



3 July 2026

Legislative Assembly Committee on Community Services
Parliament of New South Wales
6 Macquarie Street
Sydney NSW 2000

Submitted via inquiry website: [Human Rights Bill 2025](#)

To the Committee

Re: Human Rights Bill 2025

As key organisations in NSW advocating for the rights of LGBTIQ+ people, ACON and Equality Australia welcome the opportunity to provide a submission to the Committee on Community Service's inquiry into the Human Rights Bill 2025 (NSW) (the HR Bill).

Both organisations are members of an alliance working towards a Human Rights Act for New South Wales. We endorse the Key Principles and Detailed Key messages and Recommendations developed by that campaign.¹

ACON is NSW's leading health organisation specialising in community health, inclusion and HIV responses for people of diverse sexualities and genders. Our work is grounded in advancing the human rights of LGBTIQ+ people and people living and affected by HIV, including through law and policy reform to address discrimination, stigma and structural inequality.

Equality Australia is a national LGBTIQ+ organisation dedicated to achieving equality for LGBTIQ+ people, with our head office in New South Wales. Equality Australia brings together legal, policy and communications expertise, along with thousands of supporters, to address discrimination, disadvantage and distress experienced by LGBTIQ+ people.

Our organisations strongly support the proposal to establish a statutory human rights framework in NSW and to introduce measures that support the protection of these rights. A Human Rights Act would embed long-standing, internationally recognised human rights protections in NSW law for the benefit of all people in the state, including LGBTIQ+ communities who continue to experience direct human rights violations. It has the potential to improve decision-making, increase transparency, and provide meaningful avenues of redress when rights are infringed.

LGBTIQ+ communities in NSW continue to face health inequities and rights violations based on their sexual orientation, gender identity, and innate variations of sex characteristics. These include disproportionately high levels of violence, harassment and vilification, as well as discrimination in health, workplace, and educational settings. These violations have a profound effect on the health and wellbeing, safety and inclusion of our communities.

¹ Australian Lawyers for Human Rights, *Human Rights Act for NSW*, Available: <http://humanrightsfornewsw.org>

To address these experiences of discrimination and disadvantage, this submission will focus on the following three areas:

1. Human rights challenges of LGBTIQ+ communities and people living with HIV
2. Support for an NSW Human Rights Act
3. Modernising and strengthening NSW's response to discrimination

1. Human rights challenges of LGBTIQ+ communities and people living with HIV

LGBTIQ+ people in NSW continue to experience violence, harassment, vilification and hate-motivated abuse in public spaces, workplaces, schools, and online. Since 2023, NSW Police have recorded almost 200 incidents of anti-LGBTIQ+ hate-related violence, including assaults and robberies. Many attacks involved young offenders luring gay and bisexual men via dating apps before assaulting them.²

These experiences undermine human rights to equality and the security of the person. Human rights frameworks recognise that governments have a positive obligation to take steps to protect marginalised communities from violence, and to ensure effective access to justice when these harms occur.

1.1 Impacts on LGBTIQ+ health and wellbeing

The consequences of discrimination, exclusion and violence are reflected in data about the health and wellbeing of our communities. Over half of LGBTIQ+ adults in NSW report high or very high psychological distress, while 76.7% of LGBTIQ+ adults, and 83.6% of LGBTQA+ young people have experienced suicidal ideation, with almost one third of adults and young people attempting suicide in their lifetime.³

These distressing figures are especially concerning for LGBTIQ+ people with intersecting identities, including LGBTIQ+ First Nations people,⁴ LGBTIQ+ people from culturally, ethnically and linguistically diverse backgrounds,⁵ and LGBTIQ+ people with disability or long-term health conditions,⁶ including HIV.⁷

1.2 Criminalisation of people living with HIV (PLHIV)

PLHIV continue to experience stigma and discrimination, including through laws in NSW that criminalise HIV exposure or transmission.⁸ Such laws can discourage testing and treatment; increasing the risk of onward transmission and undermining the NSW goal of virtual elimination of HIV by 2030. They also perpetuate harmful stereotypes and compromise the safety and privacy of PLHIV.

Human rights principles support public health responses that are evidence-based, proportionate and non-discriminatory. A Human Rights Act would require the government to explicitly justify such criminal responses to public health issues, including how they are necessary, proportionate, and properly suited to furthering a legitimate goal such as evidence-based health improvements.

² ABC News, (2026). Teenage boys drive homophobic anti-LGBTQIA+ attacks, NSW Police data shows. Available: [Teenage boys drive homophobic anti-LGBTQIA+ attacks, NSW Police data shows - ABC News](#)

³ Hinton, J. D. X, Lim, G., Amos, N., Anderson, J., & Bourne, A. (2025). LGBTQA+ mental health and suicidality: New South Wales Briefing Paper. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe

⁴ Liddelow-Hunt, S., Uink, B., Daglas, K., Hill, J.H.L., Hayward, L., Stretton, N., Perry, Y., Hill, B., & Lin, A. (2023) Walkern Katatdjin (Rainbow Knowledge) Phase 2 National Survey Community Report, Perth, Western Australia.

⁵ Hill et al. (2020), pp. 110-111

⁶ Hill et al. (2020), pp. 104-106

⁷ Norman, T., Power, J., Rule, J., Chen, J., & Bourne, A. (2022). HIV Futures 10: Quality of life among people living with HIV in Australia (monograph series number 134). Australian Research Centre in Sex, Health and Society, La Trobe University. doi: 10.26181/21397641

⁸ See for example, *Public Health Act 2010* (NSW) s 79, which imposes criminal penalties on a person who knows they have a sexually transmissible infection and fail to take reasonable precautions against transmission, and *Crimes Act 1900* (NSW) s 61HJ(1)(k), which risks capturing misrepresentations about HIV status as grounds for criminal liability.

1.3 Human rights violations against people with innate variations of sex characteristics

Infants and children with innate variations of sex characteristics may be subjected to unnecessary medical interventions, engaging rights to bodily autonomy, rights to receive medical treatment with genuine, informed consent, and other key rights. This issue has been thoroughly explored in Equality Australia's recent report, *The Missing Voice*.⁹

A Human Rights Act would ensure that these life-changing decisions are assessed through a human rights lens, rather than solely a clinical or medical framework, particularly where interventions occur before a child can provide freely given and fully informed consent. We have seen this in two other human rights jurisdictions, ACT and Victoria, which have both taken further legislative steps to safeguard the human rights of intersex infants and children.

2. Support for an NSW Human Rights Act

Our organisations affirm the human rights of all people in NSW. We believe that a Human Rights Act will ensure greater consideration is given to human rights when drafting laws, developing policies, and funding and delivering services, and increasing the participation of marginalised communities to inform those decisions. It will also improve avenues for people to make complaints about human rights violations and seek remedies for those violations.

2.1 Human rights in the HR Bill

We welcome the inclusion of a comprehensive set of rights in Division 2 of the HR Bill, which replicates but further expands on the rights included in the Queensland, Australian Capital Territory and Victorian legislation.

Human rights that are of particular significance to LGBTIQ+ communities include:

- **Section 14** – Equality rights (e.g. being treated unfairly because of sexual orientation, gender identity, sex characteristics, and/or HIV status)
- **Section 15** – Rights of children (e.g. allowing Gillick competent young people to make their own health care decisions)
- **Section 19** – Protection of families (e.g. recognising LGBTIQ+ couples as equal legal parents)
- **Section 16** – Right to privacy (e.g. ensuring information privacy for sensitive information, including sexual orientation, gender identity, innate variations of sex characteristics, and/or HIV status)
- **Section 38** – Right to education (e.g. being able to attend school free from homophobic and/or transphobic bullying)
- **Section 39** – Right to health (e.g. the right to gender affirming health care and HIV prevention and treatment medication, such as PrEP, PEP and antiretroviral therapies).

2.2 Rights to participation for LGBTIQ+ people

We strongly support the HR Bill's specific inclusion of a duty on public authorities to ensure the participation of marginalised groups, including LGBTIQ+ people, in decisions that affect our lives. (s 49(4)(vi)).

LGBTIQ+ communities are not consistently included in policy and service design processes, meaning decisions about issues such as healthcare, education and safety are made without meaningful input from

⁹ Equality Australia, *The Missing Voice: A Thematic Analysis and Stories of Ongoing Medical Interventions on Intersex Children Across Australia*, December 2025, Available: [REPORT - The Missing Voice - Equality Australia](#)

the people most affected, leading to solutions that do not fully reflect community needs or lived experiences.

2.3 Improving policy development in NSW

New South Wales could benefit from the increased parliamentary scrutiny observed in the three other jurisdictions that have adopted human rights legislation. Perhaps more important in a practical sense, the existence of a human rights act or charter often leads to a change to government processes to require Ministers and departments to consider the compatibility of policy and legislative proposals with human rights prior to cabinet consideration.

We sometimes see unfortunate examples of laws being passed that would have benefited from a human rights review or assessment. Consideration of the human rights compatibility of proposals in the policy development stage, is a powerful process change that can lead to significant improvements in decision making and more human rights compliant public policy and program delivery. Requiring a statement of compatibility to be tabled prior to passing a law ensures that this analysis is undertaken, albeit at a later stage after government decisions have been made, and that parliament is informed of any positive or negative human rights impacts as they consider legislation.

One example is that hate speech laws were amended in 2025 to only address hate experienced by people based on their race. While the government commissioned an independent review by Hon John Sackar to consider an expansion to other affected communities, this report has not been published to date. This law clearly infringes the principle of equality before the law, given the unevenness of protections. Under a Human Rights Act, this proposal would have undergone further scrutiny, and parliamentarians would have had the benefit of this analysis when debating the Bill.

2.4 The importance of an enforceable scheme

A benefit of NSW being the fourth jurisdiction to consider an HR Bill is that many lessons can be learned from existing state legislation. One of the clear limitations of human rights statutes introduced in Australian jurisdictions to date is either the lack of a complaint process or the inability to refer complaints for determination by a court or tribunal.

In a review of the Queensland legislation, which was the first to allow for complaints to be made to a regulator, key recommendations included allowing complaints to be referred to a Queensland Civil and Administrative Tribunal when not resolved at the Queensland Human Rights Commission conciliation, and also for an independent cause of action to allow for matters to proceed through the Supreme Court.¹⁰

We endorse the fulsome and flexible model in the HR Bill, which provides for a conciliation process but also provides people with the ability to:

- bring proceedings against the public authority in the NSW Civil and Administrative Tribunal (NCAT)
- bring court proceedings
- rely on the human rights under this Act in other legal proceedings where there is an existing course of action e.g. discrimination, negligence (sometimes called a “piggy-back” action).

¹⁰ Harris Rimmer, S. *Placing People at the Heart of Policy, First Independent Review of the Human Rights Act 2019* (Final Report), September 2024, Available: <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T0232/5825t232.pdf>

3. Modernising and strengthening NSW's response to discrimination

A Human Rights Act would build on NSW's existing human rights framework, which relies primarily on the *Anti-Discrimination Act 1977* (NSW) (AD Act). While significant, that Act only gives effect to a limited number of rights protected under the *International Covenant on Civil and Political Rights* (ICCPR), particularly the rights to equality and non-discrimination in Articles 2 and 26, and provides important protections to individuals when they interact with private individuals and organisations, which are not subject to the requirements of a Human Rights Act.

Existing anti-discrimination law in NSW has not been updated or strengthened since its introduction over forty years ago and contains several gaps in protection and limitations, including relying on individuals to pursue complaints after harm has occurred. In the sphere of government activity, a Human Rights Act would provide a more comprehensive and preventive framework, requiring public authorities to actively consider and uphold rights to non-discrimination and equality before the law in decision-making rather than only dealing with complaints once discriminatory conduct takes place.

3.1 Rights of LGBTIQ+ people involving enforcement actions

The *Anti-Discrimination Act 1977* (NSW) is the most outdated legislation of its kind in the country. One glaring omission is the absence of an 'area of activity' covering state laws and programs, in contrast with the approach taken in the ACT, Queensland and Northern Territory. This means that unless an LGBTIQ+ person experiences discrimination in the course of receiving a *service* from the government, there is no protections under the law. This particularly leaves areas of uncertainty involving the exercise of government authority, including:

- Law enforcement: e.g. police investigations and arrests, tribunals and courts
- Prisons and other closed environments, such as involuntary mental health
- Regulatory enforcement and compliance
- Licencing
- Child protection.

This omission makes a human rights act even more critical for safeguarding the rights of LGBTIQ+ people. LGBTIQ+ people face specific and elevated risk when interacting with the justice system, including potential discriminatory practices, over- or under-policing of our communities, issues regarding treatment of trans people in closed environments or during searches or forensic procedures, and barriers to accessing safe and appropriate healthcare in these settings.

A Human Rights Act would help ensure that the exercise of state power in the justice system or regulatory and enforcement contexts is subject to clear human rights standards and accountability.

3.2 Protected attributes

Our organisations have previously made submissions regarding improvements to the definitions and coverage of protected attributes in the *Anti-Discrimination Act* during the NSW Law Reform Commission's current review of that legislation.^{11 12} Care should be taken not to replicate or inadvertently reinforce these issues in the HR Bill.

¹¹ ACON Submission to NSW Law Reform Commission's review of the *Anti-Discrimination Act 1977* (NSW), September 2023, Available: https://lawreform.nsw.gov.au/documents/Current-projects/ada/preliminary_submissions/PAD44.pdf

¹² Equality Australia Submission to NSW Law Reform Commission's review of the *Anti-Discrimination Act 1977* (NSW), August 2023, Available: https://lawreform.nsw.gov.au/documents/Current-projects/ada/preliminary_submissions/PAD07.pdf

Section 14(8) of the HR Bill defines discrimination in accordance with the meaning given to it under the Anti-Discrimination Act. This is an issue when the coverage of the attributes under the law is insufficient. For this reason, the HR Bill will only be effective once the Anti-Discrimination Act is modernised, including by updating existing attributes and introducing additional attributes to improve coverage.

We have long supported the inclusion of religious belief (or the lack of a religious belief) as a protected attribute in the Anti-Discrimination Act, on the basis that such protection does not undermine the rights of LGBTIQ+ people to live their lives free from discrimination.

3.3 Religious exceptions

Our organisations have long advocated for the narrowing of religious exceptions in anti-discrimination laws, particularly in educational and service provision settings. The exceptions for faith-based organisations in NSW are some of the broadest in the country and out of step with community standards. By broadly allowing for unfair discrimination to be tolerated, these exceptions contribute to substantive health impacts in our communities.

The religious exceptions in the Anti-Discrimination Act allow faith-based organisations to discriminate against LGBTQ+ employees, service users, and students, leaving NSW out of step with the more inclusive models adopted in several other jurisdictions. This is especially concerning given the significant size and public funding of faith-based organisations in sectors such as healthcare, aged care, and social services, where equitable access is essential to achieving goals in the NSW LGBTIQ+ Health Strategy and otherwise meeting the needs of LGBTIQ+ people in NSW.

A UN report by the Independent Expert on Sexual Orientation and Gender Identity, Victor Madrigal-Borloz, stated that “it is not permissible for individuals or groups to invoke ‘religious liberty’ to perpetuate discrimination against lesbian, gay, bisexual, trans and intersex persons, when it comes to the provision of goods or services in the public sphere.”¹³

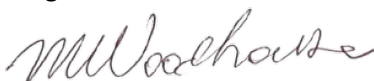
Closing these loopholes in the Anti-Discrimination Act is critical to ensuring inclusive, safe, and equitable access to publicly funded health and social services and education for LGBTQ+ communities.

ACON and Equality Australia provide the following recommendations:

1. That the Committee recommend that the HR Bill should pass into law.
2. That the NSW Government should prioritise the modernisation of the Anti-Discrimination Act.

We would be more than happy to engage further with you on this submission. Please do not hesitate to get in touch with us, Michael Woodhouse at MWoodhouse@acon.org.au and Anna Brown at Anna.Brown@equalityaustralia.org.au

Regards



Michael Woodhouse
Chief Executive Officer, ACON



Anna Brown
Chief Executive Officer, Equality Australia

¹³ United Nations Office of the High Commissioner for Human Rights, (2023). ‘Freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity’. Available: [A/HRC/53/37: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity \(Advance unedited version\)](#) | OHCHR

