Submission to the Social Services and Community Committee

Legislation (Definitions of Woman and Man) Amendment Bill

Family First New Zealand

June 2026

Executive summary

Family First New Zealand supports the Legislation (Definitions of Woman and Man) Amendment Bill and its intent. We make this submission to strengthen the Bill, ensuring that it is legally comprehensive, coherent, and practical.

We recommend five amendments:

1. **Expand the bill to include definitions of "female" and "male".** We propose substantive definitions grounded in reproductive biology, with a continuity-of-sex provision for the terms "male" and "female".
2. **Resolve the treatment of age.** Defining “woman” and “man” as adults risks excluding girls from protections written for “women,” and may disrupt access to services for those below the age of majority. We propose a savings provision so that protective statutes continue to apply to female and male persons of any age.
3. **Provide for innate variations of sex characteristics** with a clear mechanism for determining sex in the rare cases where the Bill’s definitions do not resolve.
4. **Align registered sex with the biological definitions.** We recommend repealing the Births, Deaths, Marriages, and Relationships Registration Act 2021 so that a person’s registered sex aligns with the Bill’s biological definitions and is applied consistently across statutes.
5. **Confirm the interaction with the Human Rights Act 1993,** so that its existing sex-based protections have a determinate and defensible foundation upheld by the definitions provided by the Bill.

1. Introduction

Family First NZ is an incorporated charitable trust dedicated to research, education, and media commentary in support of New Zealand families. It is a recognised voice on social and cultural policy questions, with a particular focus on preserving the legal and institutional foundations that protect family life, women, and children.

Family First New Zealand welcomes the opportunity to submit on the Legislation (Definitions of Woman and Man) Amendment Bill. We support the Bill and its intent. We would further strengthen it by extending its scope to include explicit statutory definitions of *"female"* and *"male".*

The Bill addresses a genuine and growing need for legal clarity in New Zealand statutes regarding the terms “woman,” “man,” “female,” and “male.” The lack of such clarity is not merely a technical inconvenience. It has practical consequences for women’s access to single-sex spaces and services, for the integrity of maternity health policy, for the enforceability of sex-based legal protections, and for organisations and individuals expected to administer those protections consistently and in good faith.

These are not abstract concerns. We acknowledge that the Bill is about defining the terms “man” and “woman”; we note, however, that the lack of legal clarity poses risks and harms that directly affect the lives of girls and women, who are the focus of this submission. Biological women and girls depend on a coherent, consistent, and robust legal framework, and we make this submission in that spirit: not to diminish the dignity or legal standing of any person, but to ensure that the legal recognition of biological sex remains sufficient to ground the protections that depend on it.

2. The problem

New Zealand law has long assumed a shared, common understanding of the words “woman” and “man” without ever defining them. For most of the law’s history, that assumption was uncontroversial and practically workable. It is no longer sufficient.

The Equal Employment Opportunities Commissioner and Women’s Rights spokesperson, Gail Pacheco, at the Human Rights Commission, has stated[1]:

> *There’s no need to define ‘man’ and ‘woman’ in the law because the law already works well using the usual meaning of those words.*[2]

We respectfully disagree with this assessment. The difficulty is that there is no longer a single, shared “usual meaning” that applies consistently across all institutions and decision-makers. In practice, the meaning has become a matter of interpretive inference, with judicial bodies and government agencies often reaching different conclusions. As this occurs more frequently, there is no statutory anchor to resolve those disagreements.

This is not a hypothetical risk. Organisations providing single-sex services, facilities, and programmes face genuine uncertainty when designing their policies and defending them legally. Courts and tribunals face genuine uncertainty when adjudicating complaints. The absence of a definition does not preserve neutrality; it transfers discretion to whoever

[1] https://tikatangata.org.nz/news/definitions-of-woman-and-man-legislation-not-necessary-risks-further-harm-to-rainbow-people
[2] https://tikatangata.org.nz/news/definitions-of-woman-and-man-legislation-not-necessary-risks-further-harm-to-rainbow-people

happens to be making the relevant determination at the relevant moment. That is not how rights are properly protected.

Sex-based protections in New Zealand law governing domestic violence, pregnancy discrimination, pay equity, breast and cervical cancer screening, women's refuges, and sport are grounded in evidence-based, specific, and consequential biological distinctions. Treating those categories as defined by inference rather than by statute creates a vulnerability within the very framework that those protections were designed to uphold.

3. The practical consequences: language and legal visibility

One consequence of the current legislative ambiguity has been a shift in institutional and statutory language away from sex-specific terms and toward gender-neutral alternatives. This shift warrants examination not to deny the genuine care that often motivates it, but to assess its practical implications for the legal visibility of biological sex.

In midwifery and maternity care, arguably the most woman-centred domain of healthcare, the trend toward gender-neutral language has been marked. Health New Zealand's national maternity clinical guidelines now use the dual formulation "woman/person" or "women/people" throughout[3]. The latest *Guidelines for Consultation with Obstetric and Related Medical Services* apply to "pregnant, birthing and postnatal women/people and babies." This dual formulation appears even in purely biological clinical contexts: describing who experiences labour, birth, and the postnatal period. There is no section of the guidance where "woman" appears without the "/people" qualifier.

The New Zealand Report on Maternity data webtool describes maternity data as covering "pregnant women/people and their babies giving birth in New Zealand."[4] Earlier editions used only "pregnant women." These are key national documents that form the clinical and administrative backbone of our maternity health system.

Statutory language reflects the same tensions. The Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act 2022 amended the definition of "accident" in section 25 of the Accident Compensation Act 2001 so that a maternal birth injury is described as an injury "to a person who gives birth" despite the fact that only women experience pregnancy and childbirth[5]. The Abortion Legislation Act 2020, by contrast, uses "woman" throughout but nowhere defines it, leaving the meaning of its central term to inference. In each case the biological reality that it is only women who become pregnant and give birth is either rendered less visible or left legally undefined — the very uncertainty this Bill is intended to resolve.

This concern has also been recognised at the level of government, where in April 2026 the coalition Government directed Health New Zealand to use sex-specific language in this area, with the Associate Minister of Health stating that only women and people of the female sex can get pregnant.[6] The trend this submission identifies is therefore not contested only by submitters; it has been acknowledged as a problem by the coalition government.

[3] https://static.info.content.health.nz/docs/health-pros/topics/maternity/national/Guidelines-for-consultation-with-obstetric-and-related-medical-services.pdf

[4] https://tewhatuora.shinyapps.io/report-on-maternity-web-tool/

[5] https://www.legislation.govt.nz/act/public/2022/51/en/latest/#LMS564279

[6] https://www.rnz.co.nz/news/politics/558168/coalition-directs-health-nz-to-stop-saying-pregnant-people

Naming women in law has been part of efforts to address the history of maternity care, including long periods when women's bodies were dismissed, misunderstood, or poorly served by medical institutions and to prevent its repetition. Trading this off in the name of inclusivity not only erases this history but risks repeating it, undermining protections for women's rights and the safeguarding of women's services and spaces.

There is a practical alternative: retain sex-specific language where biological sex is directly relevant. The current trend, by contrast, erases the general category in order to include the exception. That approach undermines the legal visibility of biological sex precisely in the areas of law and policy where it matters most.

4. Why the Bill matters

4.1 Protecting sex-based rights

The shift in institutional language is not merely symbolic. Language shapes what can be observed, measured, protected, and enforced. When statutes and clinical guidelines cease to name women as a biological category, the legal and administrative frameworks built around that category begin to lose their foundations.

Women's rights in New Zealand were hard-won precisely because they required the Crown to formally recognise that women, as a group, face sex-specific disadvantages: in employment, in health, in safety, and in access to public life. Legislation on domestic violence, pregnancy discrimination, and pay equity was written in sex-specific terms because the harm being addressed was sex-specific. The solution was tailored to the problem.

When the language describing women as a legal category becomes uncertain or contested, the organisations, courts, and agencies responsible for enforcing those protections face a genuine practical dilemma. They cannot reliably determine who the protections apply to. Single-sex prisons, women's refuges, breast cancer screening programmes, and competitive sport all depend on a coherent answer to the question of who is a woman. Without a statutory definition, that answer is left to interpretive inference — and interpretive inference, by its nature, produces inconsistent outcomes.

Clear statutory definitions allow organisations, workplaces, and public facilities to confidently design services and enforce restrictions. They provide the legal grounds on which sex-based rights, protections, and policies can stand.

4.2 The Bill provides legal certainty, not xxclusion

It is important to state this clearly: the purpose of this Bill is not to diminish the dignity or legal protections of any person. The Bill does not aim to restrict individuals who choose not to be identified solely by biological realities from accessing services or from living their lives with full dignity. It provides definitional clarity in those specific legal contexts where biological sex classifications are materially relevant, which is not every context but a significant and consequential set.

This approach is consistent with New Zealand's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW Article 1 defines discrimination "against women" by reference to the female sex, and Articles 11

through 14 address employment, health, education, and rural life in sex-specific terms[7]. CEDAW's General Recommendations make clear that protecting women as a biological category is not inconsistent with recognising the distinct needs of other groups. Clear legal definitions grounded in biological truth support rather than contradict those obligations.

This view has recently been articulated at the international level. In her 2025 thematic report to the United Nations Human Rights Council, the Special Rapporteur on violence against women and girls, Reem Alsalem, addressed the consequences of detaching the legal categories of "woman" and "girl" from biological sex.[8] She wrote:

> *Recently, there has been a concerted international push to delink the definition of men and women from their biological sex and erase the legal category of "women". Such efforts have undermined the practical achievement of equality between men and women. Women are therefore being denied their rightful recognition as a distinct category in law and society. It is a form of "coercive inclusion" that relies on the expectation that women will be kind enough to sacrifice their own recognition and protection for the sake of others.*

The Special Rapporteur argues that replacing sex-specific language with terms such as "birthing person" is both factually inaccurate and, in her assessment, dehumanising, and that language grounded in biological reality is necessary to secure women's legal protections. This report, endorsed by a United Nations mandate-holder, advocates for efforts such as the Bill to safeguard the legal protections and rights of biological women and girls. Although it is a thematic, non-legally binding document that has been debated, it underscores the vital importance of legislation like this Bill.

A society that truly values human dignity recognises that resolving conflicts between groups does not require erasing their legal and biological identities. Instead, it strives to honour and respect each group's inherent worth, explicitly and without denying biological realities. The Bill's approach to defining biological sex in law, while explicitly preserving general anti-discrimination protections, reflects that principle.

5. Recommended amendments to strengthen the Bill

We support the Bill as introduced and recommend the following amendments to make it legally comprehensive, coherent, and consistent with comparable international legislative developments. The Bill inserts new sections 13A and 13B into the Legislation Act 2019 (section 13A defining "woman" and "female," section 13B defining "man" and "male"). Our amendments either amend those provisions or sit alongside them.

5.1 Add definitions of female and male

The Bill currently defines "woman" as "an adult human biological female" but does not define "biological female." This creates a circularity that constitutes a legal vulnerability: the term being defined is expressed in terms that are themselves undefined. A court interpreting the

[7] https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women

[8] Reem Alsalem, Special Rapporteur on violence against women and girls, "Sex-based violence against women and girls: new frontiers and emerging issues", UN Doc A/HRC/59/47 (2025).

provision would face precisely the same interpretive uncertainty the Bill is designed to resolve.

We recommend that the Bill be amended to include substantive definitions grounded in reproductive biology, along with specific carve-outs that protect those whose biological sex remains constant despite medical, surgical, hormonal, or administrative changes. The following clause is proposed:

We recommend that sections 13A and 13B provide “female” and “male” biological definitions grounded in scientific evidence, framed so that they apply regardless of whether an individual’s reproductive capacity is present, impaired, or absent. On that footing, the word “biological” becomes unnecessary (though it may be retained for emphasis), and “woman” and “man” can be defined as the adult members of each sex.

Proposed clause: Definitions of sex - In any legislation, unless the context otherwise requires

Section 13A

woman means an adult human female; and

female means a human being of the sex whose biological development is directed towards the production of ova (the larger gamete), whether or not that capacity is present, functional, or retained in a particular individual.

Section 13B

man means an adult human male; and

male means a human being of the sex whose biological development is directed towards the production of spermatozoa (the smaller gamete), whether or not that capacity is present, functional, or retained in a particular individual.

Proposed new section 13C — Continuity of sex

(1) A person who is female within the meaning of section 13A does not cease to be female by reason only of:

(a) infertility, or the absence or impairment of reproductive function; or

(b) the surgical removal of reproductive organs; or

(c) any hormonal or other medical treatment; or

(d) any entry on a birth certificate or other official document recording a sex other than female.

(2) A person who is male within the meaning of section 13B does not cease to be male by reason only of the matters in subsection (1)(a) to (d), with the reference in subsection (1)(d) read as a sex other than male.

Proposed interpretive principle

Nothing in sections 13A to 13C limits the protections against unlawful discrimination available to any person under any enactment.

5.2 Addressing innate variations of sex characteristics

The Bill should explicitly address innate variations of sex characteristics, also referred to in clinical settings as differences of sex development (DSD). They affect a small proportion of the population: according to the 2023 Census, 15,039 people (0.4 per cent of the usually

resident population aged 15 and over who responded) stated that they were born with a variation of sex characteristics.[9]

The existence of such variations does not establish that biological sex is a spectrum, or that binary definitions are unworkable as a general legal matter. The law routinely operates with general categories while making specific provision for exceptional cases. The same approach is appropriate here. We use the term "innate variation of sex characteristics," the formulation used in the Yogyakarta Principles[10], which reflects the broadest recognition of biological reality without unnecessary pathologisation. We also note that innate variations of sex characteristics should not be conflated with self-reported gender identity.

Proposed new section 13D — Innate variations of sex characteristics

(1) This Act recognises that a small number of people are born with innate variations of sex characteristics — being chromosomal, gonadal, hormonal, or anatomical features that do not align in the usual way with the definitions of female and male in sections 13A and 13B.

(2) The existence of such variations does not affect the validity or general application of those definitions.

(3) Where, in applying any enactment, a person's sex cannot be determined under sections 13A and 13B because of an innate variation of sex characteristics, that person's sex is to be determined, for the purposes of that enactment, by a suitably qualified medical practitioner, by reference to the person's predominant biological sex characteristics taken as a whole.

(4) A determination under subsection (3) must be made in a manner that:

(a) gives effect to the purpose of the enactment in question; and

(b) respects the dignity and privacy of the person concerned.

(5) Nothing in this Act permits a person to be treated less favourably by reason only of an innate variation of sex characteristics. A person with such a variation retains every protection available to a person of the sex determined under this section.

5.3 Interaction with the Births, Deaths, Marriages, and Relationships Registration Act 2021

The Births, Deaths, Marriages, and Relationships Registration Act 2021 allows individuals to amend the sex recorded on their birth certificates. However, for legislation that relies on biological sex definitions, the sex recorded at birth and at initial registration remains the relevant legal fact. Therefore, for definitional consistency and application, we recommend repealing the Births, Deaths, Marriages, and Relationships Registration Act 2021 to ensure that a person's registered sex aligns with the Act's biological definitions. This change would ensure that the biological definitions of 'man' and 'woman' are consistently applied across all statutes, maintaining coherence in interpretation and legal application.

5.4 Treatment of age

[9] Stats NZ, 2023 Census (official statistics on variations of sex characteristics, released 2024). https://www.healthnz.govt.nz/about-us/what-we-do/programmes-and-initiatives/innate-variations-of-sex-characteristics-ivsc-intersex#about-innate-variations-of-sex-characteristics-ivscintersex-20778

[10] https://yogyakartaprinciples.org/principles-en/yp10/

The definitions set forth in this Bill shall be applicable to the entire population. The Act, in its implementation, should not impose obligations requiring minors to undergo administrative procedures, medical examinations, or legal proceedings solely for the purpose of establishing sex where no dispute or substantive legal question exists that necessitates a formal determination.

While defining “woman” and “man” as adults may raise concerns about age discrimination, it is important to note that the Attorney-General’s report on the Bill references section 4 of the Age of Majority Act 1970, which states that a person reaches full age at 20. This means that, unless otherwise specified, the term “adult” is understood to refer to someone aged 20 or older. Therefore, provisions that confer rights on “women” could be interpreted to exclude individuals under that age. This can be addressed by a brief savings provision such as the clause below.

Proposed new section 13D — Application to children and continuity of protective provisions

> (1) Nothing in sections 13A and 13B limits the application of any legislation to a female or male person who has not reached adulthood, where the context of that existing law requires the terms “woman,” “women,” “man,” or “men” to include persons of the relevant sex who are children.
>
> (2) Where an existing law confers a right, protection, service, benefit, or entitlement by reference to “woman” or “women” (or “man” or “men”), and the purpose of that legislation is to benefit or protect persons of the female (or male) sex irrespective of age, the legislation must be read as applying to female (or male) persons of any age, unless that legislation expressly provides otherwise.
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> (3) To clarify, the definitions in sections 13A and 13B do not increase the age of majority or change any age thresholds specified by other laws.

5.5 Interaction with the Human Rights Act 1993

The Human Rights Act 1993 establishes “sex” as a prohibited ground of discrimination(s 21(1)(a)), expressly including pregnancy and childbirth. It also contains a series of exceptions that permit differential treatment on the basis of sex where biological sex is materially relevant: the maintenance of separate facilities or services for each sex on the ground of public decency or safety (ss 43 and 46); the exclusion of one sex from competitive sporting activity in which strength, stamina, or physique is relevant (s 49); genuine occupational qualifications based on sex (s 27); and good-faith measures to assist or advance groups who face discrimination, which can support the provision of women-only services (s 73). Each of these exceptions assumes a determinate biological meaning of “sex” and cannot operate coherently if those terms are uncertain.

However, over the past two decades, the meaning of “sex” in the Act has shifted by interpretation, inference and rhetoric rather than through legislation. In 2006, the Acting Solicitor-General provided an opinion on the Human Rights (Gender Identity) Amendment

Bill, a member's bill proposing to add "gender identity" as a separate prohibited ground.[11] The legal opinion concluded that the amendment was unnecessary, on the view that discrimination on the ground of gender identity was already prohibited within the existing ground of "sex." On that basis the member's bill was withdrawn. Since then, the Human Rights Commission, government agencies and organisations have administered the Act as though "sex" includes gender identity, and official guidance now describes the ground of "sex" as extending to gender identity.

This interpretation has never been tested or confirmed by our judicial system either. The Human Rights Commission itself accepts that the law could be clearer. In 2025, the Law Commission released a report called 'Ia Tangata,'[12] which reviewed the protections in the Human Rights Act 1993 for transgender individuals, non-binary people, and those with innate sex characteristic variations. It recommended amending the HRA to explicitly include gender identity and innate sex characteristic variations as protected grounds, implicitly confirming that the present position rests on inference rather than on statute. The Government declined to progress those recommendations in 2026.

The result is that a foundational term in New Zealand's principal anti-discrimination statute, understood to mean biological sex when the Act was established, now carries a contested and expanded meaning, resting largely on a single executive opinion. This is precisely the definitional drift-by-inference identified in this submission, occurring in the very Act on which many sex-based protections and rights depend.

The Bill's clear, biologically grounded definitions of "female" and "male" provide the anchor for protections and exceptions specific to biological women. Since the Act's protections and rights are grounded on the concepts of "one sex," "each sex," and the male/female distinction, defining these terms by reference to biological truths provides a clear and defensible basis for the exceptions, thereby restoring the legal certainty necessary for their application and enforcement.

6. Additional considerations

6.1 Cascading application across legislation

The Bill's current scope addresses statutes that use the terms "woman" and "man." To be fully effective, the biological definitions should cascade consistently to include "female" and "male" wherever those terms appear in New Zealand statutes. This ensures that the definitional framework applies coherently across the full range of legislation in which biological sex is legally relevant, rather than only in the subset that happens to use "woman" or "man" specifically.

7. Conclusion

The legal protections that safeguard women in health, safety, sport, single-sex spaces, and the workplace are founded on a hard-won recognition: that women, as a biological category,

[11] Solicitor-General's Opinion on the Human Rights (Gender Identity) Bill (Crown Law Office, 2 August 2006), authored by Acting Solicitor-General Cheryl Gwyn and released by Attorney-General Michael Cullen.

[12] Law Commission | Te Aka Matua o te Ture, Ia Tangata: A Review of the Protections in the Human Rights Act 1993 for People who are Transgender, People who are Non-binary and People who have an Innate Variation of Sex Characteristics (2025).

face specific and identifiable disadvantages requiring specific remedies. That recognition was a significant achievement. It was not arrived at automatically or by chance, and it should not be allowed to erode or be compromised through legislative imprecision.

This Bill represents an appropriate first step. With the amendments recommended in this submission, it will provide a principled and coherent framework that:

- defines the biological sexes in substantive terms grounded in reproductive biology;
- ensures protections continue to reach women and girls of every age;
- protects individuals with innate variations of sex characteristics or Differences of Sex Development (DSD)
- aligns the registration of sex with the Bill’s biological definitions; and
- confirms that nothing in these definitions diminishes the anti-discrimination protections available to any person.

Women's rights in New Zealand did not arrive by accident. They were named, fought for, legislated, and defended because the Crown came to recognise that women as a biological category face specific disadvantages that demand specific remedy. That recognition is an achievement of the first order, and it belongs to all New Zealanders.

Those rights were won with specific words: woman, female, mother. Those words did legal work. They named the people the law was designed to protect, and, in doing so, made the protection real and enforceable. Replacing that precision with language so broad it names no one in particular is not progress; it is a quiet withdrawal of the State's commitment to see women clearly.

That hard-won visibility is now quietly at risk—not from a single reform, but from the cumulative impact of language and policy shifts that have marginalized women and gradually erased biological women. This Bill is the principled response to that pressure. Passed with the amendments recommended in this submission, it will ensure that the legal foundations on which women's rights rest remain explicit, biologically grounded, coherent and equal to the task they were always designed to fulfil.