

Ref: 220528

Thursday, 8 December 2022

Bob McCroskie

By email to [bob@familyfirst.org.nz](mailto:bob@familyfirst.org.nz)

Kia ora Bob

Thank you for your request received on 10 November 2022 for information about Te Kāhui Tika Tangata, the Human Rights Commission's (the Commission) new Conversion Practices Response Service (the Service),<sup>1</sup> implemented after the passage of the Conversion Practices Prohibition Legislation Act 2022 (the CP Act).<sup>2</sup>

You request the following information:

1. Number of complaints and inquiries that have come into the service, up until date of this OIA
2. How many are inquiries? What are the nature of the inquiries?
3. Were any of the inquiries from organisations wanting the law explained?
4. How many of those are complaints are about 'conversion therapy' being practiced on them?
5. How many of those are complaints are about receiving 'non-affirming medical care'?
6. How many complaints & inquiries relate to events since the passing of the new law, and how many are historical (pre-law) events?
7. How many complaints / inquiries have been taken to the next level of the complaints process?
8. How many cases have been referred to the police?
9. What is the annual budget for the Conversion Practices Response Service?

In my response I will answer these questions and also provide some additional information on the context the service operates in.

### ***Number of enquiries***

As at Monday 28 November 2022 we have received 25 enquiries, broken down as follows:

- 6 from survivors of conversion practices reporting their experiences
- 6 from people concerned about and alerting us to potential conversion practices
- 5 from people wanting material to help educate others about the harms of conversion practices
- 2 from allies concerned about someone in their life who is experiencing conversion practices
- 2 from people seeking guidance on the law
- 2 from people expressing their views against the transgender community, and
- 2 from people who believe the law discriminates against them.

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<sup>1</sup> <https://www.hrc.co.nz/our-work/conversion-practices/>

<sup>2</sup> <https://www.legislation.govt.nz/act/public/2022/0001/latest/LMS487197.html>

We are pleased to see the broad spectrum of views represented to date. The Commission's role is to protect and help balance all human rights, achieving dignity for all people. This includes the right to freedom of thought, conscience, and religious belief and practice.<sup>3</sup>

For the following reasons we are also pleased with the number of enquiries to date:

- The CP Act was not passed on the belief that conversion practices impact a significant portion of the population, but because the practices significantly harm an already vulnerable group of people.
- The CP Act is not retrospective, so we expect many survivors will not come forward as they are not within the timeframe able to be considered under the CP Act.
- There are significant barriers to survivors coming forward for help:
  - Many survivors report high levels of controlling indoctrination that isolate them from outside information and support, or even from independent news sources and peer-reviewed scientific evidence.
  - Many report struggling to leave behind ideologies they once believed but now see as harmful to people like them.
  - Many also report paralysing levels of shame and stigma that impact their confidence to reach out for help. This is particularly strong in those who once pursued their own conversion practices.

For these reasons, we expect the number of enquiries to remain lower than with other matters within the Commission's scope.

Responding to enquiries is only one part of the work we are doing to decrease the supply of, and demand for, conversion practices in Aotearoa New Zealand. We are also developing guidance and training, and are raising awareness of the harms of conversion practices. Parliament mandated this, saying in the Explanatory Note of the CP Bill:<sup>4</sup>

*The Human Rights Commission performs a range of functions such as providing education and preparing and publishing guidelines and voluntary codes of practice to promote consistency with the Act. We believe these functions are an important part of achieving the purpose of this Bill.*

Our aim in undertaking this education and prevention work is to find and expand on common ground, and to build bridges both within and between communities. This is consistent with the purpose of the CP Act.<sup>5</sup> We are also committed to upholding Māori, Pacific Peoples and other communities' rights to exercise their cultural identities.<sup>6</sup>

We join you in your clear condemnation of practices that are coercive, abusive or involuntary. Thank you for calling out that such practices should not be called 'therapy', and for unequivocally saying that counselling should never be forced on anyone. You also acknowledge past institutional wrongs such as those within the scope of the Royal Commission of Inquiry into Abuse in Care. These are all important messages.

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<sup>3</sup> Article 18, <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>

<sup>4</sup> <https://www.legislation.govt.nz/bill/government/2021/0056/latest/d14576304e2.html#LMS638763>

<sup>5</sup> See section 3(b), <https://www.legislation.govt.nz/act/public/2022/0001/latest/LMS487202.html>

<sup>6</sup> As per Te Tiriti o Waitangi, UN Declaration on the Rights of Indigenous Peoples, and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

### ***Complaints<sup>7</sup> from survivors***

Survivors complained about a range of harmful conversion practices, including counselling, ‘camp’ style courses, group sessions, mentoring, prayer-type practices, pressure to become permanently celibate, and pressure to perform different kinds of harmful physical and psychological practices on themselves.

In every case, survivors reported that, whatever their initial responses and feelings were about trying to conform to cisgender and heterosexual norms, all conversion practices proved harmful, and nothing led to lasting change.

This is the same unanimous message we heard from consultation hui we held as we developed the new service. Survivors from a broad range of ethnicities and who had experienced conversion practices in medical, cultural, psychological, faith and other settings all reported the same thing – lasting harm was caused, and none of the change either they or their community sought was ultimately achieved.

These messages are unequivocally supported by Aotearoa and international research. Blosnich et al. found participating in conversion practices increased the likelihood of suicidal ideation.<sup>8</sup> Veale et al.<sup>9</sup> and Fenaughty et al.<sup>10</sup> also found conversion practices have a negative impact on a person’s mental health. In particular, Fenaughty found that having a religious leader suggest conversion practices was linked with a higher risk of suicidal ideation.

We have also heard that in many cases communities, leaders, and family who pushed conversion practices on someone, then went on to continue to cause harm as they came out of conversion practices – through stigma, discrimination, and exclusion.

The Commission affirms the important role family plays as a foundation for identity and belonging, and as a launching pad from which we can all serve purpose-filled lives. Research shows these are three tenets of wellbeing.<sup>11</sup> Our hope for survivors and for families is that supportive relationships can be maintained even during sometimes challenging conversations about a person’s own orientation, identity and expression, and how that may differ to other members of the family.

### ***Gender affirming healthcare***

To date no enquiries have been made about either non-affirming medical care or coercive gender transition practices.

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<sup>7</sup> In this letter use of the word ‘complaint’ is in the general sense, rather than a specific legal reference. This is because complaints received include those out of scope of the CP Act due to their timing.

<sup>8</sup> Blosnich, J. R., Henderson, E. R., Coulter, R. W., Goldbach, J. T., & Meyer, I. H. (2020). Sexual orientation change efforts, adverse childhood experiences, and suicide ideation and attempt among sexual minority adults, United States, 2016–2018. *American Journal of Public Health*, 110(7), 1024–1030.

<sup>9</sup> Veale, J. F., Tan, K. K. H., & Byrne, J. L. (2021). Gender identity change efforts faced by trans and nonbinary people in New Zealand: Associations with demographics, family rejection, internalized transphobia, and mental health. *Psychology of Sexual Orientation and Gender Diversity*. *Psychology of Sexual Orientation and Gender Diversity*.

<sup>10</sup> Fenaughty, J., Tan, K., Ker, A. et al. Sexual Orientation and Gender Identity Change Efforts for Young People in New Zealand: Demographics, Types of Suggesters, and Associations with Mental Health. *J Youth Adolescence* (2022).

<sup>11</sup> Longo, Y., Coyne, I., & Joseph, S. (2017). The scales of general well-being (SGWB). *Personality and Individual Differences*, 109, 148-159.

Generally speaking, appropriate gender affirming health care is well established in Aotearoa, under the informed consent model. This includes both access to and limitations on medical and surgical intervention.

For example, children 15 and younger cannot automatically provide medical consent for themselves.<sup>12</sup> Te Kaunihera Rata o Aotearoa, The Medical Council of New Zealand provides advice on this.<sup>13</sup> It is also common for the Gillick competence test<sup>14</sup> to be applied, for transgender or any other healthcare. These independent and internationally accepted tools assist clinicians as they judge the ability of a young person to consent to a given treatment.

Section 5(2)(a) of the CP Act<sup>15</sup> explicitly protects clinicians who, for example, decline or delay medical or surgical transition because they judge that to be most appropriate in that particular case, under all applicable legal, professional and ethical standards.

In addition, when a clinician's view is that gender affirming care *is* appropriate, guidelines for how to proceed are easy to find.<sup>16</sup>

### ***Details of timing of conversion activities***

One enquiry was about activity that has happened since 18 August 2022 when the CP Act came fully into force.

This enquiry was a complaint about unwanted and offensive leaflets left in letterboxes that included a range of material including disinformation about vaccines, discriminatory and incorrect information about transgender people, and non-representative information about conversion practices presented as though it was factual, among other topics. This raised a number of human rights concerns including whether the conversion practices information was a breach of section 67 of the Human Rights Act 1993<sup>17</sup> which covers advertisements related to unlawful discrimination.

The remaining enquiries and complaints were about activity before this date and therefore could not be progressed.

### ***Referrals to Police and the Health and Disability Commissioner***

To date there have been no referrals from the Commission to Police or to the Health and Disability Commissioner. It is our hope that this continues.

Our shared view is that best case scenario is the CP Act becomes an effective deterrent, and conversion practices are no longer available in Aotearoa. Critical to achieving this will be dispelling the most damaging and pervasive myth about conversion practices – that they aren't harmful if a person has sought them for their own self. There is no evidence that substantiates this. On the contrary, survivors we have engaged with over the past year indicate this is the most damaging form of conversion practices due to the additional shame and confusion experienced when exiting conversion practices.

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<sup>12</sup> <https://www.legislation.govt.nz/act/public/2004/0090/latest/DLM317463.html>

<sup>13</sup> <https://www.mcnz.org.nz/assets/standards/55f15c65af/Statement-on-informed-consent.pdf>

<sup>14</sup> Gillick v West Norfolk and Wisbech Area Health Authority and another. (1986). 1 AC 112 (HL). Also: [https://www.moh.govt.nz/notebook/nbbooks.nsf/0/F4F8A3899527E75B4C25670B0005C7B0/\\$file/consent-in-child-and-youth-health.pdf](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/F4F8A3899527E75B4C25670B0005C7B0/$file/consent-in-child-and-youth-health.pdf)

<sup>15</sup> <https://www.legislation.govt.nz/act/public/2022/0001/latest/LMS487215.html>

<sup>16</sup> <https://www.health.govt.nz/our-work/preventative-health-wellness/providing-health-services-transgender-people>

<sup>17</sup> <https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304660.html>

Globally, there is no credible evidence that conversion practices have ever worked. All kinds of conversion practices are always harmful in the end.

We acknowledge some faith communities ask their LGBTQIA+, takatāpui Māori and MVPFAFF+ Pasifika people to be celibate, and to refrain from any gender expression outside the group's norms. Where this constitutes a practice, sustained effort or treatment directed at an individual with the intention of changing or suppressing their sexual orientation, gender identity or gender expression, it is an unlawful conversion practice.

The CP Act does not intend to criminalise parents, clinicians or faith leaders. No one is being targeted by this Act. The CP Act is targeting a proven harmful practice. At the Commission we understand no community sets out to harm their own people, and that many who perform conversion practices genuinely believe they are helping people. Part of the Commission's education role, both generally<sup>18</sup> and under the CP Act, is to highlight when credible evidence shows harm is indeed happening, despite otherwise good intentions. We understand many communities are still coming to terms with these bodies of evidence, and we are here to help.

### **Budget**

Consistent with Cabinet Committee papers<sup>19</sup> relating to the introduction and passage of the CP Act, and the Vote Justice Appropriations,<sup>20</sup> the Commission received additional funds of \$750k in 2020/21 and \$1.5m in 2021/22 to implement changes brought about by the CP Act.

This includes expanding current functions in our frontline, Dispute Resolution, Legal, Ahi Kaa (Te Tiriti), Communications and Commissioner Services teams, as well as setting up a small dedicated lived experience conversion practices team.

The funds cover staff, the costs of ongoing engagement with a wide range of communities, the development and publication of resources and training material, support resources for survivors, as well as the usual overhead costs.

Our commitment is to engage with relevant communities, and deliver training and education, using best practice approaches. This includes:

- ensuring we regularly hear from diverse lived experience voices
- honouring our commitment to Te Tiriti o Waitangi by prioritising Māori and providing options for self-determination in our processes and in the development of support resources
- prioritising Pacific and ethnic communities who have not had the same opportunity to share their conversion practices experiences and who are under-represented in the evidence base
- making space for transgender, non-binary, and other people whose conversion practices experiences include medical and psychological settings, and who are also under-represented in the evidence base
- where possible, engaging with people in their chosen environment , and
- always ensuring psychological support is offered to survivors.

We are also working alongside experts, sector organisations and researchers.

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<sup>18</sup> <https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304276.html>

<sup>19</sup> <https://www.justice.govt.nz/assets/Documents/Publications/Conversion-practices-pack-FINAL.pdf>

<sup>20</sup> Pages 80 & 109, <https://www.treasury.govt.nz/sites/default/files/2022-06/est22-v6-just.pdf>

### ***Balancing human rights***

Understanding the intent and operation of the CP Act requires a nuanced conversation about how human rights are balanced in Aotearoa. A number of rights are relevant to conversion practices.

For example, religious rights are often spoken about as being incompatible with LGBTQIA+, takatāpui Māori, and MVPFAFF+ Pasifika rights. While some balancing of those rights has had to take place, they are not incompatible and can, in our view, both flourish in Aotearoa. Survivors we have engaged with support this, making clear that support should be offered without an assumption they would want to leave their faith communities or their families.

Other relevant rights include the right to freedom of expression, the right to refuse to undergo medical treatment, and the right to be free from discrimination based on sexual orientation and sex. These rights are afforded to all people in Aotearoa, and these too must be balanced alongside the right to religious belief and expression. The goal of this rights balancing is to achieve a fair, safe, and just society, where diversity is valued and all people are afforded equal dignity.

The evidence has been clear for some time – people exposed to conversion practices, including those who choose to engage in it themselves, are not safe and do not enjoy equal dignity. The ongoing presence of conversion practices in Aotearoa despite this evidence justified the introduction and passage of the CP Act.

I hope this information has been helpful. I'd be happy to meet with you to hear more about your perspective on the CP Act, and to talk more about our work. Wherever possible we would like to highlight common ground, so a wide network of voices joins together to bring conversion practices in Aotearoa to an end.

Ngā mihi nui

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Conversion Practices Response Service

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