

## **What We Heard Stakeholder Report**

### **Banning Conversion Therapy**

February 28, 2020

### **Project overview**

The City of Calgary Administration has been directed to develop a proposed Prohibited Business Bylaw that, if approved by Council, will prohibit the business practice of conversion therapy including a fine for those advertising or offering conversion therapy services within Calgary. The following definitions of business and conversion therapy were used as a starting point for the project. The definition of business is from the Municipal Government Act, the definition of conversion therapy and the fines and violations definitions are draft and taken from recently developed Alberta bylaws.

#### **Business:**

- (i) a commercial, merchandising, or industrial activity or undertaking,
- (ii) a profession, trade, occupation, calling, or employment, or
- (iii) an activity providing goods or services, whether or not for profit and however organized or formed, including a co-operative or association of persons.

#### **Conversion therapy:**

The offering or provision of counselling or behaviour modification techniques, administration or prescription of medication, or any other purported treatment, service, or tactic used for the objective of changing a person's sexual orientation, gender identity, gender expression, or gender preference, or eliminating or reducing sexual attraction or sexual behaviour between persons of the same sex, not including

- (a) services that provide acceptance, support, or understanding of a person or that facilitate a person's coping, social support, or identity exploration or development, or
- (b) gender-affirming surgery or any service related to gender-affirming surgery.

#### **Fines:**

A person found guilty of an offence under this bylaw is liable to a fine of an amount not less than \$10,000.

#### **Violation Ticket:**

If a violation ticket is issued for an offence under this bylaw, the violation ticket may: (a) specify the fine amount established by this bylaw for the offence; or (b) require a person to appear in court without the alternative of making a voluntary payment. A person who commits an offence may, if a violation ticket is issued specifying the fine amount established by this bylaw for the offence, make a voluntary payment equal to the specified fine amount.

### **Engagement overview**

For the development of the bylaw, Administration asked if the draft definitions were clear. The online survey was sent to 58 organizations. The 58 organizations emailed were selected based on the potential direct impact of the proposed bylaw to the overall organization.

#### **Groups were identified through three channels:**

- Research (online, internal City channels)
- City councillor offices forwarding group names that had reached out on the Notice of Motion
- Groups that reached out through the Engage email stating their interest in the survey.

The survey was open from February 12, to February 21, 2020 for it to inform the bylaw. We had 56 views of the survey. We received:

- 17 answers to question one (1a) about purpose of the Bylaw and the definition of a business,
- 15 answers to question one (1b) about the conversion therapy definition,
- 14 answers to question two (2) about the fines and tickets,
- 18 answers to questions three (3) about participant demographics, and
- Four (4) surveys with no answers to any questions.

## What we asked

As a starting point we shared the definitions that other Canadian municipalities have in place for their bylaws. We then asked for feedback on the clarity of these definitions, specifically about the purpose of the bylaw, definition of business and conversion therapy, and clarity of the fines and violation section of the bylaw. Finally, we collected information about the participants. The survey asked the following three (3) questions:

- 1) We want to make sure that the purpose statement is clear. Is the statement clear to you? If not, please provide details on what is unclear to you. Below you will find two definitions. Are they clear and easy to understand? If not, please tell us what is unclear and why.
- 2) We want your feedback about the clarity of the proposed bylaw if it is violated. The two sections below are about fines and tickets. Are they clear? If not, tell us what is unclear and why.
- 3) Optional, please select from the following list of options:
  - a) I am answering on behalf of a faith organization
  - b) I am answering on behalf of a LGBTQ2S+ organization
  - c) I am answering for myself
  - d) I identify as LGBTQ2S+
  - e) I am answering as an individual of a faith group

## What we heard

The engagement process, and questions, ask about clarity of the bylaw definitions. The first summary section will cover these answers. We did not hear any feedback about the purpose statement.

### Feedback on clarity of business definition:

Six comments said that the definition was clear or sufficiently clear.

The rest shared the follow comments and questions about the clarity of the definition:

Overall definition of business	<ul style="list-style-type: none"> <li>○ Why is this definition being used for this bylaw?</li> <li>○ Subsection iii is ambiguous, maybe overextended.</li> <li>○ Some found the definition to be too broad for the purposes of this bylaw.</li> </ul>
The word "calling"	<ul style="list-style-type: none"> <li>○ What is the definition of calling?</li> <li>○ How is a calling a business?</li> <li>○ Would calling include clergy and any other ordained religious leader?</li> </ul>
Who falls under the term business?	<ul style="list-style-type: none"> <li>○ Does this apply to groups that do not take payment for service?</li> <li>○ Does the bylaw apply to ad-hoc groups, clubs, independent of businesses and churches?</li> <li>○ Can the bylaw apply to any person, specifically an individual?</li> <li>○ There were questions about counseling and its fit into this definition, specifically gender counselling, and behaviour modification.</li> </ul>

### Feedback on clarity of conversion therapy definition:

Rights and criminal code	<ul style="list-style-type: none"> <li>○ How the definition relates to Charter and criminal code?</li> <li>○ Concerns and questions about how this will impact religious rights.</li> <li>○ Some found it too broad where as others found it needed additions. For additions and removal suggestions see page 4 of this report.</li> </ul>
Practices are covered under this definition	<ul style="list-style-type: none"> <li>○ There was a need for clarification on how the definition applies when someone seeks out counselling or behaviour modification services.</li> <li>○ What is the difference between trying to change someone's identity and supporting their identity exploration?</li> <li>○ What is the difference between supporting someone through questions about identity and changing someone's identity?</li> <li>○ If a pastor and talking to members about living a "Christian life" does it go against the bylaw?</li> </ul>

### Feedback on fines and violation definition:

Violations	<ul style="list-style-type: none"> <li>○ Confusion/desire for more implications about the bylaw and its implication on clergy.</li> <li>○ Clarification about if the person(s) belong to a professional organization (teacher, guidance councillor, charity, etc.) would their designation be taken away?</li> <li>○ Clarity about the criteria for guilt.</li> <li>○ Desire for more clarity in the conversion therapy definition as it relates to the violation.</li> </ul>
Fines	<ul style="list-style-type: none"> <li>○ Is it a maximum fine?</li> <li>○ Is the fine against a person or the business?</li> <li>○ Unclear if you get to make voluntary payment?</li> <li>○ Confusion about section b and the second sentence.</li> </ul>

## What else we heard

In addition to providing clarification feedback, many provided additional comments and suggestions for the proposed bylaw.

### Definition of business - elaborate on the definition

- Add charities, non-profit, sponsorship, co-operatives, associations, groups, faith and non-faith groups.
- Add service for free or a fee.
- Many groups that run this work operate rental spaces like community centres, churches, others operate in homes and public spaces like coffee shops, this needs to be considered/accounted for in the definition.
- Include gender-affirming medication and surgery or service/assessment related to social or medical transition.
- Consider writing the bylaw in a positive way.

We received one specific wording suggestion for the definition of business:

(iii) an activity providing goods or services, whether or not for profit, offered free of charge, or in exchange for any monetary instrument, goods or service, and however organized or formed, including individuals, co-operative or associations, or ad hoc group of persons, affiliated or not with any registered business, for-profit, or non-profit, registered charity or otherwise.

### Definition of business - eliminate from the definition

We did not receive specific suggestions on what should be taken out. We did receive feedback that the definition, and for some the bylaw, is too broad. One participant stated that The City has the legal authority to regulate what services or activities are done by a church or people associated with it. Another talked about limiting the definition to:

Any commercial, merchandising, industrial activity or undertaking, any employment, any activity providing goods or services whether or not for profit in which there is an exchange (monetary or otherwise) for services or goods provided. A defining factor in business is an exchange or pay (in any form) for services provided - whether for profit or not.

### Definition of conversion therapy- elaborate on the definition

We received several suggestions of additions to the definition.

- Addition of the words: manipulation, stigma, and shaming.
- The definition/bylaw should clearly state that this is intended to prohibit harmful, coercive or abusive practices.
- Include both social and medical transition into the definition.
- Emphasis that the intent of the practice for transgender people is to enforce/influence them to continue to identify with the gender assigned at birth.
- Add the word heterosexual into the definition.
- Address that many conversion therapy groups now don't talk about conversion, but about "behaviour correction" and that acting in a heterosexual way is the primary goal of the practice.
- Definition should have protection for those people who want to "cope with their gender or sexual attraction and orientation".

We received the following definition suggestions/modifications:

"Conversion therapy" means the offering or provision of counselling or behaviour modification techniques, administration or prescription of medication, or any other purported treatment, service, or tactic used for the objective of changing, repressing, or discouraging a person's sexual orientation, gender identity, gender expression, or gender preference, or eliminating or reducing sexual attraction or sexual behaviour between persons of the same sex, not including

i) services that provide non-judgemental acceptance, support, or understanding of a person or that facilitate a person's coping, social support, or identity exploration or development, or;

ii) gender-affirming surgery or any service or assessment related to gender-affirming surgery, social, or medical transition.

Changing or influencing a person's sexual orientation to remain behaviourally heterosexual and/or to identify as heterosexual, and changing or influencing someone's gender identity to revert to or abstain from identifying or acting in any way other than cisgender, changing or influencing someone's gender expression, or gender preference.

### Definition of conversion therapy - eliminate from the definition or disagreement with the definition

- Removal of the words "sexual behaviour."
- Definition is too broad, should only be to "medical" means of therapy.
- Disagreement/preservation of heteronormative views. Desire for protection of the rights of those who want to change their "lifestyle."
- Challenge under the Charter and criminal code of Canada (section 176).
- Fine with protection of the vulnerable but not if it infringes on religious rights.

### Fines and Violation – additions to the sections

We received the following three suggestions for additions to the fines and violations section of the Bylaw:

- To revoking of charitable status and/or business license
- Add prison time of 1 year
- Add “not less than” before the 10,000

### Who answered the survey

As part of the survey we asked a non-mandatory question about the participants. Please note that this information, like all public engagement surveys is **not** representative. These numbers are used to show who participated and who did not. They shouldn't be read as typical or as an example of the whole city or a whole group. We present them here to show whom we heard from for this specific engagement survey.

- Eight (8) stated they are answering on behalf of a faith organization,
- Three (3) stated they were answering on behalf of a LGBTQ2S+ organization,
- Three (3) stated they were answering for themselves,
- Zero (0) identify as LGBTQ2S+,
- Four (4) stated that they were answering as an individual of a faith group.

### Next steps

Where possible, Administration will take input from this report into consideration for public education of the bylaw, the presentation to Committee, implementation of the bylaw and training of Officers, and to inform any clarification changes within the bylaw itself.

This report will be an attachment to the Council report shared on 2020 May 13 at Standing Policy Committee on Community and Protective Services.