

# **Submission: Legislation (Definitions of Woman and Man) Amendment Bill**

**By the Mental Health Foundation of  
New Zealand**



2 July 2026

Social Services and Community Committee

## **Submission: Legislation (Definitions of Woman and Man) Amendment Bill**

Tuia te rangi e tū nei  
Tuia te papa e takoto nei  
Tuia i te here tangata  
Tihei mauri ora.

He hōnore, he korōria ki te atua ki te runga rawa  
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro  
E ngā rau rangatira mā, ānei ngā whakaaro me ngā kōrero nā Te Hauora  
Hinengaro.

Thank you for the opportunity to comment on the Legislation (Definitions of Woman and Man) Amendment Bill (the Bill).

The Mental Health Foundation of New Zealand (MHF) is a charity that promotes everyday actions that lift mental wellbeing, provides tools that support people through tough times, and advocates for a better mental health system and society.

The MHF also runs *Pink Shirt Day*, an annual campaign that seeks to prevent bullying by celebrating diversity and promoting kindness and inclusiveness in schools, workplaces and across communities. Lesbian, gay, bisexual, transgender, queer, intersex, asexual and other sexuality and gender diverse identities – also known as rainbow communities – experience higher levels of bullying. *Pink Shirt Day* [started globally because people wanted to stop bullying against rainbow communities](#), and this remains a strong focus of *Pink Shirt Day* in Aotearoa New Zealand.

**The MHF strongly opposes the passage of this Bill** because it would diminish the legal recognition, dignity, and human rights of transgender, gender-diverse, takatāpui, and intersex people in Aotearoa New Zealand. For brevity, we refer to this group throughout this submission as people with diverse SOGIESC (sexual orientation, gender identity and expression, and sex characteristics).

This Bill does not address any clear or evidenced harm, or offer any meaningful public benefit. Instead, it risks worsening marginalisation and exclusion for groups that already experience significantly poorer mental health outcomes resulting from higher levels of prejudice and discrimination – especially young people who belong to these communities. Recognition, inclusion, and belonging are essential foundations for mental wellbeing. Laws that deny people's identities and attempt to narrow recognition of human diversity risk causing significant harm to mental health.

**The MHF does not propose amendments to this Bill; we recommend rejecting it in its entirety.** Even if concerns are addressed, the Bill is unlikely to achieve its stated objectives in practice, and may simply complicate, rather than resolve, legal ambiguity.

### **This Bill risks worsening mental health outcomes for those with diverse SOGIESC**

People with diverse SOGIESC experience significantly poorer mental health outcomes than the general population. International evidence consistently shows that they are disproportionately affected by depression, anxiety, psychological distress, and suicidal ideation, largely due to persistent social exclusion, prejudice, stigma, and systemic discrimination.<sup>1</sup> The Royal Australian and New Zealand College of Psychiatrists has stated that being transgender or gender-diverse is not, in and of itself, indicative of a mental health disorder.<sup>2</sup>

These disparities are also evident in Aotearoa New Zealand. The most recent *Counting Ourselves* survey found that 77 percent of participants reported high or very high psychological distress, compared with 12 percent of the general population. More than half (53%) had seriously considered suicide at least once in the previous year.<sup>3</sup>

Experiences of discrimination remain widespread locally. Almost half (44%) of the *Counting Ourselves* participants reported experiencing discrimination in the previous year, compared with 21 percent of the general population. Of those who experienced discrimination, more than one-third (35%) attributed it to being transgender or non-binary.<sup>4</sup>

Youth with diverse SOGIESC in Aotearoa New Zealand also experience particularly poor mental health and wellbeing outcomes compared with their peers.<sup>i</sup> Adolescence is a formative period in a person's mental health and wellbeing trajectory, and psychological distress during this life stage is associated with an increased risk of experiencing mental health conditions in adulthood.<sup>5</sup>

**Existing inequities mean that legislative changes affecting people with diverse SOGIESC should be carefully assessed for their potential mental health impacts.**

We are concerned that this Bill risks reinforcing prejudice, exclusion and discriminatory attitudes by legislating definitions that do not recognise the diversity of sex and gender. The law can carry symbolic and social weight and lead to significant downstream effects. Measures that are perceived to invalidate or exclude already marginalised communities may contribute to "minority stress",<sup>ii</sup> further undermining mental wellbeing.

### **This Bill is inconsistent with established human rights protections**

Since 2006, the Crown Law Office has flexibly interpreted the prohibited ground of sex-based discrimination in section 21 of the Human Rights Act 1993 as including discrimination on the basis of gender identity.<sup>6</sup> Consistent with this interpretation, the Human Rights Commission has accepted and considered complaints of discrimination from transgender people on these grounds.<sup>7</sup> In 2025, the Office of the Ombudsman endorsed this approach, finding that it aligns with both the Human Rights Commission's statutory obligations and New Zealand's international human rights commitments.<sup>iii</sup>

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<sup>i</sup> [Fenaughty et al. \(2021\)](#) reported that more than half (57%) of transgender and diverse gender students in Aotearoa reported significant depressive symptoms and an equal proportion (57%) reported they had self-harmed in the past year. One in five (26%) transgender and diverse gender students reported they had attempted suicide over the same period.

<sup>ii</sup> Minority stress theory posits that sexual minority populations' health disparities are produced by excess exposure to social stress faced as a result of their stigmatised social status ([Frost & Meyer, 2023](#)).

<sup>iii</sup> Including through the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (which confirms protections for women include transgender women), and customary international law ([Human Rights Commission, 2026](#), p.3).

The introduction of a single biological definition of "woman" and "man" across all legislation risks narrowing the scope of existing human rights protections and creating inconsistency with established human rights practice. Rather than weakening protections, **there is a strong case for strengthening them, including through the implementation of the Law Commission's 2025 [la Tangata report](#)**, which recommends adding "gender identity" and "innate variations of sex characteristics" as explicit grounds of protection in the Human Rights Act.

We are also concerned that the Attorney-General has concluded this Bill limits the right to freedom from discrimination under section 19 of the New Zealand Bill of Rights Act 1990 (NZBORA) on the basis of age, and that this limitation is not justified.<sup>8</sup> This arises because the Bill defines "woman", "female", "man" and "male" as adults, which under the Age of Majority Act 1970 means people aged 20 years and over. As the Attorney-General notes, this creates a risk that people under the age of 20 could be excluded from statutory protections and provisions referring to "women" or "men", resulting in material disadvantage across a range of areas.<sup>iv</sup> Although the Attorney-General does not conclude that the Bill is inconsistent with the NZBORA on the grounds of sex, this reflects uncertainty about the Bill's material legal effect rather than a finding that no inconsistency arises.<sup>9</sup>

**We consider the Bill's potential human rights impacts should be assessed not only in terms of its immediate legal consequences, but also its potential broader practical and social effects.**

## **The Bill seeks to address problems for which there is little evidence, while creating new legal and practical challenges**

### **The Bill may have effects beyond its immediate legal application**

We acknowledge that the Bill's immediate statutory effect may be limited because relatively few pieces of legislation use the terms "woman" and "man", with the majority instead using gender-neutral language.<sup>v</sup> However, outside its direct legal application, legislation can influence public sector policy, organisational practice,

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<sup>iv</sup> The report identifies potential consequences including, but not limited to, reduced access to legal protections and entitlements, gaps in criminal liability, and adverse impacts on health and parental leave rights.

<sup>v</sup> The [Legislation Design and Advisory Committee guidance](#) is to use gender neutral terms in all drafting.

and private conduct. We are concerned that the Bill will lead to more discrimination in these broader contexts.

We also note concerns have been raised that, due to the requirement for proposed definitions to apply to every piece of secondary legislation, it would be "[a difficult all-of-government task to determine any consequential problems created by the new definitions.](#)"

### **The Bill does not reflect the diversity of sex and gender**

The Bill attempts to introduce a rigid, one-size-fits-all legal framework that applies biological definitions of sex uniformly across all legislative contexts. This approach does not reflect the biological, physiological, and social diversity of people with diverse SOGIESC, and risks creating new challenges in how individuals are recognised and classified under the law.

These concerns are particularly relevant for intersex people. Around 1.7 percent of people are born with innate variations of sex characteristics, including chromosomal, hormonal or anatomical characteristics that do not fit typical binary definitions of male or female. A rigid statutory definition of "biological female" and "biological male" does not accommodate this natural human diversity. It also risks undermining the individualised medical, legal, and human rights approaches that intersex people and their advocates, including Intersex Trust Aotearoa New Zealand (ITANZ) and the Darlington Statement community, have long advocated for.<sup>10</sup>

### **The Bill is not supported by a clear policy rationale**

The Bill states, in part, that its purpose is to uphold legal certainty, however there is little evidence any existing uncertainty exists, let alone any uncertainty that would be resolved by the provisions of this Bill. For example, there is little need for clarity on the scope of terms like "man" and "woman" as most laws do not use these terms in the first place, and where legal provisions do specify gender, sex or other identities for practical reasons, clear definitions are already provided.

The Bill also states its intended purpose is to "protect the integrity of sex-based rights", and MPs supporting the Bill have suggested that it intends to protect the rights of women and girls.<sup>vi</sup> However, it is not clear that the Bill would advance the

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<sup>vi</sup> See, for example, public statements on the Bill by [Rt Hon Winston Peters](#), [Jenny Marcroft MP](#), and [Hon David Seymour](#), and comments made in Parliament at the Bill's [First Reading](#).

rights, opportunities, or wellbeing of women and girls in Aotearoa New Zealand. Instead, it risks diverting attention from the necessity for evidence-based measures that would more effectively promote safety, dignity, and wellbeing for women and gender minorities alike. These include investment in gender-based violence prevention and victim support services, comprehensive relationships and sexuality education in schools, addressing the rise of misogyny and online abuse directed at women, and improving equitable access to gender-responsive healthcare.<sup>vii</sup>

Concerns have also been raised by women's interest groups regarding the protection of single-sex spaces. Existing legislative and policy frameworks already provide mechanisms for managing access to sex-segregated services across workplaces, schools, and community organisations (notably, through the Human Rights Act). The Human Rights Commission's 2020 [PRISM report](#) notes that many of these settings operate on a case-by-case basis in line with safety and operational requirements to accommodate transgender, intersex, and non-binary people in practice. These sectors have not identified a need for the changes proposed in this Bill.

**Protecting the rights of women and girls and protecting the rights of people with diverse SOGIESC are not competing objectives. Rather, they are mutually reaffirming and reinforcing commitments to equality, dignity, safety and freedom from discrimination.<sup>11</sup>**

## **The Bill breaches Te Tiriti o Waitangi and the rights of takatāpui**

Takatāpui<sup>viii</sup> and other diverse gender identities have long existed and been recognised as taonga within te ao Māori (the Māori worldview).<sup>12</sup> Te ao Māori understandings of identity, community and belonging may not align with the binary definitions that this Bill seeks to implement. Colonisation has had ongoing and intergenerational impacts on the expression of sexual and gender diversity within Māori communities, and there is a risk that the Bill may further entrench these effects.<sup>13</sup>

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<sup>vii</sup> As recommended by the [Human Rights Commission \(2026\)](#), p.6.

<sup>viii</sup> Takatāpui is an ancient Māori term meaning "intimate companion of the same sex". It has been reclaimed by some Māori to embrace both their culture and spirituality, as well as their diverse sexual orientations, gender identities and expressions, and sex characteristics ([Human Rights Commission, 2020](#)).

Te Tiriti o Waitangi affirms the rights of tangata whenua to exercise tino rangatiratanga,<sup>ix</sup> including authority over matters of identity and wellbeing. This includes the ability to define and uphold understandings of gender, sexuality, gender expression, and sex characteristics within te ao Māori frameworks. In our view, the imposition of rigid definitions risks undermining these rights and is therefore of concern in relation to the Crown's obligations under Te Tiriti o Waitangi.

## Conclusion

**The MHF strongly opposes the Legislation (Definitions of Woman and Man) Amendment Bill.** The Bill risks undermining established human rights protections in a way that may further entrench exclusion, prejudice, stigma, and discrimination for communities already experiencing significant mental health inequities driven by these harms. It does not address a clear or evidenced legislative problem but instead introduces uncertainty and unnecessary complexity, and risks unintended consequences across law, policy, and practice, while delivering no meaningful public benefit.

Mauri tū, mauri ora,



**Shaun Robinson**  
Chief Executive

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<sup>ix</sup> A concept in te ao Māori that has no single English term which properly represents its meaning. It can mean autonomy, self-determination, sovereignty and/or independence. However, more broadly, it refers to Māori control over Māori lives, with the overarching purpose to improve the collective wellbeing of a group, including iwi, hapū and whānau (Te One & Clifford, 2021).

## References

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- <sup>2</sup> The Royal Australian & New Zealand College of Psychiatrists. (2023, December). [\*The role of psychiatrists in working with Trans and Gender Diverse people\*](#).
- <sup>3</sup> Yee, A., et al. (2025). [\*Counting Ourselves: Findings from the 2022 Aotearoa New Zealand Trans and Non-binary Health Survey\*](#). Transgender Health Research Lab, University of Waikato, Hamilton, NZ.
- <sup>4</sup> Yee, A., et al. (2025). [\*Counting Ourselves: Findings from the 2022 Aotearoa New Zealand Trans and Non-binary Health Survey\*](#). Transgender Health Research Lab, University of Waikato, Hamilton, NZ.
- <sup>5</sup> Te Hīringa Mahara – Mental Health and Wellbeing Commission. (2025, April). [\*Evidence Brief: Effective early intervention and secondary prevention approaches for young people experiencing early signs of distress\*](#).
- <sup>6</sup> Te Kāhui Tika Tangata Human Rights Commission. (2025, May). [\*Human Rights Commissioner says the cost of limiting gender rights under legislation will be people's lives\*](#).
- <sup>7</sup> Te Kāhui Tika Tangata Human Rights Commission. (2026, June). [\*Definitions of Woman and Man legislation not necessary, risks further harm to Rainbow people\*](#).
- <sup>8</sup> Bishop, C. (2026, 21 May). [\*Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 and the Legislation \(Definitions of Woman and Man\) Amendment Bill\*](#).
- <sup>9</sup> Bishop, C. (2026, 21 May). [\*Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 and the Legislation \(Definitions of Woman and Man\) Amendment Bill\*](#).
- <sup>10</sup> Darlington Statement. (2017). <https://darlington.org.au/statement/>.
- <sup>11</sup> UN Women Aotearoa New Zealand. (2025). [\*LGBTIQ+ Women and Girls\*](#).
- <sup>12</sup> Rainbow Youth Inc & Tīwhanawhana Trust. (2026). [\*Takatāpui | A Resource Hub\*](#).
- <sup>13</sup> Te Kāhui Tika Tangata Human Rights Commission. (2020). [\*Prism: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics \(SOGIESC\) in Aotearoa New Zealand – A report with recommendations\*](#).