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The Office of LGBTIQ+ Affairs

Via email: intersex@act.gov.au

To the Office of LGBTIQ+ Affairs

Response to Variations in Sex Characteristics Draft Bill 2022

ACT Council of Social Service (ACTCOSS) is pleased to provide feedback on the draft Variations in Sex Characteristics (Restricted Medical Treatment) Bill 2022. We are supportive of this Bill and its aims to defend bodily autonomy and improve the health and wellbeing of people with variations in sex characteristics. Unnecessary medical treatment can result in serious psychological distress and trauma, as well as stigma and shame.

The legislation aims to allow medical treatment for variations in sex characteristics only in cases where;

- The medical procedure is emergency treatment for health of the person; or
- The treatment is easily reversible; or
- The treatment does not affect their sex characteristics; or
- The person is seeking the medical treatment for themselves and is able to give informed consent.

ACTCOSS is supportive of these restrictions on medical treatment, however, we recommend further clarity and scrutiny around which treatments are considered 'easily reversible'. While a treatment may be *physically* or *medically* reversible, trauma is not as easily reversible, as in the Explanatory Statement example of vaginal dilation. Reversal of treatments may also incur a significant cost, making them less accessible to certain members of the community. Further, social stigma

(which this Bill aims to reduce) may prevent people from seeking reversal, if it requires engagement with medical providers.

Division 2.2 (*Important Concepts*) of the legislation makes clear that any treatment that is only reversible with further treatment would be considered restricted medical treatment, and we support this approach. Treatment that can be deferred should be deferred until a person has decision-making capacity, regardless of 'ease' with which those treatments might be reversible.

ACTCOSS welcomes the language used in the Bill to demonstrate decision-making capacity, and is glad to see that this includes supported decision-making. Ensuring bodily autonomy for people with disabilities, including intellectual disabilities, is important. While the draft Bill makes this explicit, the Explanatory Statement could be expanded so that it is clear that this legislation does not just apply to children or adolescents.

We support the stipulation that at least one member of the panel must be a person with a variation in sex characteristics. ACTCOSS is also supportive of the president of the panel being excluded from committees so that they remain able to conduct reviews of decisions. There must be a clear and accessible processes for review throughout the decision-making process. It would be useful if there were also mechanisms for review once a protected person has decision-making capacity, if they then disagree with the decision of the panel to allow a treatment plan.

Overall, ACTCOSS is pleased to see such a high level of care and consideration in the Variations in Sex Characteristics (Restricted Medical Treatment) Bill 2022. Updating the ACT legislation to reflect the fundamental human rights of people with variations in sex characteristics is an urgent and crucial undertaking.

We would be happy to discuss any of these issues further. Please contact our Head of Policy, [Dr Gemma Killen](#) if you need further information.

Yours sincerely

A handwritten signature in black ink that reads "Emma Campbell." The signature is written in a cursive, flowing style.

Dr Emma Campbell
Chief Executive Officer

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