

Sex and Gender Identity

The WA Government has introduced a bill to modernise Western Australia's Equal Opportunity Act so more Western Australians are better protected from discrimination, harassment and vilification. The changes will create safer and more inclusive communities..

Overview

Sex and gender identity will be protected attributes in the Bill as they are across other jurisdictions. **Sex** is not defined in the Bill. (Sex is not defined under either the existing EO Act, or in any other jurisdictions equal opportunity/anti-discrimination legislation).

The Bill will not change the longstanding approach to how sex is defined under anti-discrimination law in Western Australia, the Commonwealth and all other State and Territory jurisdictions. Under established case law, the ordinary legal meaning of sex applies and is objectively determined in accordance with a range of factors including biological and physical characteristics, legal recognition and how a person presents themselves and are recognised socially.

Gender identity will be defined as:

- a person's **gender-related identity, whether or not it corresponds with the sex recorded at birth**, and includes:
 - a person's **personal sense of their body** (with or without medical intervention);
 - **expressions of gender**, such as:
 - dress,
 - speech,
 - mannerisms,
 - names and personal references; and
 - identities including **transgender, gender-diverse and non-binary** identities.

Exemptions

Gender identity and sex may be bases for exemptions in the context of sport, religious bodies, religious institutions, employment (genuine occupational requirements and inherent requirements), voluntary bodies, special measures, and Tribunal exemption orders. In addition, there are explicit exemptions for single-sex educational institutions and clubs to discriminate on the basis of sex.

Complaints

Complaints will be made to the Equal Opportunities Commissioner who seeks to resolve matters by conciliation. Unresolved matters may be referred to the State Administrative Tribunal.

For more information visit: [WA.gov.au/equalopportunitybill2026](https://www.wa.gov.au/equalopportunitybill2026)