

Women and Equalities Committee

Oral evidence: The Government's consultation on conversion therapy, HC 878

Tuesday 30 November 2021

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Members present: Caroline Nokes (Chair); Elliot Colburn; Jackie Doyle-Price; Kate Osborne; Bell Ribeiro-Addy.

Questions 49 - 76

Witnesses

I: Mike Freer MP, Minister for Equalities, Government Equalities Office; Anna Thompson, Deputy Director—LGBT, Domestic Policy, Strategy, Comms and International, Government Equalities Office.

Written evidence from witnesses:



Examination of Witnesses

Witnesses: Mike Freer and Anna Thompson.

Q49 **Chair:** Good afternoon and welcome to this afternoon's meeting of the Women and Equalities Committee and our second session on the Government's consultation on conversation therapy. Can I thank you very much for attending, Minister? If there is not going to be any opening statement, I will just start off with the first question. Members of the Committee will ask you questions in turn.

The first question is how the Government arrived at their proposals for the ban on conversion therapy prior to the launch of the consultation. Could you just give us a talk through some of the process, please?

Mike Freer: I may refer to officials, because this was pre my appointment, although I did have the first ever debate on this in 2015. This has been a long-running but thorny issue that successive Governments have struggled to come forward with workable proposals for. What has brought it to a head is some basic research that has come out in terms of the various surveys—whether it was the Coventry report or the Stonewall report—which showed that conversion therapy was still happening in the UK and that there were gaps in the legislation that we felt needed to be filled. Is there any more background from before me?

Anna Thompson: That is absolutely right. Just to say, we took very much the approach of reviewing existing legislation to see what offences were available and relevant, and where the gaps might be. Our approach has been to find an appropriate way to fill the gaps that we have identified. That provides us with the opportunity to avoid the risks of creating an overlapping, overarching conversion therapy offence that would be in tension with existing law.

The other bit that we would point to is that we have been engaging widely with stakeholders—everybody and anybody with an interest—along the way. We continue to engage with stakeholders during this public consultation period up until the 10th, but we have been engaging with them prior to the consultation as well, very much in listening mode.

Q50 **Chair:** Was the amount of engagement that you had with stakeholders prior to the launch of the consultation one of the reasons why it has taken us so long to get to the formal consultation?

Mike Freer: I can only talk from when I went into post and I put some of the consultation on pause until I was comfortable with the consultation. If I speak freely, I thought the consultation document was too soft. I felt it was not graphic enough. The danger with talking about talking therapy is that it all sounds a bit fluffy. Who can possibly object to talking therapy? I wanted it to be a bit more graphic. While we can say that, in the UK, the physical sides of conversation therapy—things like electrodes and CCT—are already, fortunately, banned, through assault, they still take place overseas. While it may not take place in the UK, I was conscious



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that people can be taken abroad for the more violent forms of conversion therapy.

Equally, I wanted the consultation to be as blunt as possible, so that people did not think it was just warm, fluffy therapy, but knew that this did cause long-term psychological damage and did not work. There was a slight pause while I got a bit more comfortable in terms of it really telling the story of what conversion therapy involved. That is why there was a little bit of a hiatus when I took over and a bit of a delay.

Equally, we had the reshuffle, which caused a delay at the end. In terms of us getting to this point, maybe Anna can tell us why the whole process was a bit drawn out.

Anna Thompson: I would say that we have been pretty busy, talking to stakeholders who come at it from different perspectives and who want to explain their point of view about what is quite a complex area of law. We wanted to look at criminal and civil law. We have engaged thoroughly with colleagues in other Departments who own different bits of the picture. We have taken our time to get to a place that makes good sense.

Q51 **Chair:** While it may have taken a long time to get to a formal consultation, the period of consultation itself is very short. Why?

Mike Freer: Frankly, because it is about “how”, not “if”. Most Government consultations will start off from the premise: “Should we do this? What are your views?” That decision has been taken. We are proceeding with a ban on conversion therapy, so it was more of a technical consultation in terms of the how. But also, in terms of a longer consultation—Christmas—I was keen to ensure that we had the whole Bill process lined up, and I am not sure that a longer-term consultation would have added anything. Equally, I did not want to miss a slot in the legislative programme. It came together that we did a shorter technical consultation, so that we could then evaluate and meet our commitment to start the legislative process towards the end of the spring.

Q52 **Chair:** Are you worried that some of the key stakeholders might miss out because the consultation process is short, or are you confident that they are all—

Mike Freer: I am absolutely convinced that everybody who has a view to share has already got those views to share.

Q53 **Chair:** Thank you. When it comes to measuring whether the ban is effective, how are you going to do that?

Mike Freer: One of the issues with the talking therapies is that, quite often, it is behind closed doors. That has always been the challenge in terms of defining and how you create a ban when, sometimes, only two people can be in the room. That has always been a big challenge. The key, of course, is that the number of people coming forward and saying they have had conversion therapy would fall, we hope, but equally we



would start to see some prosecutions. There are a variety of measures. I am not going to say that I have a matrix—"I want to see 10 fewer of these and 10 more prosecutions"—but there are a number of indicators out there that would suggest whether a ban is in force. We would look at how many protection orders are issued. We would look at how many prosecutions are in place. We would look at how many complaints are being made.

I am not being complacent in saying that, if none of these issues happened, we would have eradicated the problem, because things can go underground, but those are some of the measures that we would look at to see whether the ban is effective.

Q54 Chair: One of the criticisms we heard last week from stakeholders was that they felt there was insufficient detail in the Government's proposals. Do you have a response to that?

Mike Freer: Without knowing what detail they were looking for, no, not particularly.

Anna Thompson: Could I perhaps suggest that a lot of stakeholders, understandably, are anxious to see legislative wording? We are not at that stage yet, and that might be the sort of detail that they feel is missing from the consultation document. We deliberately did not set it up in such a way as to promote that sort of discussion at this point, because we are at a policy point. The legislation and the legislative drafting come later.

Q55 Elliot Colburn: I would like to move on to talk about the definition of conversion therapy, exactly what it is and what we are trying to secure a ban on. There has been some disagreement among those who have submitted evidence to this Committee, and I am sure, to the Government's consultation, about what conversion therapy is. I suppose the obvious question to start with is this: how are the Government defining conversion therapy for the purpose of this consultation?

Mike Freer: Without prejudging the consultation, my view is that conversion practices are practices that seek to coerce someone to change their sexual orientation or their view on their sexuality.

Q56 Elliot Colburn: We have taken evidence from many on both sides of this argument—those who have concerns that it does not go far enough and those who are concerned that it is too broad—that the term "therapy" is unhelpful and not a useful term, because it can conflate legitimate therapies with the kinds of practices that we are trying to stop. Would you agree that the term "practices", or some word other than "therapy", would be better?

Mike Freer: First of all, when we get to publish the Bill and the explanatory notes, that will be helpful in terms of defining what we are talking about. It is true that, today, "CT" is the common shorthand for those practices. I understand the issue and why people would prefer



“practices” as a more descriptive term, but “CT” is the common shorthand. “CT” is what we refer to in the common parlance, but, once we get into the Bill, the Bill will be much broader in defining those practices. Hopefully, both sides will be reassured that it will not just be warm and fluffy therapy, but that “practices” will be a bit more descriptive and we will cover all those points.

Q57 Elliot Colburn: We took evidence last week from Jayne Ozanne and many members of the Ban Conversion Therapy Coalition. The very strong message that came out from them in terms of definition was that conversion therapy or practices had to have a predetermined outcome of changing someone’s identity, whether that be their sexual orientation or their gender identity. Is that a definition that the Government would support in terms of legislative drafting?

Mike Freer: Yes.

Q58 Elliot Colburn: Fantastic, that was short and sweet. Thank you very much.

The next section I want to move on to is the issue around consent. The commissioned research that the Government put out, and I think this has been widely demonstrated, is that most people seek out conversion therapy. Some of the highest-profile media cases of this have been of people who sought it out themselves. If these proposals still allow people to volunteer and, consequently, be subjected to harm, does the ban have any teeth?

Mike Freer: The starting point for some people, and this is why we are keen to have a support mechanism in place for those who have been victims of conversion practices or therapies, is that, until now, this has broadly not had a term. It is perhaps different recently, but over decades many people who went through this did not know what had been done to them. By giving it a label, we allow people to come to terms with it. That is a starting point, because then there is a term and people know what it is. Then it is easier to say to people, “This is harmful, it is wrong and it is illegal,” which has perhaps been lacking for those people who have been through it voluntarily in the past.

In terms of informed consent, that is a different matter than just consent. I realise that this is a sensitive issue. I read the Cooper report in depth and I felt that it was a very good body of evidence. I did not disagree with much of it, but in a free society people should have the right to make an informed decision. Even if it is one that you and I would disagree with or think was bonkers, they have that right, as long as they have the ability to be informed that what they are doing is wrong and harmful, and will not work. That strikes a balance. I know many people will disagree, but in a free society we have to have those checks and balances.

Q59 Elliot Colburn: For the purposes of drafting the legislation, will the definition of “voluntary” include the victim, if we want to use that term,



being given all the information about the efficacy or lack thereof of the practice, including the risks? Do the Government also consider that it is realistic that that will happen?

Mike Freer: If it does not happen, it is not informed consent.

Q60 **Elliot Colburn:** Moving on, the ban appears to rely on self-reporting, judging from the evidence we received last week. How will the Government ensure that people know that what is being done to them is conversion therapy? We have spoken about the different ways it has been dressed up in the past. As you said, Mike, a lot of the time people have not realised what it is that has happened to them. What sort of mechanisms are going to be in place from the Government to help people understand what they are going through?

Anna Thompson: I am happy to take that. It relates to the mix of criminal and civil measures that we envisage and have set out in the consultation. Going back to the Chair's question about how we will know if we have succeeded, it will ultimately be through softer intel about prevention—how much we are preventing and how much awareness we have raised—more than through prosecutions or even protection orders. We envisage, off the back of the introduction of criminal offences and the uplifting for physical offences, that statutory agencies, police, prosecution services and other relevant services at local level will develop their own policies, communications and guidance, which we would expect to support. It was from that.

Q61 **Elliot Colburn:** The ambition is, as well as to bring in the ban, to match it up with some kind of public awareness campaign. Would that be fair?

Anna Thompson: Yes, whether it is a Government communication or through the relevant players at grassroots level.

Mike Freer: It is true we are not expecting to see advertising on the tube, but you would expect that those who are likely to come into contact with victims would be aware of what it is and what it should not be doing, and the remedial steps that are available. That does not mean that there will not be awareness campaigns in various specific outlets. Look at LGBT outlets in terms of media—it is already being covered. There is no reason why we would not be able to run some form of information campaign through those outlets, because that would be the target audience of those seeking to apply conversion therapy.

Q62 **Elliot Colburn:** Again, delving into this issue of the definition of "voluntary", the Government's consultation includes a stipulation that this decision must not be influenced by others, but we heard quite a lot last week that there is an inevitable balance of power in these relationships and, therefore, 100% of the time, basically, an individual's decision will be influenced by others. Is that something that you agree with or are you confident that the mechanisms within the consultation will help prevent such a thing?



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Mike Freer: I think the legislation will prevent that, because it is about intent and coercion. You look at the intent of the behaviour. If you are trying to, to use the common term, “pray away the gay”, the intent is to change someone’s—*[Interruption.]*

Chair: Sorry, I am going to have to suspend the meeting.

Sitting suspended for Divisions in the House.

On resuming—

Chair: We are going to be done bang on 4.30 pm, so I am going to turn to Kate now for her questions, please.

Q63 **Kate Osborne:** Minister, last week I had the opportunity to ask the Secretary of State a question in the Women and Equalities section in the Commons. Unfortunately, she did not really get a chance to answer the question in full, so I am going to put the same question to you now. I am reading it from *Hansard* here, so it is pretty much identical.

The National LGBT Survey found that 51% of conversion therapy happens in religious settings, and Government-commissioned research found that adult victims often undertake religious conversion practices voluntarily. The Government’s proposal to allow informed consent for conversion therapy, certainly in my view, will permit that abuse to continue, and risks introducing consent defences to other forms of abuse, such as domestic violence. Can you confirm whether a conversion therapy ban will cover non-physical conversion practices in religious settings, including prayer? Will you consider removing the dangerous consent loophole?

Mike Freer: First of all, I apologise. I was not at the Women and Equalities Question Time; I was overseas. That should not happen again, in terms of that diary clash, so I can be there to answer questions.

In terms of the specific questions, it does cover the non-physical aspects. The whole point, as per a big chunk of what we have already discussed, is the role of, for want of a better expression, talking therapy. In terms of the faith setting, it is down to intent. Many people find their faith very reassuring and I do not believe that we should stop people seeking out support from their religious leader—their pastor, their rabbi or whatever their faith is. Many of those faith leaders will provide perfectly safe, acceptable support to allow their parishioner to explore and come to terms with whatever conflicts they are trying to deal with. That is a proper way of supporting a parishioner.

Where it becomes conversion therapy is where the intent changes. If the intent then goes into trying to force or coerce people into changing their sexuality or sexual orientation—trans—it is clearly conversion therapy. If the intent is to change and coerce, that is where it steps over the line between pastoral support and conversion therapy. I believe that, in our society, there is a strong role for the faith communities. On many occasions, that is perfectly supportive and right. Where the intent



becomes coercive, that is where the conversion therapy ban would kick in.

I do not believe it is a loophole. It is a balanced and pragmatic way of dealing with those who wish to seek support from their faith communities, while providing some safeguards that those delivering the faith—pastors, rabbonim, priests or whoever their faith leaders are—do not change the purpose of support into coercion.

Q64 **Kate Osborne:** Does it not seek to muddle between talking conversion therapies and private prayer?

Mike Freer: I am not religious, so I am not in a position to talk about the benefits of private prayer over prayer alongside a religious leader. It is not something that I do, but those of my friends who are religious find huge comfort from the support of their religious leader, if that religious leader is providing a supportive environment. Many people may be struggling with their sexuality or thinking that they might be trans.

Whatever issue they are struggling with, struggling with it alone is not always helpful. That ability to have support, whether from a friend or a faith leader, whichever you find the most support from, is appropriate, provided there are safeguards that, when the intent changes from support to coercion and changing what people want to do, it becomes wrong.

Q65 **Kate Osborne:** The proposals state that the ban on conversion therapy will not target everyday religious practices, and that these are covered by human rights laws. What religious practices should be protected? What challenges will you have in creating legislation to ban conversion therapy that does not conflict with article 9 of the human rights law?

Mike Freer: That is quite a technical legal issue that I am probably not qualified to judge on, and I would probably need officials to come back to you, once we have taken specific guidance on the legalities.

Anna Thompson: Perhaps the key point to make is that we have deliberately taken an approach that is, if you will excuse the expression, setting-agnostic: it applies in the same way in different settings—religious, cultural and elsewhere—rather than trying to find what the line is specifically in the faith sector or in another sector. The idea is to have provisions that apply everywhere, equally. As for where exactly the line is, we are listening at this stage. Consultation is very valuable. In correspondence and in consultation returns, we are receiving people's specific experiences and examples of practices that they feel should fall on one side of the line or the other, and that will help inform the final position that we come to.

Q66 **Kate Osborne:** Your own commissioned research found that directed or healing prayer can be a form of conversion practice. How do the Government seek to ban these religious-based conversion practices?



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Anna Thompson: In the same way, I guess, that we discussed earlier, through equipping statutory agencies to raise awareness and provide people with the tools. Protection orders will help. We will also be introducing, for the first time, a victim support service, where individual victims, or people concerned about victims or potential victims, can seek support and signposting to services that might be able to help.

Q67 **Kate Osborne:** When could something such as pastoral care stray into the territory of conversion therapy?

Mike Freer: That comes down to intent and coercion.

Q68 **Kate Osborne:** Is this different in the case of an under-18?

Mike Freer: In terms of the under-18, all forms of coercion would be illegal.

Anna Thompson: The proposal in the consultation document is that, for under-18s, any form of talking therapy that has the intention to change their sexual orientation or gender identity will be caught by the ban, so there is that higher level of protection for under-18s, given that they are, by definition, more vulnerable.

Q69 **Jackie Doyle-Price:** You have been very clear that the intent of this legislation is to outlaw harmful and abusive practices and anything based on coercion, but there is a lot of anxiety about unintended consequences of positive therapies being outlawed. I address this question in the context of transgender medicine particularly. Although we are used to viewing LGBT and minority rights as a whole as a group, issues of sexuality and gender are very different and play out very differently. Why did you include "T" within these proposals?

Mike Freer: What we need to be careful about is that those people who may want to start the conversation about whether they are trans should have the ability and the safety to have those conversations. That is not the same as being in a setting where they will then be directed down a particular course of action. Someone, having had that support and the ability to talk freely and explore their feelings, may then come to the decision that they wish to start the trans journey. That is a very slow journey. No one goes in on a Monday morning and is transgendered the following day, to use a clumsy phrase. It is a very long journey that takes a long time for people to come to terms with in terms of wanting to even start the journey. Once they have made that decision and had the support all the way, if they are coerced to change their view and seek to reverse what they are doing, that is conversion therapy.

Q70 **Jackie Doyle-Price:** If we take, for example, the Tavistock Clinic, where we know increasing numbers of referrals of children are taking place, two thirds of the children referred there desist and go on not to transition. Can you be clear with me that that practice would not fall within the scope of this legislation—that is, that it does not outlaw any therapeutic care practice that is done by medical professionals with the best of



intentions?

Mike Freer: The consultation with clinicians and professionals is that their professional and clinical judgment remains protected.

Anna Thompson: The regulatory system around it is out of scope for our approach. I wonder if I could add a couple of things on your question. It is worth noting that almost every ban on conversion therapy elsewhere in the world addresses both sexual orientation and transgender status, with a few exceptions—Samoa and a couple of other countries in that neck of the woods. Thinking domestically, the memorandum of understanding in the healthcare and psychological professions arena covers both gender identity and sexual orientation.

The last thing is that our commissioned research by Coventry University, which we published at the same time as the consultation document, finds that there are similar practices, similar drivers and similar outcomes for both sexual orientation and gender identity-related conversion therapy.

Q71 **Jackie Doyle-Price:** Will you be taking the advice of clinicians who work in this environment before settling on the detailed legislation?

Mike Freer: Yes.

Anna Thompson: We are actively talking to them.

Q72 **Bell Ribeiro-Addy:** I want to ask how proposals for a ban ensure that parents are able to discuss gender identity and sexual orientation with their children without fear of being prosecuted.

Mike Freer: Parents have the right to have free and full conversations with their children. That is not going to change. Parents have a right to express their views. The key, of course, is in terms of where those conversations lead. If that conversation then led to a parent seeking to remove their child from the country, to take them into a forced marriage or to take them abroad for some form of conversion therapy, that would be illegal, but the parental right to have a conversation with their children and an exchange of views does not change.

Q73 **Bell Ribeiro-Addy:** How would we go about distinguishing conversion therapy and open exploratory discussions?

Mike Freer: It is one of those difficulties. Why the legislation has been somewhat torturous to get to this stage is because, with many of these things, there is no clear black and white, and things are often shades of grey. Again, it goes back to intent. An open conversation about an exchange of views is one thing, but once that becomes an intent to then coerce somebody into changing their outlook that becomes conversion therapy.

Anna Thompson: The mix of criminal and civil is also relevant, and the general awareness raising. It is true that, for a criminal offence, there is, rightly, a high bar for evidence. In that wider context of civil measures



and the increased awareness that we have seen around FGM, for example, we would hope to see some benefit from that.

Q74 Bell Ribeiro-Addy: In that case, what would be the penalties if parents were found doing this and attempting conversion therapy on their children?

Anna Thompson: Forgive me; I do not have them right at my fingertips, but within the consultation document we set out the sort of penalty levels that we were talking about for the talking therapy offence, and that would apply in different settings for a judge to make a decision, in an individual case, on where within the spectrum it should lie.

Q75 Bell Ribeiro-Addy: One argument is that exemptions on activities like prayer create loopholes, such as individuals having prayers directed at them or being part of prayer groups. Do you agree with the Government's stance on the freedom to express religious teaching? If so, how do you ensure that those from an LGBTQ background are not suffering or facing conversion therapy indirectly?

Mike Freer: Without going over old ground, it is largely about intent. For those who have a faith, there is a role for their faith and their faith leader. In most cases, that is entirely supportive and will not go beyond being entirely supportive. Where the intent is to then convert back or change someone's view on their sexuality, their gender identity, or whether they are trans or not, that is conversion therapy. It is all about intent. Private prayer, in itself, is not bad, if it is in a supportive environment. Once it changes to become coercive about changing people's sexuality etc. that becomes conversion therapy.

Q76 Chair: I am conscious that it is 4.30 pm. I have two quick questions. First, can we follow up in writing with any additional questions we have? Secondly, do you see a role for this Committee in the pre-legislative scrutiny?

Mike Freer: We are always happy to co-operate with you, Chair.

Chair: Thank you very much for your time.