



THE
WOMEN'S
ADVOCATE

Mr Hugh de Kretser, President, AHRC

at the National Press Club

29 April 2026

Transcript

Megan Poore: Megan Poore, *The Women's Advocate*. President de Kretser, you told the PJCIS that limits on rights must be proportionate and ensure equal protection, including on the basis of sex. Equal Identities recommends extending the AHRC's positive duty to gender identity, making the Commission the enforcer over women's sex-based organisations. Yet the Federal Court found the AHRC misapplied its statutory obligation to the Lesbian Action Group. How do you respond to concerns about Parliament extending these powers in matters of sex and gender?

Hugh de Kretser: Can you explain to me what the concerns are that you're identifying?

Megan Poore: Yes, women's groups have expressed concerns in Parliament and in the United Nations to the UN level, as well as at a meeting in February with the AHRC itself about how the Commission exercises its powers.

Hugh de Kretser: Yeah, so I mean the positive duty is about preventing harm from happening rather than responding after a complaint has happened. So it shifts the focus rather than putting the burden on an individual person who's suffered harm to have to complain and then get that system changed so that the system better protects people's rights. It's a bit like workplace health and safety laws where we've seen a radical shift in approach from responding after injury happened to actually prevention and it's led to massive improvements in safety for workers.

We want that positive duty expanded across all federal discrimination laws. It's currently only in the Sex Discrimination Act around sexual harassment and sex discrimination, but we want it expanded more broadly.

I think some of the questions you're talking about are around the intersection between trans' rights and women's rights. I don't see great conflict there. I see that improving the rights of women and improving the rights of transwomen and transmen

are equality objectives that we should aspire to. And we can have a debate and a dialogue about some of the issues that you want to speak to.

But, again, when the question about gender-affirming care, what is the compass that we have as a public institution when we look at that, that compass is human rights law, and you look at improving the human rights of all people for children, acting in the best interests of children.

Megan Poore: The question is about proportionality and how the Commission uses its powers. The Commission sought a costs order against the Lesbian Action Group, but lost. If Parliament extends these powers, what guarantees can you give to women's organisations that the Commission will use them proportionately?

Hugh de Kretser: Yeah, I'm not familiar with that cost order provision, but we have accountability, as all public institutions do. The federal court decision you're referring to said that the tribunal's decision, so we made the decision about the exemption. The tribunal looked at it, made a fresh decision. They stand in our shoes. They made the same decision. The federal court has said on two of the grounds that that the tribunal needed to look at different criteria in the way, so the tribunal will now go away and make a new decision and will participate in that and support that process.

Megan Poore: Thank you.