



23 April 2024



The Royal College of Nursing (RCN) is the world's largest nursing union and professional body. It is the leading national and international authority in representing the nursing profession. We represent over half a million nurses, student nurses, midwives, nursing associates and nursing support workers in the UK and internationally.

The RCN has over 48,500 members in Scotland. We campaign on issues of concern to nursing staff and patients, influence health policy development and implementation, and promote excellence in nursing practice.

In the 2022-23 Programme for Government (PfG), the Scottish Government reaffirmed its commitment to introduce a Bill on ending conversion practices¹ in Scotland, including sexual orientation and gender identity. The same commitment forms part of the Bute House Agreement, which details the agreement and shared policy programme between the Scottish National Party (SNP) and the Scottish Green Party. This consultation outlines the proposal to ban conversion practices, including draft legislative provisions to achieve this.

At the RCN's 2022 Congress, members voted overwhelmingly to support a full ban on conversion practices in all four UK nations. Members called for a LGBTQ+ inclusive ban on all forms of conversion practices.

¹ Previously the term used was "conversion therapy". Throughout the consultation and this response the term used is "conversion practices" to acknowledge the fact that these practices are not therapeutic.





orientation or gender identity. RCN Scotland supports this approach but believes that ensuring the legislation achieves this aim and is clear to staff may be challenging. The draft 'avoidance of doubt' clause (see question 10 below) does not appear to clearly implement this policy objective.

We would make one further point in relation to this question. Feedback from RCN members suggests that some staff find conversations about gender identity difficult because they are concerned about saying the wrong thing. The result is that some avoid talking about and exploring issues related to gender identity with colleagues and with patients and service users. There is a risk that a conversion practice ban will compound this problem, as individuals may be concerned that something they say could be classified as conversion practice (whether or not that fear is accurate) and staff may therefore avoid having conversations with patients. It is important that alongside any legislation, greater efforts are made to ensure staff are fully informed and, in particular, aware the intention is not to ban legitimate, patient-led, exploration of either sexual orientation and gender identity.

It should be covered.

As we have said in response to Q1, there is a need to ensure that legitimate services are not inadvertently restricted and this would apply equally to a ban on acts intended to suppress. As discussed above, such a ban must not limit the provision of ethical, evidence-based, services including those which seek to discuss, explore and even challenge gender identity and sexual orientation.

In addition, the consultation proposes that acts of suppression freely undertaken by a person themselves, such as celibacy, would not be criminalised. Given the proposal is to not allow for a defence of consent to conversion practices, this would appear to open the possibility of an inconsistency in the ban. RCN Scotland would welcome clarity on how this will be implemented in practice.



No comment on the sanctions themselves, beyond that the creation of a criminal offence makes it even more important to ensure that legitimate activity isn't banned.

It is also important to note that Registered Nurses have a professional and regulatory duty to follow the NMC Code. A breach of this code can have professional implications which will exist alongside (and indeed in the absence of) any new offences created by the proposed legislation.

Support.

The definition of a provision of service would appear to cover, for example, discussions with healthcare professions which fall short of a formal therapy session, such as an appointment with a mental health nurse at a GP practice. This is worth noting because it means it is important to ensure that the definition of the ban is clear and does exactly what is intended.

This section of the consultation notes that "evidencing an individual's internal motivation can be challenging and the requirement for corroborated evidence increases this challenge." This is clearly a challenge in a healthcare setting, where conversations happen on a one-to-one basis and in a confidential setting.

Support.



RCN Scotland notes that this is an alternative to the provision of service offence and that the examples of a coercive course of behaviour listed in para 104 are so serious they should never be taking place in a healthcare setting.

Agree.

RCN Scotland is of the view that this would clarify the offences in an appropriate way.

Agree.

RCN Scotland is of the view that this would clarify the offence in an appropriate way. We note that in terms of actions by a healthcare professional, RCN Scotland is of the view that it would be very unlikely that there would be any circumstances where it would be "reasonable" for them to be involved in conversion practices.

No comment, beyond noting the professional implications of a Registered Nurse in terms of any potential breach of the NMC Code, as noted in response to question





understand what the legislation isn't intending to do (i.e. that the intention is not to ban or restrict legitimate support being provided in a healthcare setting).

RCN Scotland has no comments on the impact assessment section of the consultation (Questions 32-38).