

Women's Interests

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 protect against discrimination on a broader range of attributes relevant to women. In addition to continuing protections on the basis of **sex, pregnancy, breastfeeding, carer responsibility and family status**, there are broader protections for **relationship status**, and new protection from discrimination on the basis of **exposure to family and domestic violence**.

Protections will also apply to **sexual orientation, gender identity, irrelevant medical history and lawful sexual activity**.

These protections will apply across all areas of life covered by the Bill, including employment, education, accommodation, provision of goods and services, clubs and sport, and administration of State laws and programs.

Limited exemptions to discrimination protections

Special measures

It will not be unlawful discrimination to take special measures or make concessions for a particular group where action is taken:

- Is in **good faith** to promote **equal opportunity** for the target group; or
- Is **reasonably necessary** to address the **disadvantage or particular need** of the target group. This enables targeted initiatives and services to improve outcomes for women, including those facing disadvantage.

Special benefits

It will not be unlawful discrimination against others to grants rights or privileges to a person who is pregnant, breastfeeding or has carer responsibilities that are not available to others.

Clubs

Single-sex clubs will be able to continue to lawfully make membership available only to persons of that sex.

Educational institutions

Single sex schools may discriminate on the basis of sex in admission and student accommodation.

Sport

Discrimination on the basis of sex or gender identity will be permitted in competitive sport (aged 12+) where **strength, stamina or physique are relevant**, and only where it is **reasonable and proportionate**.

Discrimination on the basis of sex will be permitted in competitive sport where:

- it is **necessary** for participants to progress to **elite-level** State, national or international competition; or
- it **facilitates participation** of persons of a particular sex;

and it is **reasonable and proportionate**.

Other exemptions

The Bill will preserve exemptions for genuine occupational requirements, home daycare providers hiring employees to work in their home, charitable purposes, and voluntary bodies acting reasonably and consistently with their objective.

Reasonable adjustments

The Bill will introduce a clear obligation on employers to make reasonable adjustments for workers who are pregnant, breastfeeding, or have carer responsibilities.

Educational institutions will also be required to make reasonable adjustments so that a student can participate in or derive a substantial benefit from the education program.

What is “reasonable” will be assessed having regard to all relevant circumstances, including the resources of the duty holder. This enables targeted initiatives and services to improve outcomes for women, including those facing disadvantage.

Stronger protection against harassment and other harms

The Bill will make it **unlawful to engage in sexual harassment and sex based harassment** across all areas of public life covered by the Bill.

The definition of sexual harassment will align with the *Sex Discrimination Act 1984 (Cth)*.

Sex based harassment captures unwelcome, demeaning conduct based on sex.

A person who makes a complaint about harassment will no longer need to prove that they would, or feared they would, suffer a disadvantage if they objected to the harassment. This makes clear the unlawful behaviour itself is the problem, and makes it easier for victims to bring a complaint.

The Bill will introduce civil vilification protections, prohibiting public conduct that incites hatred, serious contempt or severe ridicule on the basis of certain protected attributes, including sex, sexual orientation and gender identity.

Victimisation protections that make it unlawful to retaliate against a person for making or supporting a complaint, will be strengthened.

New positive duty to prevent discrimination

Employers, education providers and service providers **will have to take reasonable and proportionate steps** to eliminate discrimination, harassment, vilification and victimisation.

This shifts the framework from reactive complaints to prevention.

More accessible and protective processes

Individuals will be able to bring complaints about discrimination, harassment and vilification across all areas of the Bill.

Strengthened victimisation protections will support women to raise concerns without fear of retaliation.

Stronger enforcement and remedies

There are significant changes which improve access to meaningful remedies, including:

- **Removal of the compensation cap** which means there is no statutory limit on compensation
- **Longer complaint timeframe** which means that complaints able to be lodged within 24 months (previously 12 months)
- New powers for the Commissioner to conduct **own motion reviews and investigations**.

Definitions - Sex and Gender

Sex is not defined in the Bill and is determined in accordance with common law principles, having regard to biological, legal and social factors. This is consistent with the existing *Equal Opportunity Act 1984 (WA)*, and the anti-discrimination laws in all other states and territories and the Commonwealth.

Gender identity will be defined as a person's gender related identity, whether or not it aligns with sex assigned at birth.

A person's birth certificate will not be determinative of their sex or gender for the purpose of the Bill, but will be considered.

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)