



Speak Up for Women
Submission on the Legislation
(Definitions of Woman and Man)
Amendment Bill

June 2026



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1. Introduction

Speak Up For Women (SUFW) welcomes the opportunity to comment on the NZ First Legislation (Definitions of Woman and Man) Amendment Bill. Our organisation advocates for the protection of women's sex-based rights in law and policy.

Our vision is for women and girls to continue to enjoy sex-based services, spaces and opportunities in New Zealand.

We base our principles on the right, in law and public policy, of adult human females to name, organise and speak for ourselves. Our supporters include young women, mothers and grandmothers, lesbians and heterosexuals, and women working in a wide range of occupations. We also have many male supporters, including fathers, brothers and grandfathers. The organisation is run entirely by volunteers and receives no public funds or funds from external organisations. We are not affiliated to any political party or religious organisation. You can read more about us at www.speakupforwomen.nz/about

Speak Up For Women notes the Committee's stated intention to focus on the practical implications of the Bill and the legal mechanics required to ensure that sex-based rights and protections operate clearly and consistently in practice.

We welcome that approach.

Much of the public debate surrounding this Bill has focused on definitions. This submission takes a broader view. We examine why Parliament chose to protect sex in law, whether the reasons for doing so remain valid today, and what legal mechanisms may be required to ensure those protections continue to have practical meaning.

Our focus is not the mechanism but the outcome: a legal framework in which sex-based rights, protections and exemptions can operate clearly, consistently and as Parliament intended.

2. The Question Before the Committee

This Bill has generated significant debate about the meaning of the terms “man” and “woman”. While these discussions are important and we support the intention of the Bill, Speak Up For Women submits that this is not the fundamental question before the Committee.

The more important question is this:

Consideration 1: Does sex matter in New Zealand law?

Before considering how the law should define men and women, the Committee should first consider why “sex” is included as a protected characteristic in the Human Rights Act 1993 (HRA) and whether the reasons for its inclusion remain relevant today.

Sex was not included in New Zealand’s anti-discrimination framework by accident. It was included because Parliament recognised that women and men are distinct groups who may experience discrimination, disadvantage, exclusion, and differing vulnerabilities based on their sex.

The inclusion of sex as a protected characteristic and in the several exceptions in the Act reflects a recognition that biological differences between the sexes sometimes matter in public life and that legal protections are necessary to ensure equality, dignity, privacy, fairness, safety and participation.

If the Committee concludes that sex remains relevant in any area of public life, it must also ensure that the law is capable of recognising sex clearly and consistently.

3. Why Parliament Protected Sex In The First Place

The Human Rights Act 1993 (HRA) identifies sex as a protected characteristic. This was not an arbitrary decision, nor was it a symbolic one. Parliament recognised that sex is a real and relevant characteristic which can affect people's experiences, opportunities, vulnerabilities and needs.

Parliament recognised the necessity in the HRA to include exceptions to further protect women in certain environments. These exceptions include sport, privacy and dignity when using bathroom facilities, counselling situations, employment opportunities and accommodation arrangements.

Parliament recognised that sex mattered then, and it continues to matter today. The reasons that justified protecting sex in law have not disappeared. If anything, many of the debates currently taking place across New Zealand demonstrate precisely why legal clarity is required.

Importantly, the Human Rights Act protects sex, not gender identity. Parliament has never amended the Act to include gender identity as a protected characteristic. Whatever view individual members may hold regarding gender identity, the Committee should recognise that the legal category Parliament chose to protect was sex. Rights based on sex can only function if sex has a clear and stable meaning.

The Committee is not being asked whether sex should become legally relevant. Parliament answered that question decades ago when sex was included as a protected characteristic in the Human Rights Act 1993.

Parliament answered the question again with the Search and Surveillance Act 2012 - when sections relating to strip searching were written to ensure that Customs and Police were legally required to search people using officers of the same sex.

More recently, in the Births, Deaths, Marriages, and Relationships Registration Act 2021 (BDMRR) Parliament answered the question once more. [Section 79\(2\) 'Certificates as evidence'](#) makes the provision that a birth certificate does not necessarily represent a person's sex. The notes accompanying the Bill in [Births, Deaths, Marriages, and Relationships Registration Bill - Amendment paper No 059](#) clarify the intention with;

Clarification of status of birth certificates as evidence of sex and gender

New clause 80(2) clarifies that any individual, private sector agency, or public sector agency authorised or required to ascertain an individual's sex or gender for a particular purpose may take into account matters other than the information in a person's birth certificate in accordance with any other applicable legislation (including the Human Rights Act 1993) and the rules of the common law.

Consideration 2: Does Parliament intend for the protections provided by legislation to continue to have practical meaning?

4. Why Sex Continues To Matter

The previous sections of this submission have examined why Parliament chose to protect sex in law.

Consideration 3: Do the reasons for protecting sex as a characteristic still exist?

Only once that question has been answered is it possible to consider how New Zealand arrived at its current position, where the meaning of sex has become increasingly uncertain in law and public policy.

In our view, the answer is clear. Sex continues to matter across a wide range of settings, and the examples in [APPENDIX 1](#) demonstrate why.

- **Sexual Orientation**
- **Sport**
- **Prisons**
- **Healthcare and Hospitals**
- **Toilets, Changing Rooms and Public Facilities**
- **Women' s Refuges**
- **Data Collection and Public Policy**

If the Committee concludes that sex continues to matter in any of these areas, it should also conclude that sex requires a clear and consistent meaning in law.

The examples outlined in [APPENDIX 1](#) are diverse, but they share a common theme.

Each relies upon the ability to distinguish between the sexes.

Whether the issue is sporting fairness, prison accommodation, healthcare provision, public facilities, data collection, sexual orientation or services intended specifically for women, the practical operation of these policies depends upon sex being recognised as a meaningful category.

Discussions about competing rights become extremely difficult when there is uncertainty about the meaning of the category upon which the rights themselves are based.

Consideration 4: Does New Zealand Law provide sufficient clarity about what sex means, and when it should be recognised for the protections provided by legislation to continue to have practical meaning?

We submit that it does not.

That is why legislative clarification is now required.

5. How Legal Ambiguity Became Public Policy

If the Committee concludes that sex continues to matter in New Zealand law, it must then ask a further question:

Consideration 5: How did we arrive at a situation where so many public bodies now treat sex and gender identity as interchangeable concepts?

The Human Rights Act 1993 protects individuals from discrimination on the basis of sex. Parliament has never amended the Act to include gender identity as a protected characteristic.

Despite this, for many years, the Human Rights Commission has publicly stated that gender identity was protected under the existing ground of sex. This position was promoted before and after a 2006 Crown Law opinion which suggested that a court might interpret the legislation in that way.

Obviously, the Crown Law opinion did not amend the law. Nor did it represent a decision of Parliament or a ruling of the courts. It was a legal opinion regarding how a court might interpret the legislation if asked to consider the issue.

It is also important to distinguish between two very different propositions.

The first proposition is that a person should not be subjected to discriminatory treatment because they do not conform to some people's expectations of how males or females should look, dress or behave. This is the reasoning that underpins much of the argument that discrimination on the basis of gender identity may already be captured by the existing ground of sex.

There is a logical basis for this view.

For example, if a male who presents in a "feminine manner" is denied employment, accommodation or access to a service (not a female-only service) because of his appearance or mannerisms, the discrimination may ultimately be rooted in assumptions about how males are expected to behave or present. In that sense, discrimination associated with gender identity is best understood as a form of sex discrimination.

We can understand why Crown Law reached the conclusion that discrimination associated with gender identity may already be covered by the existing protections against sex discrimination.

However, this is very different from the second proposition that asserts that a person's stated and subjective gender identity replaces their sex.

In our view, this is where a significant and unjustified leap has occurred.

A person may identify as a gender different from their sex. They may present themselves in accordance with that identity. They may seek legal protection from discrimination arising from that identity. None of these things alters their sex.

A male who identifies as a woman remains male. A female who identifies as a man remains female.

The Human Rights Commission's interpretation has increasingly moved beyond protecting people from discrimination associated with gender identity and towards treating gender identity as determinative of sex itself.

The consequence has been that policies and guidance documents frequently proceed from the assumption that a person who identifies as a woman should be treated as a woman for all purposes, including in situations where the law has traditionally recognised sex as the relevant category.

This is not a minor development. It represents a fundamental shift from protecting people from discrimination to redefining the protected characteristic itself.

The Committee should carefully consider whether Parliament ever intended such a result.

If Parliament intended to protect people from discrimination associated with gender identity, that does not necessarily mean Parliament intended sex to cease functioning as a meaningful legal category.

Indeed, the continued existence of sex-based rights and protections suggests the opposite. Furthermore, the growing difficulties surrounding the collection of accurate sex-based data illustrate the consequences of legal and policy confusion in this area.

A notable example was the 2023 Census, where respondents were asked both their sex and their gender, with the description of gender being that of gender identity. However, Statistics New Zealand subsequently advised that gender would generally be prioritised over sex in standard outputs. As a result, a person's recorded sex could effectively be replaced by their stated gender for statistical purposes.

This approach has significant implications for the collection and interpretation of data relating to health, crime, education, employment and social outcomes. Researchers, policymakers and service providers require accurate information about males and females to identify disparities, evaluate programmes and understand patterns that may differ between the sexes.

When sex and gender identity are treated as interchangeable concepts, the reliability of sex-based data is diminished. This does not demonstrate that sex is irrelevant. Rather, it demonstrates the practical consequences of failing to distinguish between sex and gender identity.

Consideration 6: Did Parliament ever intend a protected characteristic as fundamental as sex to become increasingly difficult to measure, analyse and apply in practice?

Nevertheless, over time, the Human Rights Commission's interpretation came to be treated by many organisations as though it were settled law.

Government agencies, local authorities, sporting organisations, healthcare providers, educational institutions and other public bodies are increasingly adopting policies based on the assumption that sex and gender identity must be treated as interchangeable concepts.

The result has been widespread uncertainty regarding the operation of sex-based rights and protections.

In many cases, organisations have been advised that excluding males who identify as women from female-only facilities or activities may constitute unlawful discrimination. In practice this has often led to the erosion of female-only spaces, services and provisions despite the absence of any clear legislative direction from Parliament.

Speak Up For Women has encountered numerous examples of this confusion.

In 2026, our survey of New Zealand councils found that many councils relied on Human Rights Commission guidance when developing policies relating to changing rooms, showers and other sex-segregated facilities. As a result, facilities described as "female-only" were often not female-only in practice.

Similar uncertainty can be seen in sport, corrections, healthcare, policing and many other areas where sex has traditionally been recognised as a relevant category.

This submission does not ask the Committee to determine whether the Human Rights Commission acted in good faith. Nor does it ask the Committee to resolve every policy disagreement that has arisen in recent years.

Consideration 7: What are the practical consequences of legal ambiguity?

When Parliament protects a characteristic but leaves or creates uncertainty about its meaning, other organisations inevitably attempt to fill the gap. Different agencies develop different interpretations. Guidance documents begin to carry the weight of law. Policies diverge. Public confidence declines.

The result is precisely the situation New Zealand finds itself in today.

This Bill provides an opportunity to restore clarity.

Whether the Committee ultimately supports this Bill, amends it, or recommends an alternative approach, the underlying problem remains the same. There is significant uncertainty about the legal meaning of sex and the relationship between sex-based rights and gender identity.

That uncertainty is no longer sustainable.

If Parliament believes that sex remains a relevant legal category, Parliament should ensure that its meaning is determined by legislation and democratic process, rather than by competing interpretations developed by individual agencies or advisory bodies.

6. What Happens If We Do Nothing?

The Committee's published guidance notes that it wishes to consider the legal mechanics of the Bill. We submit that this requires consideration not only of the consequences of legislative change, but also of the consequences of maintaining the current uncertainty.

The Human Rights Act does not simply prohibit discrimination on the basis of sex. It also contains a range of provisions, exceptions and protections that recognise circumstances in which sex is relevant. These include provisions relating to privacy, accommodation, employment, insurance, counselling and sport.

These provisions were enacted on the basis that sex is a meaningful legal category. If sex instead becomes a subjective characteristic determined solely by individual identity, the operation of these provisions becomes increasingly difficult to consistently apply.

For example, the Human Rights Act permits insurance companies to take sex into account where sex is a relevant actuarial factor. If sex means biological sex, the operation of that provision is straightforward. If sex instead means gender identity, how should that provision operate? Should premiums be based on sex, gender identity, or some other category entirely?

Similar questions arise throughout New Zealand law and public policy.

- When legislation permits female-only sporting categories, who qualifies for those categories?
- When legislation recognises privacy and dignity interests based on sex, how are those interests to be balanced and protected?
- When public bodies collect sex-based data, what exactly are they measuring?
- When the law permits services to be organised on the basis of sex, how should those services determine who is entitled to access them?

Sexual orientation provides another example.

- The law protects people from discrimination on the basis of their sexual orientation. Those protections depend upon the ability to understand what is meant by same-sex attraction and opposite-sex attraction.

As the United Kingdom Supreme Court observed in *For Women Scotland*, "**people are not sexually orientated towards those in possession of a certificate.**"

The point is a simple one. Sexual orientation is based on sex. If the meaning of sex becomes uncertain, the operation of rights and protections associated with sexual orientation becomes uncertain as well.

These questions are not theoretical. They arise because Parliament has retained numerous provisions that depend upon sex while uncertainty remains about what sex means.

The issue before the Committee is not whether sex (or woman and man) should be defined. It is whether the legal framework Parliament has built around sex can still function as intended if sex no longer has an objective meaning.

If Parliament concludes that sex remains relevant, continued uncertainty is not a neutral position. It has practical consequences for the operation of existing law, policy and public services.

7. Assessment of the Bill

This submission does not proceed from the assumption that entirely new rights are required. It is possible that New Zealand law already contains the protections Parliament intended, but that those protections have become obscured through inconsistent interpretation and application.

We also acknowledge that the current Bill may not represent the only possible solution.

Our concern is not primarily with the precise wording of this Bill. Our concern is with the uncertainty that currently surrounds the meaning of sex in New Zealand law and the practical consequences that uncertainty has created.

Throughout this submission, we have invited the Committee to consider a series of questions. Why did Parliament choose to protect sex? Do the reasons for doing so still exist? Does sex continue to matter in public life? What happens if the current uncertainty remains unresolved?

We believe the answers to those questions are clear.

If sex remains a meaningful legal category, Parliament should ensure that the law reflects that reality clearly and consistently.

Public bodies, courts, service providers and citizens should be able to understand when sex is relevant, what sex means, and how sex-based rights are intended to operate in practice.

Whether that outcome is achieved through this Bill, amendments to this Bill, clarification of existing legislation, judicial determination, or another mechanism is ultimately a matter for Parliament.

Our focus is not the mechanism but the outcome. We simply ask that Parliament decides whether sex still matters in New Zealand law and, if so, provide the clarity in law and public policy that has been missing for so long.

8. Recommendations

Speak Up For Women respectfully recommends that the Committee:

1. Determine whether sex remains a meaningful legal category in New Zealand law.
2. If the Committee concludes that sex remains relevant, ensure that sex-based rights, protections and exemptions continue to operate as Parliament intended.
3. Address the uncertainty that currently exists regarding the meaning of sex in New Zealand law and the relationship between sex and gender identity.
4. Ensure that government agencies, public bodies and service providers receive clear guidance regarding the operation of sex-based rights and protections.
5. Protect the collection and reporting of accurate sex-based data.
6. Consider whether the objectives identified in this submission are best achieved through this Bill, amendments to this Bill, clarification of existing legislation, judicial determination, or another mechanism.
7. Ensure that the final outcome is clear, consistent and capable of practical application across New Zealand law and public policy.

9. Conclusion

Speak Up For Women has not approached this submission with a predetermined legislative solution.

Our focus is not the mechanism but the outcome.

Throughout this submission, we have asked the Committee to consider a simple question: does sex continue to matter in New Zealand law and public life?

We believe the answer is yes.

If the Committee reaches the same conclusion, then the next question is unavoidable: what follows from that?

If sex remains a meaningful legal category, Parliament should ensure that the law reflects that reality clearly and consistently. Whether that clarity is achieved through this Bill, amendments to this Bill, clarification of existing legislation, judicial determination, or another mechanism is ultimately a matter for Parliament.

What matters is that it is achieved.

New Zealanders should not be left uncertain about when sex is relevant, what sex means, or how sex-based rights are intended to operate in practice.

We respectfully ask the Committee to provide the clarity that has been absent for too long.

10. Request to Be Heard by the Select Committee

Speak Up For Women believes it can assist the Committee by providing a perspective that is often missing from this debate.

We recognise that people should be protected from discrimination arising from their sex expression, appearance, mannerisms, or failure to conform to sex-based stereotypes. We understand why discrimination associated with gender identity may, in many circumstances, be viewed as a form of sex discrimination.

However, we do not believe that protecting people from such discrimination requires sex itself to cease functioning as a meaningful legal category.

Our submission explores the distinction between these two propositions and examines the practical consequences that arise when they are treated as equivalent.

We can also assist the Committee by providing evidence of how legal uncertainty has translated into public policy. Through our nationwide survey of local councils, we observed how Human Rights Commission guidance and differing interpretations of the law resulted in inconsistent policies relating to female-only facilities and services. In many cases, councils were attempting to comply with what they believed the law required, yet arrived at markedly different outcomes.

We believe this experience provides a useful case study of how uncertainty regarding the meaning of sex can affect the practical operation of policies, services and facilities across New Zealand.

For these reasons, we believe our oral evidence may assist the Committee in considering both the protection of individuals from discrimination and the continued operation of sex-based rights and protections.

Suzanne Levy and Nicole Evans

Speak Up for Women

APPENDIX 1 - Examples of Why Sex Continues to Matter

Sexual Orientation and Lesbian Rights

Sexual orientation depends upon sex.

A lesbian is a female who is sexually attracted to other females. A gay man is a male who is sexually attracted to other males. If sex ceases to have a clear meaning, sexual orientation also becomes increasingly difficult to define and protect.

Both here and overseas, lesbians are being pressured to deny the reality of their same-sex attraction and to accept that males who identify as women should be regarded as potential partners, admitted to lesbian-only gatherings, and included within lesbian spaces.

Women who assert their right to same-sex attraction are increasingly accused of discrimination simply for maintaining boundaries based upon sex.

This issue is not theoretical. Around the world, same-sex attracted people are increasingly being asked to redefine their sexual orientation around gender identity rather than sex. These debates demonstrate that sex remains central to the operation of sexual orientation and to the ability of same-sex attracted people to organise and advocate around their own interests.

Sport

Sex matters in sport because male and female bodies develop differently.

A 2024 United Nations report on violence against women and girls in sport found that more than 600 female athletes had lost almost 900 medals to transgender competitors across 29 sports worldwide.

Women require their own sporting categories because fairness and safety depend upon sex-based distinctions. The IOC recognises this, as do many individual sporting governing bodies.

If sex is not recognised as a meaningful category, female sporting opportunities inevitably become vulnerable to challenge.

Prisons

Sex matters in prisons because males and females present different risks and vulnerabilities.

Corrections policy currently considers gender identity when determining prison placement. As a result, some female prisoners may serve their sentences alongside males.

There are estimated to be approximately [35 trans-identifying male prisoners](#) within New Zealand's prison system at any given time. While the vast majority are housed in men's prisons, it is our position that even one male in a women's prison is one too many.

One highly publicised case occurred in Christchurch Women's Prison in 2019, when a transgender prisoner was placed in isolation following allegations of sexual assault and bullying against female inmates.

Internationally, similar cases have occurred repeatedly.

Women in prison are among the most vulnerable members of society. The Committee should carefully consider whether policies that prioritise gender identity over sex adequately protect female prisoners.

Healthcare and Hospital Wards

Sex matters in healthcare.

Medical treatment, disease presentation, pharmaceutical efficacy and health outcomes are often sex-dependent. Accurate recording of sex is essential for research, diagnosis, treatment and public health planning.

Sex also matters in the provision of intimate care and accommodation.

Concerns regarding mixed-sex hospital wards and rooms have become increasingly common in New Zealand. Reports have highlighted situations where privacy, dignity and psychological safety have been compromised, particularly for female patients.

A notable example involved a vulnerable female patient at Hutt Hospital who was repeatedly harassed by a confused male patient who entered her room. The case was subsequently investigated by the Health and Disability Commissioner.

The National Ethics Advisory Committee has also advised that mixed-sex accommodation may cause distress and could potentially breach patients' rights, it may be a form of indirect discrimination.

Toilets, Changing Rooms and Public Facilities

Privacy and dignity remain important considerations in public facilities.

Most women and girls expect changing rooms, showers and similar facilities designated for females to exclude males.

In 2025/26, Speak Up For Women surveyed councils throughout New Zealand regarding changing and shower facilities at public pools and recreation centres.

The results revealed widespread inconsistency. Many councils described facilities as female-only while simultaneously permitting access based on gender identity. Others relied on Human Rights Commission guidance when developing policies.

As a result, many facilities that appear to be sex-segregated are not, in practice, female-only spaces.



This issue illustrates how uncertainty regarding the meaning of sex translates directly into public policy and service delivery.

Women's Refuges

Women experiencing family violence often require spaces that are exclusively female.

Women's Refuge New Zealand provides support and accommodation to women and children escaping violence. However, the organisation's policies also permit access on the basis of gender identity.

We acknowledge that transgender people can experience violence and require support services.

However, the question remains whether services established specifically to meet the needs of women as a sex class should retain the ability to organise and provide accommodation on that basis.

This question cannot be answered unless sex remains a meaningful category.

Data Collection and Public Policy

Accurate data is essential for effective public policy.

Sex-based data assists governments, researchers and service providers to identify disparities, understand outcomes and evaluate interventions.

Crime statistics, health outcomes, educational achievement, workforce participation and pay equity measures all rely upon the ability to distinguish accurately between males and females.

When sex and gender identity are treated as interchangeable concepts, the reliability of this data is diminished.

The 2023 Census provides a clear example. While respondents were asked both their sex and their gender, Statistics New Zealand subsequently advised that gender would generally be prioritised over sex in standard outputs.

This means that information collected about sex may not always be reported as sex.

The result is growing uncertainty regarding the quality and consistency of sex-based data.

Reliable public policy requires reliable information. That information begins with the ability to identify and measure sex accurately.