

Gay Men's Network



GMN RESPONSE

Draft Conversion Practices Bill 2026

Table of Contents

PREFACE	1
EXECUTIVE SUMMARY	2
1 INTRODUCTION	7
2 CRIMINAL LAW ANALYSIS	11
3 HUMAN RIGHTS ANALYSIS	33
4 CIVIL, FAMILY AND PUBLIC LAW ANALYSIS	43
5 CONCLUSION	57

Preface

This is a policy response to the draft Conversion Practices Bill by the Gay Men's Network. We have previously raised concerns about legislation of this kind and the unintended consequences that are likely to arise from broad and poorly defined criminal offences. We have similar concerns about the draft Bill, and here we set out in detail what we consider to be the problems in the spheres of criminal law, human rights law and wider civil, public and family law.

Criminal statutes are not a vehicle for ideological point-scoring or an opportunity to embed contested identity-politics concepts into law; they are serious measures, and they have far-reaching effects. Poor legislation should not be waved through on the basis of good intentions when wholly innocent people could face criminalisation.

We are acutely concerned that the draft Bill gives insufficient consideration to the struggles of parents dealing with children claiming cross-sex identities, and we are also concerned about the Bill's implications for free speech and public debate.

This Bill cannot be reconciled with existing Equality Act law, and it promises to give activists and agitators a powerful weapon in an ongoing fierce public debate over sex and gender.

We assert that gay people are better served by existing criminal law, which has higher maximum sentences, than by the poorly defined main offence proposed by the Bill. We believe the Bill is not about protecting gay people. It is about striking a blow in a culture war.

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Executive Summary

General

- Gender ideology is a dualist and quasi-religious philosophy which holds that humans can be born into the wrong body and that every person has a soul-like “gender identity” which may or may not accord with their sexed body. Those who support gender ideology promote conversion legislation not because they wish to end suffering for gay people, but because they wish to embed their ideological world view into criminal law to penalise or stifle their opponents.
- Same-sex-attracted youth are overrepresented in gender services, and gender medicine is a species of gay conversion therapy. It takes homosexual urges in young people and “heterosexualises” them via puberty blockers, hormones and surgery. That is the real gay conversion therapy, and it is actively supported by the current government in the form of a clinical trial on the use of puberty blockers.
- There is a real and evidenced history of gay conversion therapy. It involved administering chemical castration agents to men such as Alan Turing. It involved electroshock therapy. In the case of lesbians, it involved “corrective” rape. All of those forms of abuse and violence are covered by modern criminal law, which punishes offenders more harshly than the proposals in this Bill.
- We have approached the analysis of this Bill in the following way:
 - In Part II we consider the Bill as a piece of criminal law and analyse the quality of the draft against criminal law concepts
 - In Part III we look at the Human Rights Act 1998 and compare what the Bill says against the fundamental freedoms and rights guaranteed by the convention
 - In Part IV we look more widely to general civil, employment, public and family law and consider the likely knock-on effects of this legislation.

Part II Criminal Law Analysis

- This Bill creates an extremely broad criminal offence. It can be triggered by “any conduct”, and a defendant need not actually intend serious alarm or distress; it is enough that such alarm or distress is caused. A parent could have a tense and difficult conversation with a teenager without realising that they are committing the offence.

- The Bill does not criminalise all conversion practices, only those which are “abusive”. The word “abusive” is not defined in the Bill which will leave courts with the problem of defining it. Courts will be forced to draw a line between normal family conduct and criminality.
- The Bill contains a checklist of categories of behaviour for the court to consider (e.g. economic pressure, emotional pressure etc.) but it does no more than state those categories. It fails to spell out what would count as criminal and what would not.
- The explanatory notes for the Bill claim that it would be suitable for offences such as sexual misconduct or the violent use of electrodes, but the offence is only punishable by up to 5 years in prison. Offences that already cover this conduct like GBH and sexual assault have maximums of life imprisonment and 10 years.
- The Bill embeds contested identity politics concepts into criminal law. The “transgender identity” concept is in reality simply “gender identity” and the Bill permits self-identification because it expands the concept beyond the relevant equivalent protected characteristic. The Bill also introduces nonbinary identification into law for the first time so it would exist in criminal, but not equality law. That is incoherent.
- The low harm threshold in the Bill (serious alarm or distress) ignores the reality of parents struggling with difficult situations involving teenage children. The checklist of abusive conduct is designed for adult relationships between equals, not for parental or in loco parentis situations.
- There are no statutory defences to the main offence. No parent will be able to say they were guided by the welfare of their child. No school will be able to say a failure to use new pronouns was a matter of policy.
- The main offence can be privately prosecuted. This is an invitation to ideological actors to step in and weaponise criminal law for political purposes.
- Almost every kind of organisation, company and public body can be prosecuted if they commit the offence or fail to take reasonable steps to prevent it. This is an invitation to ideologically motivated actors to weaponise the criminal law against political rivals.
- There is no standard of proof written into the test for Conversion Practice Protection orders and the courts will be left to legislate for one.

Part III Human Rights Law Analysis

- The Bill embeds contested identity politics concepts into criminal law. This is inconsistent with Article 6’s guarantee of an independent and impartial tribunal. If the Bill passes, Family and Criminal courts will be explicitly taking one side in a highly contested debate.

- The broad drafting of the Bill will make directing juries very difficult. Judges will be forced to either direct that contested identity concepts conclusively exist or be left to craft unworkable and complex directions. That undermines Article 6's guarantee of a fair trial.
- Article 7 requires that criminal laws create offences which are certain so people can foresee what conduct would trigger a prosecution. The Bill is vague and it explicitly fails to define key terms such as the word "abusive". This places potential Defendants (and we think particularly parents) in an impossible position.
- Under Article 8, everyone has the right to respect for their private and family life. Domestic courts emphasise that there is a range of acceptable parenting styles and will intervene only where a child is at risk of significant harm. The Bill radically lowers that threshold to instances of serious alarm or distress. That is an unprecedented incursion by the state into family life.
- Article 9 guarantees freedom of religion and belief. The Bill mandates belief in gender ideology (or the performance of that belief). This is an egregious assault on freedom of conscience, particularly in a family setting.
- Everyone has the right to freedom of expression under Article 10. The Bill seriously undermines that right by criminalising some forms of speech in a highly contested public debate. The Bill does not require that a defendant and complainant be in any sort of relationship or there be any duty of care. Ordinary free speech would be captured.
- The Bill discriminates between ideological positions contrary to the prohibition contained in Article 14. It takes one side of a debate and embeds it in law as accepted fact. That discriminates against persons taking the opposite view.

Part IV Civil, Family and Public Law Analysis

- The Bill hands a powerful tool to vexatious employees seeking to extract concessions or settlements from their employers. Criminal allegations are a low cost, low risk way of applying pressure in a civil dispute. Such allegations could be made under the Bill where there is no equivalent civil liability. This could seriously risk the practical effect of the judgment in *Forstater* which protects the employment rights of gender critical staff.
- The Bill introduces contested identity concepts into criminal law which are not found in Equality Act law. This will undermine the judgment in *For Women Scotland* regarding single sex spaces and services because it will enable low cost, low risk criminal allegations to shape the policy response of companies and public bodies.

- Activist groups will use the Bill to initiate ideological judicial reviews aimed at bringing public bodies into line with their opinions. The Public Sector Equality Duty is the most likely vehicle for achieving in public law what cannot be achieved in general civil law.
- There are grave implications for family law deserving of serious consideration:
 - In public law Children Act cases referrals to Local Authorities for a risk of significant harm associated with a conversion offence will be significant in number. This could overwhelm Local Authorities, and it represents an unprecedented incursion by the state into family life.
 - In private law Children Act cases parties litigating the medicalisation of a child will now do so under the shadow of criminal law. This will incentivise vexatious allegations to secure a litigation advantage and it will have the effect of prolonging and entrenching disputes and alienation.
 - In private law Family Remedies cases the same incentives will apply as in private law Children Act cases. The breadth of the statute and mention of “economic pressure” practically encourages criminal allegations.
 - The relationship between criminal and family jurisdictions will become strained. Criminal courts will be asked to consider and impose bail conditions affecting child contact which are more draconian and extreme than would be the case with a child contact order. This will bring disharmony and tension between the two jurisdictions.

Part V Conclusion

- Criminal statutes are serious pieces of legislation with profound effects. They should not be a vehicle for ideological point scoring, and they should not be on the statute books where they risk over criminalisation, serious interference with family life and the chilling of free speech.
- There is no cogent evidence that conversion practices are widespread or a pressing issue in this country. Such surveys and statistics as have been cited by proponents of this legislation are dubious and have been produced by self-serving actors with ideological prejudices. Even if they were widespread, it is unclear why this statute with its relatively low maximum sentence of 5 years would be a better answer in terms of prosecution than offences which apply to everyone which have longer maximums. Gay people are better protected by the law as it is.
- If this legislation passes parents will be arrested and prosecuted for conduct that would normally be considered part of family life. No criminal statute should leave such a legacy.

- The wider cause of gay rights is not well served by unnecessary and brutal statutes with poor definitions and no statutory defences. This Bill is an example of ideological overreach; it is not a serious attempt to craft focused, well-targeted criminal law to address an identifiable and clearly defined problem.

1 Introduction

1. The Gay Men's Network is a not-for-profit volunteer organisation established in 2022 to advance the interests of gay men and speak on issues directly affecting us. We regularly comment on policy and legislation and have in the past raised concerns over the breadth of proposed conversion legislation and the unintended consequences such laws can have. We have such concerns regarding the Draft Conversion Practices Bill (**hereafter "the Bill"**).
2. Gay men have a real and established history of conversion practices in the past, but thankfully the era of administration of chemical castration agents to adult gay men like Alan Turing or administration of electroshock therapy is a thing of the past. Modern evidence for the proposition that conversion practices are widespread is poor and some of it is frankly unserious (such as the suggestion that 10% of gay men have experienced an exorcism¹).
3. No sensible gay-rights movement would have achieved gay marriage before banning the form of torture called "gay conversion therapy". Conversion legislation has been discussed since Theresa May's premiership, and successive governments have considered various drafting challenges and private Members' Bills on the subject. We note that this legislation was not considered necessary when the most extreme historical examples of gay conversion were taking place. It has risen to prominence only in an era in which former gay-rights charities embrace gender ideology and see in this legislation an opportunity to regulate healthcare and parenting and to further their ideological objectives. If gay conversion practices were as extreme and commonplace as is sometimes claimed, it is inconceivable that successive modern governments following the introduction of gay marriage would simply have ignored the issue.
4. Our position is that conversion legislation is a Trojan horse having little to do with gay rights and everything to do with the objectives of gender-ideology activists. We note that some of these activists do not support this Bill because it has a medical carve-out at clause 1(3). The only reasonable inference from that objection is that proponents of wider conversion legislation seek to regulate gender healthcare.

Homophobia as an ignored issue in gender medicine

5. We have consistently drawn attention to evidence suggesting that gender medicine is a modern form of gay conversion therapy. As the then Secretary of State for Women and Equalities said in a letter in early 2024²:

"The most recent reported data from GIDS in England demonstrates that older patients expressing a sexual orientation were overwhelmingly not heterosexual. 67.7% of adolescent female patients

¹ <https://sex-matters.org/posts/updates/exercising-caution-over-stonewalls-exorcism-claims/>

² <https://committees.parliament.uk/publications/43255/documents/215243/default?fbclid=IwAR0TZW-4VIAEqPvx7EKE9O-iAJE5uuBpprqE4FbQqaRgVMeXfQDeDWXEsZQ>

were recorded as being attracted to other females only, 21.1% were bisexual, and only 8.5% were listed as heterosexual. Among adolescent male patients, 42.3% were attracted only to other males, 38% were bisexual, and only 19.2% said they were attracted only to females.³

If trans identification is naturally occurring across a population, there is no good reason for the figure of same sex attracted youth to be this high.

6. The then Secretary of State, rightly in our view, went on to draw attention to what staff at the Tavistock GIDS were saying about this matter:

“Dr Natasha Prescott, a former GIDS clinician reported in her exit interview from the Tavistock that ‘there is increasing concern that gender affirmative therapy, if applied unthinkingly, is reparative therapy against gay individuals, i.e. by making them straight’ and Dr Matt Bristow, a former GIDS clinician, reported to Hannah Barnes that he came to feel that GIDS was performing ‘conversion therapy for gay kids.’⁴”

“In a survey of 100 detransitioners, the experience of homophobia or difficulty accepting themselves as lesbian, gay, or bisexual was expressed by 23% of respondents as a reason for transition and subsequent detransition⁵. As German gender clinicians have noted:

“It must be understood that early hormone therapy may interfere with the patient's development as a homosexual. This may not be in the interest of patients who, as a result of hormone therapy, can no longer have the decisive experiences that enable them to establish a homosexual identity.⁶”

We would add only to the then Minister's remarks by noting that the concerns expressed by Dr Prescott and Dr Bristow were shared by the head of safeguarding at GIDS, Mrs Sonia Appleby, and were also the subject of public concerns raised by Dr David Bell.

7. While we acknowledge that the Draft Conversion Practices Bill has considered the issue of healthcare and includes a carve-out for medical practitioners at clause 1(3), the fact remains that the majority of young people affected by the provisions are likely to be same-sex attracted. While there is a medical carve-out on the face of this Bill, there is no such carve-out for parenting. As we will go on to explain, the Bill risks creating a position in which affirmative gender medicine may be practised without a realistic prospect of conviction, but parental attempts to dissuade a child from irreversible medical procedures will be prosecuted.

³ Holt V, Skagerberg E, Dunsford M. Young people with features of gender dysphoria: Demographics and associated difficulties. *Clinical Child Psychology and Psychiatry*. 2016;21(1):108-118. doi: 10.1177/1359104514558431

⁴ Time to Think: The Inside Story of the Collapse of the Tavistock's Gender Service for Children. Hannah Barnes, Swift Press, 2023.

⁵ Littman L. Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition Who Subsequently Detransitioned: A Survey of 100 Detransitioners. *Arch Sex Behav*. 2021 Nov;50(8):3353-3369. doi: 10.1007/s10508-021-02163-w. Epub 2021 Oct 19. PMID: 34665380; PMCID: PMC8604821.

⁶ Korte, A, Goecker, D, Krude, H, et al, Gender Identity Disorders in Childhood and Adolescence: Currently Debated Concepts and Treatment Strategies, *Dtsch Arztebl Int* 2008; 105(48):834-41. <https://www.doi.org/10.3238/arztebl.2008.0834>

Our overall position on the Bill

8. We consider that the Bill suffers from a fatal flaw: while it is relatively easy to conceive of what may amount to a gay conversion practice, it is almost impossible to define precisely what a conversion practice directed at a transgender identity might be. We question whether it could encompass conversations between children and parents or arguments between divorcing couples. In both examples, we think there is no proper place for the criminal law in already difficult and tense family situations.
9. We take the overall view that the Bill is impermissibly wide, both in the scope of the proposed offence and in the conduct that may trigger it. We further consider that the Bill sets criminal law on a trajectory entirely different from the treatment of similar issues in civil and family courts. Our position is that serious disharmony between branches of law is undesirable and potentially dangerous. By way of example, it cannot be sensible to have an overall legal system that does not recognise the concept of “nonbinary” in civil claims but does recognise it in criminal law. Disharmony of this nature incentivises the use of criminal law for activist purposes and places wide and vague obligations on organisations under the Bill.
10. The Bill places the contested and divisive concept of gender identity into law and calls it “transgender identity”. By choosing not to limit the concept of “transgender identity” to the terms of section 7 of the Equality Act 2010 (Gender Reassignment), the Bill places parties at risk of criminal prosecution where no civil liability would arise. We take the view that it is fundamentally wrong to expose potential defendants to the most serious sanction legally, a criminal prosecution, where no civil action could properly be mounted.
11. The word “abusive” is central to the Bill, yet it is not defined. The Bill criminalises a conversion practice only where it is “abusive”. The former Minister openly took the position that the word should remain undefined and that the courts should, in effect, take on the job of legislating. It is not enough that the explanatory notes say something on this topic because, for reasons we will explain, criminal courts generally do not consider explanatory notes. The Bill further requires no intention to cause harm; it requires only that serious alarm or distress be caused. It requires no intention to behave in an abusive fashion, only that a court considers the conduct abusive after the fact.
12. Persons at risk of prosecution under the Bill therefore have no idea what the word abusive means and there is no requirement they acted with some malign intent. This is highly unusual in a criminal statute, and we take the view it is contrary to basic principles of criminal law. Any citizen should be able to consider an Act of Parliament and understand whether their conduct is criminal or not. That consideration is particularly acute in the case of parents.
13. We are surprised that the offences the Bill creates are capable of private prosecution. The areas the Bill touches upon are well known for intense and polarised public debate, sometimes described as “culture war issues”. Litigation, sometimes hopeless or vexatious, has been a consistent feature

of this debate. Leaving this matter open to private prosecutors is a high-risk strategy likely to burden both prospective defendants and criminal courts with bad-faith activist actors.

14. We are not convinced that the Bill is compatible with basic human rights beyond the uncertainty point we raise in respect of the failure to define the term “abusive”. With no statutory defences at all, it is unclear to us that the Bill is compatible with Article 6’s right to a fair trial. We question whether the Bill is certain enough in the language it uses to satisfy Article 7’s requirement that laws be certain and foreseeable. We can see no way of reconciling the potentially grave infringements on standard parenting with the wide interpretation of permissible family life guaranteed by Article 8. It is not clear that articles 9 (belief) or 10 (expression) have been given adequate consideration in the drafting of the Bill, particularly given the explanatory notes explicitly conceive of “verbal or non-violent physical acts⁷” being criminalised. We also consider that Article 14 is engaged because we think the Bill discriminates between gender critical and gender ideological parties in a way prohibited by the article.
15. The extension of criminal liability to persons in bodies corporate, partnerships and companies extends the same uncertainty risks discussed above to such organisations. We are particularly concerned about potential criminal liability and a five-year sentence for a person who “fails to take all reasonable steps” to prevent the commission of the offence. This provision invites third-sector actors with a poor history of accurately representing the law to involve themselves in marketing template policies to organisations. They will have every commercial and ideological incentive to misstate the law.
16. We are also concerned about how a prosecution of this offence might work in practice and what consideration has been given to issues such as a juror holding gender-critical beliefs. Such a juror would not accept as a matter of fact that “transgender identity” exists, yet the Bill potentially places criminal courts in the undesirable position of directing the juror that it does and that they must accept it. We think this places criminal courts on a collision course with civil courts, given that the juror’s belief in this example would qualify as a protected characteristic. This is only one of the practical workability issues that would arise in criminal courts; there are others of this nature.
17. The Bill is not an adequate criminal statute. If it is passed as drafted, parents in particular will be faced with draconian and uncertain legislation, placing them in the absurd position of facing criminal prosecution for acts that would be protected in civil and family courts. It is frankly terrifying for the former Minister to cite with approval in the Chamber a Galop report which says that not using a teenager’s new pronouns is a conversion practice. No reasonable legislature could possibly think that criminal prosecution is the answer to already tense and difficult parenting situations.

⁷ Para 22, Explanatory notes accompanying the Bill, <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes>

18. Our response is composed of five parts, the first of which is this introduction. In Part II, we consider the criminal-law implications of the Bill as it might work in practice and the quality of the drafting compared with criminal law generally. In Part III, we consider the human-rights aspects of the Bill and the issues and challenges that might arise. In Part IV, we examine how this criminal statute might have knock-on effects on general civil, employment, public and family law, because we think there are grave implications for each field and a capacity to undermine core gender-critical judgments. In Part V, we set out our conclusions.

2 Criminal Law Analysis

Statutory interpretation and criminal statutes

19. It is important for legislators to understand the limited role that the Bill's explanatory notes occupy in law. The leading authority on statutory interpretation in England and Wales is the case of *Pepper v Hart*, which permits a court to consider parliamentary material only where legislation is ambiguous or obscure, or where its literal meaning leads to absurdity. This is a very high threshold in practice, and legislators should not assume that a court will look to ministerial intentions in the notes where the text of the Bill provides a sufficient explanation. The same is true of ministerial speeches and statements. It is also, we think, fair to say, based on an analysis of the case law, that criminal courts are far less likely than civil courts to consider parliamentary material outside the words of a statute. Members of Parliament considering the Bill should therefore be alive to the fact that the explanatory notes are of very limited assistance in predicting how a criminal court will apply it.
20. In construing a criminal statute, courts will adopt a strong presumption against interference with fundamental rights, referred to as the principle of legality. The Bill poses several challenges in this respect, most obviously concerning Article 8 and family life, which ought to be considered at the pre-legislative scrutiny stage rather than left to the courts.
21. Criminal courts will expect a criminal statute to be sufficiently certain to give any potential defendant fair notice of the risk of prosecution. A vague or overbroad law may either be read so narrowly that it has little practical effect or be read so widely that a party seeks a declaration of incompatibility under the Human Rights Act 1998. Both outcomes are undesirable and would arise only after a party had been prosecuted. Legislation should be clear and certain, particularly in the field of criminal law.
22. Criminal courts will presume that Parliament does not intend to create strict-liability offences unless this is explicitly stated. We believe that, on one analysis, the Bill creates a quasi-strict-liability offence because it contains no requirement that a defendant intend any kind of harm or intend to behave in an abusive fashion.

Analysis of The Criminal offence created by the Bill

23. According to the Bill a person commits the conversion practice offence if (emphasis added):

- (a) They engage in “**any** conduct” towards an individual⁸, and
- (b) They have the intention of causing that individual to either have or not have/believe they have or not to believe they have a sexuality or transgender identity⁹, and
- (c) That conduct must be “abusive¹⁰”
- (d) The abusive conversion practice must cause either serious harm **or** serious alarm or distress which has a substantially adverse effect on a person’s day to day activities

Accordingly, our analysis is that the Bill creates an offence comprising four elements that the prosecution must prove, except in the case of a healthcare provider, where the prosecution would need to prove a fifth element, namely:

- (e) That the conduct arose in a provision of healthcare and that provision fell far below the standards reasonably expected of that person

As the second element of the offence at (b) above includes the term “transgender identity” it will be necessary to consider the meaning of this term in criminal law.

The first element of the offence - “Any conduct”

24. The term “any conduct” is self-evidently broad for a criminal statute. Ordinarily, a criminal statute will require a malign act of some kind, such as an assault, physically taking possession of someone’s property, or some other obvious form of wrongdoing. The explanatory notes seem to envisage that “verbal or non-violent physical acts” will be captured by this term. This *prima facie* suggests that ordinary family interactions could satisfy limb 1 of the offence.
25. There is no qualifying restriction on “any conduct” taking place in a familial, partnership or duty of care relationship and the explanatory notes appear to suggest this is the intention of the Bill (emphasis added):

*“For example - the offence of controlling coercive behaviour does not cover individuals not **personally connected**; harassment offences require a course of conduct and cannot be committed in a private dwelling; communications offences require indecent pictures or offensive language;*

⁸ Clause 1(2)

⁹ Clause 1(2)

¹⁰ Clause 2(1)

online safety offences involve threatening or false communication. Not all conversion practices include these elements”

By not requiring any form of connection or duty of care, the language of limb 1 covers any person engaging in any conduct. It is not at all clear that the phrase “towards an individual” in Clause 1(2) requires that the Defendant have knowledge of the individual in question or whether a class of individuals more generally would satisfy this limb of the offence. Given that no connection or duty of care relationship is required, the most natural reading of this provision is that the Defendant need not have knowledge of a *particular* individual. This limb could thus be satisfied by publishing an article, making a speech, or writing a book. That is a very wide scope for a criminal offence. On July 26th, 2026, the philosopher and author Dr Kathleen Stock wrote on X, “*I see that the government conversion practices draft bill wants to criminalise “conduct causing someone to believe that they ... do not have a transgender identity”. I know for fact my book Material Girls did this for hundreds of young people, cos they told me.*”¹¹” To the extent that Dr Stock highlights the absence of a duty of care/familial or any connection requirement, we take the view she is correct.

26. There is no requirement or qualification that “any conduct” itself be intended to cause another person harm or be motivated by malice; the only requirement is, presumably, that the defendant intends, or is reckless as to, engaging in the conduct itself. This is an unusual standard for a criminal offence, which would normally require some form of conscious wrongdoing. A parent of a child experiencing distress around their sexed body may well wish to dissuade them from sourcing puberty blockers or cross-sex hormones on the internet. Such a parent, seeking to dissuade a child from that course of action and reconcile themselves to their sexed body, could face prosecution because they have engaged in “any conduct” directed towards causing their child to believe that they did not have a transgender identity. The concept of “any conduct” would thus be wide enough to capture a parent guided by the welfare of their child.

The second element of the offence “with the intention of causing that individual to either have or not have/believe they have or not to believe they have a sexuality or transgender identity”

27. While it is relatively clear what behaviour might qualify in respect of sexual orientation and examples such as corrective rape or electroshock therapy might be said to obviously evidence such an intention, the case is much less clear when considering what the Bill calls “transgender identity” and it is necessary to first consider that concept in the Bill in order to understand this element.

¹¹ <https://x.com/Docstockk/status/2070416716400656590>

The expansive definition of “transgender identity” in the Bill

28. Clause 1 (8) defines the concept of “Transgender Identity” in the following terms (emphasis added):

(8) The circumstances in which an individual has a transgender identity include (**but are not limited to**) where—

(a) the individual is undergoing, is proposing to undergo or has undergone a process of gender reassignment,

(b) the individual is transsexual,

(c) the individual identifies as neither male nor female or as not solely male or female.

Insofar as clause 1(8)(a) and (b) are known to law they replicate section 7 of the 2010 Equality Act. Clause 1(8) (c) regarding “nonbinary identities” is currently unknown to law.

29. By including the words “but are not limited to” in Clause 1 (8), the Bill does not make clear what constitutes a transgender identity and what does not. The effect of that is that any potential Defendant is left with uncertainty on this point. This appears to be the intent of the Bill as the explanatory notes say (emphasises added), “This wording **draws on** the existing statutory provisions relating to ‘transgender identity’ in the Sentencing Act 2020 which in turn relies on the definition of the protected characteristic of ‘gender reassignment’ in the Equality Act 2010.¹²” It is significant in our view that the explanatory notes say the definition “draws on” the various statutory provisions instead of saying that it replicates them.

30. The claim that the concept of “transgender identity” “draws on” the Sentencing Act 2020 is open to the criticism that the purpose of the Sentencing Act is to provide a framework for judges when sentencing, rather than for juries at trial. This is relevant because this Bill includes a criminal offence with which a jury would have to deal. It is worth noting, in any event, that section 66 of the Sentencing Act contains no definition of “transgender identity” and leaves the matter to the discretion of the sentencing judge. It therefore provides no assistance as to how a jury might decide whether an individual had such an identity. While the Court of Appeal (Criminal Division) has considered other forms of hostility, to date there has been no sentencing authority providing guidance on what the term “transgender identity” means. This means that very limited assistance can be drawn from the mention of section 66 of the Sentencing Act 2020.

31. Similarly, any case law on what may or may not amount to the section 7 gender-reassignment protected characteristic in equality law is rendered irrelevant by the inclusion of the words “but are not limited to” in clause 1(8). This means that the claim that the Bill “draws on” a body of case law

¹² Para 38, Explanatory notes accompanying the Bill, <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes>

related to that protected characteristic is of limited assistance because the definition is open-ended.

32. The effect of including the words “but are not limited to” in the Bill is that any parent prosecuted under it has less certainty than any employer or body facing an Equality Act claim. This is because protected characteristics in the Equality Act 2010 are clear, but the Bill uses the words “not limited to” and is therefore unclear. We think this is fundamentally strange in principle and that it is odd to place those at risk of criminal prosecution in a position that is less certain than that of those dealing with civil claims. We again emphasise that criminal courts prefer criminal statutes to be construed with certainty, so that potential defendants are given fair warning of when they may or may not be prosecuted and would cite *R v Rimmington* on this point. In that case, the House of Lords (the predecessor body to the United Kingdom Supreme Court) narrowly confined the common-law offence of public nuisance to acts causing collective injury to the public, rather than merely multiple individual annoyances. The judgment emphasised certainty in the law and the prevention of arbitrary criminal prosecution by the state.
33. By way of example, a parent deals with a teenage boy who spends substantial amounts of time on the internet. One day, he announces that he is “omnigender” and that his new pronouns are “Xi, Xir, Xem”. The parent refuses to use the new pronouns. The teenage boy complains to the police that this is controlling behaviour and that he is seriously distressed. The Crown Prosecution Service concludes that, in law, “omnigender” and the chosen pronouns are covered by clause 1(8) of the Bill because the “transgender identity” clause specifies that this concept is “not limited to” cases of cross-sex identification or circumstances where the gender-reassignment protected characteristic might apply. They reach this conclusion because the comparative clause 1(8)(c), concerning “non-binary” identities, specifically includes cases where a party does not cross-sex identify. They conclude Parliament intended that in general, politically contested identities are covered by the Bill. The CPS thus concludes that omnigender is protected by the Bill, as are the new pronouns. The parent is arrested, placed in a cell, interviewed, bailed with conditions not to contact her child and then prosecuted for not saying “Xi, Xir, Xem”. They subsequently appear in a Family court where a Conversion Practices Protection Order (which may include “requirements¹³”) compels them to use the pronouns or face a further arrest.
34. We consider that such a position would be ludicrous and difficult to reconcile with the justification that the Bill seeks to remedy the real and painful history of actual gay conversion practices. We question whether the Government are serious in equating the real and painful history of chemical castration of gay men and corrective rape of lesbians with the pronoun demands of men and women, who, despite being either men or women in law,¹⁴ claim to be “nonbinary” or similar.

¹³ See Draft Bill, Schedule 1, Clause 1 (3) (a) <https://www.gov.uk/government/publications/draft-conversion-practices-bill/conversion-practices-draft-bill>

¹⁴ See the judgment in *For Women Scotland v The Scottish Ministers* [2025] UKSC 16 for detail on the meaning of sex in the 2010 Equality Act https://supremecourt.uk/uploads/uksc_2024_0042_judgment_updated_16f5d72e76.pdf

The introduction of “nonbinary identity” into criminal law

35. We further note that clause 1(8)(c) introduces into criminal law for the first time the notion of an individual who identifies as “neither male nor female or as not solely male or female”. We are surprised that a concept rejected by civil courts at the highest level should be introduced into criminal law in this way. We are further surprised that the sometimes vexed and much-debated question of what it means to “identify” in this way is present in a draft criminal statute when it is fraught with obvious ambiguity. We would also ask what consideration has been given to the fact that gender-critical belief is a protected characteristic in the UK, yet the Bill seeks to enshrine this contested and controversial concept. We very much hope that gender-ideology activists are not seeking to exploit the real, evidenced and painful history of gay conversion practices to further ideological aims in criminal law that they have failed to persuade the civil courts to accept.

Asexuality

36. The former minister dealing with the Bill took the view that asexuality was covered by the terms of the Bill saying in answer to a question on this subject *“I can confirm that asexual people will be included in the remit of the Bill, because our simple principle is that abuse is not acceptable, no matter to whom it is done or where we find it.”* We do not think this is correct in law or desirable as a policy.
37. Section 12 of the Equality Act defines sexual orientation as attraction to the opposite sex, the same sex or either sex. Clause 1(7) of the Bill explicitly adopts this definition and reads as follows: “Sexual orientation” has the same meaning as in the Equality Act 2010 (see section 12(1)). The Equality Act thus does not say that asexuality is a protected characteristic. We are fortified in this view by the relevant case law (there is no authority to suggest that asexuality is a protected characteristic) and by the fact that a previous Equality Minister took the same view of the law when answering a question on the subject: “We have no plans for including asexuality as a protected characteristic in the Equality Act 2010.”
38. We question whether a Bill which purports to remedy practices akin to the torture of gay men and rape of lesbians should seriously be equating such crimes with whatever a conversion practice around asexuality might be. Given that asexuality is a component feature of gender ideology, we take the view this is further evidence that proponents of the Bill see it as an opportunity to embed gender ideology in statute.

The third element of the offence – “any conduct” must be “abusive” – absence of any definition of the term “abusive”

39. Perhaps the central issue with the Bill is this: it does not criminalise conversion practices generally. Under clause 2(1), it criminalises only “abusive” conversion practices, but at no point does the Bill say what is abusive and what is not. This appears to be the intention behind the legislation.
40. It is the stated aim of the Government that the criminalised conduct in question be “abusive” and Clause (2) (1) reads (emphasis added) “A person commits an offence if the person carries out an **abusive** conversion practice on an individual.” Yet there is no definition of what the word “abusive” means in the Bill. We consider this a dangerous and unusual position for a draft criminal statute. To try to establish what this term means we will consider the Bill, the explanatory notes and how this term is dealt with in criminal law more generally.

41. The Bill says the following of what constitutes abusive behaviour (emphasis added):

(Clause 1)

(5) The question whether conduct amounts to an abuse of the individual is a **question of fact** to be determined by reference to **all the circumstances of the case**, including in particular the nature of the conduct.

(6) In assessing the nature of the conduct, consideration is to be given (**among other things**) to the question whether it involves any of the following—

- (a) words or behaviour of a sexual nature;
- (b) violent or threatening words or behaviour;
- (c) controlling or coercive words or behaviour;
- (d) use of economic pressure;
- (e) use of psychological or emotional pressure.

42. Clause 1(5) says only that whether conduct is “abusive” is a question of fact to be considered by reference to all the circumstances of the case. It is not clear how those circumstances should be considered or where the line lies. This is a very unclear threshold. It is worth pointing out that the phrase “all the circumstances of the case” presupposes a case in which a parent, teacher, writer, public speaker or any number of other persons is prosecuted yet cannot say what type of conduct is abusive and crosses the line into criminal offending. We consider that feature of this draft legislation unsatisfactory. If this term is left undefined, the burden of defining it will fall on the criminal courts: the magistrates’ courts and Crown Courts of this country will effectively be given

the task of legislating, which has further implications; counsel and solicitors will be placed in an impossible position when advising clients on the meaning of a word that Parliament has expressly refused to define. This is manifestly wrong and poor legislative practice.

43. History shows that ambiguity in drafting produces inconsistency in outcomes and offences such as the “grossly offensive” variant of Malicious Communications¹⁵ provide evidence of this point. In that offence, Parliament expressly declined to define the term “grossly offensive” and legal commentators have repeatedly criticised the offence as uncertain, draconian and inconsistent¹⁶.

It is uncertain as to whether the term “Abusive” should be a subjective or objective test in criminal law

44. Clause 2 of the Bill reads (emphasis added):

(1) A person commits an offence if the person carries out **an abusive** conversion practice on an individual which causes—

(a) serious harm to the individual’s physical or mental health, or

(b) serious alarm or distress to the individual which has a substantial adverse effect on their usual day-to-day activities.

45. There appears to be no requirement in the Bill that the Defendant intend their conduct to be abusive or act with the knowledge that it is. This means that whether conduct is considered “abusive” is an objective rather than a subjective test in criminal law, and it would be enough for the prosecution to prove that the defendant acted with the *mens rea* (the legal term for criminal intent) contained in clause 1(2).
46. As the question of whether acts were “abusive” is likely to be considered in law an objective question of fact for the jury, it is unclear what guidance a judge could possibly give them on the meaning of the term because it is not defined. This raises the draconian prospect of situations such as a parent having tense and difficult conversations, intending no harm or abuse, yet still committing the offence on the objective standard.

Problems and illogicality with the Clause 1 (6)(a-e) checklist

47. Clause 1(6) provides a checklist of matters to consider when assessing whether a conversion practice is abusive. The checklist appears in clause 1(6)(a)–(e) and reads as follows:

¹⁵ s.127, Communications Act 2003 <https://www.legislation.gov.uk/ukpga/2003/21/section/127>

¹⁶ See for example, “A threat to freedom of expression?”, Hannah Gornall, The Law Society Gazette, 17th October 2025 <https://www.lawgazette.co.uk/practice-points/a-threat-to-freedom-of-expression/5124797.article>

- (a) words or behaviour of a sexual nature;
- (b) violent or threatening words or behaviour;
- (c) controlling or coercive words or behaviour;
- (d) use of economic pressure;
- (e) use of psychological or emotional pressure.

Common to each of these categories is the fact that they specify a subject area without identifying a threshold for what kind of conduct is “abusive”, and therefore criminal, and what is not. The Bill requires only that the categories be considered. Reading the Bill therefore provides no clarity about what conduct might trigger a prosecution and what conduct is acceptable. That is undesirable and unusual.

48. It is important to note that clause 1(6) of the draft Bill qualifies this checklist by saying that it is simply a list of matters to be considered “among other things”. The other things that the Bill or explanatory notes have in mind are not identified. A prosecuted party has no reasonable way of knowing what they are or how they might be assessed. This is another serious ambiguity.

(a) words or behaviour of a sexual nature

49. The draft Bill contains no definition of these terms. In a criminal statute, it is highly undesirable to leave important terms undefined. The phrase “words of a sexual nature” is unknown to criminal law and they are not defined in this Bill.

The explanatory notes say the following (emphasis added):

“(a) Words or behaviour of a sexual nature: This could include aversion therapy using pornography, or **“corrective” sexual assault**¹⁷”

50. We cannot understand why behaviour of a sexual nature would be criminalised as a conversion practice, with a maximum sentence of five years, rather than as a sexual assault under the Sexual Offences Act 2003, with a maximum of ten years, or as rape or assault by penetration, with a maximum of life imprisonment. We cannot understand why an offence of this nature would not trigger the sex-offender-register requirements when offences under the Sexual Offences Act 2003 would. We are further concerned that, when dealing with a “corrective rape”, the CPS would consider charging an offence of “behaviour of a sexual nature” as a conversion practice, with the possibility of a plea bargain and a rapist facing a maximum sentence of five years rather than life.

¹⁷ Para 35, Explanatory notes accompanying the Bill, <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes>

Gay men and lesbians are better protected by criminal statutes that apply to everyone, as those statutes have higher sentencing maxima and more comprehensive ancillary orders, such as Sexual Harm Prevention Orders than by what is being proposed in Bill.

(b) Violent or threatening words or behaviour

51. The draft Bill contains no definition of these terms. In a criminal statute, it is undesirable to leave important terms undefined. The explanatory notes say the following:

“(b) Violent or threatening words or behaviour: This could include physical threats, or use of electroshock treatment”

52. Intentionally administering electroshock “treatment” would almost certainly qualify as s.18 GBH with a maximum of life imprisonment¹⁸. We can see no good reason why the Crown would prefer a Conversion Practice offence in those circumstances and gay men are obviously better protected by the sentencing power of the s.18 GBH offence than the conversion offence created by the Bill. The offences of assault occasioning actual bodily harm and section 20 Grievous Bodily Harm have maximums of 5 years¹⁹ and, again, would be preferable charges in cases of violence as the Crown would have no obligation to prove either the explicit intent requirement in clause 1(2) or the “abusive” requirement in clause 2(1). In each case here, gay men are better protected by existing laws than the new offence.

(c) Controlling or coercive words or behaviour;

53. The draft Bill contains no definition of these terms. In a criminal statute, it is undesirable to leave important terms undefined. The term “controlling or coercive words” is unknown to criminal law. The offence of Controlling and coercive behaviour in an intimate family relationship is known to law²⁰ but it differs from the conversion offence because it requires that parties are (or were) married, in a civil partnership, in an intimate relationship, have children together or are relatives. The Controlling and Coercive behaviour offence is also qualified by statutory guidance²¹ and various other sources such as the CPS Domestic Abuse guidance²².

¹⁸ By way of comparison, many cases involving the discharge of “Tasers” have been treated as GBH at first instance and not appealed on the GBH point, see *R v Lungu* as an example <https://www.mylondon.news/news/local-news/would-be-robber-imprisoned-using-stun-5973544>

¹⁹ Offences Against the Person Act 1861 <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents>

²⁰ s.76, Serious Crime Act 2015, Controlling or coercive behaviour in an intimate or family relationship

²¹ Controlling or coercive behaviour: statutory guidance framework, updated 27 July 2023

<https://www.gov.uk/government/publications/controlling-or-coercive-behaviour-statutory-guidance-framework/controlling-or-coercive-behaviour-statutory-guidance-framework-accessible>

²² CPS Domestic Abuse Guidance <https://www.cps.gov.uk/prosecution-guidance/domestic-abuse>

54. The explanatory notes say the following²³ (emphasis added):

“(c) Controlling words or behaviour: This could include words or behaviour designed to make an individual **subordinate and/or dependent**;

(d) Coercive words or behaviour: This could include humiliation and intimidation or other abuse that is used to harm, **punish** or frighten an individual”

55. We remark that children are dependent on their parents and that their wishes and desires in areas such as medicine are properly subordinate to those of a parent guided by an assessment of their best interests and welfare. Where a child is not *Gillick* competent, it is a parent who decides what is in their best interests. We also remark that it is an ordinary function of parenting to punish children on occasion.

56. It is relevant at this point to consider a report by the charity Galop entitled “Still not illegal: Evidence of modern-day conversion practices from Galop’s frontline services”, because the former Minister cited it approvingly, saying that it contained “hundreds of case studies” and demonstrated “appalling abuse that is happening right now in this country”.

57. On page 27 the report says:

“Some of these cases involved intentional refusal to use a chosen name or pronouns (repeatedly, or in a derogatory or controlling way) – including by forcing others to use the client’s deadname.”

It goes on to give this example:

“Dad makes frequent comments that ‘[Client] is not trans’ and that he is a woman. [...] [Client] disclosed his parents want to take him to counselling to ‘convince him he is a female’. [...] [Client’s] friend came to his house and called him by his chosen name and pronouns. Mum heard them. [Mum] is forcing [Client] to cut off all relationship with friends who call him by his chosen name and pronouns. [Mum] is also telling the child to bring friends over to confirm they are using the dead name. (Client L6)”

58. We are concerned that the former Minister could commend a report which regards “*refusal to use a chosen name or pronouns (repeatedly, or in a derogatory or controlling way)*” as criminal behaviour. This passage is particularly alarming when read in the context of the parental example that immediately follows it. We take the view that parents dealing with children presenting with new names and pronouns are already dealing with a difficult enough family situation without the Government legislating on what they may and may not say to their own children.

²³ Para 35, Explanatory notes accompanying the Bill, <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes>

59. Insofar as these provisions apply to persons other than parents, they reverse the decision in *Forstater v GCD*²⁴ by curtailing free speech on matters such as pronouns with the draconian threat of criminal prosecution. This cannot be right and it would not be coherent with other branches of law. It makes no sense to have a position whereby gender critical speech on pronouns is at once a protected characteristic in civil law, but the same speech is capable of amounting to a criminal offence. This is a recipe for chaos and serious tension between the criminal and civil divisions, and it is highly likely to chill free speech. We question how this incursion into parenting is to be reconciled with basic principles of family law which we address in detail separately later.

(d) use of economic pressure

60. The draft Bill contains no definition of this term, nor is it known to criminal law. In a criminal statute, it is undesirable to leave important terms undefined.
61. The explanatory notes say the following (emphasis added):
- “(e) Use of economic pressure: This could include behaviour that severely limits an individual’s ability to earn, manage, or use **their own money and property**, or prevents them from accessing **essential goods and services** (like food or healthcare)”
62. Remembering that explanatory notes are not the legislation and that a criminal court is almost certain not to consider them, it is obvious that the phrase on the face of the Bill “economic pressure” is much wider than the refinement in the explanatory notes. If it is the intention of this Bill to confine the concept of “economic pressure” to interference with one’s own money or property, the Bill should say so. If this is the intention, we question why the Crown would ever charge this offence with its 5-year maximum and additional proof requirements rather than fraud with its 10-year maximum²⁵ or theft²⁶ with its maximum of 7 years.
63. We are concerned by the linking of “economic pressure” to the concept of accessing essential services “like healthcare”. This can only be a reference to private provision of healthcare. We question whether it is the Government’s intention to criminalise a parent who refused to pay for puberty blockers, cross sex hormones or a referral to a private “gender medicine” company. If this is the Government’s intention this would represent an unprecedented incursion into private and family life and the norms of basic parenting.
64. We find it hard to imagine what conduct could possibly be classified as “economic pressure” that is “abusive”. If it is the Government’s intention to regulate basic parenting on a financial level, it ought to say so clearly. We think many voters would be concerned if this is, indeed, the intention.

²⁴ <https://www.gov.uk/employment-appeal-tribunal-decisions/maya-forstater-v-cgd-europe-and-others-ukeat-slash-0105-slash-20-slash-jo>

²⁵ s.1 Fraud Act 2006, <https://www.legislation.gov.uk/ukpga/2006/35/section/1>

²⁶ s.1 Theft Act 1968, <https://www.legislation.gov.uk/ukpga/1968/60/contents>

(e) use of psychological or emotional pressure.

65. The draft Bill contains no definition of this term, nor is it known to criminal law. In a criminal statute, it is undesirable to leave important terms undefined.
66. The explanatory notes say the following (emphasis added):

(f) Use of **psychological or emotional pressure**: This could include behaviour designed to **manipulate** or humiliate the individual.
67. The phrases “psychological or emotional pressure” and “behaviour designed to manipulate” are wide enough to encompass a range of family interactions. By way of example, a parent engaging in a difficult conversation in which they say they would prefer their daughter to grow up to be a happy lesbian who accepts her body, rather than a lifelong medical patient, could, in principle, be said to be placing that child under emotional pressure designed to manipulate her. The conversation is likely to be an emotive one, and the parent has one outcome in mind. It is also possible to rationalise this example as one of “psychological pressure” on the basis that the parent seeks to affect the way in which the daughter approaches the subject.
68. The phrase “psychological or emotional pressure” is arguably much wider than “controlling or coercive words or behaviour” in clause 1(6)(d). Taken together, they represent an oppressive and unprecedented incursion into normal family life.

Conclusion on the word “abusive” in the draft Bill

69. It is unclear what the word “abusive” means, and the former Minister has expressly declined to define the term, preferring to leave it to the courts to legislate on the matter in effect. This is an abrogation of the parliamentarians’ duty to pass certain laws that are fair to defendants and useful to victims. This express refusal to define the key term in the Bill is a significant failing: parents will have no idea whether they are simply having a necessary and intense conversation or risking five years in prison. We think many will be frightened of having such conversations and deterred from having the necessary conversations they ought to have to look after their own children.
70. Inconsistency is inevitable should the Bill pass. Some courts will give this term a restrictive meaning, some less so. Different parents and different courts are likely to meet with different outcomes for the same or similar conduct. That is frankly chaotic, unfair and a gross encroachment on private and family life.
71. It is not satisfactory to pass criminal legislation that does not make clear where the line is and hand that heavy responsibility over to the courts. The courts are not elected to pass laws, Parliament is. If Parliament is taking the extraordinary step of deciding how parents may and may not raise

children, it should at the very least make clear what it is the state now requires and see how voters react.

The low harm threshold in the Bill and the consequential nature of the harm required

72. Clause 2(1) of the Bill sets out the required harm threshold for the proposed conversion practice offence in the following terms:

Clause 2

(1) A person commits an offence if the person carries out an abusive conversion practice on an individual **which causes—**

(a) **serious harm** to the individual’s physical or mental health, **or**

(b) **serious alarm or distress** to the individual which has a substantial adverse effect on their usual day-to-day activities.

73. Clause 2(1)(a) uses the word “or”, so the offence can be triggered by the lower of the two harm thresholds: “serious alarm or distress”. This threshold features in the offence of controlling or coercive behaviour, but that statute requires the behaviour in question to occur “repeatedly or continuously”. The conversion offence does not impose that requirement and could, in principle, be committed by a single incident. The explanatory notes explicitly state that the Bill is intended to describe a level of harm “comparable” to that offence. The Crown Prosecution Service’s online guidance on controlling or coercive behaviour gives the following examples of what might constitute “serious alarm or distress to the individual which has a substantial adverse effect on their usual day-to-day activities” (emphasis added):

CPS ONLINE GUIDANCE.

- Examples of substantial adverse effect on the victim could include:
- physical or mental health deterioration
- no longer socialising or withdrawing from activities such as physical exercise
- needing to put in place measures at home to safeguard themselves or their children, including CCTV
- self-harming
- no longer eating properly

- putting in place measures in their home to safeguard themselves or their children
- changing working patterns, employment status or routes to work

Children and teenagers experiencing distress around their sexed body frequently present at NHS services with a range of comorbidities which can include physical and mental health deterioration, withdrawing from socialising, self-harming and eating disorders. 70% of referrals to the (now closed) Tavistock Gender Services for Children had more than 5 associated comorbidities such as abuse, depression, self-harm, suicide attempts, anxiety, eating disorders, ADHD or bullying.

74. As the CPS online guidance makes clear from the fact that it includes victims who themselves have children or employment, the concept of “serious alarm or distress to the individual which has a substantial adverse effect on their usual day-to-day activities” was designed for adults, not children or teenagers. We take the view that parenting children and teenagers does sometimes involve instances where a parent could be said to have caused serious alarm and distress, and we think this is particularly likely in situations where children are presenting with distress around their sexed body and seeking medical interventions. For these reasons, this harm threshold is completely inappropriate for family life.
75. Alarm and distress of a non-serious nature feature as a harm threshold in the Public Order Act 1986 for relatively low-level offences. That Act contains no statutory definition of these terms, and the courts have applied their ordinary, everyday meanings in English. While this may sound simple in theory, in practice the courts have issued multiple authorities on what the terms mean, varying according to the factual context of the case. We think it inevitable that criminal courts dealing with the Bill would need to address carefully what level of alarm and distress was an ordinary part of the difficulties of family life and what was criminal. That adds a further level of uncertainty to the Bill and places an undesirable burden on criminal courts, which do not normally adjudicate on family life in this way.
76. Ministers would benefit from considering the work of the family courts dealing with cases where teenagers present with distress over their sexed body and the sorts of situations families are faced with. In the family case of *Re J*²⁷ the former President of the Family Division dealt with a case where parents had been in dispute over gender medicine for their teenage child. J had a serious and tragic history of poor mental health, disordered eating and self-harm. In this case the President was highly critical of a company called “Gender GP” having heard from an expert witness that a dose of testosterone was prescribed at such a high dose it left J at risk of “sudden death”. The President concluded his judgment by saying “Whilst further evidence may, of course, alleviate the concerns that I have described, on the experience in these proceedings thus far, I would urge any other court faced with a case involving Gender GP to proceed with extreme caution before exercising any power to approve or endorse treatment that that clinic may prescribe”. We are extremely concerned that

²⁷ Re J [2024] EWHC 922 (Fam) <https://www.judiciary.uk/wp-content/uploads/2024/05/Approved-Judgment-Re-J-1-May-2024.pdf>

the father in this case (who at one point opposed medicalisation) would be arrested and prosecuted for a conversion practices offence on the basis his conduct caused “serious alarm or distress”.

77. Clause 2(1) criminalises conduct “which causes” either serious harm or serious alarm or distress. This is a consequential-harm offence in as much as the defendant need not actually intend any harm or be reckless as to whether they cause it; it is enough that the harm is caused. While the explanatory notes address the level of harm required and refer to the offence of assault occasioning actual bodily harm, they say nothing at all about any requisite intention. This is concerning because, for the offence of assault occasioning actual bodily harm, the defendant does not need to intend, or even foresee, the actual bodily harm itself; all the Crown needs to prove is the underlying act that led to the harm. This position is sometimes described as “constructive liability”. Our position is that this drafting is draconian because a well-intentioned parent could intend no harm and simply have a difficult conversation with their teenager, but years later be told they are constructively liable for causing serious alarm or distress. We consider that using the criminal law in this fashion cannot be right.
78. Insofar as the explanatory notes accompanying the Bill intend for the harm threshold in “serious harm” to reflect that of Assault Occasioning Actual Bodily Harm, we are concerned that this is not written onto the face of the Bill and that it is a relatively low threshold. The term “actual bodily harm” in the offence of Assault Occasioning Actual Bodily harm means harm that is “more than transient or trifling²⁸” and has been held to include cuts and bruises and psychiatric harm amounting to a recognised psychiatric diagnosis. We can easily foresee cases, such as we cited in *Re J*, where in difficult family situations a child is suffering mental harm amounting to a diagnosable psychiatric issue. It would, we think, be an oppressive incursion into family life to prosecute a parent for contributing to such a state of affairs on the basis the family was in conflict over medicalising a child/teenager.

The absence of statutory defences on the face of the Bill and medical carve out

79. Criminal Law in England and Wales often provides for statutory defences with a section of an act reading “It is a defence for the accused to prove...”, “It shall be a defence...”, “A person is not guilty... if...” or similar formulations²⁹. The draft Bill contains no such formulations and no statutory defences. This is concerning particularly given that parents and those in loco parentis are likely targets of this Bill.
80. Clause 1(3) contains the following provision (emphasis added):

Clause 1

²⁸ *R v Donovan* [1934] 2 KB 498

²⁹ See, for example, Public Order Act 1986, s.4A(3) (intentional harassment, alarm or distress): “It is a defence for the accused to prove— (a) that he was inside a dwelling... or (b) that his conduct was reasonable.”

(3) Conduct which—

(a) is carried out by a person towards an individual with such an intention, but

(b) is carried out in the course of providing health care services to the individual concerned,

is **not a conversion practice** unless the person acts in a way that **falls far below the standards** reasonably expected of a person in their position.

This provision creates a further element of the offence the Prosecution must prove, rather than a statutory defence. We are concerned that the Bill in any event targets one area of healthcare for potential prosecution and believe it to be self-evident that cautious healthcare practitioners will simply refuse to see young patients with distress over their sexed body rather than risk prosecution.

81. We are fortified in that conclusion by the Gallop report approvingly cited by the Minister which says this of “psycho-medical conversion practices”:

“These practices were frequently offered, organised or forced upon clients by others – often parents or family members. One trans+ client “disclosed parents want to take him to counselling ‘to convince him he is a female”³⁰ (Client L6)”

Client L6 appears to be the same example as was cited in respect of use of a new name and pronouns. Gender healthcare following *The Cass Report* emphasises open, exploratory therapy over medical intervention or an “affirmative” model whereby a child’s cross sex ideation is unquestioned and reinforced. We question the degree to which therapy aimed at reconciling a child/teenager to their body might be presented by a prosecution in the terms adopted by Gallop.

82. Beyond the question of the chilling effect in medicine, it is notable that the Bill contains no defences for:

- Parents acting in the best interests of their children
- Those in loco parentis doing the same
- Persons exercising free speech
- Persons exercising religious freedoms

³⁰ Galop (2026). Still not illegal: Evidence of modern-day conversion practices from Galop’s frontline services
<https://www.galop.org.uk/reports/still-not-illegal-evidence-of-modern-day-conversion-practices>

- Persons running organisations such as businesses complying with civil/employment law such as the codes of practice around single sex spaces

We note with concern that the former Minister has turned her mind to the question of a “parental carve out” and decisively concluded one is inappropriate prior to pre legislative scrutiny³¹. This could produce the absurd position where a doctor or therapist is free not to use pronouns or a new name or to question and challenge a “transgender identity”, but a parent may not do so. We think this inconsistent and illogical.

83. The absence of statutory defences is a concerning feature of this legislation, particularly given its breadth and ambiguity. As we will go on to develop, we take the view this raises Human Rights issues.

The Conversion Offence can be privately prosecuted

84. In England and Wales individuals and organisations with legal personality may commence a private prosecution for any “either way” offence pursuant to s.6 of the Prosecution of Offences Act 1985. It is open to the Government to curtail private prosecutions by legislating that prosecution may not commence without the consent of the Attorney General or the Director of Public Prosecutions (DPP). This mechanism is routinely drafted into statutes where private prosecutions are undesirable or could cause harm. While we oppose the Bill, we strongly recommend that proponents draft in an Attorney General’s consent provision to stop activist actors conducting ideological campaigns via private prosecutions. With serious, sensitive, or politically contentious offences (terrorism-related, certain sexual offences, official secrets, etc.), Parliament has deliberately required consent from the Attorney General or DPP precisely to act as a filter against abusive or politically driven prosecutions, we strongly believe that such a provision is necessary here.
85. Attorney General’s consent is a more secure safeguard than DPP’s consent because it requires the personal fiat of the Attorney General. This is different to the DPP’s consent because the DPP is able to devolve consent to lower ranking Crown Prosecutors unless a statute specifically states it must be their personal consent. Few statutes do. We note that the New Zealand Conversion Practices Prohibition Legislation Act 2022 requires the consent of the Attorney General and we think that wise³².
86. There are cogent grounds for supposing that activists (particularly in the third sector) would misuse the power of private prosecution. Some charities in this area have a history of misstating the law for their own ideological purposes, a clear example of which is the Reindorf Report into Essex university which found that “In my view the policy states the law as Stonewall would prefer it to be, rather than the law as it is³³”. More broadly accusations of conversion practices have been levied

³¹ <https://www.politicshome.com/news/article/no-carve-out-parents-lgbt-conversion-practices-ban-minister-confirms>

³² s.12, Conversion Practices Prohibition Legislation Act 2022, <https://www.legislation.govt.nz/act/public/2022/1/en/latest/#LMS487197>

³³ <https://sex-matters.org/wp-content/uploads/2021/06/Reindorf-Report-Sex-Matters-.docx.pdf>

by a former CEO of Stonewall in a matter the GMC declined to investigate³⁴. More recently, the charity Amnesty UK accused several gender critical organisations of engaging in conversion therapy in a report they subsequently withdrew and apologised for before referring themselves to the Charities Commission. We take the view that if the third sector is given the potential weapon of privately prosecuting conversion practices activists will inevitably take it up not on the basis that crimes have been committed, but on the basis that it is ideologically useful. We would also remind MPs that unlike a remedy like Judicial Review, a private prosecution does not require a prosecutor to demonstrate “standing” (a sufficient interests or connection to a case).

87. Separately to private prosecutions, we think more generally that the permission of the Attorney General in public prosecutions would act as important oversight measure of the Crown Prosecution Service. This oversight is necessary because there are marked questions over whether or not the Crown Prosecution Service is adequately politically independent in gender related politics as demonstrated by the ongoing judicial review of *Sex Matters v Crown Prosecution Service*³⁵ regarding the service’s sex by deception guidance.

Clause 3 – encouraging or assisting the offence

88. Clause 3 is a broad extraterritorial provision which, when combined with the main offence’s vagueness could capture matters such as sharing materials or advice online, referring someone to a therapist or counsellor or parental discussions that are then relayed to a child abroad. This risks over-criminalising speech and ordinary advice.
89. Unlike the main offence, this secondary-participation variant requires a person to intend to encourage or assist the carrying out of an abusive conversion practice. That differs from the main offence, under which a defendant need not intend the conversion practice to be abusive; it is enough that it is objectively so. That position is supplemented by clause 3(2) of the Bill, which provides that reasonable foreseeability is not enough to satisfy the offence: the conduct must be intended.
90. On one view, this creates an imbalance as between the intent requirements for primary and secondary parties to the act and it is curious that secondary participants would be much harder to prosecute than primary ones. It appears to be the case that for primary participants the test of “abusive” is objective, but the test for secondary participants is subjective and they must intend that their actions are “abusive”. It could be argued that a consistent standard across the Bill is a better and clearer approach, and that a primary participant should also intend their actions to be abusive. Both intent standards are in any event unclear because the word “abusive” is not defined.

³⁴ <https://sex-matters.org/posts/healthcare/conversion-therapy-or-just-therapy/>

³⁵ <https://sex-matters.org/posts/updates/why-sex-matters-is-taking-the-cps-to-court-over-its-guidance-on-deception-and-consent/>

Clause 4 – conversion practice protection orders

91. By clause 4 of the Bill, a schedule makes provision for wide-ranging injunctions called “conversion practice protection orders”. These orders may be made by criminal or family courts for the purpose of protecting persons from abusive conversion practices, whether those practices are anticipated, ongoing or have already occurred. The language of this clause mirrors that of the main offence, so the injunctive regime suffers from exactly the same problems in respect of ambiguity. The clearest example is that the court may make an order only where a conversion practice is abusive, yet “abusive” is not defined. This issue is compounded by the fact that two different jurisdictions are charged with making these orders—criminal and family—and two separate streams of case law are therefore likely.
92. Insofar as the court is given guidance on what considerations are relevant to the making of an order, Schedule 1, Part 1, Clause 2 reads, *“In deciding whether to exercise its powers under this paragraph and, if so, in what manner, the court must have regard to all the circumstances, including the need to secure the health, safety and well-being of the individual to be protected”*. This is a vague and broad statement which does nothing to help courts considering competing claims such as the proper exercise of parental responsibility and freedom of speech. These considerations are likely to arise as issues and ordinarily an injunctive regime would address what weight ought to be given to such.
93. By Schedule 1, Part 1, Clause 3 (a) the court may order such prohibitions, restrictions or requirements as it considers appropriate. This is a power to order a prohibitory injunction which stops a respondent from doing something. By Schedule 1, Part 1, Clause 3 (b) the court may order “such other terms” as it considers appropriate. This is a mandatory injunction power which compels a respondent to do something. These are extremely wide powers apparently without limit. On the face of the Bill, a parent could be compelled to use new pronouns, a school could be compelled to accommodate a teenager as the opposite sex, a writer could be prohibited from publishing gender critical work or an organisation forbidden from holding a conference.
94. Orders may be made on the court’s own motion or on an application by an individual seeking an order for themselves, a local authority in family proceedings, a chief officer of police in criminal proceedings, or any person with the leave of the court. Where a party seeks leave, the court must have regard to the applicant’s connection with the relevant individual and knowledge of their circumstances. While this provision introduces a filter of sorts, ideologically motivated activists have been known to seek out individuals in order to establish sufficient standing. Courts should therefore expect these orders to be abused by some activists seeking to silence opponents online or disrupt their political association.
95. The regime for orders in criminal courts does not require that a defendant be convicted of the offence. While that is unremarkable in general terms for criminal injunctive relief, interim orders made by the Magistrates’ and Crown Courts ordinarily concern clear examples of wrongdoing, such

as restraining orders for harassment or interim sexual harm prevention orders for sexual offending. In those types of cases, the wrongdoing is obvious and the risk of harm significant. By contrast, this regime concerns areas less obviously within the province of criminal law, such as parenting, schooling and the exercise of political speech. This aspect of the regime is troubling, particularly in view of the fact that the High Court has in the past expressed serious concerns about overly onerous orders made by magistrates.

Offences by bodies corporate and unincorporated bodies

96. Clause 5 of the Bill imposes criminal liability on bodies corporate and unincorporated bodies for the main offence and for an offence contained in Clause 5 (2) of failing to take reasonable steps to prevent the commission of the main offence by the body in question. The categories listed in Clause 5 (3) (companies, partnerships, bodies corporate of various kinds, and unincorporated bodies/associations whose members manage the affairs) cover almost every everyday commercial, membership or community organisation.
97. It follows from this breadth that almost every kind of organisation in the country would need to take (or demonstrate they have taken) reasonable steps to prevent the main offence in the Bill were they faced with prosecution. This is an onerous burden because the main offence is broad and ambiguous. The likely response from companies and organisations (particularly those vulnerable to vexatious/ideological litigation) is that they will be compelled to draft clear policies in response to the Bill.
98. We have remarked in respect of private prosecutions that this area of policy is not always assisted by a third sector who sometimes convey the law as they would wish it to be, rather than as it is³⁶. The offence in Clause 5 (3) effectively creates a market in formulating and providing template policies to organisations in a field where such guidance has been the subject of controversy³⁷. Some organisations have every commercial and ideological incentive to overstate the risk of prosecution in this area. It is highly likely they will advise bodies to adopt policies on single sex spaces, pronouns or general workplace policies that directly conflict with judgments of the Supreme Court they wish to undermine.
99. We also think it likely that gender critical groups, particularly those composed of parents, are likely to be targeted for prosecution by this provision. We have already highlighted a report by Amnesty UK³⁸ in which several groups were falsely and baselessly categorised as associated with conversion practices. We consider that such groups are likely targets of criminal prosecution should the Bill pass because the third sector shows every indication of a desire to weaponise conversion practices

³⁶ <https://sex-matters.org/wp-content/uploads/2021/06/Reindorf-Report-Sex-Matters-.docx.pdf>

³⁷ See, for example, "Stonewall accused of misleading public over Supreme Court ruling" <https://www.thetimes.com/uk/law/article/stonewall-lgbt-charity-misleading-public-supreme-court-ruling-b79rgs52k?msockid=35d33cfe5464649333f22aba5571651a>

³⁸ <https://www.amnesty.org.uk/latest/an-apology-a-growing-threat-briefing-published-on-8-july-2026/>

legislation against ideological opponents. This is a serious risk particularly when taken together with the availability of private prosecutions.

100. The fact the Bill requires a person to have committed the main offence in clause 5 (1) before criminal corporate liability triggers in clause 5 (3) should not be taken by parliamentarians to introduce a sequential scheme where an activist party would need to first prove an offence and then turn their attention to the relevant corporation. In criminal law, an indictment may be drafted on the basis of contingent liability with a named person first and an organisation second. We anticipate that vexatious prosecutions designed to disrupt or harass political opponents will be inevitable under the Bill.

Criminal Law analysis conclusion

101. This is an impermissibly wide and dangerous Bill. It is illogical to reassure the public that only “abusive” conduct will be criminalised but refuse to define that term. It is illogical to offer doctors and medics a carve out, but to place parents at risk of prosecution for what might be the same act. It is oppressive and chilling to suggest “any conduct” might qualify for the offence and it is a misunderstanding of raising a teenager to suggest that serious alarm or distress could be an appropriate threshold. It is not right to subject parties to criminal prosecution without an intent requirement of some obvious wrongdoing, rather than a consequential objective test. It is absurd to legislate for a position whereby speech might have the quality of a protected characteristic under the Equality Act, but that it simultaneously be a criminal offence.
102. It is absurd to claim the Bill deals with rape and electrocution, yet legislate for a sentencing maximum lower than one might encounter in existing legislation. It is opportunistic and chaotic to introduce a contested concept like “nonbinary” into a criminal statute, when the very same concept has been rejected in civil courts and the Supreme Court.
103. It is not right to prosecute parents for difficult and tense conversations with their own children, and the blunt instrument of the criminal law has no proper place in family and private life. It is not right to allow an offence this uncertain or broad onto the statute books or to allow it to be privately prosecuted when we know this area of policy is fraught with lengthy and vexatious litigation. It is not right to enlarge obligations around the main offence to almost every company, organisation and public body in the country when the offence is so poorly defined and when third sector actors can reliably be expected to misrepresent it.

3 Human Rights Analysis

Introduction and regime

104. All legislation in the UK must be compliant with the European Convention on Human Rights. That principle is enshrined in section 3 of the Human Rights Act 1998³⁹ which requires that all UK “*legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights*”. This practice is known as “reading down”, and it requires a court to construe statutes such that they comply with the convention. In practice, this means that a court dealing with a convention right will interpret legislation narrowly to minimise or avoid infringing it. Where a statute makes reading down impossible and a court is satisfied that the provision is incompatible with the Convention the court may grant a declaration of incompatibility under section 4 of the Human Rights Act 1998⁴⁰. Courts treat section 4 declarations as a last resort and declarations do not have the effect of striking down legislation. Ordinarily, Parliament passes new legislation in response to a declaration or uses a remedial power contained in section 10 of the act where the mischief identified can be remedied by Ministerial order⁴¹.
105. All modern legislation is accompanied by a government assessment of compatibility with European Convention on Human Rights. On the face of it, this Bill has serious implications for family life and freedom of expression. Despite that, the assessment for the Bill found at paragraph 99 of the explanatory notes reads “The Government considers that the draft Bill is compatible with the European Convention on Human Rights⁴²”. Given the vagueness and wide scope of this legislation, we cannot agree with that assessment.
106. We consider that the following articles of the convention are engaged and merit further consideration:
- **ARTICLE 6 RIGHT TO A FAIR TRIAL:** It is not clear to us that the existing protections for gender critical speech or beliefs can be reconciled with a statute which enshrines contested identity concepts as facts in the criminal or family law process.
 - **ARTICLE 7 NO PUNISHMENT WITHOUT LAW:** Criminal laws must be certain and foreseeable. The vagueness of this statute leaves potential defendants with marked uncertainty as to what conduct is criminalised and what is not.
 - **ARTICLE 8 RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE:** The former minister’s insistence that no parental “carve out” would be considered and that standards of parenting ought to be

³⁹ <https://www.legislation.gov.uk/ukpga/1998/42/section/3>

⁴⁰ <https://www.legislation.gov.uk/ukpga/1998/42/section/4>

⁴¹ See, for example *R (H) v Secretary of State for Health* [2001] EWCA Civ 415 <https://www.bailii.org/ew/cases/EWCA/Civ/2001/415.html>

⁴² <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes#compatibility-with-the-european-convention-on-human-rights>

judged by criminal courts amounts to an explicit admission that the government intends a serious and unprecedented incursion by the criminal law into everyday parenting.

- **ARTICLE 9 FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION:** The convention requires that the state remain neutral on matters of religious and philosophical belief, yet the Bill mandates belief (or professions of belief) for contested identity concepts.
- **ARTICLE 10 FREEDOM OF EXPRESSION:** The Bill requires no connection between a speaker and a complainant, and the explanatory notes specifically envisage speech as capable of triggering the offence. A person may therefore utter speech which would qualify as a protected characteristic in a civil court but be prosecuted for the same speech via the Bill. That would be absurd.
- **ARTICLE 14 PROHIBITION OF DISCRIMINATION:** The Bill discriminates against religious people and those with gender critical beliefs. They are mandated to accept contested belief concepts and setting out their contrary positions in a manner that triggers the harm thresholds of the Bill amounts to the commission of the offence. This means the Bill discriminates on the basis of belief.

Article 6 – Right to a fair trial

107. Article 6 of the convention guarantees an entitlement “to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law⁴³”. The Bill takes contested ideological identity concepts and embeds them in criminal and family law. This is unusual in any form of statute because courts and Acts of Parliament tend to steer a middle course between ideological disputes protecting competing philosophical points of view⁴⁴. The case of *Forstater v GCD* is instructive on this point because it protects both gender critical beliefs and the opposite point of view. While some laws protect systems of belief such as in the case of religiously aggravated criminal offences, those crimes are distinct from the offence proposed in the Bill because Defendants do not ordinarily contend the very existence of such religions. This Bill is different. It requires criminal and family courts to directly affirm the existence of contested identity concepts in a manner that cannot be said to be impartial with respect to the wider debate. Thus, it would be no defence for a parent charged with a conversion practice to say “I do not believe in non-binary identity” because the Bill specifically forecloses submissions on the point, the existence of the identity is written into the statute.
108. Practically applying what is essentially identity politics raises a series of convention sensitive issues. A criminal Judge dealing with the elements of the offence or a family Judge considering the protection order regime cannot try or determine the issue in a way that meets the guarantees of

⁴³ <https://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

⁴⁴ See, for example, *Forstater v GCD* UKAT/0105/20/JOJ <https://www.judiciary.uk/judgments/maya-forstater-v-cgd-europe-center-for-global-development-masood-ahmed/>

Article 6. A judge is faced with one of two choices, they either treat a contested and open-ended identity claim as legally conclusive, or they craft an unworkable direction as to what does and does not constitute such an identity. In the first instance (where an identity claim is treated as conclusive) a defendant/respondent is effectively prohibited from disagreement with an identity politics claim which poses a very clear Article 6 equality of arms issue. That issue is particularly acute in cases where the prosecution claim is not that the complainant had such an identity as a matter of fact, but they believed that they did. Clause 1(2)(b)(ii) makes the belief that one has the identity part of the protected interest. If the complainant's belief is both the thing being protected and the conclusive proof that the thing exists, the prosecution is using the same untestable assertion as definition, evidence, and harm.

109. In the second instance, where the court attempts to define an identity claim to the criminal standard, courts are likely to struggle to rationalise and systematise identity claims that even proponents of the ideology often have difficulty articulating. Neither criminal nor family courts can look to the natural home of such jurisprudence, Equality Act law, because the identity concepts in the Bill are unknown to that branch of law and are based on novel or more expansive concepts.
110. Identity claims give rise to a substantive Article 6 difficulty in the criminal context because the accused cannot be told with precision what is in issue. Article 6(3) requires that everyone charged be informed "in detail" of the nature and cause of the accusation. Article 6(3)(b) requires adequate facilities to prepare a defence. Both guarantees depend on the elements of the offence being identifiable. As we have remarked in the criminal law analysis, Clause 1(2) makes the target of intention "a transgender identity or a particular transgender identity." Clause 1(8) then says the circumstances in which a person has that identity "include (but are not limited to)" gender reassignment, being transsexual, or identifying as "neither male nor female or as not solely male or female". This means the prosecution must prove an intention that is directed toward a concept Parliament has declined to define the outer edges of. This is an Article 6 issue because the defence cannot know what evidence is relevant, whether expert evidence can be called on the point or is admissible or what precisely a jury must be sure of. The European Court of Human Rights approaches cases of inadequate particularisation as Article 6 issues infringing fair trials, (see *Pélissier and Sassi v France* [GC]⁴⁵ and *Mattoccia v Italy*⁴⁶).
111. The convention requires that criminal charges be specific and certain with Article 6 3 (a) requiring that *"Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him"* (emphasis added). Clause 1(5) says whether conduct is "abuse" is "a question of fact... in all the circumstances," and clause 1(6) includes "controlling or coercive words or behaviour," "economic pressure," and "psychological or emotional pressure". Those phrases could be taken to cover a parent saying no to hormones or pronouns. If "abuse" and "serious

⁴⁵ *Pélissier and Sassi v France* [GC] (1999) 30 EHRR 715 <https://www.bailii.org/eu/cases/ECHR/1999/17.html>

⁴⁶ *Mattoccia v Italy* (2000) 36 EHRR 47 <https://www.bailii.org/eu/cases/ECHR/2000/383.html>

distress” swallow ordinary parental conflict, the accused is not facing a defined criminal charge, rather the state is subjecting them to an after-the-event moral judgment. This raises the spectre of inconsistency, different juries judging the same facts can come to different decisions when the nature of the judgment they are asked to make is moral/philosophical rather than legal.

112. As we will develop when addressing Article 7’s requirement of certainty and foreseeability of law, a person must be able to know, from the words of the statute and the courts’ interpretation, what will make them criminally liable. Clause 1(8)’s “not limited to”, plus “any conduct”, plus a harm test easily triggered by something such as teenage distress, fails that standard in the precise setting where Article 6 is expected to operate.
113. If the Bill passes as drafted, criminal judges are likely to face situations in which the only way the Bill could be read down as compliant under section 3 of the Human Rights Act 1998 would be to tell juries that they must acquit where the conduct in question was ordinary parenting, protected belief or speech, or simple medical caution. That would amount to legislating from the bench and building in “carve-outs” that Parliament expressly declined to adopt. Such directions could not be given without contradicting the width of clauses 1(2), 1(6) and 2. That outcome would make the trial itself unfair because the statutory text and a Convention-compliant summing-up could not coexist.
114. Article 6 applies to the determination of civil rights as well as criminal charges and so it applies to the protection order regime in the schedule to the Bill. Criminal and Family courts making such orders would both be exercising a civil jurisdiction and determining a civil right for the purposes of the convention. Protection orders may be obtained without notice to a respondent⁴⁷. As we have noted in our commentary on such orders in this document, the court may make a conversion practice protection order to protect against practices “likely to cause” either of the harm thresholds, with terms “the court considers appropriate,” including extra-territorial terms. Breach is a criminal offence. Contempt powers sit alongside that. Applicants include the individual, the police, a local authority, or any other person with leave.
115. This regime suffers from two significant Article 6 defects. First, the ambiguity of the language for the main offence is replicated in the order regime such that all the uncertainties that apply to criminalisation cross apply to the civil regime. Second, the Standard of proof is not specified in the Bill. As the orders can criminalise future speech and parenting, silence on the standard of proof is a significant fairness defect. It is not clear from reading the Bill what conduct will and will not trigger the court’s jurisdiction in this area⁴⁸.
116. Without-notice orders are a significant concern. Although Schedule 1, Part 4, Clause 4 requires a return-date hearing—a second hearing after the without-notice order is granted—these orders, particularly when granted by the Family Court, are likely to affect basic parenting. If the first hearing

⁴⁷ Schedule 1, Part 4

⁴⁸ Similar issues arose with ASBOs leaving the House of Lords in *R (McCann) v Manchester Crown Court* [2002] UKHL 39 to address the issue <https://www.bailii.org/uk/cases/UKHL/2002/39.html>

treats matters such as an alleged identity claim and the risk of a factor such as “emotional pressure” as sufficiently proved on the applicant’s say-so, the respondent’s civil rights are determined without a real opportunity to be heard. The later return-date hearing at which the order may be contested does not cure a structurally unfair first hearing, particularly in the sensitive area of family life (see *Tsfayo v United Kingdom*). The interval between the first hearing and the return date also raises the risk of a chilling effect, particularly given the well-known listing and backlog problems facing the courts. Further, a process involving the police, social services, a without-notice order and a potential criminal breach charge could, in principle, determine family-life rights before anyone has proved an offence to the criminal standard.

Article 7 – No punishment without law

117. Article 7 of the European Convention on Human Rights requires criminal law to be foreseeable and certain. Criminal offences must be sufficiently clear for a person to know in advance what conduct is prohibited. A person is deemed to have access to judicial interpretations and, where necessary, legal advice; the purpose of the Article is to prevent arbitrary or overly vague laws. Article 7 confers an absolute right from which no derogation is permitted.
118. We consider that the Conversion Practices Bill gives rise to Article 7 issues. According to clause 1(5), whether conduct amounts to an abuse of the individual “is a question of fact to be determined by reference to all the circumstances of the case, including in particular the nature of the conduct”. While clause 1(6) contains a multifactor set of categories, it does not specify what sort of behaviour is acceptable and what is criminal. There is no statutory definition of “abusive”, no requirement for repetition or continuity, and no requirement for a pre-existing intimate or family relationship, unlike the coercive-control offence in section 76 of the Serious Crime Act 2015. This means a parent could face retrospective criminalisation for conduct, such as a conversation or decision around medicalisation, that they regarded as ordinary and proper at the time, years after the event. This is not the kind of offence, like assault or theft, where the line between lawful and criminal is intuitive and usually clear; it potentially goes to the heart of private and sensitive matters.
119. While the European Court of Human Rights accepts that laws can contain general terms that require judicial interpretation, the greater the potential penalty and the more sensitive the area (family life, religion, speech), the higher the standard of clarity required. In a parent-child conversation about gender distress, a judge would have to direct the jury on how to apply the multi-factor test. Different judges could legitimately emphasise different factors or reach different conclusions on the same facts. This creates a real risk of inconsistent application. The lack of a relationship or repetition requirement (unlike coercive control) makes it harder for ordinary people (parents, religious figures, therapists) to know in advance where the line is drawn.
120. The Bill would place the police and CPS in a difficult position with borderline cases, such as a parent’s refusal to use they/them pronouns and the question of whether this amounts to

“psychological pressure” or protected parenting. Juries would have to decide highly subjective issues the legislature has explicitly declined to answer such as the definition of “abusive” in a family context or what constitutes a “substantial adverse effect”.

Article 8 – Right to respect for private and family life

121. Article 8 protects the right to private and family life, and it sits alongside a well-established line of case law in the Family Division emphasising that courts will intervene in parenting only where a child is at risk of significant harm. Article 8 is a qualified right, which means that any interference must satisfy three tests. First, it must be prescribed by law; second, it must pursue a legitimate aim; and third, it must be necessary in a democratic society, which is the proportionality limb. That limb is likely to give rise to problems with the Bill.
122. The Bill explicitly interferes with Article 8 rights by criminalising conduct occurring within family life or allowing injunctions over it. Clause 1(6)(e)’s mention of “psychological or emotional pressure” could cover private or family conversations, such as parents discussing a child’s gender dysphoria or encouraging desistance, or the exploration of identity, even if non-coercive. The former Minister’s explicit rejection of a parental “carve-out” should be taken as an admission that the Government anticipates that some parents will be prosecuted.
123. The European Court gives contracting states a wide “margin of appreciation” on Article 8. This means that the court will generally be slow to interfere in this area, however, that margin narrows where core private/family life or religious manifestation is engaged⁴⁹. We take the view that the Bill goes to the core of often tense and difficult situations facing modern families.
124. Alongside the European case law, domestic courts in this country have generally erred on the side of not intervening in questions of how parents bring up their children. This principle was demonstrated in a well-known judgment of Hedley J in *Re L*⁵⁰ in which he said society must be willing to tolerate “very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent, provided there is no significant harm”. Family courts generally remain neutral between religions and respect parental autonomy in raising children according to their beliefs, unless there is clear evidence of harm.
125. The Bill, as currently drafted, risks criminalising (with up to 5 years in prison) conduct that family courts would normally treat as within the wide spectrum of acceptable parenting, for example, a parent repeatedly using a child’s birth name and biological pronouns or a parent expressing caution about social transition or medical pathways because they believe the child is influenced by social

⁴⁹ See, for example, *Abdi Ibrahim v Norway*, Application no. 15379/16 in which a Muslim mother lost a child to care and then adoption with a Christian family. The authorities failed to give due weight to her wish that the child be raised in her faith. Violation of Article 8 read in the light of Article 9. <https://www.bailii.org/eu/cases/ECHR/2021/1060.html>

⁵⁰ *Re L* [2006] EWCC 2 (Fam), <https://www.bailii.org/ew/cases/EWCC/Fam/2006/2.html>

factors. This could lead to chaos. The same parental behaviour could be lawful (or even protected) in the Family Division but criminal in the Crown Court.

126. This risks a serious chilling effect on Article 8 and Article 9 rights. Parents have a protected right to raise their children according to their philosophical and religious beliefs. Criminalising the manifestation of those beliefs in the home (especially when done in good faith and without other coercive behaviour) would constitute a major interference with those rights. A gender-critical parent acting on the basis of protected philosophical beliefs (as established in *Forstater*) would have strong human rights arguments around articles 9 and 10 (belief and expression) in a family setting. The Bill's breadth creates unnecessary conflict with these protections.
127. The manner in which an allegation of conversion practice interacts with local authority obligations in family proceedings should also be considered. If conversion practices become a new category of "significant harm," local authorities will be obliged to investigate complaints. That could lead to unnecessary intrusion into family life, parallel proceedings, and huge resource implications⁵¹.
128. Family courts faced with Article 8 arguments would be in a very difficult position. While the "no carve-out" position of the former Minister may sound principled in the abstract ("abuse is abuse"), it ignores the reality that many of the behaviours the Bill could capture in a family setting are precisely the kind of conduct family courts have deliberately chosen not to censure, provided there is no significant harm. Family Courts could respond by using s.3 of the Human Rights Act 1998 to read the Bill narrowly in family/parenting contexts (e.g., requiring something closer to the existing coercive control threshold or clear evidence of serious harm beyond normal parental disagreement or religious teaching) or they could make a s.4 declaration of incompatibility if the Bill cannot be reconciled with Articles 8 and 9 in the parenting sphere.
129. Such an outcome is far from ideal. It would leave parents, police, prosecutors, and family practitioners in a state of uncertainty for years while case law develops. Overall, the Government appears to have given insufficient thought to how the Bill sits alongside decades of family law jurisprudence and basic Article 8/9 rights.

Article 9 - Freedom of thought, conscience and religion

130. Article 9 protects "thought, conscience and religion" and it includes non-religious philosophical beliefs that attain a sufficient level of cogency, seriousness, cohesion and importance. "*Forum internum*" (the right to hold a belief) is absolute. The right to manifest it in teaching, practice or expression is qualified: restrictions must be prescribed by law and be necessary in a democratic society for, among other things, the protection of the rights and freedoms of others. Article 17 says

⁵¹ See Sarah Phillimore, "The Conversion Practices Bill Is this capable of bringing down both the criminal AND family justice systems? Much more work needs to be done to analyse the impact of this bill on the already tottering family justice system" <https://sarahphillimore.substack.com/p/the-conversion-practices-bill>

a belief is not protected by the Convention if it is aimed at the destruction of others' rights in a way akin to totalitarianism or the gravest hate ideologies. Offensive or distressing beliefs are not enough. There is no Grand Chamber European authority specifically using the term "gender-critical" beliefs, but domestic courts applying Article 9 have used the term and held it to be protected via the Equality Act 2010.

131. Article 9 requires a state to be neutral and impartial as between religious beliefs⁵², that principle can be logically extended to competing philosophical beliefs because the article includes philosophical beliefs and the absence of belief. The Bill is informed by gender ideology (a philosophical belief system that each human possesses a "gender identity" that may be at odds with their sexed body or a belief that despite having a sexed body a person is "nonbinary" and belongs to neither or both sexes). These propositions are extremely close to religious beliefs particularly insofar as they depend on a dualist mind/body understanding of the self. In differing ways, the Bill compels belief in contested identity concepts with serious ramifications for parents, jurors, schools and employers. It would be no defence to a criminal charge for the main offence to profess a lack of belief in the contested identity concepts. In this way, the draft Bill offends against Article 9 by compelling such a belief in the same way a Bill requiring religious belief would infringe the rights of an atheist.
132. We are not a religious organisation, nor do we claim any expertise in this area. However, we can say from our knowledge of our own community that Gay men have a diverse variety of experiences with religion, some are negative with lifelong consequences, some of us are deeply religious. The convention regards the autonomy of religious communities as central to pluralism⁵³. In New South Wales in Australia, similar legislation to the type contemplated by the Bill led to the state government issuing guidance on acceptable forms of prayer⁵⁴. As the Bill contains no explicit carve out for religious or philosophical belief there is no reason to suspect a similar position would not obtain here were the Bill to pass. To our knowledge, outside the clear commission and incitement of criminal offences, Parliament has never in modern times legislated for what may and may not occur or be said in a church, mosque or synagogue. We consider that if it did, a substantial and serious Article 9 challenge would follow and we fear that such an outcome could do long term damage to the wider interests of gay rights by positioning it as totalitarian and hostile to pluralism.

Article 10 - Freedom of expression

133. By Article 10(1), everyone has the right to freedom of expression. That includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Article 10 is explicitly qualified by Article 10(2) because expression carries duties and responsibilities. Article 10 rights may be restricted only where the restriction is prescribed by law,

⁵² Kokkinakis v. Greece 25 May 1993, Series A no. 260-A 17 EHRR 397 <https://www.bailii.org/eu/cases/ECHR/1993/20.html>

⁵³ See Hasan and Chaush v. Bulgaria [GC] 26 October 2000, no. 30985/96; [2000] ECHR 511

<https://www.bailii.org/eu/cases/ECHR/2000/511.html>

⁵⁴ <https://antidiscrimination.nsw.gov.au/discrimination/conversion-practices/frequently-asked-questions.html#What3>

which must be accessible and sufficiently clear, pursues a legitimate aim listed in Article 10(2), and is necessary in a democratic society.

134. The European Court approaches Article 10 on a sliding scale, speech touching on political matters⁵⁵ or debate of public interest⁵⁶ are more protected than speech which is, for example, commercial⁵⁷ or insulting in nature. Domestic caselaw generally errs strongly in favour of freedom of speech as represented by the classic formulation by Sedley LJ in *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 733⁵⁸, “Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence. Freedom only to speak inoffensively is not worth having”. Article 10 was specifically considered by the Court of Appeal (Civil Division) in *R (Miller) v College of Policing* [2021] EWCA Civ 1926 with the court finding the relevant gender critical expression protected and the court emphasising that “The concept of a chilling effect in the context of freedom of expression is an extremely important one”.
135. There are two points about the form of the Bill that invite issues with Article 10. The first is that the Bill does not require any pre-existing personal relationship (unlike s.76 Serious Crime Act 2015 coercive control, which applies only to intimate partners). This broad scope risks capturing single incidents or arm's-length expressions of belief, advice, or religious practice. That concern is particularly serious given the dominance of social media in the contested debate around gender ideology. The second area where Article 10 is highly likely to arise is the criminalisation of companies and other organisations via Clause 5 of the Bill. As we have remarked in respect of private prosecutions in this document, we think it highly likely that gender critical organisations will be targeted and that their natural response will be to raise serious Article 10 arguments. Such arguments will almost inevitably point out that speech that is otherwise protected at law under the Equality Act is being criminalised by the Bill and that the two schemes of law are irreconcilable. That would not only be a serious Article 10 point, but it would also spell chaos for continuity and consistency between criminal and civil law.
136. In a worst-case scenario, normal disagreements, manifestation of protected gender critical belief (speech), or lawful single-sex exemptions could be reframed as criminal should a complainant allege distress. This risks turning the criminal law into a tool for resolving ideological or personal conflicts. That risk is heightened by ambiguity of the main offence and the nature of the debate around sex and gender and frequency of litigation in this area.

⁵⁵ See the leading case of *Lingens v. Austria*, (1986) 8 EHRR 407 <https://www.bailii.org/eu/cases/ECHR/1986/7.html>

⁵⁶ See, for example *Handyside v. the United Kingdom* (1976) 1 EHRR 737 <https://www.bailii.org/eu/cases/ECHR/1976/5.html>

⁵⁷ See the leading case of *Markt Intern Verlag GmbH and Klaus Beermann v. Germany*, (1989) 12 EHRR 161 <https://www.bailii.org/eu/cases/ECHR/1989/21.html>

⁵⁸ *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 733 <https://www.bailii.org/ew/cases/EWHC/Admin/1999/733.html>

Article 14 - Prohibition of discrimination

137. Article 14 is a “bolt on” or “accessory” right argued in combination with other rights. The Article reads: *“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”*. “Other Status” has been construed widely by the European Court and includes sexual orientation and gender critical beliefs would qualify as “political or other opinion”. The central issue for a court considering any Article 14 claim in respect of the Bill would be to ask whether it treats people differently (or has a disproportionate impact) on a protected ground without objective and reasonable justification.
138. The Bill raises significant Article 14 issues in respect of religion. Claimants are likely to argue that the legislation disproportionately affects people with traditional religious beliefs about sexuality and gender, such as Christians, Muslims and Jews who hold orthodox views on marriage and sex. Non-religious or progressive individuals expressing similar cautionary views are likely to face a lower risk.
139. Similar arguments are likely from persons with gender-critical beliefs or those who more generally believe sex is immutable. They might argue the broad “transgender identity” definition, combined with concepts like “emotional pressure,” chills their expression more than pro-transition views. Parents (especially those with concerns based on sex-based rights) could claim the law treats scepticism about youth transition differently from affirmation. Criminalising expressions that cause “distress” to someone identifying as trans could discriminate against those holding protected philosophical beliefs.

Conclusion on human rights law analysis

140. Given the points we make, we are surprised the explanatory notes contain the sentence, *“The Government considers that the draft Bill is compatible with the European Convention on Human Rights⁵⁹”*. It must be obvious to the Government, particularly given their position on the “parental carve out” that at the very least serious Article 8 issues are at play. It ought to be obvious that Articles 9 and 10 are also engaged particularly given the extensive case law in this country around gender critical beliefs and expression of belief. Compelling Judges and juries to accept poorly defined contested identity concepts as legal truths should prompt serious considerations of articles 6 and 7. The fact that some religions/philosophical beliefs are likely to be more affected than the contrary positions (as demonstrated by the New South Wales example) similarly ought to prompt some consideration of article 14.

⁵⁹ <https://www.gov.uk/government/publications/draft-conversion-practices-bill/explanatory-notes#compatibility-with-the-european-convention-on-human-rights>

141. We are of the position that the Bill is incompatible with the convention for the reasons we have identified. Any court attempting to read down the Bill will be legislating from the bench and building in protections and carve outs rejected by ministers. Any court involved in such an exercise will necessarily be doing so only after a parent, teacher, speaker or gender critical group is prosecuted or made the respondent to a civil order with all the misery that implies for such persons. This Bill disregards fundamental human rights because it explicitly encroaches on family life and freedom of expression around a matter of heightened public interest.

4 Civil, Family and Public Law Analysis

Introduction

142. The introduction of a new criminal offence and an injunction regime is likely to have effects far beyond the criminal and family courts directly dealing with those matters. The main offence proposed in the Bill is extremely wide and easy to allege against a person or a company. Criminal allegations can be a simple, cost-free way for activists or ideologically motivated actors to further their political objectives. Whether a prosecution or investigation succeeds is often beside the point: the disruption, pressure, HR processes and negative publicity give activists a powerful and easily used tool. The political and social context of this policy area is relevant because it is highly litigious. The history of gender-critical cases over the past ten years attests to that claim; it is predominantly a history of employment tribunal and civil court cases.
143. This has serious implications for other spheres of life and law such as:
- Employment law (and particularly employers) in the workplace
 - Equality act law and collateral attacks on single sex spaces
 - General civil law and actions for damages for negligence
 - Public law and the duties placed upon public bodies via clause 5 of the Bill to take all reasonable steps to prevent the commission of the offence.
144. Family law is an area, perhaps far more so than general civil law, that deserves the utmost focus in respect of the issues the Bill raises. While the Bill's most obvious direct effect is to vest a new injunctive regime in the Family Courts, the implications of this legislation go much further. As we have commented in our human rights analysis, this Bill is very difficult to reconcile with Article 8. Beyond this, several other matters are important, such as:
- What the Bill means for Public Children Act Law and the responsibilities of a Local Authority under the Children Act 1989

- How the Bill can work in Private Children Act Law where a child presents with gender issues
- What the Bill means for private-law financial remedies in the Family Courts in respect of divorcing couples where a party claims a trans identity and alleges a conversion offence.
- What the Bill means for the interaction between the criminal and family process, particularly in respect of bail conditions

Employment law and issues for employers

145. Sex and gender questions have most often arisen in employment contexts in UK case law with numerous cases on this subject⁶⁰. Workplaces have perhaps struggled the most with questions around single sex spaces, pronouns, acceptable types of expression and the general difficulty of accommodating competing world views. In many cases workplaces become polarised and vexatious or tactical complaints are not unknown, particularly where activist groups encourage individuals to report or raise issues with employers. Even with the situation as it is, employers face conflicting duties with many balancing a duty to protect an employee's dignity/sense of identity (to avoid harassment claims or tribunal risk) while also respecting colleagues' protected gender-critical or religious beliefs and avoiding indirect discrimination.
146. Employment cases can be long, and many successful gender critical litigants understandably complain that "the process is the punishment". As matters stand an internal complaint to HR can lead to interviews, with resulting stress for managers and colleagues, negative publicity for the employer, and internal disciplinary risks for the claimant or others. We take the view that these are precisely the wrong sort of circumstances in which to introduce a wide ranging and vague criminal offence that could be levelled at a colleague or leveraged against an employer because the case law suggests such a weapon will be misused.
147. The Bill creates a significant asymmetry between criminal, employment, and equality law. The breadth of the criminal Bill creates a real risk that employees (or others) could use the threat of a criminal complaint as leverage in situations where a civil discrimination claim would be weak or doomed to fail. To take a clear example, a person's belief that they have a "nonbinary identity" is not a protected characteristic⁶¹ and so an Equality Act claim based upon it would fail. Were the Bill

⁶⁰ See, for example, *Forstater v GCD* UKEAT/0105/20/JOJ <https://www.judiciary.uk/judgments/maya-forstater-v-cgd-europe-center-for-global-development-masood-ahmed/>, *Mrs S Appleby v The Tavistock and Portman NHS Foundation Trust* [2021] UKET 2204772/2019 https://www.bailii.org/uk/cases/UKET/2021/2204772_2019.html, *Phoenix v The Open University (and others)*, [2024] UKET 3322700/2021 https://www.bailii.org/uk/cases/UKET/2024/3322700_2021.html, *Meade v Westminster City Council and Social Work England*, London Central Employment Tribunal; case nos. 2200179/2022 and 2211483/2022, <https://www.gov.uk/employment-tribunal-decisions/ms-r-meade-v-westminster-city-council-and-social-work-england-2200179-slash-2022-and-2211483-slash-2022>, *Ms A Bailey v Stonewall Equality Ltd and others* [2022] UKET 2202172/2020 <https://www.gov.uk/employment-tribunal-decisions/ms-a-bailey-v-stonewall-equality-ltd-and-others-2202172-slash-2020>, *Peggie v Fife Health Board and Dr B Upton*, Employment Tribunal (Scotland), 8 December 2025; case no. 4104864/2024 <https://www.judiciary.uk/judgments/sandie-peggie-v-fife-health-board-and-another-judgment-and-summary/>

⁶¹ Opponents sometimes argue this point and cite the decision in *Taylor v Jaguar Land Rover Ltd*, case no. 1304471/2018 <https://www.gov.uk/employment-tribunal-decisions/ms-r-taylor-v-jaguar-land-rover-ltd-1304471-2018>. This was a decision of the ET which is non-binding first instance and not in a position to definitively settle the meaning of statutory terms. This authority holds that sex is a spectrum,

to pass a “nonbinary” claimant would be in the strange position of not enjoying protection for their identity claim pursuant to the Equality Act 2010, but at liberty to allege that a refusal by a colleague or employer to use they/them pronouns amounted to “any conduct” intended to cause them not to have/or believe themselves not to have a non-binary identity.

148. As the Bill requires only “abusive conduct”, a complainant in these circumstances could contend that a failure to acquiesce to a pronoun demand amounts to such conduct, and they would need to prove only serious alarm or distress that has a substantially adverse effect on their day-to-day activities. Many employment cases feature complainants taking time off work, so the threshold could be easily surmounted. This would create a perverse situation in which criminal law—a jurisdiction designed for serious offending meriting the most onerous punishments of the state—was preferable as a litigation tool in a workplace dispute to ordinary civil law.
149. This situation creates serious and unnecessary problems for employers. If prosecuted, they would need to show that they had taken reasonable steps to prevent the commission of the offence, which would likely involve drafting a policy. That process could be costly because the policy would need to navigate both civil and criminal law. Further, an employer would need to consider whether capitulation to, or over-compliance with, the Bill risked claims from gender-critical staff in polarised workplaces, particularly where risk-averse employers simply acquiesced to demands. This is a very long way from the conduct that proponents of this legislation claim to wish to criminalise, yet it is the direct, natural and, in our view, likely effect of this wide-ranging Bill, particularly as it applies to employers.
150. We consider it worth spelling out what a criminal allegation might mean for employers with the Bill. A disgruntled or activist employee might struggle to win (or even bring) a successful civil discrimination claim for not being called “they/them” but still threaten or make a criminal complaint. That complaint could trigger a police investigation, potential CPS involvement, reputational damage, and internal HR processes for the employer, all of which could easily follow even if the criminal case never reached charge or conviction. We believe that this is the opposite of what good employment law should do because it creates uncertainty and chills expression of protected beliefs on one side while giving leverage in the form of criminal sanctions (or threat thereof) to the other.
151. The broad and uncertain provisions of the Bill could undermine the practical effect of the judgment in *Forstater*. A gender-critical employee who repeatedly uses sex-based pronouns, states that sex is immutable or refuses to affirm a transgender identity could be investigated or prosecuted for engaging in an “abusive conversion practice”. The Bill’s language is wide: “any conduct” could include the use of language, particularly when the intention requirement is considered alongside “psychological or emotional pressure”. These terms are wide enough to capture speech where a

the decision of the Supreme Court rejects that proposition in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16
<https://www.supremecourt.uk/cases/uksc-2024-0042>

criminal complaint is framed as denying the person's identity and causing distress. Risk-averse employers could simply adopt blanket affirmation policies or discipline gender-critical staff to avoid criminal complaints, investigations or private prosecutions. This would indirectly pressure people not to manifest the very beliefs that *Forstater* protects, and the threat alone would create costs, stress and demands on management time.

152. The Bill risks eroding the real-world value of *Forstater* through indirect pressure rather than direct contradiction. If left unaddressed, a situation could emerge whereby gender-critical beliefs are "protected on paper" but chilled in practice. This would be a significant step backwards for pluralism and free speech in a democratic society.

Equality Act law and collateral attacks on single sex spaces

153. In much the same way as an employee could demand pronoun compliance with a threat of prosecution, so too could a vexatious employee or service user make demands in respect of single sex spaces. This is a plausible and concerning way in which the Bill could be used to undermine or severely curtail the effect of the judgment in *For Women Scotland v The Scottish Ministers*⁶².
154. In *For Women Scotland*, the Supreme Court of the United Kingdom ruled that the term "woman" in the Equality Act 2010 means biological sex (and that a Gender Recognition Certificate does not change legal sex). The effect of this judgment was to rule that single-sex spaces, services, sports, etc., are lawful where it is proportionate to have a single sex category (i.e. it is the existence of the space/service/sport that must be proportionate, not a case-by case judgment on persons of the opposite sex wishing to enter the space/service or sport). Thus, organisations can lawfully maintain sex-based policies based on biological reality.
155. Gay men have a vital interest in the integrity and authority of this judgment. At paragraph 206 of *For Women Scotland* the Law Lords dealt with the submissions of the lesbian intervenors who argued that homosexuality involved persons sexually oriented towards persons of the same biological sex. The Law Lords agreed and held that the opposite point of view advanced by the Scottish Ministers would reduce the protections afforded to gay men and lesbians around the same-sex orientation protected characteristic to the state of being "meaningless". It follows from this that any attempt to subvert the authority or impact of *For Women Scotland* is an attack not just on single sex spaces, but on same sex orientation rights. This is so because without sex, there is no same sex attraction⁶³.
156. A person seeking to undermine *For Women Scotland* (FWS) could argue that a policy excluding biological males from a women's refuge, changing room, prison wing, sports category, or similar is "conduct" intended to cause the person "not to have" (or believe they do not have) a transgender

⁶² *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16 <https://www.supremecourt.uk/cases/uksc-2024-0042>

⁶³ https://x.com/jk_rowling/status/1269389298664701952

identity. They could further submit that enforcing or communicating that policy (or even politely explaining it) amounts to “psychological or emotional pressure” that is “abusive”. So long as the complainant claimed that this caused serious alarm or distress with a substantial adverse effect on day-to-day activities, the offence would be made out.

157. Even if a criminal prosecution was hopeless on the facts, the threat or complaint alone creates serious problems for service providers. They could potentially face police investigation or CPS referral, in the case of a company they may face internal HR and complaints processes, for those in the public and third sector they may face reputational damage and funding risks in the face of a criminal complaint. Organisations could see the Bill used as a tool to pressure them to adopt mixed-sex policies to avoid litigation, effectively eroding single-sex provision without a court ever ruling on the point. This is classic “lawfare”. Criminal complaints are easy to make, and they can be made vexatiously or ideologically at virtually no cost.
158. This is a particular risk with the Bill because of the expansive definition of “transgender identity” which goes far beyond the Equality Act’s “gender reassignment” and includes identifying as neither male nor female or not solely one or the other. This amounts to “self ID” (i.e. a policy of cross sex identification based on the declaration of the complainant) and makes it easier to frame sex-based policies as denial of identity. The Bill contains no carve-outs for lawful single-sex exemptions or compliance with the Equality Act and private prosecutions or complaints encouraged by activist groups could catalyse large scale non-compliance with a ruling of the Supreme Court. This is not just undesirable from a policy point of view, it could have grave implications for the standing of our apex court and the rule of law.

General civil law and actions for damages for negligence

159. While the Bill does not create a statutory tort, a determined or vexatious litigant would have every incentive to use the wide and uncertain provisions of the Bill in an action for damages as a collateral line of attack. The most realistic risk for any employer would be a negligence claim. An organisation could face such a claim if it “fails to prevent” an employee or agent committing the offence (e.g., a manager or counsellor engaging in conduct that meets the criminal test). Employers already owe duties of care to employees and (in some contexts) service users. The existence of the criminal offence could be used as evidence that the organisation fell below the reasonable standard of care. Even if a criminal case fails, a civil claim could proceed on a lower balance of probabilities standard of proof. This could create disclosure, costs, and settlement pressure for civil defendants.
160. A litigant could use the wide provisions of the Bill to bolster existing claims such as harassment or discrimination. The Bill’s broad language (“any conduct” or the expansive definition of “transgender identity”) potentially gives complainants more ammunition to argue the conduct was “related to” a protected characteristic or that it caused distress.

161. In the commercial sphere the threat of criminal prosecution is a powerful one. Even unsuccessful criminal complaints or investigations trigger internal investigations, legal costs, bad publicity, and potential regulatory scrutiny or action (e.g., for charities, schools, or healthcare providers). Asymmetric costs are involved: an individual can make a criminal complaint at low personal cost, while organisations face high defence costs and reputational risk. This could easily result in a chilling effect on policy. Companies could “over-comply” (e.g., adopting blanket pronoun policies or weakening single-sex provisions) to avoid litigation, thus indirectly achieving what a direct statutory tort might do.

Public law and the duties placed upon public bodies via clause 5 of the Bill to take all reasonable steps to prevent the commission of the offence.

162. According to clause 5(3) of the Bill, if a body listed in that section commits an offence under the Act, a relevant officer is also criminally liable for an offence if they authorise, permit, participate in, or fail to take all reasonable steps to prevent it. As we have commented in our criminal law analysis, the range of bodies covered by the Bill is wide. Clause 5 includes NHS trusts, local authorities, academy trusts, universities, charities, regulators structured as bodies corporate, and in the case of companies, “managers.” The term “manager” is not defined. In company-law and regulatory usage it is not confined to the board. The public bodies here are not unusual targets for judicial review, particularly Local Authorities and NHS Trusts.
163. The Explanatory Notes to the Bill claim that it represents “standard” officer liability. However, it is not standard in one important respect: there is no code of practice, there is no list of what “reasonable steps” are, and there are no carve-outs for statutory safeguarding, education or social-work functions. The only real carve-out in the Bill is the healthcare exception in clause 1(3). Schools, hospital staff not discharging a healthcare function, local authorities, children’s social care, youth work and pastoral care are not within that exception.
164. If the Bill passes, public bodies susceptible to judicial review will have to develop policies that demonstrate they are taking reasonable steps to prevent the wide conversion offence while at the same time complying with guidance such as that recently issued by the EHRC on the Equality Act, best known for the post-*For Women Scotland* amendments around single-sex provision. Policies in this area will be difficult to draft because the Bill is ambiguous. A school or trust authoring a policy on biological sex for toilets and sport after FWS will need to balance that against the risk of prosecution. So too would an NHS body or Local Authority clinician or social worker exploring whether a child’s identity is driven by trauma, autism or same-sex attraction rather than immediately affirming.
165. The key difference between this policy drafting task and the ordinary policy drafting work of an NHS Trust or Local Authority is that this is a policy that could personally expose a manager to criminal prosecution. That is likely to focus minds and mitigate in favour of defensive practices. It

will be simpler and safer for public bodies to draft policies more broadly in line with gender ideology than gender critical thought because the threat of personal criminal prosecution is a greater threat than corporate civil liability. A chief executive facing an “all reasonable steps” prosecution and five years’ imprisonment would not, we suggest, run a nuanced *Forstater* style proportionality analysis. They draft policies defensively in a manner that wards off activist judicial reviews and potential imprisonment.

166. Activists in this area can be expected to seek remedies by way of Judicial Review by deploying the Public Sector Equality Duty (PSED) contained in s.149 of the Equality Act 2010⁶⁴. Any public body simply saying that they follow *For Women Scotland* and the *Cass Review*⁶⁵ will be attacked for a failure to consider the new conversion risk contained in the Bill. Any policy that does not affirm contested gender ideological identity concepts (as contained in the Bill) could be argued to be an example of “Padfield illegality⁶⁶”, i.e. something that frustrates or defeats the statutory purposes of the Bill. Thus, the PSED could be used as a public law tactic, it requires no conviction of a person or a body as required by the Bill, but it does require that organisations do what is required by law to eliminate the sort of conduct contemplated by the Bill.
167. As we have commented in our criminal law analysis of Clause 5, the real risk in this area is that the phrase “All reasonable steps” is an invitation to fill a vacuum and it is likely to be filled by third sector organisations with a poor track record of accurately stating the law. In the absence of statutory guidance or a code of practice, public bodies are likely to rely on NGO toolkits and Stonewall-style charters, regulator inspection frameworks (Ofsted, CQC, Social Work England, GMC, OfS), internal “equality impact assessments” and the first High Court judgment that treats a toolkit as evidence of what was reasonable. That is a public-law problem of legal certainty with huge cost implications given how litigious this policy area can be.
168. The real danger in this area is that a public body that applies *For Women Scotland* in toilets, sports, data or language can be recast as intending to cause a pupil or patient not to believe they have that identity. A Judicial Review claim might say that *For Women Scotland* concerns the Equality Act definition of sex, but that the Bill is a later, specific criminal statute and that the Equality Act must be read down so as not to commit or facilitate an offence. That is potential strategic use of public law, to use a newer, vaguer criminal statute to contain and circumvent an older Supreme Court interpretation without asking Parliament to amend the Equality Act. Precisely the same analysis can be applied to the judgment in *Forstater*.
169. To take a worst-case example of how the Bill might be misused for ideological purposes in the sphere of public law, imagine that, following the Bill’s passage, a council publishes a *For Women Scotland*-compliant single-sex policy for schools and a “no social transition without parental or clinical involvement” policy. A campaign group responds by sending a pre-action protocol letter

⁶⁴ <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

⁶⁵ <https://webarchive.nationalarchives.gov.uk/ukgwa/20250310143642/https://cass.independent-review.uk/>

⁶⁶ *Padfield v Minister of Agriculture, Fisheries and Food* [1968] UKHL 1 <https://www.bailii.org/uk/cases/UKHL/1968/1.html>

claiming that the council has failed in its PSED duty; specifically, it claims that there was no conversion-risk assessment and that managers are now criminally exposed under clause 5. Article 8 is cited in support of the claim. The council is subsequently advised that “all reasonable steps” is undefined and managers are personally exposed, so it settles the case by adopting an affirmation-heavy protocol. A gender-critical teacher or social worker is then disciplined for breaching the protocol. Their *Forstater* claim meets the defence that the council was adopting a proportionate means of preventing a criminal offence. The council prefers to fight that civil claim rather than risk managers being personally prosecuted. In this example, *For Women Scotland*, *Forstater* and *the Cass Review* are de facto reversed by the machinery of public law.

170. The public-law problem is the chilling and policy-forcing effect before anyone is even charged (if they ever are). Clause 5 is drafted in terms similar to the Bribery Act⁶⁷, but it is less a classic corporate crime provision, rather, it is a powerful lever for mandating contested identity claims and ideological orthodoxy through the public-law duties that public bodies already have.

Specific issues arising in Family law

171. While the Bill is a criminal statute (with injunctive powers available to Family Courts), it raises significant issues for Family Justice in general terms because of the interaction of alleged or proven criminal offences with Family Law. Specifically, the Bill interacts with the following areas which we consider in turn:
- Public Children Act matters: The Children Act 1989 requires that a Local Authority must act where a child is likely to suffer significant harm. A main offence in the Bill is almost certain to trigger that obligation.
 - Private Children Act matters: Courts dealing ordinarily with two parents in dispute have encountered issues relevant to the Bill which would be radically changed by the introduction of a criminal offence.
 - Financial remedies: Family Courts deal with divorcing couples where criminal allegations are sometimes made. The Bill raises the prospect of a new offence being alleged.
 - Interaction with criminal proceedings: Criminal and Family courts frequently hear “parallel cases”. Bail conditions (particularly for parents) are likely to be a serious issue in cases the Bill affects.

⁶⁷ See Section 7, Bribery Act 2010 <https://www.legislation.gov.uk/ukpga/2010/23/contents>

FAMILY – PUBLIC LAW

172. The public law jurisdiction of the Family Court refers to cases where a Local Authority exercises duties and powers under the Children Act 1989 to “take a child into care” or otherwise involve itself in the life of the child with a view to securing their welfare⁶⁸.
173. Pursuant to s. 47 (1) (b) of the Children Act 1989⁶⁹, a Local Authority must make such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote a child’s welfare where they have reasonable cause to suspect a child is suffering or likely to suffer significant harm (emphasis added). The phrase “significant harm” is not defined in the act, but section 31 (9) says that harm is “ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another”. In the leading case of *Re L (Care: Threshold Criteria)*⁷⁰ Hedley J defined the threshold in this way, “society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent... it is not the provenance of the state to spare children all the consequences of defective parenting... the threshold is not a search for the perfect parent... [it requires] at least something more than commonplace human failure or inadequacy”.
174. Family practitioners take the view that the “significant harm” threshold would be satisfied by an allegation of an offence introduced by the Bill. Family Barrister Sarah Phillimore wrote the following on this topic: “It is very difficult to see how, if parents are facing charges of ‘conversion practices’ that a local authority would not consider this at least a risk of significant harm, and therefore be under a statutory duty to apply for care or supervision orders, and in the worst case scenario apply for the immediate removal of the child - or even all the children in the family⁷¹”. The duties referred to here are contained in s. 47 (3) of the Children Act 1989 and require the Local Authority to apply for Care or Supervision orders where the harm threshold is reached.
175. This observation has enormous implications for Family Law and the work of Family Courts because it has the capacity to significantly increase the workload of the court and the involvement of the Local Authority in private and family life. In a worked example on her commentary on the Bill, Sarah Phillimore writes:

“For example, parents who have read the Cass Review and followed the changes to NHS policy to withdraw access to medical transition from children in light of the very uncertain evidence of

⁶⁸ This is a basic definition for the purposes of clarity in this submission, it is not, and does not claim to be a complete definition of this complex and multifaceted jurisdiction

⁶⁹ <https://www.legislation.gov.uk/ukpga/1989/41/section/47>

⁷⁰ *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 <https://www.bailii.org/ew/cases/EWCC/Fam/2006/2.html>

⁷¹ Sarah Phillimore “The Conversion Practices Bill: Is this capable of bringing down both the criminal AND family justice systems? Much more work needs to be done to analyse the impact of this bill on the already tottering family justice system” <https://sarahphillimore.substack.com/p/the-conversion-practices-bill>

benefit, destroy the testosterone in possession of their 14-year-old child. Their child got hold of this by forging her mother's signature on relevant documents.

She is very distressed and makes a complaint to the police that her parents are trying to force her to be a 'cis girl' not the boy she knows herself to be. The 14-year-old has a 10-year-old sibling who declares himself 'non binary'. He is also clearly at risk from his parents' bigoted attitudes towards 'transgender identity'

Quite apart from the grotesque interference posed by this Bill to parental rights pursuant to article 8 ECHR and the natural (essential) desire of the vast majority of parents to keep their children safe, it is clear to me that the practical implications of all this have been given zero thought.

The bill now enters pre-legislative scrutiny prior to its formal parliamentary introduction. Given the quality of our present Parliamentarians I am bleakly pessimistic of their ability to give it the scrutiny it deserves. We may well be entering into another era of LawFare which will dwarf all that has gone before.

Where exactly are the children going to go if it is deemed 'not safe' to be at home, or their parents have been convicted, and there are no family members willing to step up? We already have a crisis in lack of foster carers⁷² and regulated residential accommodation. Increasing the numbers of looked after children is a terrible idea⁷³".

176. There are plainly two very serious issues to consider here, the principle and the practicalities. In terms of principle, the Local Authority are likely to become involved in *every single criminal case where the complainant is a child*. That represents a significant incursion by the state into private and family life. It also raises the prospect of a Local Authority intervening in cases of gender distress/identification that may fall well short of the relevant family law threshold (such as those involving the parents refusing to use pronouns or refusing to buy medication) because while they satisfy the proposed low criminal standard of "serious alarm or distress", they do not reach the applicable family law standard of "significant harm".
177. Practically speaking, both criminal and family courts have backlogs, and the family system more generally has deficits in capacity and funding far beyond court user needs as Sarah Phillimore draws attention to with her remarks regarding foster placements. These are serious considerations. Legislation should not be passed that courts and supporting systems have no hope of dealing with. As Sarah Phillimore commented in her piece: *"There is currently no attempt to consider what numbers of additional foster placements might be needed if children are removed when parents are charged or after they are convicted. There is no attempt to predict the extra strain on the family*

⁷² <https://www.thefosteringnetwork.org.uk/news/crisis-in-foster-care-continues-as-new-figures-show-major-shortfall-in-carers/>

⁷³ Sarah Phillimore "The Conversion Practices Bill: Is this capable of bringing down both the criminal AND family justice systems? Much more work needs to be done to analyse the impact of this bill on the already tottering family justice system" <https://sarahphillimore.substack.com/p/the-conversion-practices-bill>

justice system of the cost of additional care proceedings - where parents have non means and non merits tested legal aid”.

FAMILY – PRIVATE LAW

178. The private law jurisdiction of the Family Court refers to cases where private parties dispute a matter relating to children in their care. Typically, a private law case will involve separated parents contesting where a child lives, how much contact they have with the other party (if any) or some fact about their welfare such as what medical treatment they will receive⁷⁴.
179. Family Courts have been dealing with cases involving children who would have a “transgender identity” under the Bill for some time. One such important case is *Re J (Transgender: Puberty Blocker and Hormone Replacement Therapy)*⁷⁵ presided over by the former President of the Family Division, Sir Andrew MacFarlane P. In this case the President dealt with two parents with differing views on whether their biologically female daughter should be taking testosterone and from what private provider. By the time of the hearing both parents had agreed that the provider should not be “Gender GP” (who had authorised the prescription of a potentially fatal dose of testosterone) but a different provider subject to appropriate medical tests, but this was not always the case. At one point in proceedings the mother was in favour of testosterone prescription and the father was not. The case is instructive and worth Parliamentarians considering in respect of how the Bill might have impacted proceedings.
180. Had the Bill been in force while the parents were in dispute over treatment by GenderGP, it would, in effect, have given each a stick with which to beat the other; the proceedings were fiercely contested at that time. In respect of the father, at one point in the proceedings, he applied to stop further testosterone, wanted court control of diagnosis and treatment, opposed an offshore clinic, and did not support social or medical affirmation as a given. The mother, child or an activist could have recast that approach under the Bill as demonstrating that he intended J not to have, or not to believe that she had, a male transgender identity. The litigation, use of J’s birth name and insistence on exploratory assessment could have been reframed as “emotional pressure” under the Bill. J would only have needed to say that she was seriously distressed by her father’s refusal to affirm her identity to complete the criminal offence.
181. Conversely, the father could make a counter allegation against the mother in such circumstances. He could allege that she helped a 15½-year-old obtain testosterone from an unregistered online service, with no physical exam and at a dose an expert called negligent. That could be framed under the Bill as an intention to cause J to have (or to believe she has) a transgender identity, “emotional pressure” for the purposes of the Bill could be said to be directed dealings with a child with autism,

⁷⁴ This is a basic definition for the purposes of clarity in this submission, it is not, and does not claim to be a complete definition of this complex and multifaceted jurisdiction

⁷⁵ *Re J (Transgender: Puberty Blocker and Hormone Replacement Therapy)* [2024] EWHC 922 (Fam) <https://www.judiciary.uk/wp-content/uploads/2024/05/Approved-Judgment-Re-J-1-May-2024.pdf>

prior anorexia, section 3 Mental Health Act detention and self-harm with the “conduct” being arranging irreversible cross-sex hormones without a competent assessment. The healthcare exception in clause 1(3) is only for health care that does not fall far below expected standards. Gender GP could in this case be a very easy target for the “far below” threshold given the expert evidence and comments by the President. A parent who procures that service would thus not be obviously inside the exception.

182. Had the Bill been in force and the cross allegations outlined above been made chaos would ensue. One parent reporting the other for the offence would trigger the s.47 Local Authority obligation to investigate because it would have “reasonable cause to suspect significant harm”. That development would mean the family court would then be dealing with a child protection investigation running alongside a specific issue application. In *Re J* there was no Local Authority involvement, but this Bill would make it much easier to drag one in (at some significant cost). This is to say nothing of the separate injunctive regime in the schedule to the Bill that either party could deploy for litigation advantage (so long as they obtained leave of the court to apply).
183. Family judges are well accustomed to allegations of alienation and emotional abuse. An allegation that a parent is committing a criminal offence punishable by five years’ imprisonment is, however, a far more powerful and arguably toxic variant of the allegations that family courts deal with every day. Such allegations would pressure Cafcass, the guardian and the judge to treat one parent as a safeguarding risk rather than as a holder of parental responsibility with a legitimate view.
184. In *Re J*, Sir Andrew McFarlane P was astute in lowering the temperature of the proceedings and steering the parents, in very difficult circumstances, towards some form of consensus. A live criminal allegation would have made that judicial task infinitely harder, if not impossible. These cases are difficult and are far better suited to the Family Division than to the Criminal Division. In criminal proceedings, intention could easily be inferred from ordinary parental disagreement. The father in *Re J* intended to stop an unsafe clinic, not to “erase” an identity. The mother’s case was that she intended to secure assessment and treatment that she believed would help, not to “convert” a girl into a boy as a project. The Bill’s definition does not require a fanatical or unreasonable motive; it requires only a state of mind connected to changing an identity. The problem is that every contested transition case supplies exactly that.
185. Further, distress can be expected in such cases. A dysphoric adolescent is highly likely to be distressed by a non-affirming parent. The Bill treats that distress as the harm element if it is “serious” and affects day-to-day life. That is circular: the conflict that family courts manage becomes the offence, and “psychological or emotional pressure” all too often describes ordinary family litigation.
186. Had the Bill been in force at the time of *Re J*, the President’s cautious, evidence-led approach would have been overshadowed by a live criminal investigation that the Children Act 1989 never contemplated. This is a vexatious use of a criminal statute, and it is a likely use of this statute

because it could easily confer a low-cost litigation advantage. It is, we suggest, wrong to transform a welfare dispute that the Family Court has adequate tools to resolve into a forum where the threat of imprisonment looms large, with all the tension and stress that this implies for the parties.

187. While this analysis uses the case of *Re J* to make these points, they are by no means confined to that case alone. Cases in which children and teenagers express cross-sex ideation can and do appear frequently before the family courts. The fact that *Re J* was heard by the former President, who felt it necessary to give directions urging caution in any family-court proceedings involving GenderGP, speaks volumes about how often the issue arises.

FAMILY LAW - FINANCIAL REMEDIES

188. One of the other relevant jurisdictions of the family court in private law concerns financial remedies where a couple is divorcing⁷⁶. These cases are often extremely difficult because litigants are (generally) understandably disinclined to settle and the subject matter is deeply sensitive, difficult and personal. In the same way that the Bill raises the spectre of a vexatious litigation weapon in private law Children Act matters, we are concerned the same applies to Family law.
189. Case law from the Family Division proves that parties involved in acrimonious financial disputes will sometimes make false criminal allegations. That risk is particularly high where a criminal offence is broad and concerns private or family life. One such example is the offence of controlling or coercive behaviour in an intimate or family relationship. The new offence in the Bill partly draws on this, so it is logical to assume that it could be deployed in similar ways to the Controlling or Coercive Behaviour (CCB) offence.
190. In *LP v MP* [2025]⁷⁷ the wife made false allegations of CCB/violence/sexual violence against her husband, and the judgment is often cited for the proposition that CCB/violence can have a real financial impact even if the court cannot put a tidy figure on it. In *F v M* [2025]⁷⁸ (though a private child case), the court found that wrongful CCB allegations were made and commented they made life harder for genuine victims and should not be brought lightly. The judgments of Peel J in *N v J* [2024]⁷⁹ and *Tsvetkov v Khayrova*⁸⁰ both emphasise that CCB should not be pleaded unless it is particularised early, the facts are proved and a financial consequence follows. Those judgments have been understood as a judicial reaction to parties seeking to “contaminate” a financial case by reference to spurious or poorly pleaded allegations of CCB or other misconduct in what is sometimes referred to as “forensic poisoning” rather than a true claim.

⁷⁶ This is a basic definition for the purposes of clarity in this submission, it is not, and does not claim to be a complete definition of this complex and multifaceted jurisdiction

⁷⁷ [2025] EWFC 473 (Cusworth J, 22 November 2025) <https://www.bailii.org/ew/cases/EWFC/HCI/2025/473.html>

⁷⁸ *F v M* [2025] EWHC 621 (Fam) <https://www.harcourtchambers.co.uk/jason-green-in-f-v-m-2025-ewhc-621-fam-a-case-which-provides-important-guidance-on-the-wider-implications-of-making-false-allegations-of-coercive-control/>

⁷⁹ *N v J* [2024] EWFC 184 (Peel J, 15 July 2024) <https://www.bailii.org/ew/cases/EWFC/HCI/2024/184.html>

⁸⁰ *Tsvetkov v Khayrova* [2023] EWFC 130 (Peel J, 4 August 2023) <https://www.bailii.org/ew/cases/EWFC/HCI/2023/130.html>

191. There is a body of women who have divorced trans identifying males who describe themselves as “trans widows” and who this legislation could affect in the context of financial remedies. While we do not and cannot speak for such women, it is only right that the family law survey we conduct here mentions them and that Members of Parliament give some thought to how the Bill might affect them. We are concerned it could do so, and that the effects could be similar to the CCB cases we mention above.
192. We would argue that the risk of “forensic contamination” and criminal allegations is higher with the Bill than with CCB because the main offence is so poorly defined. Members of Parliament need to ask themselves, in this context, whether refusal to use a new name/pronoun could amount to psychological/emotional pressure and controlling behaviour aimed at denying/suppressing his transgender identity under the Bill. Perhaps more pressingly, members should also ask themselves whether refusing to release former matrimonial assets for cosmetic surgery or similar should be properly considered economic pressure (explicitly listed as a factor in assessing “abusive” conduct).
193. These concerns are serious because the Bill potentially allows a vexatious party to make or threaten a criminal complaint to the police or apply for a Conversion Practice Protection Order (these can even be made by the court on its own initiative in existing family proceedings (including divorce/financial remedy cases)). Perhaps more likely, a person could use the complaint/threat as leverage in without-prejudice negotiations or mediation.
194. In acrimonious divorces, the threat of a criminal investigation or Protection Order could force a wife to settle on less favourable terms to avoid publicity, legal costs, and stress. Family courts generally disregard conduct in financial cases unless it is “obvious and gross,” but the threat of parallel criminal proceedings fundamentally changes the practical dynamics and has enormous implications for the stress of proceedings.
195. We take the view that tense, acrimonious or very difficult financial remedies hearings in the family court should be more extensively considered by those examining this legislation. As we have commented earlier, the main offence provides a low-cost litigation advantage to those prepared to misuse the wide and poorly defined provisions of the Bill.

FAMILY LAW – INTERACTION WITH CRIMINAL PROCEEDINGS

196. There are serious concerns as to whether the Bill has adequately considered the interaction between criminal and family courts particularly insofar as the Bail Act 1976 is concerned. Every person arrested and brought before a Magistrates Court has a right to bail pursuant to s.4 of the Bail Act. However, bail need not be granted if there are substantial grounds for believing that, if release on bail (with or without conditions), the defendant would commit an offence on bail⁸¹. Where a court has substantial grounds for believing that a defendant would commit an offence it

⁸¹ Bail Act 1976, Schedule 1

has two options, it may remand the defendant in custody or it may impose a bail condition to assuage the particular fear such as a condition of non-contact with a person, exclusion from an area, reporting to a police station etc.

197. Bail conditions, or remanding defendants in custody, pose acute issues where the defendants are parents because the proper forum for regulating contact with children or teenagers is ordinarily the family court. Criminal courts have no institutional memory or experience of adjudicating contested matters of child welfare. They are well placed to assess whether a long list of previous convictions for armed robbery militates in favour of a tightly controlled grant of bail subject to strict conditions, or a remand in custody, but they are ill-equipped to judge whether refusing to refer to a teenager as “they/them” is an offence at all or conduct that, if repeated, could qualify as a “further offence on bail”.
198. Magistrates Courts are summary courts which deal with a high volume of cases in a speedy fashion, that is their function. They are not courts that generally weigh up competing welfare evidence and consider authorities and guidance as to the acceptable contours of parenting. If the Bill passes, there is a real risk that some parents will be remanded in custody and in other cases conditions will be imposed not to contact their own children for fear of committing further “offences”. This is a very clear Article 8 risk and further, it is a very clear risk of chaos between the family and criminal courts as they apply their entirely different jurisdictions to the same facts. If parents remain subject to the Bill, and Ministers continue to refuse to countenance any kind of carve out of exemption, we can expect to see the chaos predicted in the family courts extend to chaos as between the criminal and family courts. Passing the Bill and causing such an outcome is not a responsible position for any legislator to adopt.

5 Conclusion

199. Criminal statutes are serious pieces of legislation with profound effects. They should not be a vehicle for ideological point scoring, and they should not be on the statute books where they risk over criminalisation, serious interference with family life and the chilling of free speech.
200. There is no cogent evidence that conversion practices are widespread or a pressing issue in this country. Such surveys and statistics as have been cited are dubious and produced by self-serving actors with ideological prejudices. Even if they were widespread, it is unclear why this statute, with its relatively low maximum sentence of five years, would be a better prosecutorial response than offences that apply to everyone and carry higher maximum sentences. Gay men and lesbians are better protected by the law as it stands.
201. If this legislation passes parents will be arrested and prosecuted for conduct that would normally be considered part of family life. No criminal statute should leave such a legacy.

202. The wider cause of gay rights is not well served by unnecessary and brutal statutes with poor definitions and no statutory defences. This Bill is an example of ideological overreach; it is not a serious attempt to craft focused, well-targeted criminal law to address an identifiable and clearly defined problem.

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