



LOCAL GOVERNMENT
**MULTICULTURAL
NETWORK**

Submission: NSW Anti-Discrimination Act 1977 Review

Prepared on behalf of the NSW Anti-Racism Working Group

Introduction

About the NSW Anti-Racism Working Group

The NSW Anti-Racism Working Group was established in June 2020 in response to the rising number of racist incidents during the COVID-19 pandemic and the global call for racial justice through the Black Lives Matter movement. As an initiative of the Local Government Multicultural Network and supported by Local Government NSW, the Working Group is composed of staff from local government, state and federal government, education, unions and community organisations, groups and individuals.

Objectives of the Working Group include:

- Identifying concerns around racism, reviewing current strategies, and addressing gaps
- Promoting anti-racism education, training, and resources
- Building partnerships and coalitions, including with Aboriginal and Torres Strait Islander communities
- Empowering local government to lead short, medium, and long-term anti-racism strategies
- Developing youth-focused anti-racism initiatives
- Supporting research and local initiatives to address racism
- Advocating for systemic change

We welcome the NSW Government's review of the Anti-Discrimination Act 1977. This submission draws on insights gathered from a consultation facilitated with members of the NSW Anti-Racism Working Group, which included diverse stakeholders with lived experience and expertise across community, education, union, legal, education and service sectors.

Participants shared reflections on the limitations of the current legislation and opportunities to modernise the law in order for it to align with the diverse realities of people living in NSW today.

The submission is organised across key themes reflecting the consultation outcomes and areas raised in the review discussion paper.

A. Modernisation and Protected Attributes

1. Simplification & Accessibility of the Act

The current Act needs to be simplified and modernised to ensure all communities, including culturally and linguistically diverse (CALD) groups can understand their rights and access protections. Language should be clear, inclusive, and culturally aware and safe.

2. Expand and Update Protected Attributes

- **Migrant status:** Migrant workers, international students, asylum seekers and refugees, and other temporary visa holders are highly vulnerable to exploitation and discrimination. Their protection must be explicitly embedded in legislation, particularly given that wage underpayment remains a widespread issue (see 2025 Fair Work ombudsman media releases)
- **Gender and sexuality:** Include **gender identity** and **gender expression**. Current language does not reflect the lived experiences of LGBTQIA+ communities and uses outdated terminology.
- **Linguistic diversity:** Protection from **linguistic racism**, including discrimination based on **accent, dialect, or language spoken**. Please refer to the recent ANU study related to accent bias particularly impacting women with non-Anglo accents (<https://policybrief.anu.edu.au/unfair-accent-bias-affecting-women/>). It is important to note discrimination can occur not only against various accents but also against an individual's own name. [Say My Name | University of Technology Sydney](#) .
- **Religion:** Should be included as a standalone protected attribute. The current framework applies ethno-religious protections unevenly.
- **Appearance and cultural expression:** Include hairstyles, dress, and other forms of personal expression often tied to cultural or racial identity. This type of discrimination impacts children and young people early through school policies. See SA study quoted in ABC article (<https://www.abc.net.au/news/2023-06-22/calls-for-culturally-inclusive-schools-amid-hair-discrimination/102506476>).
- **Parental status:** Rethinking family leave policies involves moving beyond the traditional Western nuclear family model to better support larger and extended families. The COVID-19 pandemic underscored the inequities experienced by families with additional caregiving responsibilities in the workplace. Current parental leave policies often fail to provide adequate support for extended caregiving leave, putting such families at a disadvantage. This issue is particularly relevant for community groups that value larger familial structures as part of their cultural practices and values. More effort is required to recognize and accommodate the diverse family dynamics and their specific needs.
- **Union membership:** Protect individuals from discrimination based on trade union membership or industrial activity to align with Federal anti-discrimination law. This is particularly important as union activity has to be disclosed to the employer for employees to access some union benefits such as Picnic Day.

3. Centring Lived Experience

Legislative reform must be co-designed with those most impacted by racism and systemic discrimination and legal organisations that support marginalised communities. The voices of marginalised communities must shape the definition and scope of protected attributes to ensure intent behind the changes to the law flow through and lead to actual change.

4. Reinforcement Power

The new Act needs to include stronger enforcement powers, such as the ability to impose meaningful penalties and conduct thorough investigations into systemic discrimination. It should go beyond conciliation and compensation to ensure effective deterrence and the capacity to address repeated or institutionalised patterns of harm. Discrimination often occurs in contexts where it is overlooked or implicitly permitted. Those who experience discrimination are frequently not alone, with similar treatment directed at others in the same environment.

As a minimum, once discrimination is proven, the enforcing agency should be allowed to review past data associated with the individual employees at fault, to bring about justice to victims who have not come forward for fear of retribution in a cost-effective way.

Consider positioning iCare as an incentive-based insurance model, similar to road safety insurance policies, to support organisations in preventing and reducing adverse decisions related to discrimination.

B. Public Life and Discrimination Tests

1. Expand Areas of Public Participation

The Act should explicitly cover all areas of public participation, including volunteering, governance roles, committees, and community participation, not just employment, education, or service access. Any public participation opportunity involving an application process, should be regarded as analogous to work or study environments given their significant influence on employment outcomes for people with protected attributes.

2. Reform Legal Tests for Discrimination

- Move beyond requiring proof of intent; instead, focus on the impact and systemic nature of discrimination.
- Recognise intersectional discrimination, where multiple attributes (e.g. race and gender) interact to produce compounded disadvantage.
- Replace abstract legal principles with tools grounded in lived experience and cultural context.
- Streamline the process for individuals and consider alternative models such as Fair Work Ombudsman style dispute resolution.

3. Inclusion of Overlooked Groups

The Act must protect:

- International students and other temporary visa holders
- Low-income and rural communities
- Communities impacted by racialised media narratives, particularly during crises

[Why Sydney's COVID-19 response could be a tale of two cities - ABC News](#)

In times of crisis, such as the COVID-19 pandemic, media representations influenced public perception and policy decisions, sometimes resulting in unequal access to resources and support. The above article highlights the contrasting experiences within Sydney, where some communities faced stricter lockdowns and greater scrutiny than others. This disparity underscores the need for legal protections for media outlets to approach their coverage with sensitivity and awareness of the potential consequences of their narratives. By focusing on equitable storytelling and amplifying diverse voices, media can play a crucial role in fostering understanding and unity. Ultimately, addressing these challenges requires a collaborative effort from journalists, policymakers, and community leaders to ensure that all communities are treated with fairness and dignity, especially during times of crisis, legal framing can be applied to protect communities from such unfair media representations.

4. AI and Emerging Risks

The use of AI in recruitment and service provision presents new risks for discrimination. Anti-discrimination laws must keep pace with these technological developments.

C. Vilification, Harassment, and Positive Duty

1. Introduce a Positive Duty to Prevent Discrimination

A positive duty, as seen in the Gender Equality Act, should be introduced, legally requiring organisations and employers to prevent discrimination, vilification, and harassment proactively and provide an annual report to increase public accountability and transparency to drive change.

2. Strengthen Harassment Protections

Expand harassment protections to reflect intersectionality and emerging forms of prejudice, including cultural, religious, and gendered forms of harassment.

3. Representation of Marginalised Communities

The Anti-Discrimination Act needs to include measures to ensure that marginalised communities are meaningfully represented in decision-making structures, including leadership roles, advisory bodies, and boards. True equity requires that those most affected by discrimination have a voice in shaping the policies, practices, and systems intended to address it. Without their input, institutional responses risk being ineffective, exclusionary, or disconnected from lived experience.

4. Community Engagement

Ensure protections and duties are accessible to isolated or marginalised communities, including through culturally safe engagement methods. Partner with affected communities to ensure solutions are grounded in lived experience and community knowledge.

D. Exceptions, Complaints & Systemic Reform

1. Make Complaint Processes Accessible

The current complaint process is overly complex, legalistic, and inaccessible to many communities. It must be:

- Culturally safe, inclusive, and accessible for people with limited English

- Simplified using plain language
- Supported by independent, specialist advocacy and legal aid.

The law can be used to address barriers and ensure organisations, committees and groups demonstrate how they recognise potential barriers and address these e.g. such as language, cultural differences, literacy levels, and lack of awareness about rights and processes.

2. Shift Burden of Reporting

Explore mechanisms to allow bystanders, organisations, or community groups to raise complaints. The current system unfairly burdens individuals already impacted/harmed by discrimination.

3. Improve Protections for Complainants

Complainants face re-victimisation, fear of retaliation, and a lack of anonymity. The Act must:

- Enable anonymous reporting
- Protect complainants from repercussions
- Recognise institutional and structural racism and discrimination, not just individual acts

4. Close Gaps in Religious Exceptions

Religious exemptions, especially in education can enable discrimination against LGBTQIA+ and culturally diverse students and staff. These should be removed or strictly limited to prevent harm.

5. Safeguard for freedom of expression and independent thought

The NSW Anti-Racism Working Group supports Amnesty International's stance on protecting freedom of expression, academic debate, and independent thought. We are concerned that the adoption of a new definition of antisemitism by 30 Australian universities in February 2025 may conflate criticism of the Israeli government with antisemitism. These risks suppressing legitimate political expression by students and staff.

As Amnesty International's spokesperson, Mohamed Duar, notes:

"This definition has been used to silence students and staff, suppress protest, and shut down criticism of Israel's actions in Gaza and the occupied territories."

We recommend the Anti-Discrimination Act review include safeguards to ensure that institutional definitions of racism/antisemitism do not restrict lawful, non-discriminatory political expression. Universities must remain spaces for open and diverse dialogue.

5. Reform laws and policies to remove structural barriers and ensure they do not maintain or reinforce racial inequality. The Act currently focuses mainly on individual complaints and does not empower systemic policy reform or address structural racism.

6. Collect and apply race- based data to identify patterns of systemic racism and inform evidence-based responses. Currently there is no requirement or framework under the Act for collecting or using data to identify systemic discrimination.

7. Develop practical tools, training, and guidelines to support organisations and institutions in adopting anti-racist practices and creating inclusive environments. There is a need to introduce legal obligation under the Act for public or private bodies to take proactive steps to prevent racism or promote inclusion.

E. Alignment with Other Jurisdictions

1. Introduce an NSW Human Rights Act

NSW remains the only east coast jurisdiction without a Human Rights Act. This undermines access to justice and leaves gaps in legal protections. A Human Rights Charter would provide a values-based framework and complement anti-discrimination laws.

2. Align with Commonwealth and International Standards

- The NSW Act should align with the Australian Human Rights Act, Sex Discrimination Act, and Fair Work Act
- Expand the roles and responsibility of the Workplace Gender Equality Agency to cover other protected attributes
- Adopt successful models from the UK and Ireland, where equality commissions provide support, fund litigation, and strategically develop case law for community benefit. The roles and services of the commission will expand: Giving advice and support to people with potential complaints under the anti-discrimination laws; Giving guidance to employers and service providers about their obligations under the law and good practice advice; Encouraging public authorities to promote equality of opportunity and address inequalities in fulfilling their equality and good relations duties; Ensuring that equality considerations are central to decision making by focusing particular attention in a number of key public policy areas.

3. Invest in Multicultural Specialist Legal and Community Resources

Ensure that individuals and communities are supported with sustainable funding and resources for:

- Culturally responsive and Multicultural specialist legal services
- Community education
- Funding for advocacy organisations

Conclusion

The NSW Anti-Racism Working Group advocates for a thorough revision of the Anti-Discrimination Act to better align with the real experiences of racism and discrimination in New South Wales. We encourage the NSW Government to embrace a contemporary, inclusive, and human rights-cantered approach that prioritises community voices and fosters a more equitable future for everyone.