

To the Social Services and Community Committee,

RE: Legislation (Definitions of Woman and Man) Amendment Bill

About us

Aviva is a family violence and sexual violence charity established over 50 years ago. Our vision is a violence-free Aotearoa. Until then, we work to support people to overcome its effects and make families and communities safer. We work with people of all ages, genders and experiences of violence. It is only by breaking the cycles of abuse and trauma, which have plagued generations, that we will create safe futures for tamariki, in a world where all children can reach their potential. Since being established in 1973, we have worked with over 44,000 people. In the last five years alone, we have worked with more than 8,000 individuals/whānau.

We are submitting in opposition to this bill.

We oppose this bill in its entirety and urge the committee to recommend it not proceed.

This bill does not address any of the real problems faced by New Zealanders

As a specialist family violence and sexual violence agency, our staff have decades of collective experience in the social, health and education sector. We work with hundreds of individuals and whānau every week, and know that the challenges faced by vulnerable kiwis are:

- the cost of living crisis;
- delays in both criminal and family court;
- job insecurity;
- lack of affordable housing;
- under-resourcing of Police;
- delays and under-resourcing in healthcare;
- climate change.

None of these challenges are being addressed by this Bill. Moreover should it pass, some of them will be exacerbated. This Bill creates new contradictions every employer, school, healthcare provider and legal institution will have to navigate. None of the institutions actually running these spaces have asked for this Bill. In most cases, it is likely to add additional strain to services which are already struggling.

This bill violates Te Tiriti ō Waitangi

This Bill fails to recognise that takatāpui are taonga and threatens their right to bodily autonomy and healthcare access. It erases Tino Rangatiritanga and imposes an outdated, colonial understanding of sex and gender on Tangata Whenua.

This bill does not make wāhine safer

The bill itself doesn't expressly reference public safety. However, the Member who introduced this Bill claims to have submitted it on behalf of women across the country. Throughout the first reading debate, supporters frequently referenced concerns about women's safety. The implication therefore is that this legislation would address risks to women. It will not.

Our history as the first Women's Refuge in New Zealand means we have been working in the space of gendered violence for over half a century. We know what the systemic drivers of women's and children's vulnerability are, and many of these could be addressed by legislation and investment. For example:

- pay equity;
- family court reforms;
- criminal court reforms;
- free universal healthcare;
- mandated reporting;
- diversity, equity and inclusion incentives in workplaces;
- investment in affordable and state housing;
- investment in violence prevention;
- affordable/free childcare;
- investment in town infrastructure, creating safer streets – particularly at night;
- reforms to alcohol and gambling licensing;
- resourcing Police to respond quickly to family violence,

to name but a few.

There is currently no body of evidence which suggests transgender women, as a group, pose a threat to women's safety more broadly. Furthermore, existing laws are sufficient to punish transgender individuals for any kind of law-breaking, including interpersonal violence.

Yet, supporters of this Bill claim that transgender women are a threat to women-only spaces. This isn't true. Under the Human Rights Act, organisations in Aotearoa are already allowed to provide services exclusively to cisgender women if that exclusion meets one of the exceptions in the Act. As Qtopia has outlined, "The reason women's refuges in Aotearoa allow trans women to access their services isn't because they're forced to by the law - it's because the people with the experience running those services recognise that trans women accessing that support pose no harm to cis women."

This bill, in fact, makes all of us less safe

As a specialist family violence and sexual violence charity, we know that trans people, especially trans women, are more likely to be victims of violence. This is already the case, and this legislation is almost certain to worsen the problem. As well as emboldening those who already use violence towards transgender individuals, it is likely to make help-seeking even more difficult. When the state itself misgenders trans people in law, every downstream institution follows: government forms, the legal system, the health system, schools.

As Jackie Edmonds, Chief Executive Officer to Sexual Wellbeing Aotearoa, has highlighted, this Bill could restrict access to abortion – and potentially other services. In defining “woman” as “adult” it potentially excludes under-20s from any legislation that mentions “women” or “men” without mentioning age. One particularly worrying example of this is abortion. We know that restricting access to reproductive care increases women’s vulnerability significantly.

Despite being promoted as a bill which protects women, this bill could cause harm to all women and all men – it not only marginalises people of diverse genders, but it calls into question the identities of those whose bodies fall outside rigid expectations of masculinity and femininity.

Beyond this, if we allow our Parliament to erase a minority’s legal recognition, it will set a precedent which threatens all minorities. It does not stop at transgender and gender diverse New Zealanders.

This Bill itself acts as a form of structural violence

As professor Mohan Dutta explains, “structural violence depends on communicative work that renders its targets as unspeakable, ineligible or threatening.”

This bill defines transgender and gender diverse people out of the language of the law, telling them (and others) that they are not who they say they are.

The Counting Ourselves (2019) survey of trans and non-binary New Zealanders documents what state-level misrecognition produces - elevated rates of psychological distress and suicidality compared with the general population. RANZCP, the peak psychiatric body across Australia and NZ, is explicit that being trans is not a mental health condition and that affirming recognition is appropriate. This Bill weaponises the law against that recognition.

Erosion of Human Rights Act protections

Since 2006, the Crown Law Office has interpreted "sex" in section 21 of the Human Rights Act 1993 to include gender identity. That interpretation has protected trans, intersex, takatāpui and non-binary New Zealanders from discrimination for twenty

years. By imposing a single biological definition of "woman" and "man" across every Act of Parliament, this Bill directly undercuts that interpretation. The Law Commission's 2025 *Ia Tangata* report recommended adding "gender identity" and "innate variations of sex characteristics" as explicit grounds in the Human Rights Act. The right response is to adopt those recommendations, not to legislate the existing implicit protection out of existence.

We would like to end this submission with some words from some of our kaimahi.

“I have worked with many non-binary and transgender victim/survivors of family violence. All of these clients experience homophobia and gendered-based violence as a tactic of abuse, which has centred on their identity as transgender/non-binary. It is a form of psychological harm to dismiss their identities. These whai ora have spoken about their gender identity being used as an excuse to continue harming them/why they 'deserve' it from the User of Violence [...] If there is then a (unnecessary) bill to bring 'real woman' into law, it will only cause more harm to these incidences.”

“I am concerned about the social impact of legislation that places already vulnerable communities at the centre of a debate about public safety without demonstrating that they are responsible for the harms being discussed. Transgender and takatāpui New Zealanders are themselves vulnerable to discrimination, harassment, and violence. Public debate should be grounded in evidence and care, particularly when it concerns minority communities.”

“Regardless whether this bill succeeds or not, it's already caused harm. It's legitimized people's bigotry and transphobia. It has put trans, intersex and non-binary people at greater risk of discrimination... My colleague just told me he had to stop a man from harassing a trans woman on the street just the other day. Trans people are already at greater risk of violence than the general population.”

“The progression of this Bill to Select Committee represents a significant waste of government time and resources. New Zealand is facing pressing challenges.”

“In reality, as soon as a society begins policing gender (and its presentations), all genders, but especially women, are truly under threat. Bills such as this one (and even giving it air-time) can embolden bad and cynical actors to abuse and invade the privacy of anyone who does not “fit” into prescribed gender expectations.”

Our recommendations

We recommend:

1. That the committee recommend the Bill does not proceed.

2. That section 21 of the Human Rights Act 1993, as interpreted by Crown Law since 2006 to include gender identity, be preserved - and that the explicit protections recommended in *Ia Tangata* (2025) be adopted to put the matter beyond doubt.
3. That no amendment be progressed which undercuts the Crown Law Office's 2006 interpretation of "sex" in section 21 of the Human Rights Act 1993, on which trans, intersex, takatāpui and non-binary New Zealanders have relied for protection from discrimination for two decades.
4. That the protection currently afforded to trans, intersex, takatāpui and non-binary New Zealanders under the Crown Law interpretation of section 21 of the Human Rights Act 1993 be maintained, not eroded by ancillary legislation.
5. That any good-faith efforts to address the risks to wāhine in Aotearoa are made in consultation with agencies who are working to address women's safety and their whai ora.

We stand not only with the trans community, but with numerous professional bodies, ministries, agencies and experts: The Human Rights Commission; The Law Commission; Sexual Wellbeing Aotearoa; The National Council of Women; New Zealand Nurses Organisation; The Royal Australian and New Zealand College of Obstetricians and Gynaecologists; The Royal Australian and New Zealand College of Psychiatrists; Professor Mohan Dutta of Massey University; Rainbow Youth; InsideOut; Intersex Aotearoa; Dr Penni Wolfgramm, to name but a few.