Intersex Human Rights Australia Ltd
For intersex human rights, information, and education
PO Box 51, Altona, VIC 3018, Australia
+61 405 615 942 info@ihra.org.au
ihra.org.au

Federal election questionnaire, 2022

One page background note

People with intersex variations have any of a range of traits affecting sex chromosomes, development of gonads, genitals, and/or other sex characteristics. Early surgical and hormonal interventions to modify the appearance and function of atypical sex characteristics remain routine in Australia. For example, a 2020 paper in the *Australian Journal of General Practice*, identifies 'surgical options' as a factor in determining 'sex assignment' in situations of doubt. Community organisations and human rights institutions have profound concern about historic and continuing medical practices and norms. In 2021, the Australian Human Rights Commission (AHRC) made 12 recommendations in a report, '*Ensuring health and bodily integrity*'. This report builds on recommendations of a 2013 Senate committee inquiry on the *'Involuntary or coerced sterilisation of intersex people'*. To date, the recommendations of neither report have been implemented.

Some early surgical interventions are necessary for physical health and well-being, but others are justified through appeals to gender stereotypes and medical eminence, and overly loose conceptions of medical necessity and therapeutic treatment that permit these as rationales for treatment (pages 44 and 74 of the AHRC report). There is no firm evidence base for current medical practices (pages 74 and 119 of the AHRC report). Doctors specialising in aspects of physical health have argued that psychosocial factors and mental health are appropriate reasons for early surgical intervention, but professional bodies of psychiatrists and psychologists have rejected these rationales (pages 78 and 81 of the AHRC report). The AMA has called on doctors to respect the bodily integrity of intersex people.

On the one hand, medicine still seeks to construct future heterosexual, cisgender adults out of people with intersex variations. On the other hand, social policy frequently assumes that to be intersex is to be queer or gender diverse. The reality is that the intersex population is exceptionally diverse. People with intersex variations have no shared experience of identity, but we do have shared experiences of stigma and marginalisation, and we have a shared experience of others determining who we should be without reference to individuals' values and preferences. There are no Standards of Care because there is no medical consensus and limited evidence to support them. Nevertheless, the 2021 AHRC and 2013 Senate committee reports provide a firm basis for legislative reform, and associated oversight, treatment standards, and resourcing of peer and family support and advocacy.

Currently, less than a handful of individuals are funded to provide part-time peer and family support, and systemic advocacy in Australia, largely through foreign philanthropy. There is no helpline or independent psychological support for individuals, parents, and families.

Survey questions

1. Should early surgical interventions to modify the appearance and function of atypical sex characteristics only occur when necessary for physical health and well-being?

YES

2. Are gender stereotypes a valid reason for early surgeries to modify the appearance of atypical sex characteristics, before individuals can freely express their own values and preferences?

NO

3. Is parental distress a valid 'best interests' justification for early surgeries to modify the appearance of atypical sex characteristics in an infant or child?

NO

4. Should the bodies of children with intersex variations be modified to fit gender stereotypes and social norms, or should society adjust to accept people with innate atypical sex characteristics?

NO, the bodies of children with intersex variations should not be modified to fit gender stereotypes and social norms; society should adjust to accept people with innate atypical sex characteristics.

5. Existing Medicare codes (e.g., the feminising procedures itemised in 37845, 37848 and 35565) promote paediatric vaginoplasties and genitoplasties, while limiting access to genital procedures as adults. Should surgeries to modify the appearance or function of atypical sex characteristics be available at time when individuals are able to determine what kinds of treatment fit their needs and values?

YES

6. Individuals subjected to surgeries without personal informed consent frequently need lifelong medical services, including hormone replacement, and sometimes including psychological support and consequential surgeries. Should Medicare, PBS and public hospitals fund adult procedures and services?

YES

7. When someone has had an early surgical intervention to modify the appearance or function of their genitals and it was not something that they would have consented to (it was not in line with their own preferences or values), should they be entitled to redress?

YES

8. Currently, peer and family support for people with innate variations of sex characteristics is not funded, or presumed to be funded within programs for queer adults. Should peer and family support, including psychological support be funded?

YES

9. Should intersex-led organisations be funded by the Commonwealth to provide peer and family support?

YES

10. Should intersex-led organisations be funded by the Commonwealth to provide systemic and individual advocacy to families and persons with innate variations of sex characteristics?

YES

11. Should intersex-led organisations be funded by the Commonwealth to support collaborative research to help people with atypical sex characteristics to flourish?

YES

12. Should independent community services for people born with atypical sex characteristics and their families be funded by the Commonwealth?

YES

13. If someone observed female at birth is found to have an intersex variation in childhood, adolescence, or adulthood, is it acceptable to reassign them to a different sex category against their wishes? If so, under what circumstances?

NO

14. Should cisgender women (observed female at birth) be reassigned to a different sex category in sport?

NO - see clarification to the Q from Morgan below
Via email from Morgan: "Question 14 should be read in the light of question 13, focused on sport. A cisgender woman is someone who identifies with her sex/gender observed or assigned at birth. If a cisgender woman is discovered to have an intersex variation in childhood, adolescent or adulthood, should she be reassigned to a different category in sport?"

15. Does the Commonwealth have any role in ensuring nationally consistent healthcare, norms and standards, and resourcing for individuals with intersex variations and their families?

YES

16. Should affirmative information about intersex traits be included in school education curricula, in order to help reduce stigma and distress amongst youth, parents and prospective parents?

YES

17. Current medical curricula frequently omit material on intersex variations, or present intersex as a problem to be treated through early surgery. Should medical and allied health professionals be trained in ways that affirm the human rights of patients with innate variations of sex characteristics?

YES

18. Current anti-discrimination protections on grounds of 'intersex status' are based on a model of deficit and frequently misunderstood to refer to a population of people with a particular identity. Best practice, implemented in ACT, Victoria and, to a lesser extent, Tasmania, is to implement protections on grounds of 'sex characteristics'. Will your party initiate or support an update to legislation in line with this best practice?

YES

19. No protections exist on grounds of intersex status or sex characteristics in the Fair Work Act. Will your party initiate or support legislative protections on grounds of sex characteristics?

YES

20. The 2020 ABS Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation importantly distinguishes variations of sex characteristics from sex and gender. Will your party support action to ensure data collection consistent with this Standard in all Commonwealth Departments and other settings?

YES

21. What does your party policy or platform say about the human rights and health of people with innate variations of sex characteristics?

The Australian Greens policy platform includes an extensive *Sexual Orientation, Gender Identity and Intersex* statement, that addresses a wide range of points on human rights and health. Among those points are that:

- The Australian Greens believe that … All people, including intersex and gender diverse people, have a right to bodily autonomy and physical integrity.

- The Australian Greens want … Irreversible medical intervention for children born with an intersex variation to occur only when they are able to give informed consent, unless it is determined to be both in the best interest of the child and necessary for the maintenance of health or the preservation of life.

As part of our fully funded platform, the Australian Greens have committed to funding implementation of the Darlington Statement, including $100m in capped funding to work towards a redress scheme for people with variations in sex characteristics who have undergone forced or coercive medical practices.

References

The background note refers to the following reports with recommendations for action by Commonwealth and State and Territory governments:

Australian Human Rights Commission. 2021. *Ensuring Health and Bodily Integrity: Towards a Human Rights Approach for People Born with Variations in Sex Characteristics*. Sydney, Australia: Australian Human Rights Commission. https://humanrights.gov.au/intersex-report-2021.

Senate of Australia Community Affairs References Committee. 2013. *Involuntary or Coerced Sterilisation of Intersex People in Australia*. http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation/Sec_Report/index.