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Department of Justice

Via email: haveyoursay@justice.tas.gov.au

Mental Health Council of Tasmania (MHCT)

Justice Miscellaneous (Conversion Practices) Bill 2024 Department of Justice

MHCT welcomes the opportunity to contribute to the Department of Justice's consultation process with a public submission to the [Justice Miscellaneous \(Conversion Practices\) Bill 2024](#). MHCT provided a [public submission](#) in December 2020 to the Tasmanian Law Reform Institute's (TLRI) inquiry into 'sexual orientation and gender identity' (SOGI) conversion practices. Based on the current evidence on SOGI conversion practices, MHCT made the following recommendations with the intention to prevent any further psychological harm occurring due to these practices and to ensure that supported recovery and compensation is possible for SOGI conversion practices survivors –

- 1. To reduce any further harm to LGBTIQ+ people, Tasmanian law should be reformed to reflect the Victorian 'Change or Suppression (Conversion) Practices Prohibition Bill 2020', including the banning of all formal and informal SOGI conversion practices.**
- 2. To support the psychological recovery of survivors of SOGI conversion practices, access to appropriate psychological therapy should be made available, along with consideration to the implementation of a redress program.¹**

MHCT supports the inherent purpose of the bill: **To prevent harm caused by conversion practices that attempt to change or eradicate a person's sexual orientation or sexual identity.**² However, MHCT does not support the bill in its current form, MHCT is concerned that the bill is not reflective of the recommendations provided in the TLRI *Sexual Orientation and Gender Identity Conversion Practices* final report. And as a result, may prevent the bill from enacting on its purpose and instead create situations where conversion practices can still occur lawfully.

Since the release of the Justice Miscellaneous (Conversion Practices) Bill 2024, the authors of the TLRI report on SOGI conversion practices have provided briefings on their concerns surrounding the bill and highlighted the TLRI's recommendations that were excluded from the bill. MHCT has been informed that only two of the sixteen recommendations provided in the [TLRI report](#) are included in the bill.³ Recommendation 2 was only partially included and recommendation 7 was included in an altered form.

MHCT highlights a number of concerns that should be addressed to support the bill in meeting its intended purpose:

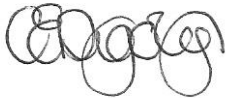
- The definition of conversion practices provided in the bill is limited. The definition provided in s 28 of the bill does not include 'suppression of sexual orientation or gender identity' despite this being recommended for inclusion by the TLRI. Additionally, the definition makes no mention of the ideology and intention behind conversion practices which is necessary to clearly understand conversion practices and avoid justifications of exemptions to these practices. The [Victorian 'Change or Suppression \(Conversion\) Practices Prohibition Act 2021'](#) includes a clear statement on the ideology and intention of suppression attached to conversion practices⁴ and was recommended as benchmark for Tasmanian law reform in MHCT's previous submission in 2020.⁵ This needs to be replicated in the Tasmanian definition to ensure enforcement against these practices can occur.
- The multiple exemptions included in the bill provide circumstances where conversion practices can occur in the Tasmanian community. Based on research and survivor statements gathered to inform TLRI's report this is of particular concern. Exemptions to the prohibition of conversion practices included in s 28(2)(3) &(4) of the bill are included as follows; assisting a person to express the person's gender identify and/or undergo a gender transition, expression of religious beliefs, provision of parental guidance, practices carried out by a health service provider and conversion practices where a person consents and understands the physical or mental harm of these practices. There is limited clarity and definition surrounding these exemptions, which therefore could result in harmful conversion practices occurring in a legitimate format without prohibition.
- Enforcement against conversion therapy practices and practitioners carrying out these practices will be limited if the bill continues in its current form. The TLRI's recommendation of amending small aspects of several parts of Tasmanian legislation to ensure there is a connected, interagency approach was excluded from the bill, placing the complete responsibility of enforcement on criminal investigations through the police with no inclusion of education or research to improve this process.⁶ This is unlike the Victorian 'Change or Suppression (Conversion) Practices Prohibition Act 2021' which includes civil investigations and calls on the Human Rights Commission to investigate conversion practices whilst promoting and including community education and research on the prevention of conversion practices.⁷
- s 29(1) of the bill states that '**only** conversion practices that cause physical or mental harm are prohibited'. The ambiguity in the statement suggests that some conversion practices are not harmful and may lead to conversion practices continuing despite the extensive evidence on the inherently harmful nature of these practices.^{8 9} The statement additionally raises the question of how challenging criminal enforcement could be when attempting to prove the psychological harm associated with conversion therapy practices.
- Research highlights that LGBTIQ+ people experience poorer mental health outcomes and a higher risk of suicidal behaviour than their peers, this is linked to discrimination from identifying as LGBTIQ+.¹⁰ The bill has an opportunity to address ongoing societal stigma and MHCT highly

recommends that the bill is written in a way that does not discriminate against LGBTIQ+ people or continue to enable further harm. It is vital that the mental health of the Tasmanian LGBTIQ+ community is prioritised in the amendment of this bill and that the bill highlights that LGBTIQ+ people are not 'broken' or 'disordered' in alignment with the Victorian 'Change or Suppression (Conversion) Practices Prohibition Act 2021, which states - *'there is nothing wrong or broken about being LGBTIQ+'.*

Based on the information provided above, MHCT recommends that the Justice Miscellaneous (Conversion Practices) Bill 2024 correctly reflects all 16 recommendations from the TLRI report. Additionally, the original two recommendations provided in MHCT's December 2020 submission to the TLRI's inquiry should be considered to further support survivors of SOGI conversion therapy practices.

For questions or discussion on this submission, please contact MHCT.

Yours sincerely,



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CEO
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References

- ¹ Mental Health Council (2020) *Submission to SOGI Conversion Law Reforms* <https://mhct.org/wp-content/uploads/2021/01/MHCT-submission-to-SOGI-conversion-law-reforms.pdf>
- ² Tasmanian Government Department of Justice (2024) *Justice Miscellaneous (Conversion Practices) Bill 2024* https://www.justice.tas.gov.au/_data/assets/pdf_file/0004/737653/Justice-Miscellaneous-Conversion-Practices-Bill-2024-Consutation-Draft.pdf
- ³ Tasmanian Law Reform Institute (2022) *Sexual Orientation and Gender Identity Conversion Practices* https://www.utas.edu.au/_data/assets/pdf_file/0004/1585921/2022.CP.Report32.final.A4_securedwcopy.pdf
- ⁴ Victorian Government (2021) *Change or Suppression (Conversion) Practices Prohibition Act 2021* <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fcontent.legislation.vic.gov.au%2Fsites%2Fdefault%2Ffiles%2F2021-02%2F21-003a.DOCX&wdOrigin=BROWSELINK>
- ⁵ Mental Health Council (2020) *Submission to SOGI Conversion Law Reforms* <https://mhct.org/wp-content/uploads/2021/01/MHCT-submission-to-SOGI-conversion-law-reforms.pdf>
- ⁶ Tasmanian Law Reform Institute (2022) *Sexual Orientation and Gender Identity Conversion Practices* https://www.utas.edu.au/_data/assets/pdf_file/0004/1585921/2022.CP.Report32.final.A4_securedwcopy.pdf
- ⁷ Victorian Government (2021) *Change or Suppression (Conversion) Practices Prohibition Act 2021* <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fcontent.legislation.vic.gov.au%2Fsites%2Fdefault%2Ffiles%2F2021-02%2F21-003a.DOCX&wdOrigin=BROWSELINK>
- ⁸ Victorian Government (2023) *LGBTQ+ Change and Suppression Practices Fact Sheet* <https://www.vic.gov.au/lgbtq-change-and-suppression-practices-fact-sheet>
- ⁹ Mental Health Council (2020) *Submission to SOGI Conversion Law Reforms* <https://mhct.org/wp-content/uploads/2021/01/MHCT-submission-to-SOGI-conversion-law-reforms.pdf>
- ¹⁰ LGBTI National Health Alliance (2020) *Snapshot of mental health and suicide prevention statistics for LGBTI people* <https://www.lgbtihealth.org.au/statistics>