

# Health Complaints Commissioner

## *Inquiry into Conversion Therapy/Practices in Victoria*

### Terms of Reference

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#### Background

The Health Complaints Commissioner (the Commissioner) handles complaints about Victorian healthcare providers and holders of health information with a view to improving service quality for all consumers of health services. The Commissioner also has power to conduct investigations and inquiries.

Section 103 of the *Health Complaints Act 2016* (the Act) provides that the Commissioner may inquire into any health service matter referred to the Commissioner by:

- a House of Parliament or a Parliamentary Committee, or
- the Minister.

On 15 May 2018, the Minister for Health, the Hon Jill Hennessy, MP, wrote to the HCC referring the matter of so-called “gay conversion therapy” or “ex-gay ideology” to the Commissioner for inquiry under s.103 of the Act.

Section 104 of the Act sets out that in conducting an inquiry under s.103, the Commissioner may hold public hearings. If a public hearing is held, the Commissioner may take oral or written submissions and may send for persons, documents or other things. The Commissioner is bound by the rules of natural justice but not bound by the rules of evidence in the conduct of public hearings. Records of all submissions and evidence given and decisions made must be kept.

#### 1. Definition

Conversion Therapy/Practices means any practice or treatment that seeks to change, suppress or eliminate an individual’s sexual orientation or gender identity, including efforts to reduce or eliminate sexual and/or romantic attractions or feelings toward individuals of the same gender, or efforts to change gender expressions.

‘Conversion Therapy/Practices’ does not include any practice or treatment that:

- provides assistance to an individual undergoing a gender transition, or
- provides acceptance, support and understanding of an individual, or
- facilitates an individual’s coping, social support and identity exploration and development, including sexual orientation-neutral interventions

as long as such practices or treatments do not seek to change an individual’s sexual orientation or gender identity.

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#### **2. Purpose/Scope of the Inquiry**

These Terms of Reference establish the purpose and scope of the inquiry as follows:

That the Health Complaints Commissioner inquire into and report on the practice of “gay conversion therapy” or “ex-gay ideology” (Conversion Therapy/Practices) in Victoria, with particular reference to:

- a. understanding who is conducting Conversion Therapy/Practices;
- b. understanding the context in which Conversion Therapy/Practices are occurring;
- c. the adequacy of the powers and functions of the Health Complaints Commissioner to receive and deal with complaints about Conversion Therapy/Practices;
- d. the opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for survivors of the Conversion Therapy/Practices; and
- e. any other related matters.

#### **3. Research**

In conducting the inquiry, the Commissioner may rely on existing research or carry out further research.

#### **4. Liaison**

- a. The Commissioner will remain the key point of contact for the Inquiry.
- b. The Inquiry will be supported by an Investigator and other staff and/or external consultants as the Commissioner determines.

#### **5. Procedure**

- a. The Commissioner will, in her absolute discretion, determine the conduct of the Inquiry, including any procedures and the form of the Inquiry, subject only to the requirements set out in the Act.
- b. In conducting the Inquiry, the Commissioner may hold public hearings.
- c. If a public hearing is held, the Commissioner:
  - i. may take oral or written submissions;
  - ii. may send for any person, documents or other things;
  - iii. is bound by the rules of natural justice;
  - iv. is not bound by the rules of evidence;
  - v. must keep a record of all submissions and evidence given; and
  - vi. must keep a record of all decisions made by the Commissioner.

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- d. At the end of the Inquiry the Commissioner will provide a final report to the Minister for Health. The Commissioner may make recommendations to the Minister for Health.

#### **6. Privacy and confidentiality**

Unless consent is given to having details set out in any final report and/or recommendations, or where a public hearing or hearings are conducted, any information given to the inquiry will remain confidential. Any person who wishes to make submissions to the Inquiry may do so anonymously.