

Ia Tangata Final Report: a brief summary

September 2025

Te Aka Matua o te Ture | Law Commission has finished its review of protections in the Human Rights Act 1993 for people who are transgender or non-binary or who have an innate variation of sex characteristics (sometimes known as intersex).

We have published a final report that contains 27 suggestions for changing the law. These suggestions are designed to work together as a package of reform.

What was this review about?

The Human Rights Act is a law about discrimination. It contains detailed rules about when discrimination is unlawful.

One of those rules is that discrimination is only unlawful if it is linked to one of the “prohibited grounds of discrimination” that are listed in the Act. These are things like race, sex, sexual orientation, disability and religion.

None of the prohibited grounds in the Human Rights Act explicitly protect people from discrimination that is linked to being transgender or non-binary or having an innate

variation of sex characteristics. This has left people uncertain about whether these kinds of discrimination are ever unlawful.

In November 2022, the Minister of Justice asked the Law Commission to carry out this review. In September 2025, we published a final report with our recommendations.

The main recommendation

We recommend **adding two new prohibited grounds of discrimination** to the Human Rights Act to more clearly protect people who are transgender or non-binary or who have an innate variation of sex characteristics. The two new grounds would be:

1. ‘gender identity or its equivalents in the cultures of the person’ (which we suggest should be defined to include gender expression); and
2. ‘having an innate variation of sex characteristics’.

Before deciding to make this recommendation, we considered all the feedback we received and weighed many different implications of reform. Some of the reasons we recommend adding two new grounds are:

- **History of discrimination:** People who are transgender or non-binary or who have an innate variation of sex characteristics have faced a long history of prejudice and exclusion in many areas of life.
- **Uncertainty:** These groups might already be protected from discrimination under the prohibited ground of ‘sex’, but no court has confirmed this and it is unclear

what it would mean in practice. Uncertainty is bad for individuals who need protection from discrimination. It is also bad for people like employers, landlords and business owners who want to understand their legal obligations.

- **Human dignity:** Gender identity and sex characteristics are deeply personal. People should not have to hide who they are to avoid discrimination.
- **Consistency with approaches overseas:** New Zealand law is out of step with the law in many other Commonwealth jurisdictions and with international law.

Other changes we recommend to the Human Rights Act

As well as setting out a list of prohibited grounds, the Human Rights Act has other rules about when discrimination is unlawful. There are different rules for the public sector and private sector. Adding new grounds will affect what these rules cover.

We reviewed all these rules. We suggest some changes to the Human Rights Act to clarify how these rules will operate alongside the two new grounds we propose. These additional changes will also ensure that rights and interests are fairly balanced.

Many of our suggestions relate to **19 existing exceptions** in the Human Rights Act that allow people to be treated differently based on their sex, such as when accessing single-sex schools, sports, bathrooms or shared accommodation. We suggest amendments to these

exceptions to clarify how each one should apply in relation to the new grounds:

- We recommend that some of these exceptions be amended to clarify that they do not allow people to be excluded from spaces that match their gender identity.
- We recommend that some exceptions be amended to clarify that they allow for differences of treatment based on a person's gender identity or their sex characteristics. We sometimes suggest new legal tests that should be met before this happens.

We also make some suggestions about how to make some language in the Human Rights Act gender neutral.

What happens now?

The Law Commission's review has come to an end. The Government will consider the Commission's recommendations and decide whether to implement them.

Information sheets

There are two information sheets below. The first explains how to get further information about the review, including on some topics that were of particular interest to some submitters. The second summarises our approach to each of the 19 sex exceptions in the Human Rights Act

Information sheet A:

how to find out more

If you would like more information about this review or about our recommendations, you could read one or more of the following documents published on our website:

- [A Beginners' Guide to the Human Rights Act.](#)
- [The FAQs.](#)
- A [30-page executive summary](#). This is found at the start of the Final Report and is also published separately on our website.
- The [450-page Final Report](#).
- Our [list of recommendations](#). These are contained in the Final Report and are also published separately on our website.

If you are interested in a particular topic, you could read the chapter in the Final Report that discusses that topic. There is a full contents page at the start of the Final Report. Some key topics of interests are discussed in the following places.

- Background to the review and the process: [Chapter 1](#).
- The groups covered by our terms of reference: [Chapter 2](#).
- The key reasons the Law Commission recommends reform: [Chapter 4](#).

- Implications of tikanga and te Tiriti o Waitangi | Treaty of Waitangi: [Chapter 5](#).
- Implications of the New Zealand Bill of Rights Act 1990, including rights to speech, belief and association: [Chapter 6](#).
- How the new prohibited grounds should be worded: [Chapter 7](#).
- Single-sex facilities such as bathrooms: [Chapter 14](#).
- Competitive sports: [Chapter 15](#).
- Harassment: [Chapter 16](#)
- Medical interventions on infants and children with innate variations of sex characteristics: [Chapter 17](#).
- Implications for the public sector: [Chapter 18](#).
- Gender-neutral language: [Chapter 20](#).

Information sheet B:

recommendations on exceptions

This table summarises the Law Commission's recommendations on each of the sex exceptions in the Human Rights Act. For more detail, see the list of recommendations.

Exception	'Gender identity'	'Having an innate variation of sex characteristics'
Work performed outside New Zealand (s 26)	Extend	Do not extend
Genuine occupational qualification and authenticity (s 27(1))	Extend	
Domestic employment in a private household (s 27(2))	Extend	
Reasonable standards of privacy (s 27(3)(a))	Extend	Do not extend
On-site employer-provided accommodation (s 27(3)(b))	Extend subject to new threshold	Do not extend

Employing a counsellor on highly personal matters (s 27(4))	Extend	Do not extend
Employer-provided accommodation as a term or condition (s 27(5))	Extend	Do not extend
Employment and training of religious leaders (ss 28(1) and 39(1))	Extend	
Goods and services — holding a course or counselling on highly personal matters (s 45)	Extend subject to new threshold	Do not extend
Goods and services — needing particular skills (s 47)	Redraft exception. Reworded exception would extend to both new grounds.	
Insurance (s 48)	Extend	
Competitive sporting activities (s 49)	Extend subject to new threshold	
Single-sex facilities and services (ss 43(1) and 46)	Do not extend (except when there is overlap with the shared accommodation exception)	Do not extend
Shared accommodation (s 55)	Extend subject to new threshold	Do not extend
Single-sex schools (s 58(1))	Do not extend	

Education — holding a course or counselling on highly personal matters (s 59)	Extend subject to new threshold	Do not extend
Superannuation (s 70(2))	Extend	

Explanation of table

This table categorises our recommendations on each of the 19 exceptions in the Human Rights Act 1993 that currently permit differences of treatment based on a person's sex.

The table lists in separate columns our recommendations in relation to each of the two new prohibited grounds of discrimination that we propose: 'gender identity or its equivalents in the cultures of the person'; and 'having an innate variation of sex characteristics'.

Where we say extend, that means we recommend that the exception should allow for differences of treatment based on that ground.

Where we say do not extend, that means we recommend the exception should not be able to be relied on to deny a person access to single-sex spaces, facilities, benefits or opportunities that align with their gender identity, or because they have an innate variation of sex characteristics.

Where we say extend subject to new threshold, that means we recommend the Act should have a new threshold requirement that would need to be met before a person could be denied access to single-sex spaces, facilities,

benefits or opportunities that align with their gender identity, or because they have an innate variation of sex characteristics.

The recommendations we make in relation to one exception — section 47 — do not fit into this scheme. We recommend this exception be reworded. The reworded exception would allow for differences of treatment based on both grounds.