

**Submission by Dame Angela Eagle MP and Elliot Colburn MP as Co-Chairs of the All-Party Parliamentary Group on Global LGBT+ Rights.**

*Call for Input to a Thematic Report: Freedom of Religion or Belief (FoRB) and Sexual Orientation and Gender Identity (SOGI).*

Introduction to the APPG on Global LGBT+ Rights

Founded in 2015, the APPG on Global LGBT+ Rights works to protect and advance LGBT+ equality in the UK and across the world. We ensure that LGBT+ issues are permanently part of the Government’s agenda and the wider national conversation about human rights and equality, raised by motivated Parliamentarians both nationally and internationally. We work with organisations across the public, private and third sector to champion LGBT+ rights.

As of May 2022, the group is chaired by Dame Angela Eagle MP and Elliot Colburn MP taking over from Crispin Blunt MP.

**The right to manifest freedom of religion or belief and freedom from violence and discrimination based on sexual orientation and gender identity: perceived tensions and the ways in which they are mutually exclusive and reinforcing (Questions 1 – 2)**

The United Kingdom has made significant advances in relation to the rights of LGBT+ communities. Significant milestones in our history include decriminalising same sex relationships; enshrining the European Convention of Human Rights into UK law by virtue of the Human Rights Act 1998[[1]](#footnote-1); lifting the ban on LGBT+ people serving in the armed forces in 2000 and equalising the age of consent in 2001. The passage of the Equality Act 2010 saw LGBT+ people protected from discrimination, harassment and victimisation across many areas of public life. In 2013, the Marriage (Same-Sex Couples) Act and equivalent legislation across the UK (2014 in Scotland, 2019 in Northern Ireland) have enabled LGBT+ people to marry. Lastly, LGBT-inclusive Relationships, Sex and Health Education was placed on statutory footing in 2019.

However, the development of LGBT+ rights has often been accompanied by a framing which positions them as *inherently* in opposition to the freedom of religion or belief due to conservative religious views of same-sex activity as a sin and the belief marriage can only ever take place between one woman and one man.

Nevertheless, an increasing number of religious denominations and individuals consider LGBT+ equality to be *in accordance* with their religious beliefs – with some going as far to say that anti-LGBT attitudes are incompatible with the teachings of their faith. For example, while one faction of the Church of England, those who are conservative evangelicals, believe a same-sex relationship at any time is a sin, others:

 “*Larger in number but not always so vocal, consider that for there to be sin, there has to be choice; none of us choose our sexuality and therefore same-sex relationships can be as deeply committed and enduring as any heterosexual relationship*” ([Brady, 2023](https://www.thetimes.co.uk/article/church-must-allow-clergy-to-conduct-same-sex-marriages-nblgvdwqz)).

Other examples include [resources by the Catholics of Westminster](https://sites.google.com/view/lgbt-ca-w/lgbt-catholic-groups/trans-resources) that explore teachings of Catholicism and the importance of celebrating and protecting trans people who are ‘*wonderfully created* ’. [Keshet UK](https://www.keshetuk.org/uploads/1/3/8/6/13861493/the_wellbeing_of_lgbt__pupils_a_guide_for_orthodox_jewish_schools.pdf) works closely with Jewish communities including in schools on protecting LGBT+ people from harm, incorporating the principle ‘*Love your neighbour as yourself*’ from the Torah. [Imaan](https://imaanlondon.wordpress.com) is a leading organisation supporting LGBT+ Muslims in the UK and includes [resources](http://www.imaan.org.uk/faq/QuranFAQ.pdf) on their website exploring the ways in which LGBT+ identities can be accommodated and celebrated within Islam.

There are multiple realities when it comes to views within religious groups about the legitimacy of LGBT+ rights and compatibility with belief systems. Therefore, while we appreciate these rights may be in conflict and require a balancing act[[2]](#footnote-2), we welcome perspectives such as these which challenge the notion that they are entirely incompatible. These voices should be meaningfully consulted in legislative and policy development.

The voices of LGBT+ people of faith are crucial in understanding and learning from this intersection - including faith leaders. For example, we welcome the [first non-binary Priest in the Church of England](https://www.thepinknews.com/2023/01/03/bingo-allison-non-binary-genderqueer-church-of-england-priest/?fbclid=PAAab_Bi2b5mWPgDamD4Y5vcl4oyLtkUmP7hnKbMOzhxKewliCj20sA9PBMfQ) - it is notable that they believe that God in fact ‘guided them to live as their authentic self.’

**Examples where gender and sexual diversity has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of LGBT+ individuals, or protects LGBT+ individuals from violence and discrimination – including the ways in which this has informed legal intervention and public policy (Question 3)**

We welcome and support the increasing number of people and communities of faith that are guided by the understanding that LGBT+ people are valid, deserving of protection and entitled to equal treatment.

An example of this is the Global Interfaith Commission on LGBT+ Lives, whose conference last year saw 150 senior religious leaders cross-faith from around the globe agree upon a set of [six safeguarding principles](https://globalinterfaith.lgbt/safeguarding/) designed to protect LGBT+ people in religious communities. Examples included:

* *“Empowerment: we believe all individuals are made in the image of God, whom many call the Divine, and should be free to live a life of dignity consistent with their sexuality and gender identity within their faith communities without fear of judgement.”*
* *“Protection: we recognise that many LGBT people face significant discrimination, rejection and hatred, and so we commit to work to protect all LGBT+ people from harm, wherever it occurs in both religious and secular contexts.”*

In recent years, we have seen many religious groups, leaders and individuals advocate for the importance of protecting LGBT+ people from conversion therapy in the UK.[[3]](#footnote-3)

The [Ban Conversion Therapy Coalition](https://www.banconversiontherapy.com/) is comprised of LGBT+ and faith communities and organisations, as well as mental health practitioners, united in calling for the Government to ban conversion therapy. This includes LGBT+ faith leaders and organisations invested in banning religious conversion practices for *all* LGBT+ people. The Coalition submitted to the Government’s consultation on banning the practice[[4]](#footnote-4) calling for a robust, comprehensive framework on eliminating this abuse across faith settings. As we await next steps, we sincerely hope the Government learns from their expert knowledge and in some cases lived experience.

An example of good practice is the [Expert Advisory Group on Ending Conversion Practices,](https://www.gov.scot/groups/ending-conversion-practices-expert-advisory-group/) set up by the Scottish Government to produce recommendations that will directly inform a conversion practices Bill. Group membership is made up of human rights organisations, trans organisations, medical bodies and LGBT+ faith leaders.

**Examples of state legislation, policy, jurisprudence protecting freedom of religion or belief that promote, enable and/or condone violence and discrimination against individuals based on sexual orientation or gender identity; and state restrictions based on preventing violence and/or discrimination against LGBT+ persons that prohibit or limit practices undertaken in the name of the religion or spirituality. Below, we also address goods and services, conscientious objection, and legal challenges (Questions 4 - 11)**

The UK has made significant steps forward in LGBT+ human rights and equality legislation. However, partly due to the need to balance competing rights and partly due to significant resistance by religious organisations and individuals, religious exemptions exist across key legislation and policy. Below, we discuss UK legislation and policy and the ways in which they approach LGBT+ identities and the right to freedom and religion.

**Equality Act 2010**

The Equality Act 2010 prohibits discrimination, victimisation and harassment on the grounds of a protected characteristic – including sexual orientation and gender reassignment. This includes in the provision of goods and services. However the Expert will likely be aware of a notable legal challenge around this provision, Lee vs Ashers Baking Company Ltd, which saw the owners of a bakery refuse to supply a cake with a message supporting gay marriage as it was not in accordance with their beliefs. The Supreme Court reversed the original findings that this was associative discrimination stating that the bakers opposed the *message* as opposed to the sexual orientation of the customer. We suggest the Expert reads the judgement of the [initial court](https://www.equalityni.org/ECNI/media/ECNI/Cases%20and%20Settlements/2015/Lee-v-Ashers_Judgement.pdf), [Court of Appeal](https://www.equalityni.org/ECNI/media/ECNI/Cases%20and%20Settlements/2016/AshersFullJudgement-Appeal.pdf) and [Supreme Court](https://www.supremecourt.uk/cases/uksc-2017-0020.html) due to the discussions of the interplay of rights within them. [[5]](#footnote-5)

The Co-Chairs note that there are also specific provisions in the Equality Act that enable religious organisations to lawfully discriminate on the basis of sexual orientation during recruitment - we wish to highlight this research by [Johnson and Vanderbeck (2017)](https://eprints.whiterose.ac.uk/121980/1/Sexual%2520orientation%2520equality%2520and%2520religious%2520exceptionalism.pdf) exploring this provision.

**Same-Sex Marriage**

The Marriage (Same Sex Couples) Act 2014 enabling same-sex couples to marry includes a ‘quadruple lock’ which, as stated by Government:

“*Reflects the Government’s commitment that no religious organisation or representative will be forced to conduct or participate in same sex marriage ceremonies. Article 9 of the European Convention on Human Rights guarantees the right to freedom of thought, conscience and religion, and the Act protects and promotes religious freedom through the Government’s ‘quadruple lock’. This ensures that religious organisations and their representatives can continue to act in accordance with their doctrines and beliefs on this issue*” ([Government Equalities Office, 2014](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/306000/140423_M_SSC_Act_factsheet__web_version_.pdf)).

In essence, the quadruple lock[[6]](#footnote-6) states that a religious ceremony of a same sex couple will only be possible if certain requirements are met, including that the governing body of the religious organisation has ‘opted in’. It includes a provision stating that the a refusal to enable same sex marriage will not be discrimination under the Equality Act 2010; and gives explicit protection to the Church of England and Church of Wales position in Canon law that marriage can only be with one man and one woman.[[7]](#footnote-7)

While described by legislators as protecting religious freedom, this has enabled organized religion to offer opposite sex-couples access to their premises and ceremonies to solemnize marriage while explicitly permitting them to deny this access to same-sex couples ([Johnson and Vaderbeck, 2017](https://eprints.whiterose.ac.uk/124448/)). Same-sex couples in the UK are therefore denied access to this practice which is utilised by [30% of opposite-sex couples who marry each year](https://eprints.whiterose.ac.uk/124448/).

**Relationships, Sex and Health Education (RSHE)**

The UK has taken monumental steps forward in the teaching of RHSE in recent years. In 2019, [Statutory Guidance](https://www.gov.uk/government/publications/relationships-education-relationships-and-sex-education-rse-and-health-education) was introduced that saw LGBT-inclusive RSHE put on statutory footing – the first time this guidance was updated since the advent of Section 28. The guidance states that primary schools are required to teach about different families, with schools ‘[strongly encouraged and enabled](https://www.gov.uk/government/news/relationships-education-relationships-and-sex-education-rse-and-health-education-faqs)’ to cover LGBT+ content within this. Secondary schools must teach about ‘the facts and the law about sex, sexuality, sexual health and gender identity in an age-appropriate and inclusive way. All pupils should feel that the content is relevant to them and their developing sexuality’.

The guidance received cross-party support and saw many [positive contributions from Parliamentarians](https://hansard.parliament.uk/commons/2019-09-04/debates/87A9BB87-4053-4067-8157-39C9E682343E/LGBTCommunityAndAcceptanceTeaching) on the importance of respecting the plurality and balance of rights, as well as on how faith itself can inform an ethos that promotes the lives and wellbeing of LGBT+ children and young people:

*“More faith schools are delivering LGBT-inclusive teaching. They are doing this not in spite of their faith ethos, but because of it—by recognising the values of love, tolerance and acceptance that lie at the heart of their faith...the intolerance toward homosexuality, I would argue, goes squarely against the teachings of those religions, especially my religion of Catholicism, which seeks to promote love, tolerance and acceptance. That is very important to remember” [Daniel Kawczynski]*

However, upon this legislation being passed, protests emerged outside primary schools in Birmingham then across the country – particularly by those from Conservative Muslim backgrounds.[[8]](#footnote-8) Protesters were concerned that the guidance - namely teaching about LGBT+ identities in primary schools - contradicted their moral and religious values. More extreme criticisms included concerns of ‘[proselytizing the homosexual way of life to children](https://www.bbc.co.uk/news/uk-england-48294017)’. This resulted in an injunction by Birmingham City Council in protests happening outside schools and a [letter from the Minister for Schools](http://www.schools-out.org.uk/?news=its-wrong-to-protest-about-the-teaching-of-gay-relationships-nick-gibb) condemning the protests and reaffirming the importance of LGBT-inclusive education.

**Conversion Therapy**

As stated above, at the time of writing, it remains unclear when the Government will introduce a Bill banning conversion practices. Nevertheless, we have several concerns with the [Government’s proposals](https://www.gov.uk/government/consultations/banning-conversion-therapy/banning-conversion-therapy) as they stand:

* It is not clear whether the Government still plans to ban conversion practices only based on sexual orientation and therefore not covering gender identity.
* The proposals allow for adults aged 18 and above to ‘consent’ to conversion practices.
* The proposals are not robust in relation to how they will ban conversion therapy in faith settings.

[Government research](https://www.gov.uk/government/publications/conversion-therapy-an-evidence-assessment-and-qualitative-study) found that **half** of conversion practices occur within religious settings, and that the practices tend to include a combination of *religious methods* (e.g. prayer ‘healing’, confession, repentance, faith declarations, fasting, pilgrimage, Bible reading, attending religious courses) and *psychological* methods (such a talking therapies).

However, current proposals do not clearly state how religious conversion therapy will be banned, instead making reference of what is *not* covered: “*Conversion therapy could not be reasonably understood to include communication such as casual conversations, exchanges of views, private prayer or pure speech acts*”. [[9]](#footnote-9)

Crucially, enabling an individual to consent to religious conversion practices contradicts the plethora of research, including that of the [Government itself](https://www.gov.uk/government/publications/conversion-therapy-an-evidence-assessment-and-qualitative-study/conversion-therapy-an-evidence-assessment-and-qualitative-study)[[10]](#footnote-10), that individuals of faith may willingly subject themselves to the practice - not least due to the desire to be accepted by faith, family and communities and the risk of losing this should the ‘remain’ LGBT+.

The Government makes explicit reference to the need to strike a balance between ‘potentially competing rights’ in drafting its proposals. However, religious freedoms can be limited when they cause harm. The UN Special Rapporteur for Freedom of Religion and Belief [defended state bans on conversion practices](https://www.itv.com/news/2021-04-15/exclusive-un-urges-government-to-ban-chilling-conversion-therapy) explaining that “*international human rights law is clear that the right to freedom of religion or belief does not limit the state’s obligation to protect the life, dignity, health and equality of LGBT+ persons*”.

The [Cooper Report,](https://ozanne.foundation/cooper_report/) written by leading UK human rights lawyers, makes recommendations which go beyond the Government’s proposals in protecting LGBT+ people from religious conversion therapy in a manner which they state is fully compliant with this balance of rights – including around private prayer and not enabling an individual to consent to the practice:

*“These recommendations require limited restrictions on the right to manifest religion and belief and their expression, which are necessary, justified and proportionate under Articles 9 and 10 ECHR. An exemption for religious conversion practices, such as an act of spoken prayer directed at an individual with the predetermined purpose of suppressing, curing or changing their sexual orientation or gender identity, would undermine the efficacy of the prohibition…For the same reason, there can be no exemptions for ‘consenting’ adults who seek out conversion practices despite the harm involved. This is because the pressures and imbalance of power involved mean that such “consent” cannot be truly free or autonomously exercised. Allowing these to continue would put a significant number of vulnerable people at risk”.*

A similar analysis on the balance of rights is also put forward by the [Scottish Expert Advisory Group on Ending Conversion Practices: Report and Recommendations](https://www.gov.scot/publications/expert-advisory-group-ending-conversion-practices-report-recommendations/%23%3A~%3Atext%3DPublished%25204%2520October%25202022%26text%3DThis%2520report%2520is%2520the%2520result%2Csexual%2520orientation%2520or%2520gender%2520identity.).

**Appendix A**

**Marriage (Same Sex Couples) Act: The Quadruple Lock**

“The quadruple lock:

* Makes clear that a religious marriage ceremony of a same sex couple will only be possible if:

 i. the governing body of the religious organisation has opted in by giving explicit consent to marriages of same sex couples; and

 ii. the individual minister is willing to conduct the marriage, and

 iii. if the ceremony takes place in a place of worship, those premises have been registered for marriages of same sex couples.

* Explicitly states that no religious organisation can be compelled by any means to opt in to marry same sex couples or to permit this to happen on their premises; and no religious organisation or representative can be compelled by any means to conduct religious ceremonies for same sex couples.
* Amends the Equality Act 2010 to make clear that it is not unlawful discrimination for a religious organisation or representative to refuse to marry a same sex couple.
* Ensures that the common law legal duty on the clergy of the Church of England and the Church in Wales to marry parishioners does not extend to same sex couples. It also protects the Church of England’s Canon law, which says that marriage is the union of one man with one woman, so that it does not conflict with civil law.

**[**[Government Equalities Office, 2014](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/306000/140423_M_SSC_Act_factsheet__web_version_.pdf)**]**

1. However, it is important to note that a ‘[Bill of Rights Bill](https://bills.parliament.uk/bills/3227)’ is currently going through Parliament which will repeal and replace the Act. [↑](#footnote-ref-1)
2. It may be of interest to the UN Independent Expert that it has also been argued that rights to freedom of religion also include the right not to believe and *not* to live in line with *other’s* religious beliefs, therefore offering an extension of the right to religion to LGBT people – a further challenge to a mutually opposing perception of these rights ([Dag Øistein Endsjø, 2020](https://www.tandfonline.com/doi/full/10.1080/13642987.2020.1763961)). [↑](#footnote-ref-2)
3. At the time of writing, it remains unclear when the Government will introduce a Bill banning conversion practices - despite a commitment to do so in this parliamentary term. [↑](#footnote-ref-3)
4. In October 2021, the Government released its proposals to ban conversion practices which were followed by a 14-week consultation. While the responses were to be published in Spring 2022, they are yet to be made public. [↑](#footnote-ref-4)
5. For example, the Northern Ireland Courts initially found discrimination was present as: “the [bakery and its owners] cancelled this order as they oppose same sex marriage for the reason that they regard it as sinful and contrary to their genuinely held religious beliefs. Same sex marriage is inextricably linked to sexual relations between same sex couples which is a union of persons having a particular sexual orientation”. The Court of Appeal agreed. However, the Supreme Court found that  “in a nutshell, the objection [of the bakery] was to the message and not to any particular person or persons”.  [↑](#footnote-ref-5)
6. We have included the quadruple lock in full in the appendix of this submission. [↑](#footnote-ref-6)
7. The Church of England operates on a blanket ban on same-sex marriage meaning there is no option to ‘opt in’. At the time of writing the House of Bishops in the Church of England are discussing this issue and will produce conclusions on same-sex relationships to be debated at the next General Synod in February 2023. The Co-Chairs hope this will result in positive recommendations and change moving forward. It has been suggested that there is precedent for how the Church can approach same-sex marriage. There is currently no obligation on a Church of England priest to marry a couple where one or both parties have been previously married or divorced. However, the clergy have discretion to either bless or marry said couples and many in this situation do not struggle to access a priest who will conduct such a ceremony ([Brady, 2023](http://www.apple.com/uk)). This could act as a blueprint. [↑](#footnote-ref-7)
8. Notable protests were those outside of Parkfield School and Anderton Park – both based in Birmingham – with the latter seeing protesters outside school gates for 8 weeks. The protests were deeply disruptive. Many teachers stated they were unable to carry out their jobs and some feared for their mental health, wellbeing and safety.  [↑](#footnote-ref-8)
9. This has raised concerns by the Ban Conversion Therapy Coalition who are clear that while individual private prayer should not be banned, there are ways in which it can take the form of conversion therapy when directed against an individual to try to change or suppress their LGBT+ identity – which are not addressed in current proposals.  Moreover, given the fact that most forms of religious conversion therapy are forms of communication, there is concern that the majority of religious conversion therapy will be exempted. Lastly, despite [16% of perpetrators of conversion therapy being parents or family members](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722314/GEO-LGBT-Survey-Report.pdf), the only reference to this in the proposals is ‘parents will remain able to raise their children with the values of their faith’. As such, we do not know how these victims and those at risk will be protected from family members.  [↑](#footnote-ref-9)
10. The Government’s research states: “Although most people who have conversion therapy appear to do so voluntarily, they also describe being led into conversion therapy by people in a position of authority in their religious institutions or families”. [↑](#footnote-ref-10)