



Terms of Reference

Medical Management Protocol for Intersex Person in Zambia

Title: Development of Medical Management Protocol for Intersex Person in Zambia.

Department/Unit: Growing Inclusive Business

Type of Contract: Individual Contract -International IC

Duration of Assignment: 27 Days over 3 months

Duty Station: Lusaka; based on a combination of onsite, virtual and homebased as may be determined after the selection of the Consultant.

Background

Zambia has ratified international and regional frameworks that seek to promote and protect human rights of citizens, some of which have been enshrined in the Bill of Rights, Part III of the Zambian National Constitution of 2016. The National Constitution guarantees human rights and fundamental freedoms of all citizens in political, social, legal, economic and cultural settings. It also provides for the respect of universal values and principles such as human dignity, equity, social justice, equality and non-discrimination in the delivery of public good. Additionally, it underscores the right to health specifically access to health care services, education and social protection, and access to reproductive health, family planning and related information and services. The Constitution further protects its citizens from being subjected to torture or any kind of inhuman or degrading treatment. Other related rights enshrined therein include the right to privacy, the right to personal liberties, right to non-discrimination, and equal protection and equality before the law, and the right to the highest attainable standard of physical and mental health.¹

While the Constitution provides for equal rights for all citizens, some segments of the society do not benefit from the protection of these rights enshrined in the Constitution. One of these community groups are Intersex persons. An intersex person is an individual with a wide range of sex characteristics that do not fit in the binary classification of male or female sex category. These traits maybe visible at birth, at puberty or may not show at all, as such an intersex person maybe denied the right to fully develop into the gender they identify with or attain the right to self-determination or expression. These rights are fundamental and underpin the development of a comprehensive and effective management protocol for Intersex persons in the public and private health facilities in Zambia.² Zambia does not have a national policy guideline or national protocol for the medical management of Intersex persons.

Prejudice and discrimination of Intersex persons in Zambia remains high at all levels of society such as family, community, educational system and employment.³ In the health sector, human rights violations including breach of medical ethics, has led to corrective or normalization therapy aimed at infants administered by medical practitioners with or without the parents, and or other family members making decisions which might not necessarily be in the best interest of the child. Further there has been inadequate counselling provided to most family members on having an intersex child.⁴ This contravenes the Constitutional right of Zambian citizen's to freedom from torture and degrading or inhuman treatment (Art.30). The gender assignment at birth is based on physical features or sex characteristics at the time and largely influenced by medical professionals and family members. Such medical interventions may disrupt the physical and psychological well-being of an individual, producing negative impacts with lifelong consequences. Other medical violations include irreversible genital surgery, sterilization, severe scarring, urinary tract infections, reduced or complete loss of sexual sensation, removal of natural hormones creating a dependency on medication, and a deep feeling of body violation.⁵ Intersex infanticide and abandonment of an intersex child is common in most societies. The secrecy and shame associated with being intersex results in nearly complete invisibility of the community and lack of recognition of their rights. In situations where the young person's gender identity has been formed and can consent to medical surgery, often there is lack of appropriate services provided by the state to support the process, often costly for the average young person or family. Regulations or comprehensive guidelines for the management of intersex persons are nonexistent in the public or private sector.

Other legal barriers include failure to recognize intersex persons before the law due to the sex binary classification. Further challenges relate to non-existence of procedures for change of sex marker to suit the “identity” of the person as they develop into adulthood. It is essential to understand that not all adult intersex persons will want affirming surgery, or hormonal therapy hence legislation and procedures for sex identity “change” need to embrace sex diversity.

Human rights advocates and current scientific literature and practice on the issue of Intersex persons advise against unnecessary “normalizing” treatment of Intersex persons which results in an irreversible change and sterilization performed without informed consent and are rarely medically necessary.⁶ The right to choose or consent to any surgery should always be respected. Additionally, recognition of intersex persons before the law should address the swift provision of birth certificates, civil registration documents, identity papers, passports and other official personal documentation while respecting their right to self-determination⁷. Flexible procedures need to be observed when assigning and reassigning sex and gender in official documents. Human Rights Institutes need to discharge their responsibility of protecting and promoting the rights of Intersex persons. The appropriate sex and gender marker in a legal identification document (ID), becomes a gateway to an education system especially secondary and tertiary level, employment, and social economic development for most intersex persons.

There is a growing awareness amongst medical professionals who are rethinking normalizing treatment of Intersex infants and providing psychological support to the child and family as an alternative. The right to consent or informed choice has become a key ethical consideration in the decision-making process when managing an intersex infant. The Zambia Medical Association (ZMA)’s mandate is to champion the practice of medicine for the benefit of society through research and ethical practice. It further upholds the values and morals of society, the values of democracy, accountability, transparency and good governance. ZMA also recognises the rights of an individual to health and ensure adherence to ethical standards in the practice of medicine⁸. This recognition provides an opportunity to transform the medical fraternity in the way such cases have been managed historically.

There have been observed milestones towards the registration of Intersex persons pursuant to the November 2017 ruling by the High Court (Judge Betty Majula-Mung’omba) in her judgment in favour of an Intersex person. An instruction to the Register General of Births and Deaths to change the plaintiff’s birth records from female to male including with the Examinations Council of Zambia and schools to update their records was issued.⁹ This judgement offers an opportunity for the registration of births, deaths and marriages legislation and policy reform to ensure that the identity of Intersex person’s is protected. It also calls for all sectors to review their policies and laws that may have been discriminatory to the intersex community.

The National HIV/AIDS/STI/TB Council (NAC) and ZMA efforts towards advocacy for strengthening management of intersex persons across the public and private health facilities through the development of an Intersex Medical

¹ Constitution of Zambia (Amendment) No. 2 of 2016. Accessed on 20 April 2020.

² Zambia Legal Environment Assessment for HIV, TB, Sexual and Reproductive Health and Rights (2019)

³ Zambia Legal Environment Assessment for HIV, TB, Sexual and Reproductive Health and Rights (2019)

⁴ Human rights and intersex people. Issue paper Council of Europe Commissioner for human rights (2015); Providing Ethical and Compassionate Health Care to Intersex Patients. InterAct Lambda Legal.

⁵ Human rights and intersex people. Issue paper Council of Europe Commissioner for human rights (2015)

⁶ Gender, Equity & Human Rights (GER): FAQ on Health and Sexual Diversity. WHO, 2017. Accessed on 20 April 2020.

⁷ Self-determination - Free choice of one's own acts without external compulsion. The right of all people to self-determination, including the right to "freely determine their political status, pursue their economic, social and cultural goals, and manage and dispose of their own resources.

⁸ <https://zma.co.zm/about-us/>

⁹ <https://www.lusakatimes.com/2017/11/11/lusaka-high-court-judge-allows-lusaka-woman-change-gender/>

Management Protocol are in line with the Constitutional rights to dignity, life, self-determination and right to health. It further resonates with ZMA mission *of promoting high standards of medical practice and influencing policy and public opinion on health matters in Zambia* as well as promoting universal access to quality health care.

The Legal Environment Assessment (LEA) on HIV and sexual and reproductive health that has been completed in Zambia under the leadership of NAC recently, facilitated the emergence of the Intersex community to be recognized as citizens with basic rights and needs that were different from transgender persons and other key populations. In addition, the Linking Policy to Programmes (LPP) project that is implemented by UNDP jointly with communities including young Intersex people, government partners, and civil society organisations, identified specific needs of Intersex persons and the challenges and opportunities associated with meeting those needs. The increasing visibility and recognition arising from this project and other similar initiatives, resulted in the establishment and registration of an Intersex led CSO. Such developments are expected to increase the voice of intersex groups. This will serve as a good basis for the work to be done to facilitate their full recognition, protection and promotion of access to all social, legal, economic, and health services that will transform them into well informed, motivated and healthy individuals who can contribute to society.

Experts and the Intersex community consider that a clear policy and protocol, that would streamline the medical management of an Intersex person's health and wellbeing starting from birth to adulthood, as a critical element for the creation of a just and nurturing environment free from secrecy, stigma and discrimination. The policy guideline and protocol are also essential to ensure that children (and adults) born with differences in sex development enjoy their human rights, are not stigmatized and discriminated against and lead productive and fulfilling lives as citizens. An enabling legal and policy environment will also increase the availability of information on different forms of intersex variations and related challenges and increase the effectiveness of community-based intervention in addressing them.

UNDP in collaboration with the National AIDS Commission, Zambia Medical Association and the Intersex community therefore plans to support the development of a national policy guideline and protocol on Intersex issues. This policy document will be one of the first guideline in the SADC region for the medically management of Intersex persons. This Terms of Reference (ToR) therefore outlines the objectives, outputs, processes and deliverables of a consultancy to support development of a comprehensive management protocol for the of an Intersex Person in the public and private health facilities in Zambia.

Objectives of the Assignment

The overall objective of this assignment is to develop a comprehensive protocol for the medically management of intersex persons throughout their infant, adolescent and young adult (0 -24 years) development stage in the public and private health sector. Specifically, the consultancy will

- develop a protocol that serves as a guideline for the provision of comprehensive interdisciplinary care to intersex persons and their families, and

- recommend appropriate patient centered policies, informed by the intersex community to provide appropriate quality care, ethical, medical and psychosocial support to intersex persons.

Methodology and Guiding principles

ZMA with technical support from other countries with established advanced policies on the management of intersex community will drive the development of the protocol in collaboration with ZMA members, psychologist, key populations and intersex civil society organisations, legal experts, the Ministry of Health, Statistics office and the Ministry of Home Affairs etc. A multi-disciplinary team will be established to contribute and inform the development process drawing from current and past experiences of both the intersex persons, their families and the potential protocol users (Medical doctors and other health professionals). Based on information generated, from health facilities and the National Health Information System (NHIS), the protocol will be produced and piloted in selected facilities.

All members of ZMA (2000 members) will be sensitised on the new medical management approach to intersex persons. A communication plan will be developed to create awareness for practitioners on the new approach to be adopted by ZMA on managing intersex persons. Community awareness on intersex persons should be simultaneously developed and rolled out in an effort to reduce stigma and discrimination in communities. Participation of intersex persons in the development of the protocol will be a central principle of this exercise. Accordingly, Intersex people will be involved from the design to the finalization and implementation stages. Respect of human rights and doing no harm to community members involved in the work is the core guiding principle of this assignment.

IV. Scope of Work

The exercise will be conducted as follows:

- Reviewing all available documents on international, regional and national protocols related to the management of an Intersex person in public and private health facilities
- Reviewing relevant national laws policies and practices that maybe harmful to Intersex Person in the public and private health facilities in Zambia i.e. Public Health Act, National Health Service Act, Health Professions Act etc.
- Reviewing relevant health facility policy guidelines, procedures and practices as it relates to the protection and promotion of the rights of intersex persons in Zambia.
- Reviewing access to justice institutional frameworks and law enforcement in relation to health services with attention to intersex management, treatment and care.
- Assessing the current legal, regulatory and policy environment in terms of the extent to which it is conducive to intersex management, treatment and care.
- Consultation with Health professionals, Intersex communities and family members on appropriate, acceptable norms for effective management of intersex persons and children.
- Identifying gaps and weaknesses in the current legal, regulatory and policy frameworks for intersex management, treatment and care.
- Compiling recommendations for public health – related to legal and policy environment, law review and reform, strengthening access to health services as well as ensuring enforcement of the protocol, and creation of an effective buy-in for the protocol

Duties and Responsibilities

Under the overall supervision of Regional Coordinator, the consultant with support from the National Programme Officer in Zambia, will do the following:

- Prepare and submit an Inception Report including the detailed work planned, methodology and timeframe of the protocol development. Including planned field work, interviews and consultations;
- Conduct an assessment and produce a report on relevant national laws, policies, traditional /cultural practices including stakeholder's consultations on the management of intersex persons in Zambia and further recommend opportunities for advocacy for the rights of intersex community.
- Develop and present a draft of Medical Management Protocol for Intersex Person in Zambia in consultation with ZMA, Intersex community, UNDP and stakeholders for inputs. (Distribution to stakeholders prior to pre-validation and review).
- Validate the protocol at a round table discussion with all stakeholders Final report of the protocol submitted to UNDP, MAZ, MoH/NAC.

Deliverables; Outputs and Timeline(s)

Implementation of activities as set out in this contract will be as proposed in the table below:

Deliverable/Outputs	Duration Days)	Payment Percentage
Inception Report covering the detailed work plan, methodology (including field work, interviews), timeframe for protocol development	3	20%
A comprehensive report on relevant national laws, policies, practices (and traditional / cultural practices) including stakeholder's consultation on the medical management of intersex persons in private and public health facilities etc.	10	50%
A draft intersex management protocol for the Public and Private Health Facilities in Zambia	5	
Circulate the draft protocol for inputs and consolidate feedback	1	
A consultative validation workshop that sets out the outcome of the consultation with key stakeholders on the draft findings and recommendations of the protocol	5	
A final intersex management protocol for the public and private health facilities in Zambia	3	30%
Total Number of Days	27 Days	

V. Qualifications and Evaluation Process

Qualifications, Skills, Attributes and Experiences

A successful candidate/organization must meet the following criteria:

Education

- University advanced degree in public health, communication, social sciences, or related discipline, with demonstrable five years' experience working on rights-based programmes, plans or protocols related to LGBT and intersex issues in the region. Advanced knowledge in developing human rights-based Psychosocial Support Services is an added advantage.

Working Experience

- At least ten years of work experience in developing health and psychiatric/psychological management protocols, and/or Public Health service protocols in related areas, preferably for key population communities, for behavioural communication, for health promotion, health policy and human rights
- Experience developing and administering Intersex protocols

Knowledge and Skills

- Good domain and understanding of Intersex protocols and HIV and AIDS.
- Expert knowledge of psychosocial needs of key population groups and existing gaps in Zambia
- Excellent report writing skills.
- Expert knowledge of human rights-based approaches to health
- Knowledge of health systems and health policy

Languages and Computer Skills

- Proficiency in written and spoken English, including the ability to write reports at a professional level, is required.
- Advanced knowledge of MS Office package (MS Word, MS Excel, MS PowerPoint) are required.

Remuneration

The consultant will receive remuneration in lump-sum relevant to his/her qualification and in line with UN financial rules and regulations. Remuneration will be released in three separate instalments subsequent to receipt and approval of deliverables by UNDP.

- i. The first instalment, amounting to 20% of the total cost of the contract will be released upon receipt and approval of the detailed inception report with a comprehensive budget and costed work plan (after signing of contract).
- ii. The second payment amounting to 50% of the total cost of the contract will be released upon receipt, presentation and approval of the draft Management protocol and stakeholder consultative report.
- iii. The last instalment amounting to 30% of the total cost of the contract will be released following UNDP receipt and approval of the final comprehensive approved intersex Protocol for health facilities in Zambia.

Note: Payment is subject to approval of UNDP on all deliverables. Approval will only be granted based on quality assessment of deliverables submitted. A turn-around time of 5 working days should be factored in, for comments from UNDP.

Evaluation criteria

Individual consultants will be evaluated based on a cumulative analysis. The contracts will be awarded to the consultants whose offer has been evaluated and determined as having received the highest combined score of the technical and financial scores.

- Technical Criteria weight: 70%
- Financial Criteria weight: 30%

Only the applicants who obtain at least 70 points from the technical evaluation will be selected for the financial evaluation.

Criteria	Points
Education Relevant educational background	10
Working Experience <ul style="list-style-type: none">• At least ten (10) years of work experience in developing health and psychiatric/psychological management protocols, and/or Public Health service protocols in related areas, preferably for key population communities, for behavioural communication, for health promotion, health policy and human rights• Experience developing and administering Intersex protocols	30
Knowledge and Skills <ul style="list-style-type: none">• Good domain and understanding of Intersex protocols and HIV and AIDS.• Expert knowledge of psychosocial needs of key population groups and existing gaps in Zambia• Excellent report writing skills.• Expert knowledge of human rights-based approaches to health• Knowledge of health systems and health policy	25
Strong understanding of important aspects of task, different components of the project adequately weighed relatively to one another and appropriate conceptualization of framework adaptation	20
Computer Skills Advanced knowledge of MS Office package (MS Word, MS Excel, MS PowerPoint) are be required.	10
Fluency in spoken and written English, including the ability to write reports at a professional level, is required.	5

Financial Proposals evaluation:

FP Rating = (Lowest Priced Offer / Price of the Offer Being Reviewed) x 100

Interested individual consultants are invited to submit:

- Detailed CVs and motivation letter;
- Technical proposal;
- Financial proposal, in line with the activities mentioned in the technical proposal and individual costing for activities; all envisaged travel costs must be included in the financial proposal.

UNDP RESERVES THE RIGHT TO NOT FILL THIS POSITION. Correspondence will be limited to shortlisted candidates only. Qualified women are encouraged to apply.

VI. Institutional Arrangements

The evaluation shall be done according to the predefined evaluation grid, and UNDP shall award contract to the best proposals (i.e. which obtain the highest cumulative score).

The award will be done in accordance with “Combined Scoring method” procedures of UNDP – where the technical qualifications will be weighted 70% and combined with the price offer which will be weighted 30%.

The Service Provider will be awarded a contract with UNDP Zambia for the delivery of services applied for and will work under the overall supervision and guidance of the UNDP Officer in Charge, Inclusive Growth and SDGs. The HIV Project Manager will directly supervise the consultant.

Technical review and initial approval of the deliverables will be undertaken by the Programme team with final approval by the UNDP Officer in Charge, Inclusive Growth and SDGs. The consultant will not be eligible for any payment without a written certification that service has been satisfactorily performed.

VII. Duty Station

Lusaka however this can be further determined after the selection of the Consultant. A combination of onsite, virtual and homebased location will be applied.