

SUBMISSION TO THE NEW ZEALAND PARLIAMENT

on the

Legislation (Definitions of Woman and Man) Amendment Bill

Member's Bill introduced by Hon Jenny Marcroft MP (New Zealand First)

Select Committee: Social Services and Community Committee

Submission closing date: 2 July 2026

Submitted by:

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Dear Members of the Select Committee,

I write in strong support of the Legislation (Definitions of Woman and Man) Amendment Bill. This important legislation would amend the Legislation Act 2019 to provide clear, objective definitions of "woman" as an adult human biological female and "man" as an adult human biological male. Such clarity is essential for the coherent and fair application of New Zealand law.

The Need for Legal Clarity

New Zealand law currently faces significant ambiguity regarding the meaning of "sex", "woman", "man", "female", and "male". The 2021 amendments to the Births, Deaths, Marriages, and Relationships Registration Act introduced a self-identification process for changing sex markers on birth certificates. While this change was intended to assist transgender individuals, it has created practical uncertainty in the interpretation and application of many other laws and policies that rely on sex-based categories.

Without a clear statutory definition, government agencies, courts, service providers, and the public are left without consistent guidance. This leads to confusion, inconsistent application of rules, and increased risk of litigation. The proposed bill restores certainty by anchoring these terms in biological reality, which is the objective, observable, and immutable characteristic upon which sex-based provisions in law were originally founded.

Protection of Sex-Based Rights and Single-Sex Spaces

Many areas of New Zealand law and public policy legitimately distinguish between the sexes for reasons of safety, privacy, fairness, and dignity. These include:

- **Prisons and detention facilities** — Housing by biological sex protects female inmates from the elevated risk of male-pattern violence and sexual assault.
- **Domestic violence refuges and homeless shelters** — Women fleeing male violence require spaces free from biological males, regardless of self-identified gender.
- **Sports and physical education** — Biological males retain significant average advantages in strength, speed, and power after puberty. Maintaining female categories protects fairness and opportunities for women and girls.
- **Bathrooms, changing rooms, and hospital wards** — Privacy and dignity in states of undress are important considerations, particularly for women and girls who have experienced trauma.

- **Data collection, statistics, and health policy** — Sex is a critical biological variable in medicine, epidemiology, and resource allocation. Accurate data requires clear definitions.

The bill ensures that where Parliament has created sex-based protections or categories, those provisions can operate as intended — based on material biological differences rather than subjective identity. This does not prevent compassionate accommodation for transgender individuals through alternative arrangements; it simply preserves the integrity of sex-based categories where they serve a legitimate purpose.

Biological Reality and Policy Coherence

Sex is a binary, immutable characteristic in humans, determined by chromosomes, gametes, and reproductive anatomy. While rare disorders of sex development exist, these are medical conditions and do not create additional sexes or a spectrum that justifies redefining the legal category for the entire population.

Laws that use the language of "sex" were drafted with this biological understanding. Allowing self-identified gender to override biological sex renders those laws incoherent and undermines their original protective purpose. The proposed definitions bring New Zealand law back into alignment with observable reality and with the approach recently affirmed by the United Kingdom Supreme Court, which held that "sex" in equality legislation refers to biological sex.

International Context and Best Practice

Several jurisdictions are grappling with the same issues. The United Kingdom's Supreme Court ruling in 2025 provided welcome clarity by confirming that sex-based rights in equality law refer to biological sex. Similar debates are occurring in Australia, Canada, and parts of the United States. New Zealand has an opportunity to lead by adopting clear, biologically grounded definitions that protect women's sex-based rights while remaining consistent with human rights principles.

The bill is narrowly tailored: it provides default definitions that apply unless specific legislation states otherwise. This respects parliamentary sovereignty and allows targeted exceptions where genuinely needed, while preventing the gradual erosion of sex-based categories through administrative or judicial reinterpretation.

Conclusion and Recommendation

I strongly urge the Select Committee to recommend that the Legislation (Definitions of Woman and Man) Amendment Bill be passed. Clear statutory definitions of "woman" and "man" based on biological sex will:

- Restore legal certainty across New Zealand's statute book;
- Protect the integrity of existing sex-based rights and single-sex provisions;
- Ensure fairness in sport and safety in sex-segregated spaces;
- Provide coherent guidance for government agencies, courts, and service providers; and
- Align New Zealand law with biological reality and emerging international best practice.

This legislation is not about denying dignity or support to transgender New Zealanders. It is about ensuring that where law distinguishes on the basis of sex, it does so on the basis of the material characteristic that justifies the distinction. I commend the bill to the Committee and to Parliament.

Thank you for considering this submission. I am available to provide further information if required.

Yours sincerely,

/s/ Sharon Fair

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19 June 2026

This submission is made in support of restoring clear, biologically based definitions of sex in New Zealand law for the protection of sex-based rights.