



NSW Anti-Discrimination Act review: call for preliminary submissions

Australian Feminists for Women's Rights (AF4WR) is a feminist group whose object is research-based advocacy on women and girl's sex-based rights.

We welcome the forthcoming review of the NSW Anti-Discrimination Act 1977 by the NSW Law Commission and the opportunity to make a preliminary submission on the proposed Terms of Reference (ToRs).

Society has progressed since the Act was introduced nearly 50 years ago. Sadly however, discrimination and violence against women and girls, on the basis of our sex, remains endemic. Our submission primarily addresses the need to ensure that any review of the Act results in strengthened protections for the sex-based rights of females, which have been eroded over the past few decades due to the insertion of the unscientific concept of 'gender identity' in anti-discrimination frameworks.

It is also vital that any review of the Act ensures that NSW citizens continue to enjoy freedom of speech, belief and association.

We will not address each ToR individually but make the following comments on a small number of them.

2. Whether the range of attributes protected against discrimination requires reform

The Act currently clearly identifies a woman as a member of the female sex (and a man as a member of the male sex.) It is our strong submission that these definitions remain unchanged in order to continue to protect the sex-based rights of women and girls in NSW. Any review of the Act needs to ensure meaningful definitions of gender identity and sexual orientation as distinct from each other and from the definition of sex.

Any review also needs to ensure 'homosexuality' be defined in terms of sexual orientation and sexual attraction to people of the same sex and not the same gender identity. Such changes in the meaning of homosexuality in other jurisdictions have led to serious discrimination against same sex attracted people to use services and the unequal enjoyment of their fundamental rights such as freedom of assembly. See for instance the [AHRC's recent](#) (Sept 2023) denial of the right of lesbians born female to hold events for other female homosexuals and not include male people who identify as lesbians.

8. Exceptions, special measures and exemption processes

We strongly support a review of the exemption process on the grounds that women (and men) should NOT need to seek a legal exemption to gather and associate without the presence of members of the opposite sex. Recent examples in Tasmania and Victoria have demonstrated the



rights of women to gather without men have been eroded under other anti-discrimination legislation and that exemption processes are not protecting these rights.

On a similar basis, lesbian and homosexual citizens of NSW should be free to gather together without members of different categories demanding to be included, and should be able to do so without needing to request permission from a government body.

13. Any other matters the Commission considers relevant to these Terms of Reference.

We submit that a revised Act needs a clear statement about principles that should be considered in the event of a perceived or real conflict of rights between members of protected categories. In recent years the rights of women and girls to have access to single-sex spaces, services and sports have come into increasing conflict with the wishes of transgender-identifying males to access these same spaces and services. Due to confusing and misleading guidelines issued by other government bodies including the Australian Human Rights Commission, the rights of women and girls are nearly always superseded by the desires of transgender males. Males are now playing in women's and girls' sports teams, are receiving women's prizes, and male criminals are housed in female prisons due to incorrect interpretations of the current NSW legislation. Young girls in NSW schools and organisations such as Girl Guides are being forced to share spaces with males, and all women and girls are experiencing an encroachment on their rights to single-sex toilets, change rooms, health care and other services.

The proposed review needs to urgently clarify the legal standing of single-sex rights and provide unambiguous guidance to the community on the primacy of these rights in most circumstances.

The revised Act must also contain a clear statement about vilification and what it does and does not mean. The definition of vilification must clearly contain an incitement to discrimination or violence against a protected category under the Act. It is our strong submission that vilification laws should not infringe the freedom of all NSW citizens to express unpopular, controversial or 'offensive' views provided there is no incitement to discrimination or violence expressed as part of those views. For example, women must remain free to be able to correctly name males as men, regardless of those men's chosen gender identity.

More information about Australian Feminists for Women's Rights, and the issues addressed in this submission, can be found on our [website](#). We look forward to providing a further submission when the full review is underway.