



# The *Ia Tangata* Report Explainer - a national conversation that's turned into a culture war

Discussions about sex and gender have become some of the most polarising in our society. There are deep divides:

- Those emphasising gender identity argue that recognising people's self-defined gender in law and policy is essential to protect dignity, reduce discrimination, and improve safety and wellbeing for transgender and non-binary individuals.
- Those emphasising biological sex argue that redefining sex in law risks undermining women's rights, fairness in sport, privacy in single-sex spaces, and the collection of accurate sex-based data. Some also question the evidence and ethics around medical interventions for minors.

## A breakdown in dialogue:

The public conversation has become increasingly one-sided.

- Gender-identity advocacy is now embedded across many institutions, government agencies, and education settings.
- Those expressing sex-based or traditional views often face hostility, professional risk, or exclusion from public platforms.

The Law Commission's *Ia Tangata* report reflects this same one-sided climate. It proceeds as though the key questions are already settled — treating gender identity not as a belief or ideology open to debate, but as an unquestionable personal characteristic, and defining “sex” as a context-dependent term rather than a biological category.

## The recommended law change:

The *Ia Tangata* report recommends adding “*sex characteristics, gender identity, and gender expression*” as new prohibited grounds of discrimination under the Human Rights Act.

## How this law change would work in practice:

- **Speech becomes conduct:** Statements or beliefs about sex and gender are exposed to being determined as being “*less favourable treatment*” or “*detriment*” under the Human Rights Act. In practice, that means comments, questions, or professional judgments that reflect a biological or traditional view of sex could be framed as discriminatory.
- **Employers and institutions must act:** Employers, schools, and health providers have a legal duty to prevent discrimination and “*detriment*” in their environments.<sup>1</sup> To manage that risk, institutions are likely to:

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<sup>1</sup> Employment Relations Act 2000, s 103, 104 and Education and Training Act 2020, s 57.

- (a) Introduce or tighten internal policies on pronouns, facilities, and language use.
  - (b) Deliver mandatory training or codes of conduct requiring staff to affirm gender-identity frameworks.
  - (c) Discourage or discipline staff who express dissenting or biologically-based views, to show compliance if a complaint arises.
- **Everyday discussion becomes risky:** Comments about biology, pronouns, sport, or facilities could trigger complaints, so people will avoid raising the topic altogether to protect themselves or their organisations from risk. But avoiding conversation doesn't remove disagreement - it pushes it underground, breeding resentment and mistrust. Over time, tensions and hostility will increase, as people feel unheard and unable to speak openly about issues that matter deeply to them.
  - **No explicit protection for free expression:** The *Ia Tangata* report acknowledges serious free-speech and conscience issues but offers no specific safeguard. Instead, it points to the NZ Bill of Rights Act (NZBORA). That assurance is hollow. NZBORA rights are not automatic - they must be enforced through the courts, usually against the State, in lengthy and expensive litigation. Such cases can take years to resolve, and in practice, whoever has the deepest pockets usually wins. For most people, that is no safeguard at all.

### Case by Case: How Free Speech Could Look Under Ia Tangata

We've listed some potential examples of how Ia Tangata could be applied are below. This is by no means fear mongering. We describe situations that are already happening, and that's without the fear of discrimination charges. All these pose significant risks to free speech.

At staff training, an employee asks whether bathrooms should stay single-sex or raises questions about the use of preferred pronouns in the company email signature template. A colleague complains - not just about the question, but that management allowed it without rebuke. HR treats this as "detriment," which could give rise to a personal grievance claim, updates policy, and bans all discussion of sex and gender. Staff quickly learn: it's safer to keep quiet than raise concerns.

A doctor advises a teenage patient that starting puberty blockers has significant long-term health risks and recommends waiting. The family lodges a complaint that the doctor's views caused "detriment" by not affirming the patient's gender identity. Even if the case is later thrown out, the doctor is investigated by the Medical Council, suffers reputational damage, and colleagues learn the lesson: stick to affirmation-only scripts or risk your career.

A teacher or student raises questions about access to changing rooms / bathrooms at school, or starts a conversation about the practice of social transitioning. Another teacher or student files a complaint based on discrimination, these topics are perceived as causing "detriment" to a student and schools and school boards alter their policies and shut down these conversations to avoid complaints. This silences open discussion and free speech, and effectively mandates adherence to a specific ideology or approach, leaving no room for students, staff or governing bodies to engage with differing viewpoints.

A GP advises a patient that biological sex is clinically relevant and explains the medical risks of transitioning. The patient complains the advice was discriminatory because it did not affirm their gender identity. The GP is taken to the Human Rights Tribunal. Even if the case is eventually dismissed under NZBORA protections, the cost, stress, and reputational damage are crushing. Other doctors see this and hold back from giving full, informed advice, leaving patients less protected.

In a health class, a teacher says: “Biological sex is fixed, but people can identify differently.” A student complains this is exclusionary. The board, worried about liability, tells teachers to avoid the topic altogether. From then on, staff stick to the ‘safest’ script, students lose the chance to hear both sides of a contested issue.

A university lecturer publishes an article supporting sex-based sport categories. Activists label it discriminatory. The university, fearing complaints, denounces the lecturer and bans discussion events on the topic. Just like in the UK and Canada, anti-discrimination law has morphed into a “no-go zone” for speech that challenges official orthodoxy.