

CONVERSION PRACTICES BAN BILL 2024

STATEMENT OF PUBLIC INTEREST

of the Parliaments

Need: Why is the policy needed based on factual evidence and stakeholder input?

The NSW Government made a commitment prior to the 2023 election to ban LGBTQ+ conversion practices. That commitment stated:

“A Minns Labor Government will ban LGBTQ+ conversion practices in New South Wales.

So called conversion therapy, or suppression practices, is the formal or informal practices based on the ideology that LGBTQ+ people have a disorder or require treatment.

Minister for Health Brad Hazzard indicated he would introduce a prohibition in 2019, the NSW Government has taken no further action since.

A Minns Labor Government would prohibit the practice and will work with survivors and all other stakeholders to develop the legislation that works in NSW.

We will establish a joint working group of NSW Health and the NSW Department of Justice to draft the laws.”

The Bill bans conversion practices under civil and criminal law. The Bill was developed through an extensive targeted confidential consultation process with government agencies and key stakeholders, including LGBTQ+ advocacy organisations and faith-based organisations.

The Bill strikes an appropriate balance between safeguarding LGBTQ+ people against harmful conversion practices, while also respecting civil liberties such as the freedom of expression and the freedom of religious belief.

Objectives: What is the policy’s objective couched in terms of the public interest?

It is in the public interest to prohibit conversion practices. Research and evidence shows that they are ineffective and harmful to the physical and mental health of the person subjected to them.

The Bill will prohibit these harmful practices while including safeguards and exclusions to preserve freedom of expression and religion.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Introducing a ban on LGBTQ+ conversion practices can only be achieved through legislative amendment.

Certain practices, such as the use of physical violence to change or suppress sexual orientation or gender identity, would also likely be captured by existing criminal offences. However, there are no existing laws in NSW that specifically prohibit conversion practices. This means that not all conversion practices are currently prohibited.

Development of the Bill was informed by the laws in other similar jurisdictions, including Queensland, the ACT, Victoria and New Zealand.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The joint working group, led by the Department of Communities and Justice and the NSW Ministry of Health, considered all options, including options in criminal law, civil law and health professional regulation.

The Bill provides a tiered set of responses to conversion practices, providing an escalated response and intervention as the seriousness and harm of the conduct increases. The scheme involves graduated interventions, from education and awareness raising, to a civil complaints scheme and finally criminal offences for the most serious conduct where substantial harm has occurred.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill will commence after 12 months. This extended lead time has been provided to enable education, training and systems changes.

Investigations and prosecution of the criminal offences introduced by the Bill will be undertaken by the NSW Police Force and the Director of Public Prosecutions, consistent with their general functions and responsibilities in respect of the criminal law.

The civil response scheme introduced by the Bill will be administered the NSW Anti-Discrimination Board and Anti-Discrimination NSW.

The Attorney General as the responsible Minister will undertake a review of the Act to ensure that the policy objectives of the Act remain valid and that the terms of the Act remain appropriate. This review must be undertaken three years after commencement, with a report to be tabled in Parliament within 12 months of that date.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The policy development and drafting of the Bill was informed by an extensive targeted confidential consultation undertaken by the joint working group in August 2023. Almost 150 stakeholders were engaged, with over 130 written submissions received, and eight stakeholder roundtables held.

These stakeholders were:

- people with lived experience of conversion practices;
- LGBTQIA+ advocacy organisations;
- faith community organisations and advocates;
- culturally and linguistically diverse community organisations and advocates;
- the health sector;
- the legal sector;
- the education sector (incl. religious educational institutions);
- parents' rights advocates;
- academics and researchers;
- gender advocacy organisations;
- youth advocacy organisations; and
- impacted Government agencies.

The Bill has also been further refined through a series of targeted meetings and engagements by relevant portfolio Ministers with key stakeholders and agencies in late 2023 and early 2024.

All feedback provided was closely considered to inform the development of the Bill.