



Communication to the
Commission on the Status of Women (CSW)
Patterned and specific violations of women's human rights in
Australia
22 July 2026

The Affiliation of Australian Women's Advocacy Alliances (AAWAA) is a national peak women's advocacy body with member groups in all states and territories of Australia. We advocate for the protection, advancement, and human rights of women and girls, particularly where we are vulnerable on the basis of our sex. Our work is evidence-based and independent.

This communication updates our previous submission to the CSW of 27 July 2025, attached at Annex A. It should be read together with that submission; we do not repeat matters that remain unchanged, but focus on developments since July 2025.

Each matter set out below constitutes not merely a policy failure but a specific breach of Australia's binding obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR). We identify the relevant articles and General Recommendations under each heading and again urge the CSW to press Australia on its compliance with both instruments.

A. JUDICIAL AND INSTITUTIONAL CONFIRMATION OF THE LOSS OF WOMEN'S SEX-BASED PROTECTIONS

Two Federal Court decisions handed down within a month of each other have confirmed, from the bench, that the *Sex Discrimination Act 1984* (Cth) no longer prioritises women's rights as a sex class, and that the Australian Human Rights Commission's own guidance on sex-based exemptions is deficient.

In *Giggle for Girls Pty Ltd v Tickle* [2026] FCAFC 64, the Full Federal Court found that earlier versions of the Sex Discrimination Act gave "pre-eminence to the rights of women *qua* women (ie, to equality with men", but that "no such pre-eminence can now be seen in the provisions of the Act" as currently drafted, implicitly leaving the question of remedy, and whether the current position is "a good thing", to Parliament rather than the courts.¹

¹ [Giggle for Girls Pty Ltd v Tickle \[2026\] FCAFC 64](#).

In *Lesbian Action Group Inc v Australian Human Rights Commission* [2026] FCA 432, the Federal Court found that the Administrative Review Tribunal had erred in its approach to the exemption power in section 44 of the Sex Discrimination Act, including by concluding it was not bound by the Commission's duty under section 10A of the *Australian Human Rights Commission Act 1986* (Cth) when reviewing an exemption decision. The Court separately found that the AHRC's own published 2009 exemption guidelines "are deficient" in the way they describe the process and considerations relevant to an exemption application.

AAWAA and other women's organisations have repeatedly raised this issue with the Commission directly, without success. On 18 February 2026, AAWAA, the Coalition of Activist Lesbians, and the Feminist Legal Clinic met with AHRC President Hugh de Kretser, Sex Discrimination Commissioner Anna Cody, and Human Rights Commissioner Lorraine Finlay to raise concerns about the operation of Australia's sex and gender framework, including the Commission's unused section 11 powers². Sex Discrimination Commissioner Anna Cody had already been asked directly, at the National Press Club on 24 September 2025, whether the Commission would use its exemption and section 11 powers to address the uncertainty facing women's organisations, without receiving a substantive commitment.³

That pattern continued at AHRC public seminars in Perth (11 June 2026) and Sydney (17 June 2026), where Commission officers were asked directly whether the AHRC would use its section 11 powers to recommend legislative reform following Giggie, and when the exemption guidelines found deficient in *LAG v AHRC* would be updated. The Commission's response, on the public record from the Perth seminar, was that it has no plans to use its section 11 powers to recommend legislative reform restoring women's pre-eminence in the Sex Discrimination Act; no officer offered a timeline or acknowledged the Court's finding on the guidelines, and women were instead directed back to the same guidelines the Court had found wanting.⁴

AAWAA submits that Australia's national human rights institution, having been told directly by its own courts that its guidelines and legal framework are deficient, and having been questioned repeatedly by women's advocates, has affirmatively declined to use the statutory powers available to it to investigate or recommend remedy, compounding rather than resolving the institutional exclusion of women previously documented to the CSW. This constitutes a breach of Articles 2(c) and 2(e) of CEDAW, which require States parties to establish legal protection of women's rights through competent national tribunals and other public institutions, and to take all appropriate measures to eliminate discrimination by any person, organisation or enterprise. It further engages Article 15(1), which guarantees women equality with men before the law, since a national human rights institution's own retained guidance – now judicially found deficient – continues to shape how that equality is applied in practice. Under the ICCPR, the AHRC's declared refusal to exercise its own remedial powers, notwithstanding a Federal Court finding, is inconsistent with Australia's obligation

² [On the record: Women's organisations brief the Australian Human Rights Commission on Australia's sex and gender framework](#), *The Women's Advocate*, February 2026.

³ [Accountability, not re-interpretation: Why we questioned the Sex Discrimination Commissioner](#) *The Women's Advocate*, September 2026.

⁴ See [A "narrow area of intersection": AHRC tells women to seek exemptions, not reform](#) and [We have guidelines': AHRC tells women to rely on deficient rules for exemptions](#), *The Women's Advocate*, June 2026.

under Article 2(3) to ensure an effective remedy for violations of Covenant rights, including the equal protection guarantee in Article 26.

AAWAA recommends that the CSW call on Australia to direct the AHRC to update its exemption guidelines without further delay, and to exercise its section 11 powers to recommend legislative reform restoring express sex-based protections to the Sex Discrimination Act.

B. CORRUPTION OF SEX-DISAGGREGATED DATA THROUGH SEX SELF-IDENTIFICATION

Sex self-identification laws, permitting adults to change their legal sex marker on the basis of self-declaration alone, are now in force in six out of eight Australian jurisdictions: Tasmania, Victoria, Western Australia, Queensland, New South Wales and the Australian Capital Territory. New South Wales was the most recent to adopt such a regime, with self-identification commencing on 1 July 2025. It is also, to our knowledge, the only jurisdiction for which the volume of resulting changes has been made public: official figures confirm that over 1,000 men have changed their legal sex marker to female in New South Wales alone since that date, at a rate of roughly three men a day, via a process requiring only a statutory declaration and a supporting statement from a person who has known the applicant for at least 12 months.⁵

AAWAA submits that this figure, drawn from a single jurisdiction that only recently adopted self-identification, is illustrative rather than exhaustive: legal sex is now a matter of administrative self-declaration across the majority of Australian jurisdictions, and the New South Wales data gives the first concrete indication of the likely scale of this phenomenon nationally. The absence of comparable published data from other states and territories, despite each having operated self-identification regimes for longer than New South Wales, means the true national scale remains unknown and unmeasured. This corrodes the reliability of every official dataset (crime, health, prison, and service records) that depends on the sex marker, across all six jurisdictions, not New South Wales alone.⁶

This corruption of sex-disaggregated data itself constitutes a breach of Australia's obligations under Article 2(f) of CEDAW to modify or abolish practices that discriminate against women, since the reliability of sex-disaggregated data is a precondition for identifying and remedying the very discrimination CEDAW requires States to address, as recognised by the Committee in General Recommendation No. 9 on statistical data. It also implicates Article 3, given that a State cannot demonstrate progress toward substantive equality, or Australia's compliance with its reporting obligations under Article 18, without reliable sex-disaggregated data.

⁵ [Three men a day pay \\$73 to legally change gender to female under new NSW law](#), *The Daily Telegraph*, 18 July 2026.

⁶ See *The Women's Advocate*, [Why Queensland's Births, Deaths and Marriages Bill risks women's protections and rights: A perspective from Canberra](#), [Tasmanian women call for review of sex self-ID laws](#), and [Protecting women in custody: Why all must follow the NT's lead on sex-based prison laws](#).

AAWAA recommends that the CSW press Australia to require nationally consistent, mandatory publication of sex-marker change data across all jurisdictions with self-identification laws, not New South Wales alone.

C. SURROGACY: LEGISLATIVE AND LAW REFORM DEVELOPMENTS

Western Australia's *Assisted Reproductive Technology and Surrogacy Act 2025* passed the Parliament in December 2025 following a consultation process dominated by a fertility-industry-led Ministerial Expert Panel, without referral to the Law Reform Commission of Western Australia or genuine input from women's organisations, who first learned of the Bill's contents only upon its introduction to Parliament in August 2025. The Bill passed with no genuine parliamentary scrutiny: it was not referred to any parliamentary committee for inquiry, and passed within four months of introduction, without the kind of independent review or public hearing process that legislation of this significance would ordinarily receive. The Act removes the requirement to demonstrate medical infertility before using women in surrogacy and lowers the age and experience thresholds for surrogate mothers, lowering the threshold for arrangements that, whether commercial or altruistic, treat women's reproductive capacity as a contracted service.⁷

Separately, the Australian Law Reform Commission's national Review of Surrogacy Laws has proceeded with an advisory committee comprising fertility specialists, surrogacy lawyers and industry advocates, with no abolitionist women's organisation represented. AAWAA's request to the ALRC to pause the review and reconstitute the committee was rejected, and a parallel approach to the Attorney-General seeking an independent expert panel was declined, with her Department deferring entirely to the ALRC's "independence" – which we are fundamentally questioning – rather than engaging with the concerns raised.⁸

AAWAA submits that the Western Australian process – legislation proceeding through Parliament without meaningful consultation – risks being replicated nationally once the ALRC reports, and that abolition of commercial and so-called 'altruistic' surrogacy alike falls within the ALRC's own terms of reference, notwithstanding the Review's framing to date. Surrogacy arrangements that treat women's reproductive capacity as a contracted service engage Article 6 of CEDAW, which requires States to suppress the exploitation of women in all its forms, and Article 16(1)(e), which guarantees women the right to decide freely on matters relating to reproduction free from arrangements that commodify that decision.

The absence of genuine consultation with women's organisations in both the Western Australian process and the ALRC's advisory structure is itself inconsistent with Article 7(b), which requires States to ensure women can participate in the formulation of government policy on equal terms with men, and with Article 25 of the ICCPR, which guarantees the right to take part in the conduct of public affairs.

⁷ See *The Women's Advocate*, [WA must withdraw its fatally flawed Surrogacy Bill: it needs genuine scrutiny, not industry-driven law](#) and [No reform without women: Still time for WA parliament to reject process on surrogacy Bill](#).

⁸ See *The Women's Advocate*, [Feminist groups demand a voice in the ALRC's review of surrogacy laws](#), [ALRC surrogacy review: why process matters as much as principle](#), and [Abolition of surrogacy is within the ALRC's power: Responding to the terms of reference claim](#).

AAWAA recommends that the CSW press Australia to ensure the ALRC's final recommendations, and any legislative response, involve genuine and timely consultation with women's organisations.

D. OLDER WOMEN: ABSENCE FROM NATIONAL VIOLENCE FRAMEWORKS

Older women remain largely invisible within Australia's frameworks for addressing male violence. The Australian Government's own National Plan to End Violence Against Women and Children 2022–2032 names older women as the fastest-growing group at risk of homelessness, yet contains no dedicated housing strategy or funding stream for that cohort; the National Plan to End the Abuse and Mistreatment of Older People 2026–2036 is sex-neutral throughout and does not name older women as a distinct priority group at all. Older women fall between every plan.⁹

This invisibility carries a measurable financial cost. Women retire with roughly a quarter less superannuation than men, face poverty rates rising from 25% at 60 to over 36% at 80, and saw a 55% rise in homelessness-service demand among women aged 55–74 in the decade to 2018. Financial abuse – most often committed by men, with adult sons the largest single perpetrator group – was the most reported allegation to the NSW Ageing and Disability Commission in 2024–25, and superannuation law still permits death benefits to be paid to a perpetrator of domestic violence, since eligibility turns on dependency rather than conduct, a gap government has acknowledged but not yet legislated to close.

A further, largely unrecognised harm is what we term administrative violence: harm inflicted by state systems rather than individual perpetrators. A 2026 Australian National Audit Office audit found \$5 billion in incorrect age pension payments over three years, with service and timeliness targets consistently unmet. Women form the clear majority of pension recipients, yet neither the audit nor Services Australia collects sex-disaggregated data on payment accuracy or service quality, so the disproportionate impact on women cannot be measured or remedied.

AAWAA submits that this constellation of gaps – no dedicated national strategy, no sex-disaggregated data across pension administration, aged care, elder abuse reporting or housing services, and no legislative fix to the superannuation death-benefit loophole – reflects a systemic failure to recognise older women as a distinct, sex-based category requiring targeted protection, consistent with the concerns we have raised directly with the UN Special Rapporteur on Violence Against Women and Girls.

AAWAA recommends that the CSW recommend Australia develop a dedicated national strategy addressing violence against older women, consistent with CEDAW General Recommendation No. 27.

⁹ See *The Women's Advocate*, [Older women: the forgotten cohort in Australia's male violence response](#) and [Older women: Present in the data, absent from the response](#).

E. CONTINUING SUPPRESSION OF WOMEN'S SPEECH AND ADVOCACY

The treatment of women facing professional, legal, or reputational consequences for defending sex-based rights, previously documented to the CSW (see Annex A), has continued and in some cases escalated. Jasmine Sussex, a breastfeeding counsellor, remains subject to an ongoing QCAT vilification proceeding over her public comments on male 'breastfeeding', with a tribunal ruling denying her legal team access to the complainant's medical records now under appeal.¹⁰ Kirralie Smith and her organisation Binary Australia were found by the NSW Local Court in August 2025 to have unlawfully vilified two trans-identifying footballers – the first such finding under the state's transgender vilification provisions – and in December 2025 were penalised \$95,000 and ordered to issue a public apology, a decision Smith is appealing.¹¹ Councillor Louise Elliot has faced repeated code-of-conduct sanctions over social media posts, including a two-month suspension from council duties in April 2026, and has lodged a Federal Court appeal arguing the disciplinary process fails to properly weigh the implied freedom of political communication.¹² Moira Deeming discontinued her Supreme Court injunction against the Victorian Liberal Party this month after the party's state executive voted to disendorse her as a candidate. She says she now faces bankruptcy because she cannot repay the businessman who funded her successful defamation action against former party leader John Pesutto, since the \$1.55 million in costs Pesutto was ordered to pay her remains unpaid.

This pattern of cases sits within a wider structural issue that AAWAA has separately raised with the UN Human Rights Committee in our submission on Draft General Comment No. 38 on Article 22 of the ICCPR (freedom of association): that Australian anti-discrimination law, as applied in cases such as *LAG v AHRC* and *Giggle v Tickle*, can render female-only organising and advocacy legally precarious, with associations and individuals defending sex-based rights liable to be characterised in law and public discourse as "hostile" or "discriminatory" for expressing the view that biological sex is a relevant legal and social category.

AAWAA submits that these are continuations of the pattern of legal and professional consequences facing women who assert sex-based rights. The use of vilification and anti-discrimination proceedings to penalise women for expressing views on sex and reproduction engages Article 19 of the ICCPR, which protects freedom of expression subject only to narrowly defined and proportionate restrictions, and Article 22, which protects freedom of association and, on AAWAA's submission to the Human Rights Committee, encompasses women's right to organise on the basis of biological sex and to advocate for sex-based protections without that advocacy itself being treated as grounds for legal restriction or proceedings. Where such proceedings disproportionately target women expressing sex-based analysis, they are also inconsistent with Article 2 of CEDAW, which requires States to ensure the practical realisation of the principle of equality, including

¹⁰ [Jasmine Sussex returns to Brisbane tribunal as vilification case continues](#), HLRA.

¹¹ See Equality Australia, [Court ruling that anti-trans campaigner unlawfully vilified two trans women is welcomed by Equality Australia](#) and Law and Religion Australia, [Football and "transgender vilification" - the Kirralie Smith cases](#).

¹² See Pulse Tasmania, [Hobart councillor Louise Elliot suspended for two months over social media posts](#), and ABC News [Decision to suspend Tasmanian councillor Louise Elliot for 'child-like' comments upheld in court](#).

women's ability to organise and speak on matters affecting their own rights without fear of legal reprisal.

AAWAA recommends that the CSW affirm our prior recommendation that Australia review anti-discrimination and vilification laws to ensure they do not chill legitimate advocacy on sex-based rights, and note AAWAA's related submission to the UN Human Rights Committee on the need to clarify, in General Comment No. 38, that women's sex-based organising and advocacy fall within the protection of Article 22.

See Annex B for AAWAA's Comments on Draft General Recommendation No. 41 on dismantling gender stereotypes and the unequal power relations that sustain them, 11 May 2026.

F. EROSION OF SEX-BASED LANGUAGE AND PROVISION IN REGULATORY SETTINGS

Two further regulatory developments illustrate the breadth of this pattern, extending it into clinical and built-environment regulation. The Nursing and Midwifery Board of Australia's proposed revised Safety and Quality Guidelines for Privately Practising Midwives, out for consultation in June 2026 and due to take effect in January 2027, would reframe 'woman', 'mother', 'she' and 'maternity as terms retained only "in recognition of historical and professional context", while defining 'woman' solely within an expanded glossary entry for 'gender' as a social and cultural identity category with no corresponding definition of biological sex anywhere in the document, notwithstanding that biological sex determines pregnancy, labour, birth, postnatal physiology, pharmacological dosing and the epidemiology of maternal mortality.¹³

Separately, the National Construction Code's F4D3 and F4D4 provisions on sanitary facilities propose replacing the Code's existing requirement for equal numbers of male and female facilities with a "proportionate distribution of occupants" standard based on gender rather than sex, and would remove the requirement that only female, accessible and unisex compartments provide sanitary product dispensers and disposal, changes AAWAA has submitted will constructively reduce the number of facilities reserved for the exclusive use of females, notwithstanding that such facilities constitute a lawful special measure under section 7 of the Sex Discrimination Act.¹⁴

AAWAA submits that these are further instances of the data and language integrity concerns raised above, now extending into clinical and built-environment regulation. In both cases, a regulatory body has proposed substituting an objective, biological category with a subjective, self-declared one, without defining biological sex as a distinct category at all, creating, in the midwifery guidelines, an internal contradiction whereby clinical guidance continues to rely on 'woman' as a biological referent while the document's own explanatory note and glossary characterise that usage as a historical artefact, and, in the National Construction Code, a Deemed-to-Satisfy pathway that leaves nominal fixture numbers technically unchanged

¹³ [Is 'woman' now a historical relic in Australian midwifery regulation?](#), *The Women's Advocate*.

¹⁴ See *The Women's Advocate*, [Provision of free and accessible sanitary facilities must not come at the expense of adequate female-only facilities](#) and [How all-gender toilets are now allowed to quietly replace female-only spaces in NCC 2025](#).

while permitting a real-world reduction in facilities available exclusively to women, contrary to the Code's own requirement that provisions be based on a "rigorously tested rationale."

AAWAA recommends that the CSW note this pattern as evidence of the breadth of the erosion of sex-based provision across Australian regulatory settings, extending from judicial and human rights institutions into clinical practice and the built environment.

CONSOLIDATED RECOMMENDATIONS

We ask the CSW to

1. Note that the Full Federal Court has judicially confirmed the loss of "pre-eminence" of women's rights in the Sex Discrimination Act 1984, and press Australia to act on the Court's implicit invitation to Parliament to correct this.
2. Note that the AHRC has been told by the Federal Court that its own guidelines are deficient and has declined to use its section 11 powers to recommend legislative reform or otherwise remedy this, and call on Australia to direct the AHRC to update its exemption guidelines without delay and exercise those powers to restore express sex-based protections to the Sex Discrimination Act.
3. Press Australia to require nationally consistent, mandatory publication of sex-marker change data across all jurisdictions with self-identification laws, not New South Wales alone.
4. Press Australia to ensure the ALRC's surrogacy law reform process, and any legislative response, involves genuine and timely consultation with women's organisations.
5. Recommend Australia develop a dedicated national strategy addressing violence against older women, consistent with CEDAW General Recommendation No. 27.
6. Affirm AAWAA's prior recommendation that Australia review anti-discrimination and vilification laws to ensure they do not chill legitimate advocacy on sex-based rights, and note AAWAA's related submission to the UN Human Rights Committee on Draft General Comment No. 38.
7. Note the pattern of erosion of sex-based language and provision extending into clinical and built-environment regulation, illustrated by the proposed midwifery guidelines and National Construction Code changes.
8. Affirm all recommendations made in AAWAA's 27 July 2025 submission, which remain unaddressed.

CONCLUSION

AAWAA thanks the Commission on the Status of Women for its ongoing attention to the situation of women and girls in Australia, and for the opportunity to provide this update to our 27 July 2025 submission. The developments set out above demonstrate that the concerns we raised last year have not been resolved, and in several respects have deepened. We respectfully urge the CSW to treat these matters with the seriousness they warrant and to press Australia toward genuine, measurable compliance with its CEDAW and ICCPR obligations. AAWAA would welcome the opportunity to provide further information or to engage directly with the Commission on any of the matters raised in this communication.

**ANNEX A. Communication to the Commission on the Status of Women (CSW).
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ANNEX B. AAWAA's Comments on Draft General Recommendation No. 41 on dismantling gender stereotypes and the unequal power relations that sustain them, 11 May 2026.

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