious form of speech regulation, as it allows individuals to bring claims against others for expressing views with which they disagree. This creates a pervasive chilling effect on speech, far exceeding any legitimate regulatory purpose, and would likely deter many faith leaders from offering prayer, counsel, or scripture-based guidance to those seeking it. Pastors, priests, imams, and rabbis could face civil liability simply for expressing their faith tradition's teaching, forcing them to choose between their faith and their freedom from liability.

Source URL: <https://www.lawreform.vic.gov.au/all-projects/make-a-submission/>