

May 2022

Call for action on intersex health and human rights

1. National legislation to protect the human rights of people with innate variations of sex characteristics in medical settings
 - 1a. In the alternative, nationally consistent legislation to protect the human rights of people with innate variations of sex characteristics in medical settings
2. National human rights-affirming standards of care for medical treatment involving people with innate variations of sex characteristics
3. National resourcing for peer and family support and advocacy services for people with innate variations of sex characteristics and our families, including a dedicated helpline
4. Reform to paediatric MBS item codes to end reimbursement incentives for unnecessarily early surgeries on children with innate variations of sex characteristics
5. Update sex/gender recognition guidelines to match the 2021 ABS Standard on Sex, Gender, Variations of Sex Characteristics and Sexual Orientation, to ensure accurate, respectful data collection in government and health systems
6. Update the *Sex Discrimination Act 1984 (Cth)* to implement protections for people with innate variations of sex characteristics on the ground of 'sex characteristics' rather than 'intersex status'
7. Add missing protections in the *Fair Work Act 2009 (Cth)*
8. Education curriculum reform to provide clear, accurate, human rights-affirming information about innate variations of sex characteristics
9. Redress for individuals subjected to harmful practices

Explanatory information

1. National legislation to protect the human rights of people with innate variations of sex characteristics in medical settings

- Implements recommendations 1, 4, 7, 8 and 9 of the 2021 Australian Human Rights Commission (AHRC) [report](#) *‘Ensuring health and bodily integrity: towards a human rights approach for people born with variations in sex characteristics’*
- Also implements calls for reform by UN Treaty Bodies ([CEDAW](#), [CRPD](#), [CRC](#), [HRC](#), [CESCR](#)), the regional intersex community consensus [Darlington Statement](#), and the [Yogyakarta Principles plus 10](#)
- Implementation addresses calls by the [Australian Medical Association](#) and [Public Health Association of Australia](#) 2021 position statements
- Builds on work with the [ACT](#) and [Victorian](#) governments
- Key departments: Attorney General’s Department (AGD) and Health Department
- Key organisations: IHRA, Equality Australia

1a. In the alternative, nationally consistent legislation to protect the human rights of people with innate variations of sex characteristics in medical settings

2. National human rights-affirming standards of care for medical treatment involving people with innate variations of sex characteristics

- Legislation is necessary to set a framework and enforcement in the absence of evidence for medical practices
- Implements recommendations 3 and 6 the 2021 AHRC [report](#)
- Also implements calls for reform by UN Treaty Bodies, and the [Darlington Statement](#)
- Key department: Health Department
- Key organisations: IHRA, Intersex Peer Support Australia (IPSA)

3. National resourcing for peer and family support and advocacy services for people with innate variations of sex characteristics and our families, including a dedicated helpline

- Existing services do not meet these needs; existing organisations have no public funding to provide these essential services, currently delivered by volunteers with a few staff funded by foreign philanthropy, see IHRA and IPSA’s [funding prospectus](#)
- Implements recommendations 2 and 10 of the 2021 AHRC [report](#), and underpins all other recommendations 1-12 by the AHRC
- Implements call for reform by UN Treaty Bodies ([CRC](#), [CRPD](#), [CEDAW](#), [HRC](#)), and the [Darlington Statement](#)
- Key department: Health Department
- Key organisations: IHRA, IPSA, with possible support by LGBTIQ+ Health Australia

4. Reform to paediatric MBS item codes to end reimbursement incentives for unnecessarily early surgeries on children with innate variations of sex characteristics

- Supports recommendations 1, 4, 7, 8 and 9 of the 2021 Australian Human Rights Commission (AHRC) [report](#) 'Ensuring health and bodily integrity: towards a human rights approach for people born with variations in sex characteristics'
 - Supports calls for reform by UN Treaty Bodies ([CEDAW](#), [CRPD](#), [CRC](#), [HRC](#), [CESCR](#)), the [Darlington Statement](#), and the [Yogyakarta Principles plus 10](#)
 - Supports calls by the [Australian Medical Association](#) and [Public Health Association of Australia](#)
 - For further information, see Morgan Carpenter's [analysis of Australian data](#)
 - Key departments: Health Department
 - Key organisations: IHRA
- 5. Update sex/gender recognition guidelines to match the 2021 ABS Standard on Sex, Gender, Variations of Sex Characteristics and Sexual Orientation, to ensure accurate, respectful data collection in government and health systems**
- Implementation will end an erroneous construction of intersex as a third sex/gender category, as intended in the 2013 Gillard government [amendments](#) to the *Sex Discrimination Act 1984 (Cth)*
 - Implements an existing and current national [ABS standard](#)
 - Implements call for reform by the [Darlington Statement](#)
 - Supports a 2021 national [standard](#) for general practices by the Royal Australian College of General Practitioners
 - For further information, see Morgan Carpenter's [analysis of Australian data](#)
 - Key departments: AGD, but implementation also by Health, DFAT and Services Australia
 - Key organisations: IHRA, LGBTIQ+ Health Australia
- 6. Update the *Sex Discrimination Act 1984 (Cth)* to implement protections for people with innate variations of sex characteristics on the ground of 'sex characteristics' rather than 'intersex status'**
- Including provisions to support reasonable accommodations where needed
 - Implements best practice defined in the [Darlington Statement](#), and the [Yogyakarta Principles plus 10](#)
 - Mirrors best practice reforms implemented in ACT, Victoria and Tasmania, and current proposals for reform in Queensland
 - Key department: Needs leadership from the AGD
 - Key organisations: IHRA, Equality Australia
- 7. Add missing protections in the *Fair Work Act 2009 (Cth)***
- Addresses the omission of protections on grounds of intersex status, but reforms should ideally offer protection on the ground of sex characteristics
 - Key department: Needs leadership from the AGD
 - Key organisations: IHRA, Equality Australia, Just Equal

8. Education curriculum reform to provide clear, accurate, human rights-affirming information about innate variations of sex characteristics

- Aims to improve knowledge and reduce stigma, including incomprehension and distress faced by parents and prospective parents of infants with innate variations of sex characteristics
- Implements recommendation 2 of the 2021 AHRC [report](#)
- Underpins call for reform by UN Treaty Bodies ([CRC](#), [CRPD](#), [CEDAW](#)), and implements the [Darlington Statement](#); for more information see 2021 resource by [SHFPACT](#)
- Key department: Education Department
- Key organisations: IHRA, IPSA, SHFPACT

9. Redress for individuals subjected to harmful practices

- This should include access to reparative treatments and ongoing health care
- Implements UN Treaty Body recommendations ([CEDAW](#) and [CRPD](#)) and the [Darlington Statement](#)
- Key department: AGD
- Key organisations: IHRA, IPSA