

Trade Unions and Worker Advocacy Groups

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

The Bill will retain core discrimination and harassment protections and **significantly expands who is protected, what is covered, and how employers are held accountable.**

New and expanded discrimination protections

The Bill will contain a list of attributes in respect of which discrimination is prohibited. Many of these attributes are new, while others have been broadened. This gives workers and unions additional grounds to challenge unfair treatment at work.

Examples of new areas of protection will include protection for people who are discriminated against because they have been exposed to **family violence**; or are **trans, non-binary or intersex people**; or they have a **personal association** (whether or not they are related) with a person with a protected attribute.

Other new areas of protection will include irrelevant **criminal history and medical history** that is not directly relevant.

The Bill will create a narrow exemption which will allow discrimination based on political conviction in limited circumstances in relation to specified political roles but only where it is reasonable in the circumstances.

Stronger protection for union members and trade union activity

The Bill will **expressly protect trade union activity** as a protected attribute, including being (or not being) a member and participating in lawful union activities.

It will remain **unlawful for industrial organisations to discriminate** in admission, benefits, conditions, or treatment of members. This prohibition will apply to the expanded list of protected attributes.

Expanded definition of employment

The Bill will extend coverage beyond traditional employees to ensure that workers in insecure, outsourced or non-standard working situations are protected. For example, protections will explicitly apply to subcontractors, labour-hire workers, volunteers, students on work experience or placements, trainees and apprentices, and supported employment participants.

New and expanded protection against harassment and vilification

The Bill will prohibit harassment on the basis of sex, in addition to sexual and racial harassment.

The prohibition on harassment will apply to all areas of life covered by the Bill (including in the context of union activity).

Complainants will no longer need to prove disadvantage as a consequence of the harassment, making it easier for workers to bring a complaint against unlawful harassment.

The Bill will introduce civil vilification laws for the first time in WA, prohibiting public conduct that is likely to promote or increase animosity towards, or threaten, seriously abuse or severely ridicule, a group, or a person as a member of a group.

The anti-vilification provisions will apply to the protected attributes of disability, gender identity, sex, sex characteristics, race, religious conviction and sexual orientation.

More accessible and protective processes

Complaints will be able to be made against unlawful discrimination, harassment and vilification.

Expanded ability for unions to bring complaints

- **Industrial organisations may lodge complaints on behalf of members or classes of members**, where they have sufficient interest.
- Unions may **represent and assist members** through the complaint and tribunal process.

Protection from retaliation and liability

- The Bill will strengthen **protections against victimisation**, protecting union members from retaliation for making or supporting complaints.
- Union members and their representatives will be **protected from civil or criminal liability** for complaints, information-giving, or participation in proceedings done **in good faith**.

Proactive duty supports systemic change

- Employers, industrial organisations and other duty holders will have to take **reasonable and proportionate measures** to eliminate discrimination, harassment, vilification and victimisation.
- Suspected noncompliance with this duty can be investigated by the Commissioner, supporting **early intervention** and cultural change.

No contracting out of protections

“No contracting out” provisions invalidate agreements that try to limit the application of the Bill.

Protecting against discrimination in awards and instruments

The Bill will amend the *Industrial Relations Act 1979 (WA)* to allow the Commission to amend awards and instruments if they otherwise would be in violation of the Bill.

Stronger enforcement and remedies

- **Removal of the compensation cap** so no statutory limit on compensation.
- **Longer complaint timeframe** Lodged within 24 months (previously 12 months).
- The Equal Opportunity Commissioner **own-motion reviews and investigations**.

Limited exemptions

Religious schools may discriminate on basis of a person's religious conviction

- The Bill will continue to allow religious schools to retain their religious character but significantly narrows when discrimination is permitted.
- Discrimination will only be permitted on the basis of the person's religious conviction, not any other attributes (such as pregnancy or sexual orientation).
- Hiring staff or admitting students: discrimination will only be allowed where a person's religious conviction differs from that of the school.
- Ongoing employment: discrimination will only be permitted where adherence to the school's religious doctrines is an inherent requirement of the job, the requirement cannot be met, and the discriminatory action is reasonable and proportionate.
- Existing students: discrimination will only be permitted where the discrimination conforms with religious doctrine of the school, is necessary to avoid injury to the religious susceptibilities of adherents and is reasonable and proportionate.

Examples

A religious school will be engaging in unlawful discrimination if they dismiss an unmarried religion teacher for becoming pregnant.

A religious school is likely to lawfully be able to transfer a religious education teacher to another teaching role if they convert to a different religion than that of the school.

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)