FREE SPEECH POLICY 2026 — FS-P 2026/01

Broader rights framework, coordinated with the specific Digital Harm Prevention duties and safeguards.

Revision 2 · 27 September 2026. Coordinated with all five companion documents issued in this revision.

Coordinated drafting basis

One general rights test. One set of specific online categories. Child-only restrictions preserve lawful adult access. Government moderation demands require valid statutory notices, with reasons, records and review.

National positions follow the published One Nation free speech policy at onenation.org.au/free-speech-policy (retrieved 3 September 2026): that free speech is a fundamental right; that it should be enshrined in the Constitution; that laws and bodies which restrict it should be repealed; and that censorship, speech regulations and bureaucratic overreach that silence Australians should be dismantled. This paper is the operational form of that platform. It uses Articles 19 and 20 of the International Covenant on Civil and Political Rights - which Australia ratified in 1980 - as the legal test every speech restriction must meet. This paper is a proposal for Government adoption.

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1. Purpose and status

1.1 This paper proposes Australian Government policy on freedom of speech and of opinion. It converts the published One Nation platform - constitutional protection, repeal of restrictive laws, and the dismantling of censorship machinery - into an operational instrument that can be legislated, referred to a referendum, and applied by every department that writes a speech restriction.

1.2 Australia is a party to the International Covenant on Civil and Political Rights (ICCPR). Article 19 of that Covenant is the most precise statement of the right Australia has ever formally accepted. Article 20 of the same Covenant is the only speech prohibition the Covenant requires. This paper treats those two articles, read with the UN Human Rights Committee's General Comment No. 34, as the governing standard. Laws that fail that standard are not "balanced". They are non-compliant.

1.3 The implied freedom of political communication recognised by the High Court is real, and it is not enough. It is a limit on legislative power, not a right vested in a person. It covers political discussion, not the whole field of expression Article 19 covers. It has not stopped section 18C of the Racial Discrimination Act 1975, the Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026, or the August 2026 expansion of ASIO's compulsory questioning powers. An express constitutional freedom, drafted to the Covenant, is the remaining constitutional step.

1.4 This draft does not treat violence as speech. Incitement to imminent violence, threats of violence, and conspiracy to commit a violent offence remain crimes. The policy problem is the growing body of law that treats offence, insult, social discord, "hate", "extremism" and "communal violence" as if they were the same thing as violence.

2. Policy problem

2.1 No express right

Australia has no express constitutional guarantee of free speech. The High Court has inferred a freedom of political communication from sections 7 and 24 of the Constitution. That implied freedom can be burdened by any law that is reasonably appropriate and adapted to a legitimate end compatible with representative government. The result is a freedom that is narrower than Article 19, harder for an ordinary person to invoke, and routinely found to accommodate civil and criminal speech offences.

2.2 The Covenant was signed and then left on the shelf

Australia signed the ICCPR in 1972 and ratified it in 1980. It has never enacted the Covenant as domestic law. Statements of Compatibility under the Human Rights (Parliamentary Scrutiny) Act 2011 recite Article 19 and then certify almost every restriction as compatible. The Parliamentary Joint Committee on Human Rights has no power to stop a bill. The Attorney-General's own guidance sheet correctly states that Article 19(1) - the right to hold opinions - admits of no restriction, and that Article 19(2) covers unpopular ideas that may offend or shock. Practice has not followed that guidance.

2.3 Insult has been treated as if it were incitement

Section 18C of the Racial Discrimination Act makes it unlawful to do a public act reasonably likely to "offend, insult, humiliate or intimidate" a person or group on the ground of race, colour, or national or ethnic origin. That is a civil harm threshold well below Article 20(2) of the ICCPR, which requires advocacy of hatred that constitutes incitement to discrimination, hostility or violence. Section 18D exemptions for good-faith comment have not prevented high-profile political speech from being litigated for years. In Faruqi v Hanson the Federal Court in 2024, and the Full Court in July 2026, treated a political tweet as racial discrimination and held that section 18C as qualified by section 18D did not impermissibly burden the implied freedom. A senator can be found to have broken the law for a rude political sentence. That is the operational meaning of "the implied freedom is enough".

2.4 Post-Bondi criminalisation of "hate"

After the antisemitic terrorist attack at Bondi Beach on 14 December 2025, the Parliament in January 2026 passed the Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026. The Act increased penalties for existing hate-crime offences, created aggravated preacher and leader offences, expanded prohibited-symbol offences, authorised listing of "prohibited hate groups", and attached membership, recruitment, training, funding and "support" offences carrying between seven and fifteen years' imprisonment. It also authorised visa refusal and cancellation for "hate-motivated conduct". An exposure-draft racial-vilification offence - publicly

promoting or inciting racial hatred where a reasonable target would fear harassment, intimidation or violence, maximum five years - sat alongside the package. A defence for direct quotation of a religious text for teaching was proposed and immediately contested.

Violence against Jewish Australians, and against any other group, is already a crime. The policy objection is not to the punishment of violence. It is to a legislative method that uses a massacre as the warrant for a new class of status and speech offences - membership of a listed group, "support", preaching, symbols, and "hate-motivated" migration decisions - defined by executive listing and by words whose ordinary meaning is political, religious or rude.

2.5 ASIO questioning has been stretched onto speech-adjacent ground

ASIO's compulsory questioning regime was built after 11 September 2001 as a temporary, extraordinary power. It lets the Organisation compel a person, including a child from the age of 14, to attend in secret, answer questions, and face imprisonment for refusal. There is no right to silence. Adult questioning was originally confined to espionage, politically motivated violence and foreign interference.

The Australian Security Intelligence Organisation Amendment Bill (No. 2) 2025, passed on 20 August 2026 with major-party support, expanded adult questioning to sabotage, promotion of communal violence, attacks on Australia's defence system, and serious threats to territorial and border integrity. A bid to make the powers permanent was withdrawn after public and crossbench pressure; a three-year sunset was restored.

One Nation voted against the bill. Two Liberal senators crossed the floor. Civil-liberties bodies described the expansion as the largest increase in secret interrogation and detention powers in more than two decades.

"Promotion of communal violence" is the clause that converts a terrorism-era questioning power into a speech power. Combined with the 2026 hate-group listing machinery, it creates a path from a political meeting or a sermon, through an intelligence assessment, to secret interrogation of people who have not been charged with any crime.

2.6 The online enforcement state

The Online Safety Act 2021 and the office of the eSafety Commissioner have produced a practice of informal takedown notices that sidestep the formal removal process. Industry analysis of the Commissioner's own figures has recorded more than a thousand informal notices against a handful of formal removal requests. The Federal Court has already found that an informal request was presented as if it were a legal demand. The under-16 social-media prohibition, higher civil penalties on platforms, and the foreshadowed Digital Duty of Care all push platforms toward over-removal of lawful adult speech. None of this is required by Article 19. All of it is easier than prosecuting a violent offence.

2.7 State and Territory pile-on

Victoria's Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act expanded criminal and civil vilification from race and religion to disability, gender identity, sex, sex characteristics and sexual orientation, with civil provisions due to be fully in force by mid-2026. New South Wales has separately tightened racial-hatred offences. The Commonwealth then adds its own layer. A speaker in Australia now faces three levels of restriction, three regulators, and three different harm thresholds, none of which is the Covenant's incitement test.

3. The human-rights standard Australia already accepted

3.1 This policy does not invent a new theory of free speech. It applies the treaty Australia ratified.

3.2 Article 19 - opinion and expression

Article 19(1). Everyone shall have the right to hold opinions without interference. The Attorney-General's Department guidance sheet states, correctly, that this right cannot be subject to any exception or restriction.

Article 19(2). Everyone shall have the right to freedom of expression. That right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in writing, in print, in the form of art, or

through any other media of the person's choice. The Human Rights Committee has confirmed that the right covers expression that may offend, shock or disturb.

Article 19(3). The exercise of the paragraph 2 right carries special duties and responsibilities. It may be restricted only where the restriction is provided by law and is necessary:

• for respect of the rights or reputations of others; or

• for the protection of national security or of public order (ordre public), or of public health or morals.

No other ground is available. Social cohesion, community harmony, the prevention of offence, and the protection of a government's preferred narrative are not listed grounds.

3.3 The three-part test

General Comment No. 34 states the conditions with precision. A restriction must be provided by law that is clear and accessible. It may be imposed only for a ground in Article 19(3). It must meet strict tests of necessity and proportionality: appropriate to its protective function, the least intrusive instrument that might achieve that function, and proportionate to the interest protected. When a State invokes a legitimate ground, it must demonstrate in a specific and individualised fashion the precise nature of the threat, and a direct and immediate connection between the expression and that threat. Restrictions must not be overbroad. They must not be applied for a purpose other than the one for which they were prescribed.

3.4 Article 20 - the only speech ban the Covenant requires

Article 20(1) requires that propaganda for war be prohibited by law. Article 20(2) requires that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence be prohibited by law.

Two points follow. First, the prohibited conduct is advocacy that constitutes incitement - not offence, not insult, not the holding of a hateful opinion, not membership of a disfavoured group, and not the quotation of a religious text. Second, even an Article 20 prohibition must still satisfy Article 19(3). The Human Rights Committee has been explicit that Article 20 measures are compatible with Article 19 only when they also meet the three-part test.

3.5 Australia's reservation to Article 20

On ratification Australia declared that it interprets Articles 19, 21 and 22 as consistent with Article 20, that the Commonwealth and the States had already legislated on matters of practical concern in the interest of public order, and that it reserved the right not to introduce any further legislative provision on those matters.

This policy interprets that reservation as supporting restraint in adding speech offences. The policy criticises subsequent legislation as departing from that approach. This policy restores its original purpose: Australia will criminalise incitement to violence. It will not keep stacking new speech offences on top of that core.

3.6 What the Covenant does not allow

General Comment No. 34 is specific on several categories that Australian debate keeps reopening:

• Prohibitions on displays of lack of respect for a religion or belief system, including blasphemy laws, are incompatible with the Covenant except to the extent they meet Article 20(2).

• Laws that purport to lock in an official historical narrative are incompatible with the Covenant.

• Imprisonment is never an appropriate penalty for defamation; States should consider decriminalising it.

• Journalists, human-rights defenders and others must be able to criticise public figures and public institutions.

A domestic law that fails those propositions fails the treaty Australia already signed.

4. Policy objectives

The Government's objectives, on adoption, are to:

• enshrine an express constitutional freedom of speech and of opinion, drafted to Article 19 of the ICCPR, by referendum

• make the Article 19(3) three-part test a statutory condition of every Commonwealth speech restriction

• repeal or rewrite opinion- and insult-based vilification provisions in accordance with Parts 6 and 7, while retaining independently justified material and child-access protections under Part 9

• confine ASIO compulsory questioning to the original national-security grounds, restore meaningful sunset and judicial control, and remove "promotion of communal violence" as a questioning head

• shut down informal government takedown demands and confine online restrictions to the Digital Harm Prevention statutory categories, with child-list restrictions confined to children and all restrictions subject to the Article 19 test

• protect journalism, satire, academic work, religious teaching and political communication as presumptively lawful

• leave standing the ordinary criminal law of violence, threats, and incitement to imminent violence

• require a public compatibility statement, against this policy and against Articles 19 and 20, before any future speech restriction is introduced

5. Constitutional protection

5.1 One Nation is the only party this term to have convened a Free Speech Conference, to have moved in the Senate for a referendum framework, and to have led public opposition to the post-Bondi and ASIO packages on speech grounds. Senator Hanson has moved to establish the machinery of a referendum. That is the starting point. Wording is the work.

5.2 The implied freedom will remain as a judicial doctrine until it is replaced or supplemented. It will not be the Government's theory of the right. The right is the one in Article 19.

The Government will

- Introduce a Constitution Alteration bill proposing insertion of a new section guaranteeing freedom of opinion and of expression in terms drawn from Article 19 of the ICCPR, including the Article 19(3) limitation clause so that the amendment is self-contained.

- Provide that the new section is a right of every person in Australia, not merely a restriction on Commonwealth power, and that it binds the Commonwealth and, so far as the Constitution permits, the States and Territories.

- Provide that a law imposing a restriction on expression is invalid unless the restriction is provided by law, directed only to a ground in Article 19(3), and necessary and proportionate in the sense used by General Comment No. 34.

- Refer the proposed wording to the Legal and Constitutional Affairs References Committee, and then to the Australian people, with a question that can be answered Yes or No without a second accompanying proposal.

- Fund both the Yes and No cases on equal terms. A free-speech referendum that rigs the official pamphlet would be a contradiction in terms.

5.3 The amendment will not be a United States First Amendment facsimile, and it does not need to be.

Article 19 already contains the limitation clause. What Australia lacks is an enforceable domestic right with that content. Putting the Covenant text into the Constitution does the work without requiring the High Court to keep inferring a narrower freedom from the structure of the Parliament.

5.4 Pending the referendum, the Government will legislate the same standard as an ordinary Act - a Free Speech Act - so that Commonwealth officers, regulators and platforms have a rule they can apply on day one. An ordinary Act can be repealed by the next Parliament. That is why the referendum remains the object.

6. The test that every speech law must meet

6.1 From commencement of the Free Speech Act, no Commonwealth bill, regulation, instrument, regulator notice or grant condition that restricts expression may proceed unless the responsible minister certifies, with reasons, that the measure:

(a) is set out in clear, accessible law, so that a person can know in advance what is forbidden;

(b) pursues only a ground listed in Article 19(3) - rights or reputations of others, national security, public order, public health or morals;

(c) is necessary, in that the minister can identify the precise threat and a direct and immediate connection between the expression and that threat;

(d) is the least intrusive instrument that might achieve the protective function; and

(e) does not restrict the holding of an opinion (Article 19(1)), which admits of no limitation.

6.2 A certification that recites "social cohesion", "community harmony", "disinformation", "hate" or "extremism" without tying the measure to a listed Article 19(3) ground is not a certification. The Government must not proceed without a reasoned certificate. A procedural failure does not itself invalidate an enacted law or permit a court to control parliamentary debate.

6.3 The Government will refer speech-restriction bills to the Parliamentary Joint Committee on Human Rights. Following a majority adverse report, the responsible Minister must seek at least a full sitting day of consideration in each House and publish a response. Each House retains control of its proceedings; the Act does not create a judicial veto on parliamentary debate.

The Government will

- Enact a Free Speech Act applying the Article 19(3) test to every Commonwealth restriction on expression.

- Amend the Human Rights (Parliamentary Scrutiny) Act 2011 so that a Statement of Compatibility on a speech-restriction bill must answer the five questions in paragraph 6.1 in plain language, with the text of the restriction set out.

- Require the Minister to seek a full-day debate following an adverse speech-restriction report, while preserving each House's control of proceedings.

- Direct the Office of Parliamentary Counsel to refuse to finalise a speech-restriction bill that has no completed paragraph 6.1 certificate.

7. Hate-speech, vilification and prohibited-group laws

7.1 The criminal law should punish violence, threats of violence, and incitement to imminent violence. It should not punish the causing of offence. The Covenant draws that line. Australian statutes have spent thirty years walking backwards across it.

7.2 Section 18C

Section 18C fails the test in Part 6. "Offend, insult, humiliate or intimidate" is not incitement. It is not clear.

It is not the least intrusive instrument. The 18D good-faith exemptions are a partial confession that the primary prohibition is too wide; they have not stopped political speech being tried as racial discrimination.

The implied-freedom analysis in Faruqi v Hanson confirms that the current doctrine will not correct the statute. Parliament must.

7.3 The 2026 hate package

The Combatting Antisemitism, Hate and Extremism Act 2026 contains measures of different kinds. Some are ordinary criminal law - higher penalties for urging or threatening violence, tighter controls on firearms and on instructions for making explosives. Those can stand, subject to the ordinary review of penalty and scope. Others are speech and status offences: listing of prohibited hate groups by executive instrument;

membership, recruitment, training, funding and "support" crimes; preacher aggravation; symbol offences with a reversed burden on public-interest elements; visa cancellation for "hate-motivated conduct". Those measures must be re-tested against Part 6 and against Article 20(2).

A listing regime that turns on an intelligence assessment that a group has "advocated" hate crimes, followed by years of imprisonment for membership or "support", is a speech and association regime. Article 22 of the ICCPR (freedom of association) is engaged as well as Article 19. Listing may be justifiable for an organisation whose purpose is violence. It is not justifiable for an organisation whose purpose is a political or religious argument the government dislikes.

7.4 What remains

The Government does not propose a vacuum. The Criminal Code already contains offences of urging violence against groups and threatening force or violence. Those offences, drafted to a violence standard, are the Article 20(2) implementation this country actually needs. They should be kept, used, and not diluted by a parallel "hate" code that catches less.

The Government will

- Repeal section 18C of the Racial Discrimination Act 1975. Repeal section 18D prospectively with section 18C, saving both provisions for proceedings already commenced. Bar new proceedings after commencement, preserve final judgments and leave costs to ordinary judicial discretion.

- Replace the civil vilification model with a single Commonwealth incitement offence aligned to Article 20(2): advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Specific intent. A direct and immediate connection between the words and the incitement. No offence of causing offence.

- Review every speech and status provision of the Combatting Antisemitism, Hate and Extremism Act 2026 against the Part 6 test within 90 days. Apply the Bill's review-and-parliamentary-response mechanism to provisions failing the Article 19 test, with the specific incitement elements required where that offence is alleged. Protected expression alone must not ground membership, support or preacher liability. Confine listing to organisations whose purpose is the commission of violent offences.

- Restore the persuasive burden on the prosecution for every element of a symbol or public-interest speech offence. A reversed burden on a speech defence is not compatible with Article 19.

- Repeal "hate-motivated conduct" as a standalone visa-cancellation ground. Character and criminality grounds already exist. Speech that is lawful for a citizen is not a deportation ground for a visa holder.

- Invite the States and Territories to match the Commonwealth incitement standard and to repeal insult-based vilification. Commonwealth funding agreements for legal-assistance and anti-discrimination bodies will not subsidise the enforcement of insult laws.

8. ASIO questioning powers and speech-adjacent security law

8.1 A democracy is allowed a security service. It is not allowed to let that service become a secret police for political speech. ASIO's compulsory questioning powers were sold as a temporary response to mass-casualty terrorism. They have been renewed repeatedly, extended to children of 14, and in August 2026 stretched onto "promotion of communal violence" and border-integrity heads that have no necessary connection to a bomb or a spy.

8.2 Compulsory questioning without a right to silence, in secret, of a person who is not suspected of a crime, is an extraordinary power. The Independent National Security Legislation Monitor has previously recommended that the powers be repealed or allowed to lapse. Use-counts of "only twenty times in twenty years" are not a complete answer. A power that is rarely used can still be used on the wrong person, and the rarity is itself an argument against permanence.

8.3 "Promotion of communal violence" is the speech clause. It sits in the same conceptual family as the 2026 hate-group listing power. Together they let an intelligence assessment of someone's politics become the warrant for secret interrogation. That is the overreach this policy exists to stop.

The Government will

- Repeal "promotion of communal violence" as a ground for an ASIO questioning warrant. Violence and the planning of violence remain available under politically motivated violence and ordinary criminal process.

- Confine adult questioning warrants to espionage, politically motivated violence, and foreign interference

- the original heads - unless the Parliament separately and specifically adds a new head after a public INSLM report and specific primary legislation.

- Prohibit the use of compulsory questioning to investigate expression that is lawful under the Free Speech Act.

- Restore a right to silence for any questioning that touches on political, religious or journalistic expression, and a right to a lawyer of choice present throughout.

- Raise the minimum age for any questioning warrant to 18. A child is not an intelligence source to be locked in a room.

- Keep the three-year sunset. Any renewal requires a public INSLM report and a debate of not less than a full sitting day in each House.

- Require a judicial warrant, not only an internal prescribed authority, before a person can be detained for questioning.

- Reverse the August 2026 amendments that relieved ASIO of the obligation to disclose the outcome of university investigations and that sought to put that advice beyond judicial review.

9. Online regulation, the eSafety office and platform compulsion

9.1 The internet is a medium of expression under Article 19(2). Government-compelled platform moderation is a restriction on expression and must satisfy Part 6 of this policy.

9.2 Relationship with Digital Harm Prevention

The Free Speech framework supplies the general rights test. The Digital Harm Prevention framework supplies the specific online duties and closed statutory categories. Neither is a blanket exception to the other. A restriction must identify both its statutory power and its permitted category, satisfy necessity and proportionality, protect lawful opinion, and remain subject to court and merits review. Material on the child-protection list alone may be restricted for children; that listing does not authorise its removal from lawful adult access.

The Online Safety Amendment (Digital Harm Prevention) Bill 2026 is the companion operational instrument. It supplies reasonable-steps duties, statutory notices, court-imposed penalties, a durable ranking choice, and the two

closed lists in proposed sections 43E and 43G of the Online Safety Act 2021. The Free Speech Bill recognises those provisions without immunising them from its rights test.

9.3 Permitted material categories

The illegal-material list covers Class 1 material; child-sexual exploitation material; pro-terror material within the Bill's definition; non-consensual intimate images including synthetic images; specified Commonwealth offences concerning threats to kill, stalking, cyberflashing and criminal publication of personal information; and instruction in Commonwealth offences punishable by at least five years, excluding offences consisting only of opinion. Listing for regulatory purposes does not itself make possession or expression a new criminal offence.

The closed child-protection list contains only: X18+ or sexually explicit Refused Classification material and unclassified equivalents; suicide or serious self-harm method instruction; eating-disorder method instruction; and instruction or direct encouragement of an indictable offence by a child. Non-instructional discussion, memoir, reporting, research, recovery and lived experience are excluded from the two method-instruction categories. Mere reporting or depiction of crime is excluded from the fourth category.

A child is a person under 18. Providers act where they know or reasonably ought to know the user is a child. A child-only category does not justify a general adult takedown. A notice must choose the least intrusive effective means and preserve lawful adult access.

9.4 Formal notices and attempted informal requests

Commonwealth Ministers, officers and regulators must not seek removal, restriction, demonetisation, down-ranking or refusal to generate particular material except by a valid statutory notice. A notice must identify the enabling power, the applicable statutory category, the material, the required action, reasons, the compliance period and review rights. A child-list notice must be confined to preventing recommendation or supply to children and must preserve lawful adult access. Prohibited informal requests must be recorded whether or not the provider complies. Recording never validates a request. A neutral report of suspected unlawful conduct to police, an application to a court, or the provision of evidence without a request or pressure for moderation is not an informal takedown demand. An officer who knowingly presents a non-binding request as legally compulsory commits an offence punishable by 60 penalty units.

9.5 Accountability

Providers must keep records of statutory notices and attempted informal government moderation requests. Providers relying on a Commonwealth statutory safe-harbour must publish quarterly aggregate reports, separating action under statutory notices, action following prohibited informal requests, and independent terms-of-service moderation. The Commissioner must publish an annual aggregate report covering all valid notices and recorded attempted requests. Reports must protect personal information, victims, confidential journalistic sources and lawful investigations. These obligations do not authorise retention or republication of unlawful imagery. Other providers supply the relevant aggregate records for the annual report.

9.6 Provider duties and limits

Retain the Digital Harm Prevention reasonable-steps duties, systemic-failure threshold and reasonable-systems defence. Retain the 24-hour scheme for specified Class 1 and intimate-image notices. A short clock does not cure an invalid notice or remove review rights. No broad duty to suppress lawful opinions is authorised.

The ranking choice applies to users aged 16 and over on services with at least one million active Australian accounts in a calendar month. Users aged 16 or 17 remain children for the closed-list protections. Existing social-media minimum-age rules are not amended by this package.

Provider information-gathering may verify the material duties, ranking choice and reporting within their statutory limits. Ordinary users' records about another person's speech require independent judicial authority under existing law, tied to specified illegal material. No new warrant power is created.

9.7 Commencement and preservation

Free Speech Schedule 4 operates as a coordination rule when the Digital Harm Prevention provisions commence; it does not insert a competing list or duplicate offence. Until then, existing online schemes continue subject to the general rights provisions as they commence. Commencement in either order must not create an enforcement gap or revive an invalid restriction.

10. Journalism, protest, satire, religion and political communication

10.1 These categories are not privileges. They are the ordinary exercise of Article 19(2). They receive express protection in the Free Speech Act so that a later minister cannot discover an implied exception.

10.2 Journalism includes the seeking, receiving and imparting of information about government, including national-security government. Source protection is part of that right. A warrant that is in substance a search for a journalist's source will require judicial authorisation at the level of a superior court, notice where notice would not destroy the investigation, and a public-interest test that treats publication of a true matter of public concern as a weight on the side of refusal.

10.3 Peaceful protest is expression. It is also assembly under Article 21. Move-on powers, "exclusion zones" and protest-specific criminal offences will be reviewed against both articles. A protest that is noisy, rude or unpopular is still a protest.

10.4 Satire, parody and artistic work are protected even when they are in bad taste. Bad taste is not a listed ground in Article 19(3).

10.5 Religious teaching, including the reading of scripture that a listener finds harsh, is protected. A "religious text" defence carved as an afterthought onto a vilification offence is the wrong way around. The starting point is that religious speech is lawful. Religious opinion is not unlawful merely because it offends. Incitement remains subject to Article 20(2). The neutral material and child-access duties in Part 9 also apply where their elements are independently established; no label such as religion or journalism is a defence to child-sexual exploitation or non-consensual intimate imagery.

10.6 Political communication - including communication that is angry, wrong, or directed at a member of Parliament - is the core of representative government. The implied freedom already gestures at this. The Free Speech Act will state it.

The Government will

- Write express protections for journalism, peaceful protest, satire and artistic work, religious teaching, and political communication into the Free Speech Act.

- Require superior-court authorisation for any warrant aimed at a journalist's confidential source.

- Repeal Commonwealth offences that criminalise the mere public display of a political symbol where the display is not itself a threat of violence.

- Direct the Commonwealth Director of Public Prosecutions to publish a prosecution policy for speech offences that requires the Article 20(2) incitement threshold to be met on the papers before a brief for the new incitement offence is accepted. This does not replace the elements of separate violence, exploitation or intimate-image offences, or convert civil child-protection duties into criminal incitement cases.

11. Implementation

11.1 Sequence matters. An ordinary Act can be passed in the first sitting period. A referendum cannot.

Security and online amendments can be moved as soon as the bills are drafted. Section 18C can be repealed on the same timetable as the Free Speech Act.

Stage 1 - first sitting period. Coordinated Free Speech and Digital Harm Prevention Bills; repeal of section 18C; Part 6 certification rule; eSafety informal-notice ban; direction to the CDPP.

Stage 2 - within 90 days. INSLM-supervised review of the 2026 hate package and of ASIO questioning heads; repeal or rewrite of provisions that fail the test.

Stage 3 - within six months. Constitution Alteration bill introduced; committee inquiry on wording;

equal-funded Yes and No cases prepared.

Stage 4 - at the next convenient national poll, or earlier if the Parliament agrees. Referendum.

11.2 The Attorney-General's Department will own the Free Speech Act and the referendum bill. Home Affairs will own the ASIO and listing amendments. The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts will own the Online Safety Act amendments. No department will be permitted to write a speech restriction that another department then has to justify.

12. Governance, review and reporting

12.1 A Free Speech Council will be established as a small statutory board - not a new censorship office -with a duty to report annually on Commonwealth restrictions that have been made, refused, or certified under Part 6. Membership will include a former judge, a journalist, a civil-liberties representative, a faith representative and a national-security representative. It will have no takedown power.

12.2 The Independent National Security Legislation Monitor will be required to review, in the first twelve months and then with every sunset, the interaction between ASIO questioning, hate-group listing, and political and religious expression.

12.3 Three years after commencement the Attorney-General will table a report on whether the ordinary Act has been sufficient and whether the constitutional amendment has passed. If the amendment has not passed, the report will state what further ordinary legislation is required to hold the line.

12.4 Nothing in this policy authorises a party, a minister or a public servant to punish a person for a lawful opinion. Party rules about who speaks for a party are not the criminal law. The criminal law is what this paper is about.

13. Definitions

Article 19 test. The conditions in Article 19(3) of the ICCPR as construed by General Comment No. 34:

provided by law; directed only to a listed ground; necessary and proportionate; with a demonstrated connection between the expression and the threat. Preventative child duties may be justified by the defined category and delivery context, without waiting for completed individual injury.

Expression. The seeking, receiving and imparting of information and ideas of all kinds, in any medium, including political speech, journalism, art, satire, religious teaching, academic work and online publication.

Hate, as used in existing statutes. A political and moral word, not a legal category this policy will use as an element of an offence. Offences will be drafted in the language of violence, threats and incitement.

Incitement. Advocacy that is intended to, and is likely in the circumstances to, cause another person to commit discrimination, hostility or violence, with a direct and immediate connection between the words and that result. Mere offence, insult, or the expression of a hateful opinion is not incitement.

Opinion. The inner holding of a view. Protected absolutely by Article 19(1). No law may punish a person for what they think.

Speech restriction. Any Commonwealth primary or delegated legislation, regulator notice, grant condition, platform direction or listing decision whose intended or practical effect is to forbid, compel, penalise or raise the cost of expression.

14. References

One Nation, Free Speech Policy, onenation.org.au/free-speech-policy (retrieved 3 September 2026).

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End of policy FS-P 2026/01, revision 2. Prepared by Alecomm as a policy proposal. This paper is prepared from the

published One Nation free-speech platform and from the public record of the 2025-26 speech, security and vilification statutes. It is not an official publication of the Commonwealth.

Coordination note - 27 September 2026

This revision preserves the broader policy programme while replacing the former three-category online-removal limit with the Digital Harm Prevention framework. The constitutional proposal requires a separate Constitution Alteration Bill and referendum. No ordinary Act guarantees immunity from amendment by a later Parliament. The newly prepared Free Speech Bill is reconstructed from this policy and EM-FS 2026/01, with coordinated provisions; it is not a recovered original bill.