

Dr Deirdre Little Answer to Question on Notice from MS Donna Davis on May 1st 2024 at public hearing Inquiry into the Equality Legislation Amendment (LGBTIQA) Bill 2023

Ms DONNA DAVIS: There are at least 1.7 per cent of residents in New South Wales who have been born with atypical sex characteristics. This is open to everyone. I note that the CWA in New South Wales is opposed to the introduction of self-sex identification law. Can you please expand on how this fits with parents who are able to make decisions about the gender of their infants when they are born with atypical sex characteristics, knowing the impacts of that on individuals in our communities where decisions have been made for them as children that are then irreversible and impact them and their way of life as adults?

DEIRDRE LITTLE: I think it's important in this discussion to delineate the difference between atypical and ambiguous. Again, as an obstetrician, the percentage of children, or the number of children, who are born with ambiguous genitalia whereby the observation could be male or female, that's an incidence that's less than one in 2000. Sometimes that can just reflect a condition called hypospadias, where there's an opening on the dorsal or ventral aspect of the penis. Those things are present at birth. That's not the same percentage figure; it's much rarer for ambiguous genitalia, where a decision is certainly a very important thing to be made, and we would support the delay in declaring the sex of that child, given the ambiguity of genitalia in that small group of people.

In terms of atypical sexual development, that gets into other areas of pathology, which may be treatable and reversible. I can take a more detailed question on notice, if you would prefer for that. As I say, I'm an

Wednesday 1 May 2024 Legislative Assembly Page 7 **UNCORRECTED – CONFIDENTIAL**
COMMUNITY SERVICES

obstetrician, not a paediatrician. But we are getting into areas there where you've got reversible and treatable conditions, where the genitalia was not ambiguous but where there may be other background effects on, for example, hormone production and things like that from the organs that they do have.

Answer to Question on Notice:

Thank you Ms Davis for the opportunity to further answer your question pertaining to parental decisions about the gender of their infants when they are born with 'atypical sex characteristics'.

Further to my reply concerning 'ambiguous genitalia', CWLA-NSW Inc are happy for there to be a delay in the recording of sex on the birth certificate, as stated.

In relation to the more general term of 'atypical sex characteristics', review of literature concerning this term incorporates a very broad range of variations including chromosomes, gonads, and the reproductive anatomy of an individual. It covers a very broad spectrum without specificity.

The Australian Government Guidelines on the recognition of sex and gender state:

'sex refers to the chromosomal, gonadal, and anatomic characteristics associated with biological sex'.

These Government Guidelines state a biological concept of sex. Similarly the Royal Australian and New Zealand College of Psychiatrists (RANZCP) refers to the 'biological characteristics that define humans as male or female', stating that

'while these characteristics are not mutually exclusive, as there are individuals who possess both, they differentiate humans as male and female in the vast

majority of people' <https://www.ranzcp.org/clinical-guidelines-publications/clinical-guidelines-publications-library/role-of-psychiatrists-working-with-trans-gender-diverse-people>

If any of the broad range of 'atypical sex characteristics' render the biological sex to be requiring more clarification, we are again happy for there to be a delay in the recording on the birth certificate. I am aware however that you subsequently stated in your questioning that you were referring to the gender. Gender is defined by the RANZCP as 'personal, social and cultural characteristics', rather than the 'genetic, hormonal or anatomical characteristics' that would be encompassed by your question term 'atypical sex characteristics'.