



PROTECTING THE HUMAN RIGHTS OF PEOPLE BORN WITH VARIATIONS IN SEX CHARACTERISTICS

CONSENT

The capacity to provide full and informed consent to medical interventions is fundamental to the enjoyment of bodily autonomy and integrity and to achieving the highest attainable standard of health.

Under international law, medical interventions must generally be administered with the free and informed consent of the person affected.

Under Australian State and Territory legislation, individuals over the age of 18, or in some states 16 years old, can provide consent to refuse or undergo medical treatment if they have capacity. This means that the individual can understand the doctor's information about the treatment, and based on this information, can make a reasonable choice.

While international and Australian law recognises the necessity of 'informed consent' in medical decision-making, what this concept means in practice for different individuals and over time can change. This can create difficulties in ascertaining whether informed consent has been given or whether consent which has been given remains informed.

Additional concerns arise in relation to the capacity of children to consent to medical interventions. A separate sheet considers issues in relation to individuals including children who are not considered to have legal capacity to provide consent.

Discussion questions:

- How is the consent of a person born with a variation in sex characteristics currently sought prior to a medical intervention?
- How do current guidelines or protocols relating to the medical management of people born with variations in sex characteristics deal with the issue of consent, including the ability to withdraw any consent given at any time?
- What practices/safeguards are in place to ensure any consent obtained remains informed?
- What could enhance the capacity of people born with variations in sex characteristics or their caregivers to provide full and informed consent?



Australian Human Rights Commission

This sheet forms part of the Australian Human Rights Commission's research project into how best to protect the rights of people born with variations in sex characteristics in the context of medical interventions. These sheets are designed to prompt thoughts and considerations for written submissions. Submissions do not need to be limited to the issues raised in this sheet.

Writing a submission? Please complete a Participant Consent Form and attach it to your submission. Submissions should be sent by email to sogii@humanrights.gov.au or by post to GPO Box 5218, Sydney NSW 2001.

Your information will be stored securely and your identity/information will be kept strictly confidential, except as required by law. Project findings may be published, but you will not be individually identifiable in these publications. Submissions on behalf of organisations may be identifiable only where the organisation has given permission for the Commission to publish information attributable to that organisation.

For further information about the project, please email sogii@humanrights.gov.au or phone 02 9284 9650 or 1300 369 711.

Consultation for this project has been approved by an external, independent Human Research Ethics Committee. Any queries or concerns about ethics may be directed to the University of Sydney Human Research Ethics Committee by email to human.ethics@sydney.edu.au, citing reference 2018/338.