



Submission to the Justice Committee on the Conversion Practices Prohibition Legislation Bill

INTRODUCTION

The introduction of the Conversion Practices Prohibition Legislation Bill (the Bill) is strongly supported by the Aotearoa New Zealand Association of Social Workers (ANZASW). This Bill will ensure much needed protection for the rainbow community from these harmful practices. Conversion practices are ineffective and harmful and must be prohibited.

It is ANZASW's view that this Bill strikes an appropriate balance between ensuring harmful conversion practices are illegal and protecting religious expressions and the rights of parents and others to explore matters of sexual orientation and practice in appropriately respectful ways. We do not support amendments to the Bill to protect parents from prosecution, as this will water down the intention of the Bill and possibly create an alternative pathway for the harmful conversion practices to continue.

While supporting the Bill in its current format we do request one amendment to provide explicit protection to social workers, who provide similar services to health practitioners. Social workers are registered professionals and operate under a scope of practice in the same way as health practitioners do. It therefore appears to be an oversight that social workers may not have the same protections as health practitioners under the Bill in its current form. We recommend the Act is amended to ensure social work services provided under the scope of practice are excluded from the definition of conversion practices.

DISCUSSION

General support for the Bill

ANZASW unequivocally supports the intention of the Bill. This piece of legislation intends to protect against harmful practices that intend to change or suppress a person's sexual orientation, gender identity, or gender expression. Conversion practices are based on an outdated and false idea that a person's sexual orientation, gender identity, or gender expression is wrong or needs fixing.

Conversion therapy is widely understood as being harmful to those subjected to the therapy, who often report suffering long term trauma and mental health distress because of these practices. A systematic review of the efficacy and harmful effects of conversion practices (which looked at 35 studies) found there is no efficacy in altering sexual orientation.¹ The review noted that studies that claim support for the practices having methodological limitations (such as biased recruitment or a retrospective design) that limit the validity or generalisability of the results. The systematic review found participation in conversion practices are

¹ Przeworski, A., Peterson, E., & Piedra, A. (2021). A systematic review of the efficacy, harmful effects, and ethical issues related to sexual orientation change efforts. *Clinical Psychology: Science and Practice*, 28(1), 81-100.

“associated with numerous negative effects, including depression, suicidality, decreased self-esteem, and self-hatred, as well as negative views of homosexuality, internalised homonegativity, sexual dysfunction, impaired familial and romantic relationships, and decreased overall sexual attraction” (p. 90). Conversion practices are ineffective and harmful.

The Bill seeks to achieve the following objectives:

- affirm the dignity of all people and that no sexual orientation or gender identity is broken and in need of fixing;
- prevent the harm conversion practices cause in New Zealand and provide an avenue for redress;
- uphold the human rights of all New Zealanders, including of rainbow New Zealanders, to live free from discrimination and harm.²

We are in support of the intention of the Bill and the government’s desire to protect the rainbow community, including their human rights to live free from discrimination and harm. Whilst this Bill is a step in the right direction to begin to redress the systemic harm that has occurred for the rainbow community, there is more work to be done to ensure the policy objectives of the Bill are upheld.

There will no doubt be opposition to this Bill from some religious communities, who will argue the Bill impedes on their right for religious expression. The Bill, in defining conversion practices, explicitly states that religious beliefs or principles may be expressed. However, the Bill prohibits further acts or practices that intend to change or suppress a person’s sexual orientation, gender identity, or gender expression. We fully support the Bill’s current wording and approach. To prioritise religious expression over and above the human rights of the rainbow community would be a dangerous precedent to set. We are of the view the current wording of the Bill strikes the balance well.

Protection of parents from prosecution

We are aware there is opposition to the Bill in its current form due to the concern parents will be prosecuted. We do not support this position and believe the Bill in its current form is robust and provides sufficient checks and balances and provisions to prevent parents from being prosecuted during their everyday parenting. The requirement for the Attorney-General to approve any prosecution is a significant protective measure to ensure parents are not being prosecuted without merit.

The United Nations Convention on the Rights of the Child (UNCROC) sets out rights of children. There are several rights articulated in UNCROC that relate to this piece of legislation which are set out in the table below. Whilst there are some tensions within the principles, in general parents must provide care and guidance to children whilst the child has the right to be protected from discrimination and abuse, including from their parents.

Article	How it relates to this legislation
Article 2 Non-discrimination	Children have the right to be protected from discrimination. Any practice with the intention of changing an individual’s sexual orientation, gender identity, or gender expression is discriminatory and the State must protect them from these practices.
Article 5 Parental guidance	Parents have the right to provide guidance relevant to the child. Providing guidance and support to the child is not considered to be a conversion practice.
Article 18 Be raised by their parents	Parents have the primary responsibility for raising their children. Parents should be able to make decisions in relation to the care of their children.
Article 19 Freedom from abuse	Children shall be protected from all forms of maltreatment. Conversion practices are considered harmful and therefore children have the right to be protected from them.

² p. 1, Conversion Practices Prohibition Legislation Bill: Explanatory note.

Within Aotearoa New Zealand's legislation, the Oranga Tamariki Act 1989 provides further amplification on these rights, in particular that the wellbeing of a child or young person must be at the centre of decision making that affects them, and this includes consideration of their gender identity and sexual orientation.³ This piece of legislation also provides a definition of serious harm for care and protection purposes. For the purposes of the Oranga Tamariki Act 1989, serious harm can include:

- a child's or young person's development or physical or mental or emotional well-being is being, or is likely to be, impaired or neglected, and that impairment or neglect is, or is likely to be, avoidable.⁴
- serious differences exist between the child or young person and the parents or guardians or other persons who have the care of them.⁵

Parents have the right to provide guidance and support to their children and most parents do this in an appropriate manner. However, there is a need to protect children from harmful practices such as conversion practices. Practices to change a child's sexual orientation, gender identity, or gender expression are likely to cause significant emotional distress to the child or young person as they try to suppress or change themselves. Conversion practices may therefore meet the criteria of significant harm⁶, especially, if the parents hold strong views about this and wants their child to change. We are of the view that the Bill strikes the balance between protecting children from conversion practices and still allowing parents to provide support, guidance and express their views.

Introducing specific protections for parents may reduce the intention of the Bill to protect individuals from conversion practices. The Bill does not prevent an individual providing conversion practices training to others (for example parents). If protections for parents are introduced into the legislation, what may occur is that parents may be trained to deliver conversion practices and they therefore could deliver these harmful practices, whilst still be protected by the law. This goes against the intention of the Bill and parents should not be exempt from prosecution if they are utilising conversion practices against their children. If changes are to be made to the Bill in this area, careful consideration to ensure parents cannot begin to be trained or supported to deliver conversion practices instead of other individuals will be needed. If this were to occur, it would go against the intention of the Bill.

Exclusion of social work from the meaning of conversion practice

The current Bill's meaning of conversion practice does not exclude the provision of social work services. The Bill specifically excludes the provision of health services from the meaning of conversion practice, with the provision that the health practitioner is acting in accordance with their relevant scope of practice.⁷ The explanatory note to the Bill notes "it is important to ensure that health practitioners and others are not discouraged from offering legitimate support or therapy for fear of incurring liability under the prohibition".⁸ We agree that this is an important and necessary exclusion. However, we are concerned that the current wording of the Bill does not provide the same protection for social workers.

Social workers are not registered under the Health Practitioners Competence Assurance Act 2003 (HPCAA), however, are registered under the Social Workers Registration Act 2003 (SWRA). Section 4 of the Bill draws on three (3) meanings from the HPCAA, namely those of health practitioner, health service, and scope of practice. These interpretations are included in Appendix A and are compared with the equivalent interpretations from the SWRA.

³ Oranga Tamariki Act 1989, s5(1)(b)(vi).

⁴ Ibid, s14AA(2)(a).

⁵ Ibid, s14AA(2)(c).

⁶ As defined in the Oranga Tamariki Act 1989.

⁷ Section 5(2)(a) of the Conversion Practices Prohibition Legislation Bill.

⁸ p. 2; Conversion Practices Prohibition Legislation Bill: Explanatory note.

It is clear from comparing the interpretations from the HPCAA and the SWRA that they are essentially equivalent. Social workers are registered professionals who operate under a general scope of practice,⁹ in a similar manner to health practitioners. The social work scope of practice states “social workers promote social change and empowerment by adhering to the principles of social justice, human rights, collective responsibility, and respect for diversity”. Conversion practices by their very nature are opposed to diversity and infringe on Human Rights and are therefore outside of the social work practice. We, as the professional association for social work in Aotearoa New Zealand, are of the view that conversion practices, as defined in the Bill, sit firmly outside of the social work scope of practice.

Furthermore, the social work profession is guided by our (ANZASW’s) Code of Ethics, which the scope of practice explicitly refers to.¹⁰ Our Code of Ethics articulates a number of values that guide social workers (see Appendix C). Our Code of Ethics emphasises our profession’s commitment to supporting and valuing diversity. Two selected ethical principles state:

- We support every person’s right to assert their cultural and personal identity.¹¹
- We accept persons for who they are, with positive regard and without judgement or moral or religious stricture.¹²

Conversion practices would, therefore, be unethical practice for social workers as they go against these ethical principles. We contend that when social workers are operating under their scope of practice and practicing ethically, as outlined in the Code of Ethics, conversion practices cannot be a part of their practice.

The intention of the general policy statement is to ensure protection for practitioners providing support or therapeutic services, of which social workers provide (as highlighted by the social work scope of practice). It appears there has been an oversight of excluding the provision of social work services from the definition of conversion practices within the Bill. Failure to include social work services in a similar manner as health services may result in social workers being discouraged from offering legitimate support or therapy, which goes against the specific intentions of the Act. We therefore strongly recommend the Bill is amended to ensure similar protections for social workers, as registered professionals, are included. This can be achieved by amending sections 4 and 5 of the Bill to exclude from the meaning of conversion practice a social work serviced provided by a social worker in accordance with the social work scope of practice.

CONCLUSION

ANZASW strongly supports the Conversion Practices Prohibition Legislation Bill. This piece of legislation will protect against harmful conversion practices. We would be opposed to any amendments providing protection to parents as this may water down the intention of the Bill to protect children and young people from these harmful practices.

In our submission, we have contended that changes to the legislation are required to afford similar protections to social workers that the Bill provides for health practitioners. Health practitioners and social workers provide similar services, support, and therapy. The intention of the legislation, as noted in the general policy statement, is to explicitly exclude the provision of support or therapy provided by a practitioner acting under their scope of practice from the definition of conversion practices. As such, social work must be afforded the same explicit protections as health practitioners as conversion practices would certainly be outside of the scope of social work practice. We therefore recommend amendments to the legislation to exclude the provision of social work services from the definition of conversion practices.

⁹ <https://swrb.govt.nz/practice/scope-of-practice/>

¹⁰ <https://anzasw.nz/code-of-ethics/>

¹¹ ANZASW Code of Ethics, p. 10.

¹² Ibid, p. 12.

RECOMMENDATIONS

We recommend that you support this Bill, and

- **AMEND** sections 4 and 5 to exclude from the meaning of conversion practice the provision of social work services provided by a registered social worker, as defined under section 4 of the Social Workers Registration Act 2003.

ABOUT ANZASW

The Aotearoa New Zealand Association of Social Workers (ANZASW) is the professional association for social work in Aotearoa New Zealand. We have over 3,500 members who work throughout the community in both statutory social work and community social work settings. We advocate on behalf of members for social change and justice.

Social workers in Aotearoa are required to be registered with the Social Workers Registration Board. Social workers are registered under the Social Workers Registration Act 2003.

Definition of social work

Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and indigenous knowledges, social work engages people and structures to address life challenges and enhance wellbeing.¹³

Social work has a defined scope of practice in Aotearoa New Zealand.¹⁴

Contact details

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¹³ Global Definition of Social Work - International Federation of Social Workers and International Association of Schools of Social Work

¹⁴ <https://swrb.govt.nz/practice/scope-of-practice/>

Appendix A: Comparison of the interpretation sections of the HPCAA and SWRA

Health Practitioners Competence Assurance Act 2003 ¹⁵	Social Workers Registration Act 2003 ¹⁶
health practitioner or practitioner means a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession	social worker means a person who is registered under this Act as a social worker
health service means a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals	social work service means a service provided for the purpose of assessing, supporting, improving, or protecting the well-being of individuals, families, groups, or communities
scope of practice— (a) means any health service that forms part of a health profession and that is for the time being described under section 11; and (b) in relation to a health practitioner of that profession, means 1 or more of such health services that the practitioner is, under an authorisation granted under section 21, permitted to perform, subject to any conditions for the time being imposed by the responsible authority	scope of practice,— (a) in relation to the social work profession, means 1 or more social work services performed by the social work profession that are described as a scope of practice by the Board under section 5A: (b) in relation to an individual social worker, means 1 or more social work services (described in a scope of practice under section 5A) that the social worker is permitted to perform or not permitted to perform by an authorisation under section 8A, subject to any condition (including any applicable general condition) imposed by the Board or the Tribunal

Appendix B: Social Work Practice Statement¹⁷

Social work is a relationship-based profession and an academic discipline that incorporates analyses of current and historical influences including ecological, social, political, economic, spiritual, and psychological factors.

Social workers promote social change and empowerment by adhering to the principles of social justice, human rights, collective responsibility, and respect for diversity.

Social workers establish caring and respectful relationships with authenticity, intention, and purpose, to strengthen, restore and uphold the safety and wellbeing of those they work with. Social workers identify strengths, needs and support networks to prioritise goals that will enhance social connectedness, and assist in addressing life challenges and major events.

Social workers use a range of indigenous and social work theories, methods and techniques drawn from a recognised social work qualification, training, and experience. Their practice is based on Te Tiriti o Waitangi, the International Federation of Social Workers/International Association of Schools of Social Work Joint Global Definition of Social Work and Global Social Work Statement of Ethical Principles, the Aotearoa New Zealand Social Workers Association’s Code of Ethics and the Social Workers Registration Board’s Code of Conduct and Core Competence Standards.

¹⁵ Taken from section 5(1) of the Health Practitioners Competence Assurance Act 2003.

¹⁶ Taken from section 4 of the Social Workers Registration Act 2003.

¹⁷ Taken from the Aotearoa New Zealand Social Work General Scope of Practice. Retrieved from <https://swrb.govt.nz/practice/scope-of-practice/>

Critically reflective supervision and continuing professional development are ongoing requirements of social work practice.

Social workers apply their knowledge and expertise in a variety of ways and roles at micro, meso and macro levels. This includes direct work with people and whānau, therapeutic social work, community-led development, consultancy, research, education, supervision, facilitation, advocacy, management, policy development and leadership.

Appendix C: Ethical Values from ANZASW Code of Ethics

Our ethical values are underpinned by our commitment to Te Tiriti o Waitangi.

Rangatiratanga

Social workers value diversity and cultural identity. We use our practice to advocate for and support self-determination and empowerment of others.

Manaakitanga

Social workers recognise and support the mana of others. We act towards others with respect, kindness and compassion. We practice empathic solidarity, ensure safe space, acknowledge boundaries and meet obligations.

Whanaungatanga

Social workers work to strengthen reciprocal mana-enhancing relationships, connectedness and to foster a sense of belonging and inclusion.

Aroha

Social workers acknowledge our mutual responsibility for wellbeing. We recognise our common humanity with people who use our services and hold people to account, using professional judgement without being judgemental. We focus on people's strengths and finding solutions.

Kotahitanga

Social workers work to build a sense of community, solidarity and collective action for social change. We challenge injustice and oppression in all its forms, including exploitation, marginalisation, powerlessness, cultural imperialism and violence.

Mātātoa

Social workers act with moral courage in situations that are uncomfortable, challenging and uncertain. We use critical reflection and questioning to work through contradictions and complexity.

Wairuatanga

Social workers attend to the wellbeing – spiritual, emotional, psychological and physical – of self and others. We acknowledge the significance of whakapapa, self-awareness and self-care.