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24 January 2020

Submission regarding Conversion Practices: Law Reform Options for Tasmania

LGB Alliance Australia is a community action group that campaigns for equality for people with same-sex sexual orientation. Among our ranks are doctors, academics, mental health professionals, and lawyers with expertise in safeguarding.

We formed as an organisation because we believe hard-won victories for equality are under threat for lesbians, gay men, bisexuals, and women overall. We believe that biological sex is observed in the womb and/or at birth and not assigned. In our view, current gender ideologies are pseudo-scientific and presents a threat to people whose sexual orientation is towards the same sex (homosexuals), or towards both sexes (bisexuals). Besides, we believe that these ideologies are confusing and dangerous to children and youth and can have harmful life-long consequences.

With regards to this "Sexual Orientation and Gender Identity Conversion Practices Issues Paper NO 31" (SOGICP issues) document, we are concerned that it frames the entire enquiry grounded in a gender identity ideology perspective, for instance, it assumes that a person's sex is *assigned* at birth rather than observed. This shows an inherent bias towards conflating biological sex with gender identity.

We do agree that objectively harmful coercive practices designed to change a person's sexual orientation should be banned. Though homophobic attitudes linger, these medical/psychological conversion practices are rare, if not non-existent in Australia, today. However, the 35 examples of conversion practices listed in the SOGICP issues document, documents the experiences of homosexual people who were subject to harmful ('gay to straight') conversion practices to reject their same-sex orientation. These studies are irrelevant in the support of 'gender identity ideology', as none of the 35 studies used as the basis for this bill reference transgender experiences. The misuse of these studies is harmful to homosexuals, as gender ideology seeks to erase sexual orientation on the basis of same-sex attraction; hence gender identity campaigners typically pronounce lesbians 'transphobic' for their same-sex orientation exhibited by their unwillingness to date males even if those males self-identify as 'lesbian women'.

The term 'conversion' in the submissions document frames practices such as *talk therapy* or *watchful waiting* that aim to help an individual become comfortable in their own body, or that addresses other factors such as mental health concerns, past traumas, internalised/externalised homophobia as "conversion therapy" as these practices do not use a one-size-fits-all affirmation approach to gender dysphoria. This reflects gender identity ideology but not best practice. It also ignores concerns that health practitioners have and does not allow them to provide treatment as appropriate to the individual.

In promoting mandatory 'affirmation' practices, gender identity campaigners would have an individual reject the body they were born in and place them on a conveyor belt of puberty blockers, cross-sex hormones, multiple[1] surgeries, and a lifetime of medical dependency. These have dire consequences, such as sterility and loss of sexual function. There is a whole industry that has developed around this conversion of children and it is being encouraged through the influence of gender identity campaigners on social media and even in our school policies (i.e., bulletin 55 in Australia). If we were to accept the 'conversion' definition framed by this "Sexual

[1] De-transitioners reporting on harm from transition procedures.

Orientation and Gender Identity Conversion Practices Issues Paper NO 31" document, we would have to accept that any cautious measured approach is a danger to a free society and that the state can preordain transition as the only permissible option. Which would go against the individual rights of Australians in allowing parents, children, and health professionals to find the best path for each unique child, not follow mandatory practices based in an ideology or belief system of 'gender' that is not validated by evidence[2].

We have five major concerns given gender affirmation bills in Queensland, ACT and the proposed Victorian Suppression and Conversion ban bill, that the outcome of any Tasmanian bill will follow a mandatory affirmation policy that conflates gender identity ideology with sexual orientation.

One.

We are opposed to the inclusion of the concept of gender identity in any legislative reforms. Gender identity or ideology should not be conflated with biological sex. Sex is as observed at birth or in utero and then is recorded in the birth register. A woman is an adult human female, with a female body and any personality, not a feminine personality' in any body. Likewise, a man is an adult human male with a male body and any personality, not a 'masculine personality' in any body.

Gender identity ideology posits that each person has an internal sense of being male/female/non-binary (regardless of their sex) and they refer to this as a person's "gender". We define gender as an external social construct imposed upon men and women i.e., the expectation put upon males and females in their own culture. In the world where biological sex is replaced with gender identity, the reality of the ontological class of women or human females is ignored, hence all protections and rights around the class of 'woman' can be voided. This severely sets back equality for women, removes sex-based rights and protections for women, rights which were fought for and hard-won over a period of more than a hundred years.

Two.

We are concerned that this submission is following a deceptive pattern of conflating "gay conversion therapy" with the issue of how best to help people diagnosed with distressing "gender dysphoria", particularly concerning is under-18s. If the response is mandatory affirmation policy as we have seen in Queensland and ACT's Conversion bans, many young people who would otherwise recognise they are gay, lesbian, or bisexual will instead be put on a pathway of medical and surgical intervention, in common vernacular, this is called 'transing the gay away'.

We have seen in the UK that the promotion of mandatory affirmation policy has shown that homosexual and bisexual children are vastly overrepresented amongst children presenting to the Gender Identity Disorder Service (GIDS) through the Portman and Tavistock Trust. In "Sex, gender, and gender identity: A re-evaluation of the evidence" [3], the authors report that in 2012 for instance, only 8.5% of girls referred to the service described themselves as heterosexual. Given that the overall percentage of lesbian and bisexual women and girls in the UK is less than 5%, the underlying causes for this overrepresentation should have been urgently investigated. Although empirical evidence[4] has shown that a cross-sex identification is a better predictor of a child growing up to be bisexual, gay, or lesbian rather than growing up to identify as trans, these children were immediately put on the medical pathway. This happened to such an extent that clinicians at Tavistock raised concerns they were practising a form of gay conversion therapy.

In 2019, staff interviews conducted as part of an internal review confirmed that homophobia was an underlying issue in many cases of children seeking to transition but children were referred onto the medical pathway to transition anyway. The Times of London reported:

> *So many potentially gay children were being sent down the pathway to change gender, two of the clinicians said there was a dark joke among staff that "there would be no gay people left".*

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[2] 'One Size Does Not Fit All: In Support of Psychotherapy for Gender Dysphoria'

[3] Griffin, L., Clyde, K., Byng, R., & Bewley, S. (2020).

[4] Childhood Gender-Typed Behaviour and Adolescent Sexual Orientation: A Longitudinal Population-Based Study.

"It feels like conversion therapy for gay children," one male clinician said. "I frequently had cases where people started identifying as trans after months of horrendous bullying for being gay," he told The Times.

"Young lesbians considered at the bottom of the heap suddenly found they were really popular when they said they were trans."

Another female clinician said: "We heard a lot of homophobia which we felt nobody was challenging. A lot of the girls would come in and say, 'I'm not a lesbian. I fell in love with my best girlfriend but then I went online and realised I'm not a lesbian, I'm a boy. Phew[5].'

Mandatory affirmation is in effect homophobic and another form of conversion practice based on sexual orientation. In countries such as Iran where homosexuality is a crime punishable by death, this affirmation policy is followed through with surgical sex reassignment to rid Iran of homosexuals and other gender non-conforming individuals. We have seen the new conversion therapies in the ACT and Queensland follows this homophobic trend.

Hence, it is most concerning that medical and allied professionals would be explicitly banned from exploring fully the root causes of a patient's gender dysphoria and distress. This has the effect of preventing the understanding of how experiences of homophobia, sexual abuse and sexism can manifest, particularly for young people who may only come to understand the complex issues they were responding to post-transition otherwise, as many detransitioners have reported.

Furthermore, automatically affirming every single patient with gender dysphoria, gender distress, or confusion as trans, regardless of other factors, and pushing them to pursue medical transition will result in more de-transitioners in the long-term and people suffering irreparable harm that includes loss of sexual function, sexual desire, sterility, reduction in IQ, bone density and teeth issues and joint issues. It further includes vaginal, penile, or uterine atrophy, cervical issues, and other damages to physical health, and sometimes results in chronic life-long pain. All this in addition to the impact on mental and emotional health.

Three.

Gender identity ideology posits/argues that gender is innate and unchangeable. Hence mandatory affirmation practices with lifelong consequences are justified even in the case of children who are not young enough to understand the consequences of medical transitioning. Even if those consequences were to be explained to them, which de-transitioners report in general they are not.

Those who have de-transitioned are proof that either their gender can be changed or that what some young people go through when they or gender clinics say they are transgender is indeed a phase that they will probably outgrow, as mentioned, some 73% and 98%,[6] when a watchful practice is followed.

The UK High Court in the case of *Keira Bell v Tavistock* reviewed the evidence with some horror last year and concluded that once children go on puberty blockers, they almost invariably proceed through all the stages of transition and that children under 16 and those likely under 18 cannot possibly provide informed consent to those consequences. Australia and New Zealand are being steamrolled by an aggressive ideology that changes our language and undermines our usual safeguards relating to children, demonises those who are cautious, refuses to consider evidence which counters the approved narrative and demands complete fealty on pain of social cancellation. Standing up to this is not transphobic, it is being child-centric and rational, and it is necessary.

[5] It feels like conversion therapy for gay children says clinicians" Bannerman, Lucy. The Times, 8 April 2019.

[6] In a study detailing their own experiences with desistance, a literature review revealed desistance rates between 73% and 98%, i.e., the vast majority of children treated for gender dysphoria were observed to reconcile with their sex. (Steensma, Biemond et al. 2011)

Four.
We are concerned that minors who have experienced medical malpractice through unnecessary medical transitions will have no course for redress because service providers will cite Acts which mandates affirmation as the only legal treatment.

In studies where the practices of *watchful waiting* have been used instead of mandatory affirmation, between 73% and 98%, (i.e., the vast majority of children treated for gender dysphoria) were observed to reconcile with their sex. (Steensma, Biemond et al. 2011) No laws, therefore, should be put in place which prevents medical and allied professionals from helping a patient to fully explore the root causes of their gender dysphoria and distress, which process should occur in full.

Five.
We believe any process of inclusion and diversity needs to follow democratic principles of polling all interested parties and should not in any way curtail free speech or frame any respectful dissent as hate speech. There is controversy around the issues of gender identity and the impact on the rights and safety of women and children. And there is a real public interest in getting this stuff right.

Our political representatives seem to deliberately avoid or are largely uninterested in exploring the views of different stakeholders or considering empirical evidence which is contrary to the ideological position of the dominant narrative on gender ideology. Furthermore, the Australian media is reluctant to report on stories relating to gender identity in a balanced or nuanced manner, with some major news broadcasters choosing to suppress or ignore dissenting views - even when those views are from affected parties such as detransitioners, LGB people or groups, and women's groups. The trans community make up less than .005%[7] of the population, surely 99.995% should also have a voice on issues that impact them?

For example, we notice a bias in the compilation of this bill; that the Reference groups are entirely composed of LGBTQIA+ groups that follow a gender ideology perspective. Other relevant parties impacted by these policies such as women's groups, parent groups, mental and physical health professionals or homosexual and bisexual people who reject gender identity ideologies were excluded. It concerns us that this gender identity ideology perspective shaping any legislation being passed will work against the free speech of health professionals, parents, those of the same sex-orientation and even those who undergo gender transition. It will put professionals under threat of criminal action, professional sanctions, and impact on reputation and income if they take a course of action that addresses mental health concerns or past traumas over the affirmation only practices of gender ideology.

Perhaps politicians and media avoid the topic of transgender with apprehension, due to the gender identity campaigners promoting a narrative that if young people are unable to medically transition, they will commit suicide? This is a myth[8]. However, the growing number of detransitioners permanently harmed by medical and surgical transition is not a myth.

Question 1

After considering the background and working definition (see [1.3.23] on page 13), in your opinion, what are and are not 'sexual orientation and gender identity conversion practices'?

This bill follows a deceptive pattern of confusing past medical/psychological "gay conversion therapy" with the live issue of how best to help people, particularly concerning is under-18s diagnosed with distressing "gender dysphoria". It is a misleading bill. It is concerning the recent trend to label gender non-conforming children as 'trans children'. Many young people who would otherwise go on to identify as gay or lesbian, will instead be put on a pathway of medical and surgical intervention, in our common vernacular this is called 'transing the gay away'. In countries such as Iran where homosexuality is a crime punishable by death, this same process is followed, surgical sex reassignment is used to rid their country of homosexuals and other gender non-conforming individuals, to render them invisible and sterile. Any bill based in affirmation practices is in effect homophobic.

[7] How Many Transgender People Live in Australia?
[8] Suicide Facts and Myths

Question 2

Should people be allowed to consent to SOGI conversion practices? If so, at what age and under what conditions?

Australia has two states that follow the conversion practices: ACT and Queensland. In 2018 as reported in 'The Australian" the Medical Association Queensland' took a stand against these conversion practices based on the safety and ethics of transgender drugs and surgery for children, calling for a host of practitioner groups to come together and devise new national treatment guidelines. The organisation covering more than 9600 doctors said it "strongly supports" the concerns of branch member Philip Morris, a leading psychiatrist, who questioned the capacity of under-18s to make decisions about life-altering hormonal treatment or surgery "now shown to be not without harm".

Similarly, the UK High Court in the case of *Keira Bell v Tavistock* has recently established that children should not be regarded as having the capacity to consent to such harmful treatment. In the recent Australian case of *Re Imogen,* the Family Court also found that children under the age of 18 years cannot consent to such treatments and that court authorisation is required in the absence of parental consent. We would suggest that further precautions are needed to protect the human rights of children in this area.

Question 3

Have you been involved in or offered, or are you aware of, any forms of SOGI conversion practices in Tasmania? If so, what were the effects on you, or the person exposed to them?

We note that under part 2.1 of Sexual Orientation and Gender Identity Conversion Practices ISSUES PAPER NO 31 the statement "... *no evidence exists to show the prevalence of SOGI conversion practices in Tasmania*...' We would be concerned if affirmation policies are enacted, as that would mean the young and otherwise vulnerable people in Tasmania will be subjected to drastic conversion practices in the form of puberty blockers, hormonal treatments, and surgeries. We think affirmation policies should be outlawed as a matter of urgency. We think any proposed reforms to the law around affirmation practices are extremely misguided and appear to mandate the very practices which should be outlawed.

Question 4.

Do you think that Tasmanian law should be changed to address SOGI conversion practices? If so, should this be through comprehensive reform, amendment, or both (a hybrid)?

No laws should legitimize the removal of breasts and reproductive organs of healthy bodies of under 18-year-olds. No laws should be made that provide legitimacy to the treatment of distressed children with hormones and surgery. There needs to be extensive research and public consultation and open debate on these questions and education campaigns to counter and correct the overwhelming misinformation that has already been disseminated to date on this topic by those with a vested interest in creating life-long medical patients, or those organisations that have been funded by those with a vested interest.

Question 5.

Should some or all forms of SOGI conversion practices be criminalised in Tasmania? If so, which, if any, should be dealt with as serious (indictable) crimes and which, if any, should be dealt with as less serious (summary) offences?

No law should be passed in an area where the state of knowledge is in such a state of flux. Various western European countries are reappraising their embrace of the affirmation model and introducing laws to protect children against such practices. The UK high court has banned puberty blockers as experimental drugs. The threat of criminal penalties, including imprisonment, or the push for companies to police their staff as is proposed with the Victorian Conversion Ban will also result in professional sanctions, loss of job and income for those who dare to question or depart from the affirmation model of treatment will effectively mandate the very

practices that should be outlawed. Effectively we will have a law enforced belief-based ideology divorced from reality.

Question 6.

Should some or all forms of SOGI conversion practices be made civil wrongs in Tasmania? If so, what sort of practices should people be liable for and how should those subject to such practices be compensated?

We agree with the Feminist Legal Clinic Inc. response to this question:

"*Keira Bell is just one of an increasing number of detransitioners and members of the trans community who are now speaking out against the use of these treatments, particularly on children, and the need for more counselling before these interventions are considered. Various whistle-blowers who have worked within gender clinics, such as Dr Kenneth Zucker in Canada and Dr David Bell in the United Kingdom, have sounded the alarm about young and otherwise vulnerable individuals being exploited for profit by pharmaceutical and medical industries. Given the decision in the Bell v Tavistock Gender Clinic, proceeding with these laws is arguably a significant breach of the State's duty of care and will pave the way for extensive future litigation*."

Question 7.

Should any existing Tasmanian laws (besides criminal laws or the Civil Liability Act 2002 (Tas)) be amended to cover SOGI conversion practices? If so, which ones and in what way?

See 5.

Question 8.

Are there any other models or approaches that are preferable to, or should complement, changing the law?

Sex is as observed at birth or in utero and then is recorded in the birth register, gender is a social construct which is subject to change. A woman is an adult human female, with a female body and a unique personality, not a feminine personality' with a male body. A man is an adult human male with a male body and a unique personality, not a 'masculine personality' with a female body.

Gender non-conformity should be embraced without the need to call into question an individual's biological sex. But the biological observable reality of sex must not be conflated with a gender ideology that posits that each person has an internal sense of being male/female/non-binary detached from physical reality. No amount of physical modification, feminine dressing, female hormones, or surgical interventions will change a biologically male into a female, or a biological female into a male. Health professionals must be free to explain these scientific facts to patients without being accused of conversion therapy and risking prosecution.

Question 9

Are there any other matters that you consider relevant to this Inquiry and would like to raise?

It has been alarming that there has been an exponential rise in the numbers of individuals presenting with gender dysphoria, including high numbers of teenage girls. In the UK, in 2009/10 there were 32 girls and 40 boys referred to Tavistock GIDS. In 2011/12 the sex ratio reversed and the gap between boys and girls has continued to widen year on year ever since. The total number of referrals for 2018/19 in England alone is 624 boys and 1,740 girls. In less than a decade, there has been a 1,460% increase in referrals of boys and a staggering 5,337% increase in girls. The number of teenagers who have presented to Queensland's publicly funded transgender clinic has risen 330 per cent over five years, with some clinicians claiming this is part of a global trend of rising cases of gender dysphoric young people.

There is growing anxiety that gender clinics tend to push a child's preferred gender without further investigation into pre-existing mental health conditions, the influence of social media contagion or the impact of traumatic events such as rape and sexual abuse on females, in particular, wishing to escape the consequences of being

female are some of the reasons given. We repeat, the affirmation model of treatment typically involves fast-tracking these young people onto puberty blockers which almost inevitably lead to hormone treatments and often drastic surgical procedures, all of which causes permanent harm.

The existence of disorders of sex development (intersex) individuals has been put forward as a counterargument to the binary of human sex. Being DSD/Intersex does not change the reality that human sex is binary. There are many individuals with only one leg, but this does not alter the fact that humans as a species are bipedal.

Our concern overall is the rejection of science and common sense. The tendency to punish any perspective that is in opposition to an ideology that originated out of American academia and is uncritically being pushed into Australian culture, endorsed by political parties, organisations that profit from the new transgender market, mass media, and gender identity campaigners with little regard to material reality and empirical evidence.

On one hand, touting 'diversity and inclusion' as the reason and imperative and yet on the other hand excluding the many other diverse voices and opinions of the larger Australian public.

Thank you for the opportunity to make this submission. Please do not hesitate to contact me on contact@lgballianceaustralia.com to expand on any of the above if required.

Yours faithfully

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