

Guidance for Transgender Inclusion in Domestic Sport



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Foreword from our CEOs

We want sport to be a place where everyone can be themselves, where everyone can take part and where everyone is treated with kindness, dignity and respect.

Over the past 18 months we, the five Sports Councils responsible for supporting and investing in sport across England, Wales, Scotland and Northern Ireland, have been working together to develop new guidance to support the inclusion of transgender people in sport, recognising that the existing guidance from 2013 was out of date and no longer fit for purpose.

We also recognised that sport at every level required more practical advice and support in this area to be able to maximise opportunities for inclusion and accessibility.

The ultimate aim of this work is to better support our partners in understanding current needs and challenges in this area and to ensure that sports can make informed decisions in seeking to become as inclusive as possible. The guidance has been developed following a review which was divided into two parts.

One involved an extensive independent consultation which considered the views and experiences of hundreds of people within sport, from grassroots through to elite competition. Specialist groups and individuals were also consulted by interviews and surveys and the respondents were a diverse group spread across more than 54 sports and representing 175 organisations. We want to thank everyone who gave up their time and took part, particularly because we know that for many, doing so was challenging and emotive. We are hugely grateful for your input.

The second part of the review explored the background to current policies domestically and internationally and considered the latest scientific findings relating to the inclusion of transgender people in sport, such as testosterone suppression in transgender women, and the use of case-by-case assessments. It explored and considered up-to-date peer reviewed and published studies, up to early 2021.

While our consultation found that there was widespread support for ensuring that sport was a welcoming place for everyone in society, including for transgender people, it also highlighted that there were concerns relating to safety and fairness in relation to transgender inclusion, particularly in female sport, and that there was no consensus on a single solution as to how this should be addressed.

It was clear too that a wider range of solutions than those that are currently on offer needed to be identified so that everyone taking part could do so in a fair, safe and inclusive way.

Our work exploring the latest research, evidence and studies made clear that there are retained differences in strength, stamina and physique between the average woman compared with the average transgender woman or non-binary person registered male at birth, with or without testosterone suppression.

Based on our conclusions, we are publishing suggested recommendations for the National Governing Bodies (NGBs and Scottish Governing Bodies (SGBs we work with and a framework for them to consider when they are developing their own policies in this area, as well as a summary of the research we considered.

This will support NGBs and SGBs and other partners to define the best options for their activity, depending on their own assessment as to their priorities, and consider a range of options as to how they might achieve those. We believe that this provides a significantly stronger, more specific, and authoritative framework than has ever existed before in relation to transgender inclusion in sport.

Our recommendations encourage our NGBs and SGBs to think in innovative and creative ways to ensure nobody is left out.

We want this guidance to open up, rather than close down opportunities for everyone, recognising that many other people already feel excluded from sport and physical activity.

We now want to see meaningful and respectful consultation in developing these approaches, which we hope will facilitate increased transgender participation and help sport to become more open, inclusive and diverse. We all recognise that in order to survive and thrive in the future, sport must adapt to reflect modern society, and that often, it is too slow to do so.

Society is changing, and sport must face the challenge of accommodating participation from every group – even if this means recognising that their traditional structures are not always set up to do so. We believe that this guidance therefore offers a chance for a reimagining of what sport can look like – and we will work closely to support those sports who want to embrace this fresh thinking.

We will be alert and responsive to emerging research and evidence and will commit to reviewing the guidance on a more regular basis to ensure it is fit for purpose. We also commit to continuing to work closely with our partners to support them to navigate the use of the guidance to help them make informed decisions for their sport.

This has been a challenging and emotive piece of work – but we believe we are putting forward pragmatic solutions for sports to work with, so sport can be a place where everyone can take part.

Introduction

As set out in the foreword from our CEOs, The Sports Councils' Equality Group (SCEG) commissioned a review of its existing Guidance (2013/15) for the inclusion of transgender people in sport last year, recognising that sport at every level required more practical advice and support.

This review investigated the views, knowledge, and experience of hundreds of people with a lived experience in sport, including transgender people, and also explored the background to current policies domestically and internationally and considered the latest scientific findings affecting the inclusion of transgender people in domestic sport.

It was clear throughout that this is a complex area, and that there is an ongoing requirement for education and engagement with the aim of creating an environment in which the inclusion of all people in sport and physical activity is expected, accepted and celebrated.

There are a number of supporting documents to this Guidance, which gives further background and understanding of the recommendations. You can find these documents at <https://equalityinsport.org/resources>.

Summary of what the review found

The review found that while there was widespread support for ensuring that sport was a welcoming place for everyone in society, there were some concerns relating to safety and sporting fairness in the inclusion of transgender people, particularly transwomen, and no consensus on how this should be addressed.

Two divergent groups emerged amongst respondents. One group believed wholly in the value of inclusion over and above anything else and believe that transgender people should be able to take part in sport at every level with limited to no restrictions.

The second group believed in what they would describe as fair sporting competition and adherence to rules which give sport validity – and therefore, they believe that transgender participation should be subject to regulation.

The review concluded that the views of these two groups couldn't be reconciled within the existing structure of sport and that the system requires a reset and fresh thinking.

The overarching recommendation is that NGBs and SGBs are encouraged to enter a decision-making process, set out below, in which they can best accommodate transgender inclusion, fairness, and safety in their sport.

What the review is recommending

As a result of what the review found, the Guidance concludes that the inclusion of transgender people into female sport cannot be balanced regarding transgender inclusion, fairness and safety in gender-affected sport where there is meaningful competition. This is due to retained differences in strength, stamina and physique between the average woman compared with the average transgender woman or non-binary person assigned male at birth, with or without testosterone suppression.

Sports, however, are incredibly diverse and there can be no 'one-size fits all' approach. This review has concluded therefore that, for many sports, there may not be a common single competition model which will meet the needs of full transgender inclusion while retaining competitive fairness, particularly in female sport.

We are therefore encouraging and advising NGBs and SGBs to define the best options for their sport and determine whether it may be possible to offer more than one version of their sport to achieve the different aims.

NGBs and SGBs are encouraged, and will be supported, to use the decision-making framework set out below, in which they can consider how gender affected their sport is, and if appropriate, consider how this might be modified and adapted to offer multiple competitive or participation models.

The Sports Councils are committed to facilitating and promoting the education and decision-making process to enable NGBs and SGBs to make the best decisions for their sport and for their communities.

This Guidance also sets out the underlying principles which NGBs should consider when developing policies in this area, which are designed to create opportunities for sport to increase inclusion and the breadth of sport for everyone in society.

Guiding Principles

These 10 Guiding Principles are for sports to use when developing policies in this area:

1. All of the Sports Councils are committed to the inclusion of transgender people in sport and physical activity.

In keeping with the findings of this review, the goals of acceptance, social inclusion and physical activity may be best achieved outside of the sex binary in grassroots and domestic sport. The introduction of new and different models within sport offers an alternative option to meet the needs of people across all the strands of the Equality Act.

2. Categorisation within the sex binary is and remains the most useful and functional division relative to sporting performance.

This categorisation acknowledges the broad ranging and significant performance differences between the sexes. Hence, sports should retain sex categorisation, along with age and disability (and weight as appropriate) categories.

3. Evidence indicates it is fair and safe for transgender people to be included within the male category in most sports.

This is on the assumption that the transgender person will generally be using testosterone supplementation, for which a Therapeutic Use Exemption (TUE) will be required in many sports. The NGBs and SGBs of contact, collision or combat sports in which size may impact safety considerations may consider further parameters to ensure safety of transgender people, including transgender men, non-binary and gender fluid people recorded female at birth.

4. Competitive fairness cannot be reconciled with self-identification into the female category in gender-affected sport.

This principle is in keeping with the provisions of the Equality Act, and acknowledges the average differences in strength, stamina, and physique between the sexes.

Self-identification through the 'acceptance of people as they present' may be appropriate in those sports which are not gender-affected. In this instance, for clarity and inclusion, these sports may appropriately be considered 'mixed' or 'universal' sports, in which everyone may participate and compete together.

5. Based upon current evidence, testosterone suppression is unlikely to guarantee fairness between transgender women and natal females in gender-affected sports:

- a) Transgender women are on average likely to retain physical advantage in terms of physique, stamina, and strength. Such physical differences will also impact safety parameters in sports which are combat, collision or contact in nature.
- b) Recent international policy on testosterone limits are set at a level below 5nmol/L in sports which choose to provide entry into female sports for transgender women. This is more appropriate than the 10nmol/L which is stipulated by the International Olympic Committee and which remains within the normal range for males. The current preliminary 12-month period is unlikely to result in the achievable minimisation of physical capacity.

6. 'Case-by-case' assessment is unlikely to be practical nor verifiable for entry into gender-affected sports.

NGBs may wish to consider the following when determining the appropriateness of this:

- It has not been scientifically validated as to whether any parameters of physical capacity or ability can be defined with a certain cut-off point at which someone is considered appropriately 'female' or appropriately 'male'.
- Many tests related to sports performance are volitional. This means a person must try their very best to get an appropriate measurement. It is difficult to foresee how someone could be expected to provide maximal effort when a positive outcome for them relies on achieving a lesser result.
- Panel members are unlikely to be able to manage a situation in which their decisions can determine the suitability of some individuals, and not others. In the absence of a scientific rationale this places the panel members in a difficult situation.
- Case-by-case analysis may fall outside of the provisions of the Equality Act (whereby provision is for average advantage not individual advantage) and may be based on criteria which cannot be lawfully justified. Some transgender people will be included, some will be excluded through criteria outside of their own control.

7. Categorisation by sex is lawful, and hence the requirement to request information relating to birth sex is appropriate.

No individual is compelled to provide any information to a sports organisation. However, failure to provide such information would mean that person may not be able to compete in the category of their choice. Sports should provide options for those people who prefer not to advise of their sex or gender.

All data acquired by a sporting agency should be afforded appropriate protection under the Data Protection Act 2018.

8. There are likely to be times in which some transgender people cannot or choose not to be registered, either in the short or long-term, within sex binary categories.

It is imperative that gender-affected sports provide other opportunities for participation in these cases.

9. The ability of NGBs and SGBs to provide the best mix of sporting options for the broader community may be determined by whether a model is intended as physical activity and participation, or whether it represents 'meaningful competition'.

An assessment of the merits of fairness and/or inclusion can be determined by the sports' stakeholders to inform policy development, and whether this should be different at different levels of sport.

10. Achieving inclusion across all the strands of the Equality Act is complex and nuanced.

It is recognised that many NGBs and SGBs may find the task of developing appropriate policy and protocols both difficult and time-consuming. It is important that views of a wide range of stakeholders are canvassed and that everyone is given an appropriate platform in which to contribute, and that different views and experiences are heard and respected. The Sports Councils are committed to facilitating education and decision making within sports in the UK.

The way forward

For many NGBs, the development of policy and practice will depend on a closer understanding of the gender-affected nature of their sport, and the priorities which they place on transgender inclusion, fairness and safety. The following table and considerations are offered as a starting point for sports to analyse their current competition format.

In accordance with the Equality Act 2010: A gender-affected activity is a sport, game, or other activity of a competitive nature in circumstances in which the physical strength, stamina, or physique of average persons of one sex would put them at a disadvantage compared with average persons of the other sex as competitors in events involving the activity.

Some useful questions for NGBs and SGBs to consider in order to help them to make informed decisions in seeking to become as inclusive as possible, are:

Question	Considerations
Is your sport 'gender affected', and how is that manifest?	Most, but not all sports are impacted by the physical differences between males and females. Sports which are mainly skillful may not be gender-affected.
Does your sport reward greater strength, stamina or physique?	If there is a material advantage for being bigger, stronger, fitter and faster in your sport then it is likely that it is gender-affected.
If your sport is not gender affected, or some forms of your sport are not gender affected, what are the reasons to retain sex categories for that competition in the future?	This might include considerations of socio-cultural factors, or aspects such as faith or ethnic groups.
What is the purpose of the sex categories in your sport?	This refers to whether your sport considers that the categories exist to provide inclusion or whether it is to provide fairness in competition.
Do you consider inclusion to be the first priority?	If so, then your decisions are based around this priority.
Is fairness paramount to your sport? Is safety paramount to your sport?	Again, if these are the priorities then that informs your decision-making.
Could your sport offer alternative competitive models which may be specific to inclusion or fairness but not necessarily both?	If novel or modified versions of your sport could be developed, then this could increase options for inclusion.
Does your sport currently accommodate consideration of female characteristics such as smaller playing surface, lighter weighted implements, lower net or hurdle height, shorter length of event or distance covered?	If so, it may mean that fairness cannot be achieved alongside inclusion in this format of your sport.

Question	Considerations
Does your sport have modified rules for females, males or other categories such as juniors?	This is the case for some sports and would potentially require modification to promote inclusion.
Does, or could your sport offer modified versions of your playing rules?	This would assist inclusion if at all possible.
Are there some versions which are more specific to categorisation for competitive fairness, and others which would be more appropriate for inclusive sport?	If so, this might create opportunities for inclusion through different models within your sport.
Do you think the emphasis on inclusion and fairness should be different between grassroots community participation compared with sport which offers 'meaningful competition'?	It is important to consider how competitors assess their involvement in sport. Some grassroots sports may be fiercely competitive, and other high-level sport may be considered non-competitive by the participants.
Do you believe your sport's categorisation gives fairness within and access to competition to all participants?	Consultation is needed within your sport to ensure opinions are sought from a range of stakeholders.
Does your sport offer secondary or consequential reward to those who are successful? Does your sport consider this to be an outcome of fair competition or inclusion?	This might relate to things like prizes or winning scholarships, or gaining entry to courses in higher education, or a professional career in sport.
Is your sport able to offer non-competitive outcomes irrespective of the level of competition?	This is relevant if there is an opportunity for 'social' or 'recreational' sport for your participants or club members.

Hierarchy of 'contact'

This relates to perceptions of both fairness and, more importantly, to safety as a criterion for gender-affected sport. The nature of a given sport allows for different rules/laws and different degrees of physical contact with opposing competitors. Sports can be viewed on a continuum ranging from zero contact to full-force striking and grappling of opponents.

An understanding of levels of physical contact provide an extra dimension of safety, whereby the factors of strength, stamina and physique puts one sex (female) at a disadvantage and prevent greater risk of injury.

A hierarchy can be presented as:

- 1 Sports which compete in parallel: for example, gymnastics, dressage, skateboarding, downhill skiing, track sprints, rowing, darts, pool swimming.
- 2 Contact sport (within the same space): for example, netball, basketball, football, hockey, some track and road cycling, athletics track races over 400m.
- 3 Collision sports: for example, both rugby codes.
- 4 Combat sports: for example, boxing, taekwondo, judo, karate.

Other considerations and examples of assessment of gender-affected sport

Some sports are more attributed to skill, or may have an 'implement', which may limit the gender-affected nature of competition, for example:

- Darts, curling, bowls, shooting, snooker, equestrian.

Sports which rely significantly on physical capacity – physique (including height), strength, stamina – despite not being contact or collision sports, will be considered 'gender-affected', for example:

- Rowing, volleyball, climbing, athletics.

Some sports which use implements may or may not have consideration for physical capacity, for example:

- Archery, motorsports.

Some 'judged sports' are more dependent on skill rather than strength, such as rhythmic gymnastics. However, some have significant physical factors of strength, stamina, and physique due to the nature of the activity, such as artistic swimming. Those sports which use lower nets, shorter boundaries, or lighter implements in female competition implicitly recognise themselves as 'gender-affected', and this acknowledges direct competition between the sexes is considered unfair (and perhaps unsafe). Many sports have an age after which mixed competition is prohibited, and it is evident from such rules that mixed competition after this age is considered unfair and/or unsafe.

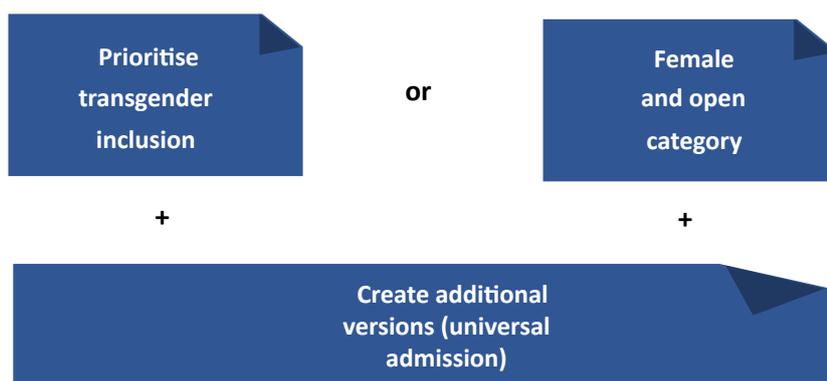
Objectively measured, individual sports may be able to use competition records to make comparisons of physical performance between the sexes, while other sports (such as most team sports) will need to rely on contributing information. It is also relevant to consider the effects of gender-affected sport within a team, and not just compared with the opposing team. In this way, aspects of fairness and safety will also impact decisions around selection within a team and across a club or association.

An assessment should be made as to whether a sport considers all levels of grassroots and domestic competition and participation should retain similar policy and rules, or whether there are different imperatives at varying levels of competition. Estimation of safety is relevant at all levels of sport, and in some cases may be more important at community-level competition where lower skill level may increase risk.

Three options to be considered

This Guidance suggests the following three options be considered by each governing body.

These options are stated in no particular order and for the avoidance of doubt, are not stated in the order of importance. Each of transgender inclusion, fairness and safety are important, but the role each may play in different individual sports will differ, due to the nature of the sport.



The choice of competitive format is not intended to be mutually exclusive, and NGBs and SGBs can opt to provide competition in more than one model. The Sports Councils encourage all NGBs and SGBs to be creative and accommodating in order to be maximally inclusive for all participants including, if possible, disabled participants and people across the age groups. Different formats of competition will also allow participation for those people who may self-exclude from a holistically inclusive environment. SCEG can offer advice and education to assist NGBs and SGBs in making plans and policy for sport programmes.

Given the assessment of the nature of the sport, along with the priorities of transgender inclusion, fairness, and safety, the following choices are suggested: if a sport is deemed to be gender-affected it should offer either the option relating to transgender inclusion, or the option relating to fairness.

Where possible, NGBs and SGBs should also offer an appropriate version of the option relating to safety as well, within the confines of the sport.

Where appropriate, NGBs and SGBs will need to consider pathways for elite performers into national competition, and compliance with regulations from international federations.

Prioritise transgender inclusion

Based on the current system, which prioritises inclusion of transgender people into existing sex categories of gender-affected sport.

This is 'management' of the inherent differences between the sexes for transgender people wishing to compete in their affirmed gender (and for non-binary or gender fluid people who wish to compete in the sex category not aligned to sex registered at birth). As outlined earlier in Principles 4, 5 and 6, no current method of inclusion of transgender people can guarantee sporting fairness for the female category. Hence, this option is considered appropriate for a sport which has determined that inclusion rather than fairness is the objective of the category. In most sports, transgender men will be able to compete without restriction in the male (or open) category. However, those sports which include collision or combat may wish to institute safety guidance for the sake of the transgender competitor.

Those gender-affected sports which wish to include transgender women, or non-binary or gender fluid people recorded male at birth, within the female category should institute testosterone limits defined by blood tests. More recent policy indicates a level less than 5 nmol/L is more appropriate than the level of 10nmol/L (and per protocols defined in international sport) for a preliminary period before entry into the first competition, and then maintained for as long as the transgender person remains competitive. Current evidence indicates 12 months is likely to be too short a time to minimise performance differences. As testosterone blood levels can vary over a short time period under most treatment regimes, tests should be conducted at least quarterly, and can include further markers of testosterone suppression. Considerations include the need to have a dedicated officer who is able to administer athletes' test results throughout the competitive and off-seasons. Should any athlete be away from testing for any time, they should complete another preliminary period before they can compete again.

Transgender men should not compete in female categories once treatment with testosterone commences, as this would constitute a doping violation as per UK Anti-Doping (and World Anti-Doping Agency) regulations. All competitors, at any level of competition, must adhere to anti-doping regulations and this includes use of TUEs for prohibited medications.

Female and open category

NGBs and SGBs may choose to offer sport in which the female category is protected for reasons of competitive fairness and/or safety if they are gender affected. These sports would offer both a female category and an open category. Female entries would be required to declare themselves as recorded female at birth.

An open category would be available for any competitor to enter. Some sports may choose to acknowledge safety parameters as part of team selection in contact sports.

All competitors will need to be compliant with anti-doping regulations, including in relation to prior or current use of anabolic agents, including testosterone.

It is lawful to offer sex categories in sport through the provisions in the Equality Act in respect of gender-affected sport.

Create additional versions (universal admission)

A third option for many sports would focus on universal community inclusion which may not require estimation of ability.

NGBs and SGBs are encouraged to develop a model of their sport in which participation is not dependent on a competitor's sex or gender, and the classification based on the sex binary is withdrawn for this competition. Registration for these competitions will not require declaration of any determinant beyond entry above a nominal age (this may be above the age of 12, depending on the rules of sport competition and physical contact level). All people, including transgender people who are transitioning, those who do not seek to transition, and those who may de-transition or be gender fluid, should be able to compete within a universal admission policy.

Sports which are not gender-affected may choose to offer universal admission as the primary form of competition. However, it must be recognised that a universal admission policy may not equate to full participation for many reasons, one of which may be self-exclusion.

How best to develop a model of this will be based on decisions relating to how a sport manifests being 'gender-affected' and whether this relates to level of contact, and hence safety, or whether it is because of the physical nature of competition which is relevant to fairness (or both). Further, an understanding of the role of the competition is important; whether it is purely for recreational participation or whether it offers meaningful competition. For many sports it will be a combination of factors. In keeping with Principle 6 (case-by-case assessment), it is likely to be impractical and invalid for methodology around body type to be instituted for categorisation.

Sport with a universal admission policy will have modified rules such that it can be played by all people, and for which fairness and safety can be optimised. These models may already exist in some sports. As much as is possible all adults, including disabled people, should be factored into these offerings. Adaptations of rules include non-contact versions of team sports, handicap competitions, modified playing areas or implements/balls, walking versions of team sports, multi-events and non-traditional formats, distances or length of play. Some sports (such as golf) already have an acknowledgement of 'handicap', and others have options for such modifications (some running, swimming and cycling events). Modern sports allow opportunities to adapt scoring systems to accommodate a wide range of participants, as practiced in some para sports.

It is acknowledged that for some NGBs there will not be an option for universal admission, and this includes those sports which are inherently gender-affected due primarily to safety concerns: modifications to remove physical contact may be impractical, and this includes most of the combat sports. However, elements of such sport, such as competitive 'kata' in karate, may be appropriate.

Conclusion

This Guidance concludes that for many sports, the inclusion of transgender people, fairness and safety cannot co-exist in a single competitive model.

Each NGB and SGB should use the framework provided to define the priorities for their sport, and whether the current format of their sport will provide a focus on either inclusion or fairness (and safety where relevant). This is a choice.

Where a governing body considers that transgender inclusion, fairness, and safety are all priorities, then a model for decision making around the best options and opportunities should be developed.

Some governing bodies will need to create a mechanism whereby domestic competition can lead to an international competition pathway.

The Sports Councils will work with NGBs and SGBs in order to find the optimal outcome for their sport. Education and training in policy development will be offered to facilitate best practice and the greatest opportunities for inclusion in sport.

For further background, you can read the supporting documents to this Guidance at <https://equalityinsport.org/resources>.