

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

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Queensland
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Commission

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

Submission to Justice, Integrity and Community Safety
Committee

17 February 2026

Introduction

1. Thank you for the opportunity to provide a submission on the Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 (**the Bill**) which proposes introduce a number of amendments to prevent hateful conduct and the misuse of firearms.
2. The Queensland Human Rights Commission (**the Commission**) is an independent statutory body established under the *Anti-Discrimination Act 1991* (**Anti-Discrimination Act**), with functions under that Act and the *Human Rights Act 2019* (**Human Rights Act**) to promote an understanding, acceptance, and public discussion of human rights in Queensland.
3. The Commission welcomes the Queensland Government's action to reduce targeted hatred and violence in our community, including by strengthening legislation. We recognise and support the purpose of this proposed legislation to protect people against hate speech, which has harmful impacts to both individuals and our society and communities.
4. The Commission also recognises that achieving this intention requires a careful balancing act to ensure that, in targeting hate speech, other people's right to freedom of expression is not unnecessarily limited. To ensure that this legislation strikes the right balance, the Commission respectfully provides the Committee with a number of options for it to consider to ensure the Bill is appropriate and effective.
5. The Anti-Discrimination Act seeks to reduce and prevent hateful conduct, including discrimination and vilification, directed at people because of protected characteristics (e.g., religion, race, sex). As the entity with responsibility for this legislation, the Commission is well placed to comment on the development of complementary legislation to eliminate this type of conduct in our community, as it has done in the past.¹

Legislation must strike an appropriate balance to achieve its intent

6. Extremist and hate groups are on the rise in Australia and around the world, leading to an increase in hate speech.² The use of dehumanising language and symbols normalises violence against the targeted minority groups, and makes their persecution and elimination seem acceptable.³

¹ The Commission provided a briefing and comprehensive submissions to the 2021 Legal Affairs and Safety Committee's Inquiry into serious vilification and hate crimes. The Commission also made submissions on the *Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023* (Qld), and the *Respect at Work and Other Matters Amendment Bill 2023* (Qld), implementing some of the Committee's recommendations.

² See, for example, the United Kingdom's independent Commission for Countering Extremism publication, *COVID-19: How hateful extremists are exploiting the pandemic* (report July 2020); and Matthew I Williams et al, 'Hate in the machine: anti-black and anti-Muslim social media posts as predictors of offline racially and religiously aggravated crime' (2020) 60(1) *British Journal of Criminology*, 93.

³ Ibid, [44].

7. Acknowledging this context, the Commission welcomes action to reduce targeted hatred and violence in our community, including through introducing legislation. Legislation targeting hate speech and hateful conduct plays an important role in setting standards of behaviour that are expected in a free and democratic society like Queensland and protecting community members' human rights including their rights to equality and protection from discrimination,⁴ and freedom of thought, conscience, religion and belief.⁵
8. Hate speech legislation could complement existing laws in Queensland that prohibit vilification on the basis of race, religion and other characteristics,⁶ criminalise serious vilification,⁷ and the display of prohibited symbols,⁸ provide circumstance of aggravation for prescribed offences where the offender was wholly or partly motivated to commit the offence by hatred or serious contempt⁹, and provide that a person must not request or encourage another person to contravene the Anti-Discrimination Act.¹⁰
9. It is imperative that any such measures are fit for purpose, sufficiently precise, and proportionate. If hate speech laws do not strike the right balance, they can undermine trust in the legal system, are less likely to be enforced, and can have unintended harmful consequences, including the unjustifiable limitation of human rights.
10. Amendments proposed by the Bill, while supportive of some rights, will necessarily limit others, including freedom of expression and freedom of thought, conscience, religion and belief.¹¹ The United Nations Human Rights Committee describes these rights as 'essential for any society', and as constituting 'the foundation stone for every free and democratic society'.¹²
11. The proscription of hate speech and the protection of rights, including freedom of expression, are complementary and are not mutually exclusive goals. By respecting rights, we can achieve the purpose of more cohesive and tolerant communities and eliminating hatred and violence.¹³
12. In Queensland, the Human Rights Act provides a framework to help undertake this careful balancing of rights. In section 13, the Act provides a list of factors to determine whether any limit on rights is reasonable and appropriately balanced. Specifically, section 13 provides that a limit on a right is reasonable and justifiable if it is:
 - for a legitimate purpose
 - rational (the limit assists to achieve the purpose)

⁴ *Human Rights Act 2019* (Qld) section 15.

⁵ *Human Rights Act 2019* (Qld) section 20.

⁶ *Anti-Discrimination Act 1991* (Qld) section 124A.

⁷ *Criminal Code Act 1899* (Qld) section 52A.

⁸ *Criminal Code Act 1899* (Qld) section 52D.

⁹ *Criminal Code Act 1899* (Qld) section 52B.

¹⁰ *Anti-Discrimination Act 1991* (Qld) sections 122-123.

¹¹ *Human Rights Act 2019* (Qld) section 20, 21.

¹² General Recommendation No 35 10 [45]-[46].

¹³ General Recommendation No 35 10 [45]-[46].

- necessary (there must not be any less restrictive alternative available)
 - proportionate (the balance between the importance of the purpose of the limit and the injury to rights).
13. Ensuring that any new legislation applies each of these elements assists the government to create balanced, robust, effective, and sustainable law that can produce tangible improvements for the people in Queensland without causing any unintended harm or any more harm than is necessary to achieve that goal.
 14. This submission outlines a number of options that seek to refine the Bill to ensure any limits on human rights are balanced. These refinements would not dilute the Bill's capacity to prevent hateful conduct, but would ensure that the Bill operates well, targeting conduct that poses a real and present risk of harm and at the same time, respecting other fundamental rights.

A careful approach to proscription of symbols and expressions

15. The Bill proposes to enable the Minister to proscribe an 'expression'.¹⁴ The Bill will make it an offence to publicly recite, distribute, publish or display a prohibited expression in circumstances in which the conduct could reasonably be expected to make a member of the public feel menaced, harassed, or offended.¹⁵ This will include an expression that 'so nearly resembles a prohibited expression it is likely to be confused with or mistaken for that expression'.¹⁶
16. The Bill requires that to proscribe an expression, the Minister must be satisfied that it is 'regularly used to incite discrimination, hostility or violence towards a relevant group'.¹⁷ The Bill also requires the Minister to consult with the chairperson of the Crime and Corruption Commission, the Queensland Human Rights Commissioner and the Police Commissioner.¹⁸
17. Existing laws prohibit the display of symbols prescribed by the Minister. To prescribe a symbol, the Minister must be satisfied the symbol is widely known by the public or a relevant group as being solely or substantially representative of an ideology of extreme prejudice against a relevant group.¹⁹ This higher threshold assists to ensure no symbol is proscribed which has multiple or contested meanings.

¹⁴ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 Bill, clause 4.

¹⁵ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026, clause 7.

¹⁶ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 Bill, clause 4.

¹⁷ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 Bill, clause 4(9).

¹⁸ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 Bill, clause 4(9).

¹⁹ Currently, the Criminal Code provides that the Minister may proscribe particular symbols or images which are widely known by the public as being solely or substantially representative of an ideology of extreme prejudice against a relevant group. A relevant group means a group of persons who identify

18. The proscription of expressions is more complicated than the proscription of a symbol or image. This is because language develops rapidly, and the meaning of words and expressions can change quickly. Additionally, language in the common vernacular is often used colloquially and without always reflecting a good grasp of its meaning.
19. In the Commission's view, this justifies the application of the higher threshold test already used in the context of symbols (i.e., that the Minister be satisfied the symbol is widely known as being solely or substantially representative of an ideology of extreme prejudice). Maintaining the same test for the proscription of symbols and expressions would also ensure consistency, simplifying application of the tests.
20. While this broader test that an expression be 'regularly used to incite discrimination, hostility or violence' will undoubtedly capture expressions which are genuinely representative of extreme prejudice or hatred, the test may also capture legitimate political debate and cultural commentary. This is because the requirement that the expression 'regularly incites' does not require that the expression be *predominantly* associated with incitement. Any expression which is *regularly* used to incite could qualify, even if the expression has another meaning.
21. Additionally, the incitement of 'hostility' may be interpreted to be a low threshold. 'Hostile' is commonly defined as 'opposed in feeling, action or character, unfriendly, antagonistic'.²⁰ It is feasible then, that general or vague critique could be considered to generate hostility where it is unfriendly or antagonistic but is not prejudicial or hateful.
22. Lastly, the inclusion of 'discrimination' may overlap with the existing prohibitions contained in the Anti-Discrimination Act and disrupt the existing approach to the prohibition of hateful conduct in Queensland. The existing system establishes a clear hierarchy: the Anti-Discrimination Act addresses discrimination and civil vilification (inciting hatred, contempt, or ridicule) through civil remedies, while the Criminal Code criminalises only vilifying acts that threaten or incite physical harm, or the display of symbols proscribed because they are representative of an ideology of *extreme prejudice* against a relevant group. This reflects that criminal sanctions should be reserved for the most serious harms - those involving threats of violence - while less serious vilification is addressed through civil processes.
23. Criminalising the use of an expression which incites 'discrimination' or 'hostility' disrupts this hierarchy by criminalising less serious conduct (not involving the incitement of violence) which is currently only associated with civil offences.
24. In the Commission's view, a less restrictive approach to prohibiting hateful expressions with additional safeguards could be:

with each other on the basis of an attribute or characteristic that is, or is based on, the race, religion, sexuality, sex characteristics or gender identity. It is an offence to publish a proscribed symbol or image in a way that could reasonably cause a member of the public to feel menaced, harassed, or offended.

²⁰ Macquarie Dictionary (online at <<https://www.macquariedictionary.com.au>>, definition of 'hostile', accessed 13 February 2026).

- a. proscribing expressions using the test for proscribing a symbol or image, that is, that the Minister is satisfied the expression is 'widely known by the public as being solely or substantially representative of an ideology of extreme prejudice against a relevant group'
- b. requiring consultation with affected communities before proscribing an expression.

Clear definitions for provisions to protect faith communities

25. The Bill proposes to introduce a new offence to criminalise an act done in the vicinity of a place of worship, which intimidates, or obstructs a person entering or leaving a place of religious worship, without a reasonable excuse.²¹ Obstruct is defined to include 'hinder, prevent and attempt to obstruct' meaning the offence could capture unintentional conduct which obstructs or hinders entry or exit.²² The offence carries a maximum penalty of 3 years imprisonment.
26. The Bill provides that only a person who obstructs without a 'reasonable excuse' will commit an offence. This defence could be defined to ensure unintentional conduct is not captured. Intention is typically required for a criminal offence as it is necessary to establish legal culpability, separating accidental acts from blameworthy conduct.

Clear rules for the proscription of terrorist symbols

27. The Bill proposes to enable the Minister to prescribe by regulation, particular classes of, or all state sponsors of terrorism or terrorist organisations listed by the Australian Government as a 'prescribed organisation' in Queensland.²³ The Bill further proposes to make it an offence to display a symbol of a prescribed organisation, including any symbol adopted by a prescribed organisation 'from time to time'. A person must have known or ought reasonably to have known the symbol was used by a prescribed organisation. The maximum penalty will be 2 years imprisonment.
28. The Commission acknowledges the legitimate purpose of these provisions, which is to 'protect the rights of all individuals to participate in public life without being subjected to symbols representing extreme violence or hateful ideologies'.²⁴
29. As the provisions will prohibit the use of symbols adopted by prescribed organisations 'from time to time', the likelihood of unintentional offending is relatively high. A less restrictive option, as required by the Human Rights Act,²⁵ could be to provide that the same processes for proscribing symbols and images under section 52C of the Criminal Code apply to the prescription of terrorist groups' symbols. This would require that the Minister be satisfied the symbol is widely known by the public or a relevant group as

²³ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026, clause 5, 6.

²⁴ Statement of Compatibility, Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 (Tabled Paper, Ref. No. 5826T0142, Queensland Parliament, 2026), 4.

²⁵ *Human Rights Act 2019* (Qld) s 13(d).

solely or substantially representative of an ideology of extreme prejudice. While this creates an additional burden on government to prescribe of the terrorist organisation via regulation, this burden is relatively minimal.

Additional guardrails for preparation offences

30. The Bill proposes to amend the Criminal Code by inserting section 540A which prohibits acts done in preparation for, or planning, to commit serious violence likely to cause the death of, or grievous bodily harm to, another person. The new offence will carry a maximum penalty of 14 years imprisonment.
31. Under proposed section 540A(2), a person commits a crime even if the offence does not occur; the person's act is not done in preparation for, or planning, a specific offence; or the person's act is done in preparation for, or planning, more than 1 offence.
32. The Explanatory Notes indicate that the offence is intended to apply in circumstances where an offender 'has not decided precisely what they intend to do'.²⁶
33. The new offence will sit within Part 7 of the Criminal Code which deals with 'Preparation to commit offences'. These include:
 - a. Attempts to commit an indictable offence;
 - b. Attempts to procure commission of criminal acts;
 - c. Knowing possession of a dangerous thing with intent to commit, or enable someone else, to commit a crime;
 - d. Conspiracy with another person to commit a crime or other offence.²⁷
34. 'Attempt' is defined by the Criminal Code as meaning when a person begins to put their intention to commit an offence into execution by means adapted to its fulfilment, and manifests the person's intention by some overt act, but does not fulfil the person's intention to such an extent as to commit the offence.²⁸
35. Traditionally, criminal law requires that a crime be completed or that substantial steps toward a specific crime be completed in order for an offence to be made out. This principle ensures that criminal liability attaches to choices and actions rather than thoughts or character. It also provides fair notice by making clear what specific conduct is prohibited so that the community can adjust its behaviour. Finally, it constrains state power by preventing arbitrary arrest and deprivation of liberty on ill-defined grounds, which further creates problems for enforcement.²⁹

²⁶ Explanatory Notes, Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 (Qld) 5.

²⁷ *Criminal Code Act 1899* (Qld), Part 7.

²⁸ *Criminal Code Act 1899* (Qld), section 4.

²⁹ See for example: S.M. Ryan, P. Callaghan & A.J. Rafter, *Carter's Criminal Law of Queensland* (LexisNexis, 25th ed, 2023).

36. Given the well-defined meaning of 'attempt', it is unclear what the new offence of 'preparation or planning' will capture. Adopting clearer definitions of 'preparation' and 'planning' may assist to clarify this.
37. As stated in the Explanatory Notes, the new offence is modelled on the offence under section 101.6 of the *Criminal Code 1995* (Cth) (**Commonwealth Criminal Code**) 'Other acts done in preparation for, or planning, terrorist acts'. However, section 101.6 requires the act be done in preparation for a terrorist act. The unique preventative needs associated with terrorism can involve coordinated attacks, international networks, and mass casualties arguably warrants earlier intervention than ordinary criminal law permits.
38. Criminalising conduct for preparation or planning places substantial limits on a number of human rights, including rights in criminal proceedings, the right to liberty and security of the person,³⁰ and the right to freedom of expression.³¹ The purpose of the limitations must be correspondingly critical, and be the least restrictive way of achieving the purpose.
39. A less restrictive option may be to adopt an offence similar to that contained in the Commonwealth Criminal Code i.e. targeted specifically at terrorism. Alternatively, the proposed offence could require that the acts done in preparation or planning must be demonstrably directed to a specified crime.

Expansion of the Youth Justice Act should be subject to an override declaration

40. The Bill proposes to expand the list of offences included under section 175A of the *Youth Justice Act 1992* (**Youth Justice Act**) to include stealing firearms or ammunition;³² reckless discharge of a weapon per section;³³ and possession and distribution of blueprint material for manufacture of firearms'.³⁴
41. The Queensland Government has previously stated that section 175A of the Youth Justice Act, which provides that children will be subject to the same minimum, mandatory and maximum penalties as adults for the prescribed offences included in the provision, is incompatible with human rights.³⁵
42. The Commission notes the Statement of Compatibility for the Bill does not identify that the inclusion of additional offences in section 175A are incompatible with human rights, and an exceptional circumstances statement has not been tabled in line with the requirements in section 43 and 44 of the Human Rights Act.

³⁰ *Human Rights Act 2019* (Qld) section 20.

³¹ *Human Rights Act 2019* (Qld) section 20.

³² *Criminal Code Act 1899* (Qld). section 398(15).

³³ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026, clause 68.

³⁴ Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026, clause 74.

³⁵ *Making Queensland Safer Bill 2024* (Qld), Human Rights Statement of Compatibility, Explanatory Document (First Reading, 2024), 5.

Offence thresholds for controlled operations, controlled activities and surveillance device warrant

43. The Bill amends the definitions which impose offence thresholds for controlled operations, controlled activities and surveillance device warrants. Currently, police may only conduct a controlled operation under section 229 of the *Police Powers and Responsibilities Act 2000* (Qld) (**PPRA**); a controlled activity under section 221A of the PPRA; or obtain a surveillance device warrant under section 323 of the PPRA in relation to the investigation of a serious offence which carries a maximum penalty of 7 years imprisonment.
44. The Bill proposes that police be permitted to conduct controlled operations and activities and obtain a surveillance device warrant in relation to offences carrying a maximum penalty of 3 years imprisonment.
45. Controlled operation means an operation which involves otherwise unlawful activity (e.g. participation in money laundering or drug trafficking) which is conducted for the purpose of obtaining evidence that may lead to prosecution.³⁶ A surveillance device warrant authorises the use of a surveillance device at a premises, in a vehicle or object including in relation private conversations, activities or geographical location of a stated person or a person whose identity is unknown.³⁷
46. These amendments will mean that the police will be permitted to conduct controlled operations and obtain surveillance device warrants in relation to the investigations of any offence carrying a maximum penalty of 3 years imprisonment. Additionally, the Bill expands the purposes for which the committee may approve a controlled operation namely the disruption or prevention of criminal activity.
47. While controlled operations will continue to be oversighted by the controlled operations committee, and surveillance device warrants will continue to require an application to a court, if deployed, these powers would place substantial limits on the right to privacy as well as limit other rights.³⁸ The substantial limitation on these rights is only justifiable in circumstances where the purpose for the limitation is sufficiently serious, for example to prevent serious violence. Lowering the threshold would permit these far-reaching powers to be used in relation to relatively minor offences (e.g., removing etc. property under lawful seizure section 147, Criminal Code, or common assault, section 330 Criminal Code), the disruption of which is not proportionate to potential injury to rights.
48. One less restrictive option available to government could be to retain a moderately higher threshold e.g., 5 years. Alternatively, the government could prescribed specific offences in relation to which these powers are available, via regulation.

³⁶ *Police Powers and Responsibilities Act 2000* (Qld), section 229.

³⁷ *Police Powers and Responsibilities Act 2000* (Qld), section 332.

³⁸ These rights include right to privacy, section 25; right to equality, section 15; peaceful assembly and freedom of association, section 22, protection of families and children, section 26, right to liberty and security, section 29; rights in criminal proceedings, section 32 *Human Rights Act 2019* (Qld).