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Political Party Survey

LGBTI issues in the 2021 Election Campaign

LGBT Conversion Practices

Sometimes inappropriately referred to as 'Conversion Therapy', some professional counsellors and a range of religious organisations claim to be able to "change" or "suppress" an LGBT identity or feelings. These practices have been condemned by the Australian Medical Association and Australian Psychological Society as harmful and dangerous.

These practices are based on the notion that LGBT people are "wrong", "sick" and can be "cured."

The evidence shows clearly that such practices are not based on science and contribute significantly to depression, anxiety and suicidal ideation in LGBT people who undertake them.

The ACT has banned a wide range of informal and formal conversion practices, while Queensland has banned practices delivered by health professionals. Victoria has introduced legislation to ban it using a model described by conversion practice survivors as "world's best practice."

In September 2020, the Parliamentary Secretary for Mental Health, Ms Alanna Clohesy MLC, stated the McGowan government has no current plans to ban conversion practices. However, it was also indicated that if the government were to implement such legislation, then a Bill "similar to Victoria's could be considered in the future." [*Legislative Council Hansard, 10 Sept 2020, pp 5682*].

QUESTION 1:

In the next term of parliament, will your party introduce and/or vote for legislation to ban conversion practices?

Yes

No

Other (please explain your answer).

Q1 [b]

If YES, will your policy be to include both formal (professional settings) and informal (religious/non professional settings) in such a ban? (*The Victorian Model*).

Yes

No – Only professional settings

Other - please explain your answer

Q1 [c]

If YES, will your policy be to bestow investigative powers on an appropriate Commission, allowing experts to look into claims of conversion practices? (*The Victorian Model*).

Yes

No

Other – please explain your answer.

Q1[d]

If YES, will your policy position be to make advertisements and inducements for conversion practices a criminal offence? (*The Victorian Model*).

Yes

No

Other – please explain your answer

Q1 [e]

If YES, will your policy position be to focus on the intent of individual practitioners and the harm caused, rather than the type of activity involved, eg: prayer/exorcism. (*The Victorian Model*).

Yes

No

Other – please explain your answer.

Special Religious Exemptions.

Under the 1984 Equal Opportunity Act, (Section 73.3) there are 'special religious exemptions' that allow publicly funded faith schools to discriminate against LGBTI people. Religious organisations are also free to discriminate against LGBTI people in service provision, such as emergency accommodation for homeless youth – even where such a service is publicly funded.

Faith schools, colleges and universities operating on taxpayer dollars can refuse enrolment from same-sex families, expel LGBTI students, refuse to hire LGBTI staff and sack them without recourse.

In 2015, a seven year old girl was ejected from a Mandurah Christian school when the Principal learned she was being raised by two gay dads. In 2017, history teacher Craig Campbell was sacked from a Rockingham Baptist College when his sexuality became known during the equal marriage postal survey.

Other states have repealed or greatly curtailed this form of discrimination. Tasmania completely abolished exemptions allowing religious organisations to discriminate against LGBTI people 21 years ago. The special religious exemptions in WA are the broadest and harshest of any Australian state or territory.

QUESTION 2:

In the next term of parliament will your party introduce and/or vote for legislation to repeal the special religious exemptions within S.73:3 of the 1984 Equal Opportunity Act that allow discrimination against LGBTI people?

Yes

No

Other (Please explain your answer).

Q2 [b]

If YES, will your policy be inclusive of ending discrimination from religious exemptions for the purposes of: (TICK only those that apply)...

Student enrolment (allow LGBTI students and those from rainbow families)

Student retention (no LGBTI expulsions)

Staff recruitment (excluding those hired specifically for religious teaching and pastoral care)

Staff retention (no LGBTI sackings)

Service provision (eg: non-discrimination with faith-based emergency accommodation)

Anti-vilification protections.

Western Australia was one of the first states to introduce laws against hate-speech. For over 30 years it has been unlawful in WA to vilify or incite violence on the basis of race. The law applies only to written and pictorial material (not verbal) and is aimed at threatening, abusive and harassing content.

There is no such protection from hate-speech on the grounds of sexuality or gender identity.

Several other states have passed hate-speech protections in more expansive ways that cover not only race but also religion and LGBTI people. Such laws cover both written and verbal abuse.

The benchmark to fall foul of these "Incitement to hatred" laws is generally very high, with the exception of Tasmania where complaints can be lodged against any conduct which "*offends, humiliates, intimidates, insults or ridicules* another person" on the basis of attributes including race, sexual orientation, religion, gender identity and disability.

The Tasmanian model is frequently misrepresented as an infringement of free speech, but the Tasmanian Supreme Court has upheld the relevant provision and declared it poses no such threat. In reality, many complaints are resolved through conciliation arranged by the Tasmanian Equal Opportunity Commission with a mutually agreeable outcome. This might simply be an apology.

Most Tasmanian cases are resolved without any formal Tribunal hearing and most are from people with a disability taking action against everyday abuse.

By contrast, WA's three-decades-old anti hate-speech law sets a very high bar, is limited to race and applies only to written and pictorial materials.

QUESTION 3:

In the next term of parliament, will your party introduce and/or support legislation to expand the state's anti-vilification laws to cover LGBTI people?

Yes

No

Other – please explain your answer

Q3[b]

If YES, will your policy be to include verbal material as well as written and pictorial material?

Yes

No

Other – please explain your answer

Q3[c]

If YES, will your policy be to maintain a high benchmark for 'Incitement to hatred / Vilification' or permit a lower benchmark for material that "*offends, humiliates, intimidates, insults or ridicules,*" similar to that which exists in Tasmania?

Keep a high benchmark

Preference the Tasmanian model

Other – please explain your answer.

Sex and gender diverse people

Trans Reform:

Currently transgender and gender diverse people in WA are unable to have their gender legally recognised without expensive, invasive and often unwanted medical intervention. The human rights and legal framework regarding trans and gender diverse people therefore needs updating.

In 2018, the WA Law Reform Commission released a [discussion paper](#) on a review of the state's legislation regarding recognition of a person's sex, and gender.

The recommendations include removing the requirement for a person to have undertaken a medical procedure to have their gender recognised, allowing people over 12 able to apply for a certificate to affirm their gender (with parental permission), and allowing for non-binary options on documentation. Best practice is to permit people to use the term that best describes their gender.

Separately, people who are transgender and gender diverse are not fully protected by the Equal Opportunity Act.

In order to be protected by 'Gender History' under WA anti-discrimination legislation, trans people must first undergo surgery and be issued with a 'Gender Recognition Certificate.' This is a terribly outdated approach to transgender laws. Amongst other things, the current regime means that anti-discrimination protections do not exist for people who choose not to, or cannot, undertake surgery.

By contrast, a gender affirming approach is one that permits trans and gender diverse people to self-identify without having to undertake medical interventions.

Question 4:

In the next term of parliament will your party introduce and/or support legislation to update gender recognition laws, ensuring that trans and gender diverse people can have their gender legally recognised without the need for medical intervention?

- Yes
 No
 Other – please explain your answer

Q4 [b]

If YES, will your policy also allow people over 12 years of age (with parental permission or other appropriate body), to apply for a certificate to affirm their gender? (*A court is an option when one parent agrees to a gender change and one does not, or when a child has no parent able to give permission*).

- Yes
 No
 Other – please explain your answer

Q4[c]

If YES, will your policy be to allow for non-binary options to be made available on documentation?

- Yes
 No
 Other – please explain your answer

Q4[d]

If YES, will you support changes to the Births, Deaths and Marriages Act that permit birth certificates to be issued with no sex or gender?

- Yes
 No
 Other – please explain your answer.

Q4[e]

Will your party introduce and/or support legislation to ensure people who are transgender and gender diverse are protected by the anti-discrimination provisions in the Equal Opportunity Act (1984), without the need to undergo surgery and be issued with a 'Gender Recognition Certificate'?

- Yes
 No
 Other – please explain your answer

Intersex reform:

Currently, babies born with variations of sex characteristics that mean their bodies do not fit societal norms of male or female often undergo invasive surgeries to 'normalise' their bodies.

These surgeries can have ongoing and extremely harmful effects on the physical and mental wellbeing of those affected. These surgeries can continue throughout childhood and adolescence.

Intersex Human Rights Australia (IHRA) has called for an end to this non-consensual surgery. Reflecting the Darlington Statement¹, IHRA calls for legislative reform to eliminate forced and coercive practices, in combination with independent oversight to ensure transparency and accountability, support for parents, families and individuals, and standards of care.²

Under WA's Equal Opportunity legislation sex characteristics are not a protected attribute, which means people born with variations of sex characteristics do not have redress if they are discriminated against on the basis of those characteristics.

Question 5:

In the next term of parliament, will your party introduce and/or support legislation to outlaw non-consensual surgeries to 'normalise' sex characteristics?

Yes

No

Other – please explain your answer

Q5[b]

In the next term of parliament will your party legislate and/or support changes to the Equal Opportunity Act so that sex characteristics are a covered attribute?

Yes

No

Other – please explain your answer

Inclusive Education (Safe Schools)

The Safe Schools program was initiated by the Federal Government under Prime Minister Rudd and continued through the Abbott years into the Turnbull Government, after which the relevant commonwealth funding distributed to states was discontinued.

The Safe Schools program was developed at the behest of teachers around Australia who are finding themselves increasingly dealing with the care, support and wellbeing of LGBTI students in primary and secondary schools, but often without the necessary training or knowledge to ensure adequate duty of care, mental health and conducive learning environments for those affected.

This was particularly the case around preventing the bullying of LGBTI students and changing school cultures shaped by historic prejudices. Suicide prevention was also a key motivator.

¹ <https://ihra.org.au/darlington-statement/>

² <https://ihra.org.au/guidelines/>

Over the last decade the program came under relentless attack from religious conservatives. This saw several states drop the program, but others modified it to shield it from misinformation campaigns and to protect LGBTI students. Now known as 'Inclusive Education', various states self-fund this ongoing program including the Liberal Government in Tasmania.

The McGowan Government self-funded Inclusive Education for three years. During this period, the program facilitated the delivery of development sessions to over 3,000 school staff, provided individualised support to 58 transgender students, and responded to requests for support from half of all WA's public high schools.

Since it was launched, Inclusive Education WA distributed 15,259 resources and reported a 95 per cent success rating from feedback on its school presentations.

In October 2020, the McGowan Government allowed program funding to exhaust with no commitment to renew. Inclusive Education is now an online module only, available only by request, but with no pro-active training for teachers, individual support or presentations to classes.

QUESTION 6:

In the next term of parliament, will your party bring back or endorse sufficient program funding for Inclusive Education WA, or an equivalent program, allowing it to offer training to teachers, support to students and presentations to schools as previously conducted?

Yes

No

Other – please explain your answer

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