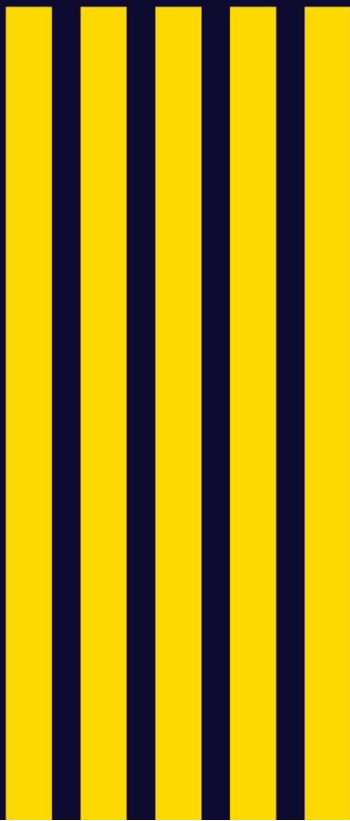




Australian Government
Australian Sports Commission



Transgender & Gender-Diverse Inclusion Guidelines for HP Sport



Prepared by
Australian Sports Commission

May 2023

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BACKGROUND

The Australian Sports Commission (ASC) is the Australian Government agency responsible for supporting and investing in sport at all levels. The ASC's vision is that sport has a place for everyone and delivers results that make Australia proud. Our mission is to lead, support and provide opportunities for all communities to be involved in sport, while growing elite success and representation, inspiring future generations.

The Australian Institute of Sport (AIS) is the high performance (HP) arm of the ASC.

The AIS acknowledges the importance of success, the need to reward HP outcomes, and that wellbeing is the foundation of sustainable success. In line with [Australia's High Performance 2032+ Sport Strategy](#), the AIS is committed to the united pursuit of inclusive, safe, and enjoyable environments for all stakeholders involved in HP programs.

INTRODUCTION

In 2019 the Australian Human Rights Commission (AHRC) partnered with the Coalition of Major Professional and Participation Sports (COMPPS) to develop and publish:



Guidelines for the inclusion of transgender and gender diverse people in sport

The 2019 AHRC Guidelines provide information about the operation of the [Sex Discrimination Act 1984](#) (Cth) in relation to discrimination, harassment, and victimisation on the basis of sex or gender identity.

They also offer practical advice for [promoting inclusion](#) in sport.

The inclusion of transgender and gender-diverse (trans) athletes in HP programs proposes different and additional considerations specific to elite competitive sport.

Matters regarding trans-athlete inclusion, especially in relation to women's HP sport, are evolving and frequently subject to media commentary. Despite this challenging climate, National Sporting Organisations (NSOs) and National Sporting Organisations for People with Disability (NSODs) have demonstrated a willingness to lead as they [balance considerations of fairness and inclusion](#).

Inclusion considerations naturally encompass matters of eligibility.

The AIS believes it is reasonable and appropriate that eligibility rules be integrated as part of [a values-led approach](#), and stipulated clearly for the benefit of all stakeholders.

- The information and recommendations contained in these guidelines are [intended for elite programs only](#); they are not intended for sport at a community or participation level. For those contexts, the 2019 AHRC Guidelines remain relevant.
- These guidelines are not intended to apply to individuals with innate variations of sex characteristics (sometimes referred to as [intersex people](#)) where an individual is participating in the category consistent with their sex assigned at birth. International Federation (IF) eligibility regulations for the female classification may be relevant for intersex people.

Eligibility rules constitute a single aspect of high performance only; they do not define the culture of a program (or extended elite-sport community) in which an athlete operates.

An NSO's/NSOD's commitment to promoting a [spirit of inclusion](#) in the culture it oversees remains an equal and essential principle.

Sport can be a powerful vehicle
for affirming an individual's
gender identity"

Kieren Perkins, ASC CEO



Inclusion timeline

Globally there exists growing momentum for the inclusion of gender-diverse groups across all facets of society. Moreover, the right of trans-athletes to participate in sport is a **fundamental human right**.¹

The evolution of trans-athlete eligibility in HP sport can be traced via shifts in policy:

- The 2003 International Olympic Committee (IOC) policy on transgender and gender-diverse athletes required a trans athlete to have had sex-affirmation surgery, and to have their gender identity legally recognised.
- In 2015 the AHRC report, Resilient Individuals, raised concerns about a lack of trans people in sport, and identified the need for national guidance on inclusion, the operation of anti-discrimination laws, and the health and safety of players.
- In 2015 the IOC removed the requirements for sex-affirmation surgery and legal recognition, and noted the importance of social recognition in respect of a person's gender identity.
- In 2019 the AHRC transgender inclusion guidelines in sport were released.
- In 2020, eight peak sports bodies in Australia jointly launched trans-governance policies in a world-first effort to support trans inclusion.
- In 2021 further shifts by the IOC toward inclusion were outlined (and consolidated in 2022 updates) with the release of the IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations.

The IOC Framework

The IOC's 2021 Framework supports IFs in the development of policies that, in relation to the participation of trans athletes, are sport-specific, evidence-based, and rights-respecting.

The Framework serves as an **overarching reference document** to guide the Olympic Movement in navigating what is a nuanced and ongoing discourse.

- The Framework recognises the need for **separate women's and men's categories** in elite sport.
- The Framework does not preclude the possibility that certain individual athletes could be subject to participation restrictions or exclusions where an **unfair and disproportionate advantage** is clearly demonstrated, or where an **unacceptable safety risk** is clearly demonstrated and cannot be mitigated via reasonable accommodations.

The challenge for elite-sport stakeholders is thus to develop eligibility pathways that:

- are fair and maintain **meaningful competition** in the female category
- provide opportunities for inclusion in an **athlete's preferred category** where possible
- continue to effect meaningful action on **gender equality**
- are devised with the benefit of informed consideration as to the significant **potential consequences** that eligibility criteria may have on affected individuals and organisations.



NSO policy - scope & limitations

When developing policies for trans athletes, NSOs/NSODs are advised to be as clear and comprehensive as possible in stipulating when and where a policy applies.

For example, an athlete representing Australia at an international event is likely to be required to follow the rules of the entity managing and overseeing the event (i.e. the relevant IF or the IOC, for example). NSOs/NSODs and athletes should be aware that **such rules may not be consistent** with AIS guidelines, the policies of the NSO/NSOD, or Australian law.

- In Australia, organisations are **required to comply with Australian law**, including laws relating to discrimination and protected characteristics. These laws can be complex in themselves, and also vary between state and federal levels.
- International bodies operating outside of Australia may not be subject to the same or similar anti-discrimination laws. Therefore, while a **blanket or outright ban** at international level may not violate the legal environment in which an international body operates, it **may violate Australian law if improperly applied by Australian organisations**.

NSOs/NSODs are advised to develop clear positions on selection eligibility for both national and international events, and express these positions during application or selection processes.

- Where a relevant IF's position differs from the NSO's/NSOD's, and/or is in variance to the Australian legal context, **this information should be included** in application and selection communications.
- Where doubt exists, provision should be made for an athlete to **discreetly and confidentially inquire** about or confirm the prevailing rules or processes with the NSO/NSOD (via the Integrity Manager or National Athlete Wellbeing & Engagement [AW&E] Manager, for example), or the ASC.

Athletes traversing their sport's pathway to elite programs should be aware at every step the eligibility requirements both at national and international level.

Case study

Jo is a young trans athlete, who primarily plays in a non-elite team in their club. The club has teams that sit in all levels of the sport's pathway (community through to elite), and players are known to switch across various teams and levels, and play rep games occasionally, either by choice or as needed. It is not uncommon for Jo to be playing with and against elite athletes some weeks, and community athletes at other times. What constitutes "being elite", or the elite pathway itself, can at times be somewhat unclear or non-linear.

In addition, Jo's club is aware that the IF's position on trans participation may be different to the Australian context, and is curious as to how, if at all, that impacts the situation.

Jo's NSO works with Jo and the club to understand what is required for Jo to play at elite levels, and how that differs from the community competition. This not only extends to the requirements needed for trans athletes (such as eligibility, testing, monitoring, safety, anti-doping, etc), but also includes what supports are available to help Jo and the club navigate the process.

Sport is a microcosm of society, and high performance sport should not be at variance with society in recognising gender-diverse individuals"

Dr David Hughes, AIS CMO



TRANS ATHLETES AND HP ELIGIBILITY

GENERAL PRINCIPLES

The AIS is committed to fostering a culture of inclusion in high performance sport, and to supporting HP stakeholder bodies in the development of policies and resources that [support the athlete experience](#).

Reasonable & justifiable

When adopting trans-eligibility rules: as a general principle, rules that may exclude an athlete or athletes should be reasonable and justifiable.

This means that rules can be justified in the wider context following a consideration of [all relevant circumstances](#), including the possible impact of the rules on the athlete, the organisation, and other athletes (for example).

Eligibility rules should be [minimally restrictive](#). That is, they should propose the least possible degree of restriction consistent with the scope of the justification being relied upon.

Application processes should afford individuals the principles of [natural justice](#).

Consultation

In terms of policy development, the AIS recommends an informed, transparent, and athlete-centred process that accommodates thorough consultation with all stakeholder groups.

To this end, consultation should be [meaningful and engaged](#).

- Athletes and the wider HP-program community should be able to [give feedback](#) on proposed eligibility rules in a manner that promotes confidentiality and respects individual choice.
- Consultation with people with [lived transgender experience](#) and/or peak bodies with expertise in this area (such as Pride in Sport, Proud 2 Play, and/or Pride Cup) is essential.
- To support the consultation process, [NSOs/NSODs should seek to educate](#) HP athletes, coaches, staff, and wider HP-stakeholder communities around safety protocols that reflect current scientific understandings and combat misinformation.

Legal advice

Issues around trans inclusion in high performance sport are developing, highly visible, and typically complex.

The general overview offered here [does not constitute legal advice](#). Sports are advised to seek tailored advice when devising, reviewing, and publishing eligibility rules.



DEFINED ELIGIBILITY & FAIRNESS FACTORS

Where a sport decides that a policy regarding trans-athlete HP inclusion is required, NSOs/NSODs are advised to consider the following **defined eligibility and fairness factors**:

1. Objective measures & discrimination
2. Hormone suppression
3. Avenues for raising concerns.

1. Objective measures & discrimination

In Australia, various Commonwealth and state & territory laws **prohibit discrimination based on sex or gender identity**. For this reason, imposing a blanket or outright ban on trans eligibility may infringe upon discrimination laws.

Although some differences exist, including in the exemptions afforded to competitive sport, the basic principle underpinning all such laws in Australia is **the need to treat people without discrimination**.

Further information can be found in the 2019 AHRC Guidelines, particularly section 4.

Objective rules

In order to implement eligibility rules that are not discriminatory, sports might work to ensure that eligibility rules are 'objective'.

That is, where a sport decides that eligibility rules are required, it can seek to make these rules objective in the sense that they apply to participants equally, **without reference to sex or gender identity**.

- For example, where a sport can create eligibility rules according to **objective criteria** such as participants' height, weight, or age, such rules may sufficiently address all relevant considerations without discriminatory concerns arising at all.
- If eligibility rules are objective, but nonetheless disproportionately affect people of a particular sex or gender identity, then the rules must be **reasonable and justifiable**.

For questions of trans athletes competing in the female category, it may not be possible to implement purely objective eligibility rules and **a sport may need to reference sex or gender identity**.

Where eligibility rules that reference sex or gender identity are imposed, the law has provisions that may mean such rules are not discriminatory.

Discrimination exemptions

Commonwealth and most state & territory laws have exemptions that may permit rules specifically in relation to **competitive sport** that would otherwise be discriminatory.

- One example that sports may be familiar with is included in the **Sex Discrimination Act**.
While the Act makes it unlawful to discriminate against individuals on the basis of sex or gender identity, an exemption exists for (single-sex) competitive sport in which the **"strength, stamina, or physique"** of competitors is relevant.

Hence, where an NSO/NSOD is seeking to introduce eligibility rules, it should consider what objective measures of strength, stamina, and physique are relevant in its particular high performance context.

As the Act does not define 'strength', 'stamina', 'physique', or 'competitive sporting activity', a body of **normative data can offer evidentiary context** to illustrate that competition would be uneven because of the disparity between the relative strength, stamina, and physique of competitors.

For example, an NSO's/NSOD's HP program may **use collected data to establish athletic/physiological/anatomical norms** in the female-competition category and develop an understanding of how valuable to performance these various norms are, both individually and collectively. These norms and relative values can then be compared and assessed alongside data from an aspiring trans athlete to establish that inclusion would be fair and safe, and that meaningful competition would be maintained.

In establishing the range and distribution of objective measures across its athlete population, an NSO/NSOD can show that **the competitive sporting activity exemption is satisfied** and that its eligibility rules are not discriminatory.



Objective measures of strength, stamina, or physique may be relevant considerations either under an exemption or to demonstrate that rules are reasonable.

To summarise:

- Objective-measure assessments compiled by a sport should be **specific to the sport**
- Sports should take care not to class or categorise the objective-measure data of **trans athletes and cis-gender athletes differently**
- Sports should also consider any alternatives that may be available that would **lessen the discriminatory impact** on any affected individual

Examples include: the creation of separate categories (e.g., height, weight) or divisions for athletes with different abilities (i.e. competition grading), modifying equipment or playing conditions, or providing training or education to athletes & staff to promote awareness (this may not be possible in all HP contexts)

- Exemptions exist **for the sport to satisfy, not the individual**. It is not suggested women who are cisgender athletes are required to meet 'objective measures' to be entered into the female category.

Sports should be aware that **additional anti-discrimination laws** might be operating at state or territory level that impose other or stricter obligations.

Case study

The Australian Football League's (AFL) elite transgender eligibility policy includes an assessment of athletes' height, weight, bench press & squat capabilities, 20-metre sprint time, vertical jump, game GPS data, and 2km run-time.

These metrics are used to generate information about an individual athlete's actual sport-specific performance capabilities compared with the wider population of athletes.

The AFL's use of this data is intended to ensure that eligibility decisions about an individual athlete are informed by the full distribution of ability within the sport, rather than by a reliance upon hormone levels or other characteristics alone.²



2. Hormone suppression

An NSO may determine that hormone suppression (and the demonstration thereof over a prescribed period) is a HP eligibility requirement for trans athletes in the female category.

As a general guideline the AIS recommends that, where a sport requires hormone (testosterone) suppression of trans athletes in the female category as part of its eligibility rules, **an appropriate range is < 2.5 nmol/L for 24 months prior to competition**, medically supervised and with ongoing monitoring.

- This guideline may vary based upon **the unique physiological requirements of a sport**. For example, sports that are not explosive, power-based, or aerobic may consider that the appropriate range for their sport exceeds AIS recommended guidelines. In such circumstances, reasoning should be set out clearly for all.
- The AIS recommends that appropriate medical supervision would incorporate consultation with a **specialist endocrinology professional**. Where practical, the AIS recommends such consultation **four (4) times per year**, however this may be increased or decreased based on an athlete's medical needs. At least one of the monitoring tests should be via LC-MS (Liquid Chromatography Mass Spectrometry).
- Where an athlete is undertaking the 24-month monitoring period prior to elite competition, a **holistic review** of the athlete's wellbeing and performance at the sub-elite level for a 12-month period should be maintained by the sport. This data will aid both the athlete and the sport in any subsequent application by the athlete to compete in the sport's elite HP category (see Application Process in the Checklist at the end of these guidelines).
- A sport's policy should **clearly outline the monitoring and medical-supervision process** for reporting elevated results or health concerns. When, how, and to whom may such information be disclosed? Strict privacy and confidentiality principles around health-information consent and disclosure must be met at all times.

Current scientific understanding is that the overwhelming majority (=95%) of individuals undergoing hormone-suppression therapy will record a testosterone (T) level below 1.7 nmol/L; readings above 2 are rare. In many instances, hormone suppression results in **undetectable** levels of testosterone.

As human biology is inherently dynamic, and as the range of results varies greatly across individuals, **a level of < 2.5 nmol/L is advised**. This level affords individuals a small 'safety' buffer while still falling within the scientifically understood female range for elite athletes.³

Case study

Sam is an elite athlete in the female category who is undergoing hormone suppression; their testosterone levels are being monitored by an endocrinologist. Upon going for a quarterly appointment and check-up, Sam returns a T level of 3.9 nmol/L.

As Sam is an elite athlete, the sport refers the matter under its Trans Inclusion Policy to the Australian Sports Drug Medical Advisory Committee (ASDMAC). It reviews Sam's case and recommends that Sam consult with their medical advisors to check for underlying conditions. The policy also refers back to the endocrinologist for a specialised assessment of Sam's medical needs, and to determine Sam's natural level of testosterone. At every step and in every regard, the health of the athlete is the paramount consideration.

As Sam has an 'elevated' T (that is, a level in excess of the threshold at 2.5 nmol/L), it is reasonable for the sport's policy to preclude Sam's participation in elite sport in the female category until such time as a reading below the 2.5 threshold is returned. Subsequent instances of elevated T may indicate that further medical investigation is required, and may also necessitate additional eligibility restrictions being contemplated.

A policy vacuum in high performance has made sport the tip of the spear for larger debates in society about trans inclusion"

Ricki Coughlan, transgender athlete



3. Avenues for raising concerns

NSOs should establish (or adapt from existing) a process for the appropriate raising of concerns regarding athlete safety.

Such avenues should be **available to both trans and cis-gender athletes**, as well as to HP coaches and personnel. Sports should also consider ancillary services such as **confidential support**, a listing of external support services, and allowing support persons to attend throughout such processes. Each sport will need to consider its own circumstances and resources.

Competitive sport distinguishes between male and female categories due to physical advantage acquired in **male puberty** across the full spectrum of power and aerobic sports (advantages include higher haemoglobin levels; longer, stronger bones; a higher percentage of lean body mass; larger, stronger muscles).³

Given that transition via hormone suppression and/or gender affirmation procedures may not, in every case and without exception, extinguish the full spectrum of performance advantage, the appropriate **management of safety concerns** if and as they arise will need to be accommodated as a matter of policy and procedure.

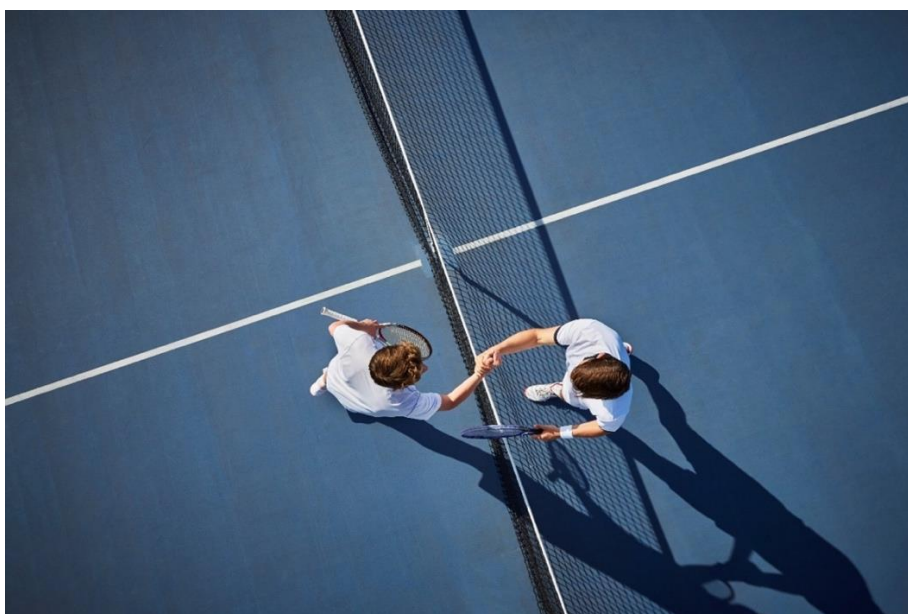
Similarly, in every high performance context it is imperative **that the integrity of meaningful competition** is strictly maintained, and that avenues exist for athletes to confidentially and constructively raise authentic concerns where this integrity (or its appearance) might reasonably be called into question.

In summary:

- To be clear, an avenue for raising concerns should be an extension of a sport's existing member-protection or safety-and-wellbeing frameworks. It is **not a substitute for consultation**, nor is it designed for individuals to debate the overarching principle of inclusion.
- **Cis-gender female athletes should not be disadvantaged**, in relation to fairness or safety, by the inclusion of gender-diverse individuals in the female category.
- Procedural care must be taken that the management of raised concerns does not compromise **standards of privacy and confidentiality** (detailed below under Further Considerations).

Supporting trans and gender-diverse athletes to authentically participate in high performance sport has significant implications for mental health, wellbeing, and quality of life”

Matti Clements, Executive General Manager, AIS Performance



FURTHER CONSIDERATIONS

Anti-doping

The NSO/NSOD Anti-Doping Policy and the World Anti-Doping Code may be relevant to trans athletes who are accessing [hormone therapy](#) as part of their transition or affirmation.

It is the [responsibility of all athletes to ensure compliance](#) with the relevant anti-doping policy and code, including where Therapeutic Use Exemptions are required (for example). Athletes should seek guidance from Sport Integrity Australia (SIA), or from their Integrity Officer or AW&E National Manager.

In terms of event management, NSOs/NSODs should consider the provision of [appropriate doping-control facilities](#) for trans athletes, and make clear policy stipulations regarding the appropriate sex/gender of doping-control personnel for trans athletes, including having regard to the athlete's preference where reasonable.

Privacy & confidentiality

In order for a trans athlete to comply with HP inclusion policies, they must first be identified as trans or gender diverse. Any such [process of identification must be initiated, managed, and controlled by the athlete](#); the 'outing' of a person as trans or gender diverse without their knowledge or authorisation is entirely inconsistent with standards of athlete wellbeing.

The same diligence with regard to privacy and confidentiality applies to trans-specific [medical information](#), especially as disclosed to appropriate NSO/NSOD persons in order to comply with NSO (or IF) policy and/or eligibility criteria.

Should an athlete wish to [update gender](#) as listed in their membership profile in order to participate in an activity in a manner consistent with their gender identity, all discussion and documentation should be kept confidential and any proceedings sealed unless or until the athlete makes these records available.

Teammates, coaches, and all others should respect the confidentiality of athletes at all times. Discussion or disclosure of an individual's gender identity should only take place after [express permission](#) is given by the individual.

Education

NSOs should educate HP athletes, coaches, staff, and wider stakeholder communities around [safety protocols](#) and support that is reflective of trans-athlete needs. [LGBTQ+ and Gender Inclusion training](#) for coaches, parents, and staff may be conducted to ensure inclusive practices.

Sports should seek [subject-matter experts or individuals with lived experience](#) to conduct training or education sessions. For example:

- Policy makers should be educated about specific needs and challenges faced by trans athletes in HP sport
- NSO/NSOD Board members and senior HP personnel should be educated about legal and ethical considerations pertaining to trans-athlete inclusion, as well social and cultural issues that may arise
- General staff, coaches, and athletes should be educated about challenges faced, and about appropriate language and behaviours, to help reduce discrimination and stigma.

In addition to policy, sports should consider what [complementary resources](#) might also be developed. For example:

- Sport-specific FAQs, suggested responses, and key messages
- Issues Brief for senior management, and administrator guidance for supporting trans athletes
- Appropriate online tools to address misinformation, trolling, or other harmful and improper behaviour
- Guidance around naming and terminology conventions.

Athletes should be [permitted to dress in a manner consistent with their gender](#). A range of universal options for all athletes, as opposed to gender-specific clothing requirements, might be encouraged.



Science & medicine

In order to promote shared understandings, provide a context for its policy positions, and identify current and future trends in the trans space, an NSO/NSOD may opt to include a [statement of current scientific and medical understandings](#) around athlete development and trans or gender diversity.

One factor behind current knowledge gaps or prevailing misunderstandings may be the [absence](#) of randomised controlled trials or longitudinal case studies involving trans athletes and performance outcomes.

At the same time, it is established science that trans people receiving feminising hormone therapy have an increased risk of blood clots (venous thromboembolism), myocardial infarction, and stroke relative to cis-gender women and men.⁴ They also have lower bone mass density (BMD) than cis-gender men, and therefore an increase in bone-fracture likelihood.⁵

Although this information may not impact an NSO's/NSOD's policy content, it is important to recognise the [risks and health-costs](#) to individuals undergoing hormone suppression therapy.

- The medical suppression of [androgenisation prior to puberty](#) prevents male performance advantage; however, such procedures are very uncommon in Australia. No child should be encouraged to enter into gender-affirming healthcare by a certain age in order to be eligible to compete in HP sport.
- Studies have shown that [suppression of testosterone after male puberty](#) results in:
 - improved mental health measures in trans women⁶
 - a reduction in some of the acquired (athletic) benefits of androgenisation⁷
 - rapid reduction (~ 6 months) in Hb to female levels⁸
 - reduction in muscle bulk & increase in body-fat % (over years rather than months)⁹
 - reduction in strength (but not always down to average cis-gender female levels)¹⁰
 - reduction in VO₂ max (but not always to cis-gender female levels).¹¹

Case study

Alex is a young person who identified as transgender prior to puberty. Alex is a talented athlete and is interested in pursuing their sport at an elite level.

Alex faces a range of challenges, not only as a young person but in contexts specific to gender identity: social stigma, discrimination, and access to appropriate medical care. Without proper support, Alex's ability to participate in sport at an elite level may be compromised.

Alex's sport acknowledges the importance of providing support to talented juniors to ensure they have the opportunity to pursue their athletic ambitions. The sport's AW&E Manager works with Alex on issues related to mental health, physical health, and social support, as well as to advocate for organisational acceptance and policies promoting inclusion.



COMMONLY USED TERMS

Below is a list of terms used throughout these guidelines. A helpful resource for terminology current in this area can be found at www.prideinsport.com.au/terminology

Term	Definition
cis-gender / cis	a term used to describe people who identify their gender as the same gender assigned to them at birth (male or female). 'Cis' is a Latin term meaning 'on the same side as'.
diversity	the variation of different characteristics that make up a person's identity among a group of people
equity	the condition or situation in which everyone has fair access to opportunities based on their individual needs and circumstances
gender	a part of how you understand who you are and how you interact with other people
gender diverse	an umbrella term that includes all the different ways gender can be experienced and perceived. There are many terms used by gender-diverse people to describe themselves and can include people questioning their gender, and those who identify as trans/transgender, genderqueer, non-binary, and many more
gender identity	defined in the Act as 'the gender related identity, appearance or mannerisms or other gender related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth'. ¹² For example, a person's birth certificate may include a marker which indicates that the person's designated sex is female when that person identifies as a man (in other words, their gender identity is that of a man)
inclusion	proactive and intentional behaviours that create an environment in which people feel a sense of belonging
intersex	a protected attribute under the Act. Under the Act, 'intersex status' means the status of having physical, hormonal, or genetic features that are: <ul style="list-style-type: none"> – neither wholly female nor wholly male – a combination of female and male, or – neither female nor male.¹³ These guidelines do not address athlete-inclusion issues for people born with variations in sex characteristics (intersex variations)
LGBTQI+ (or variations)	an initialism for lesbian, gay, bisexual, transgender, and queer/ questioning. It is used to refer collectively to these communities. The 'LGB' refers to sexuality/sexual identity; the 'T' refers to gender identity; 'Q' can refer to either gender identity or sexuality; 'I' refers to people with an intersex variation
non-binary	a term used to describe a person who does not identify exclusively as either a man or a woman. Genders that sit outside of the female and male binary are often called non-binary
sex	refers to a person's biological sex or sex characteristics. These may be genetic, hormonal, or anatomical. ¹⁴ This has historically been understood as either female or male. However, we now know that some people are born with natural variations to sex characteristics
transgender	(commonly abbreviated to 'trans') a general term used to describe a person whose gender identity is different to the sex they were assigned at birth. Being transgender is about how an individual describes their own gender; it is not necessarily about their biological characteristics
transition / gender affirmation	refers to the social, medical, or legal steps that a transgender person takes to affirm their gender identity. A transition or affirmation may or may not involve medical treatment, including surgeries or hormone therapy. Each transition is different



Relevant legislation

Federal/Commonwealth

The following laws operate at a federal level, and the Australian Human Rights Commission has statutory responsibilities under them:

- Sex Discrimination Act 1984 (Cth)
- Privacy Act 1988 (Cth).

State/Territory

The following laws operate at a state/territory level, with state & territory equal opportunity and anti-discrimination agencies having statutory responsibilities under them:

- Australian Capital Territory, Discrimination Act 1991
- New South Wales, Discrimination Act 1977
- Northern Territory, Anti-Discrimination Act 1996
- Queensland, Anti-Discrimination Act 1991
- South Australia, Equal Opportunity Act 1984
- Tasmania, Anti-Discrimination Act 1998
- Victoria, Equal Opportunity Act 2010.

Acknowledgements

This document has been prepared by the Australian Sports Commission and Australian Institute of Sport.

The authors thank all legal and medical contributors for their guidance and assistance with consultation and expertise.

A special thank-you to the multitude of athletes and alumni athletes, NSO/NSOD staff, and to those LGBTQ+ individuals & other organisations who freely gave of their time to inform this project and provide invaluable feedback to these guidelines.

Your input is greatly appreciated.

This work was funded through staff allocation by the Australian Sports Commission and Australian Institute of Sport.



ENDNOTES

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13.	P13	Sex Discrimination Act 1984 (Cth) s 4(1) (definition of 'intersex status')
14.	p13	Sidoti and Byrne "Promoting and Protecting Human Rights in relation to Sexual Orientation. Gender Identity and Sex Characteristics: A Manual for National Human Rights Institutions" Report: Asia Pacific Forum, June 2016



CHECKLIST

The following checklist may serve as a useful resource for NSOs at various stages of the trans-policy formulation process.

The checklist is intended as a [general overview](#) of factors to consider when developing an NSO trans-athlete inclusion policy.

#	CONSIDERATION AREA	POSSIBLE CONSIDERATIONS
PRIOR TO DRAFTING		
1.	Policy landscape	<ul style="list-style-type: none"> – Review all and any existing eligibility rules that international bodies (IF/IOC) have in place that apply or potentially apply to the NSO's / NSOD's HP athletes (and other HP stakeholders) – Assess whether existing eligibility rules at international level comply with or are at variance with current AIS Guidelines, NSO/NSOD policies, or Australian laws (federal or state/territory) – Include any identified inconsistency between applicable eligibility rules at international and national level in relevant policy documents, including in athlete agreements. Information should include avenues for athletes to discreetly and confidentially inquire about trans-eligibility matters to the appropriate person(s) within the NSO/NSOD, and also externally (ASC) – Consider if independent, tailored legal advice is needed in respect of the HP program's particular context
2.	Consultation	<ul style="list-style-type: none"> – Inform NSO/NSOD stakeholders that a trans policy is being explored and publish a basic position statement that affirms an institutional commitment to upholding the HP program's cultural values (for example, to pursue a policy that is sport-specific, evidence-based, and rights-respecting in line with the IOC) – Develop a consultation process that canvasses athletes, the wider HP community, and expert trans agencies or those with lived trans experience for opinions around trans inclusion, allowing stakeholders to offer feedback privately, confidentially, and without judgement – Support stakeholders during the consultation period with information sessions and/or resources to address knowledge gaps, combat misunderstandings, and foster shared understandings of the issue – Develop an internal working group to coordinate and project-manage
DRAFTING		
3.	Policy sections	<ul style="list-style-type: none"> – A policy might include the following sections: <ul style="list-style-type: none"> ○ Title ○ Purpose / introduction / background ○ Scope ○ Objectives ○ Eligibility ○ Application process & considerations ○ Expert Panel ○ Appeals / Grievances ○ Discrimination, vilification, harassment ○ Language & terminology ○ Competitions / format ○ Privacy & personal information ○ Ancillary matters (facilities, uniform, apparel, anti-doping, related polices or legislation, etc).



#	CONSIDERATION AREA	POSSIBLE CONSIDERATIONS
4.	Scope	<ul style="list-style-type: none"> – Ensure the policy is clear in terms of where, when, and to whom it applies – Ensuring clarity may require a sport to identify what, precisely, it considers to be the elite or HP aspects of its context and associated pathway, as distinct from community or participation levels of its program
5.	Panel	<ul style="list-style-type: none"> – Establish an appropriately qualified trans panel (the Panel) to consider applications from trans athletes to participate in the sport's HP program – The Panel should comprise a range of individuals with the requisite standing and relevant expertise for such a role. Professional profiles to consider should represent gender diversity and may include: <ul style="list-style-type: none"> o a medical professional with HP sport experience (potentially the NSO's/NSOD's CMO) and/or with expertise in endocrinology o a senior, recent alumni athlete from the NSO's HP program to provide an athlete's perspective o the NSO's/NSOD's HP Director and/or Integrity Manager o an individual with legal expertise to serve as chair. – The sport's AW&E Manager should act and operate separately from the Panel, remaining free to assist an athlete with their application, as well as with any support and/or next steps arising from the Panel's decision
6.	Application process	<ul style="list-style-type: none"> – Set out the process for a trans athlete to apply to participate in the sport's HP program. Establish what information the athlete is required to provide, and detail how this information will be managed – Ensure the application process is clear and transparent around matters such as selection, representative requirements, and any NSO vs IF position or policy differences. (For example, if a trans athlete qualifies for an international event, but the IF prohibits trans athletes from competing, what discretion does the NSO/NSOD have to select or otherwise?) – Clarify that for any application, the NSO/NSOD may request additional information from other specialist areas as necessary and appropriate. Example: risk, legal, insurance, social inclusion, academia, science & medicine, mental health, and/or other sport partners (NIN, Paralympics, AOC, CGA, IF, etc.) – If the application process involves a hearing, clarify whether the athlete has a right to attend (with a support person) and to be heard. Stipulate any other parties who may attend the hearing and inform the decision-making process – Articulate by way of a list or matrix (for example) the factors that the Panel will consider in its assessment of an application, including (but not limited to): <ul style="list-style-type: none"> o The athlete's data and information o The NSO's/NSOD's HP program comparative data and information o Submissions from the HPD, HP coach, Performance Manager etc. o Third-party data such as: research; expert opinion; statistical data, including data or information from legal, medical, social, or other relevant contexts, including IF considerations o Any data or information regarding the athlete's wellbeing and performance at the sub-elite level during their 24-month monitoring period before elite eligibility.
7.	Objective measures	<ul style="list-style-type: none"> – Compile objective-measure data that captures a full range and distribution of athletic ability or performance in terms of identified strength/stamina/physique aspects across an entire athlete population – Affirm that objective-measure data may be requested by a trans athlete as part of an application process and used in the assessment of characteristics



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8.	Hormone suppression	<ul style="list-style-type: none"> – Consider whether and which hormone-suppression protocols are relevant to the HP program’s specific context. This may involve a survey and/or adoption of guidance and advice issued by international bodies and the AIS – Consider procedural measures that will maintain a paramount focus on health and wellbeing with regard to individuals undergoing hormone suppression (a minimum number of four annual consults with a specialist endocrinologist, for example) – Consider what T level is appropriate in the HP program's specific context, and for how long this level is required to be maintained prior to competition. The AIS suggests 2.5 nmol/L for two years – Ensure that processes for disclosure of health information strictly adhere to all privacy principles and that appropriate consents are obtained – Ensure that the trans policy provides for appropriate referrals to the Australian Sports Drug Medical Advisory Committee (ASDMAC) for review and advice where necessary
9.	Avenues for concerns	<ul style="list-style-type: none"> – Stipulate and publish a process that allows HP stakeholders to raise concerns with regard to athlete safety, matters around meaningful competition, or any other relevant aspect of the trans policy and/or its operation in practice – Avenues for concerns should be arranged so as to strictly safeguard stakeholder privacy and standards of confidentiality. Provision for anonymous reporting of concerns should be contemplated and potentially accommodated. The process should include comprehensive details about appropriate persons (office holders) in the HP program to approach with concerns, and the most appropriate method(s) for doing so
10.	Appeal or review	<ul style="list-style-type: none"> – Consider whether applications to the sport's trans Panel are reviewable, either by the athlete or the NSO/NSOD – and, if so, the process for initiating such a review – Consider a policy commitment that assessments will be undertaken in a timely manner so as not to unnecessarily disadvantage an individual. Other such measures to consider: <ul style="list-style-type: none"> o will the individual have an opportunity to respond to any proposal to exclude them based on the competitive sport exemption? o will they be provided with written reasons for any decision to exclude them? o outline available support and next steps available.
11.	Trans men in male competition	<ul style="list-style-type: none"> – Consider whether eligibility rules are required for the participation of transgender men in the male category
OTHER CONSIDERATIONS		
12.	Education	<ul style="list-style-type: none"> – Offer inclusion & diversity training that focuses on the lived and athlete experience of trans, gender diverse, and LGBTQ+ individuals – Sessions may be conducted in such a way as to complement the consultation process, but also to address essential stand-alone educational pieces in key cultural contexts: respectful behaviours, anti-discrimination, legal responsibilities in the contemporary workplace etc. – Education materials should include the full range of support processes, initiatives, and services in place for HP athletes – Appropriate online tools to address misinformation, trolling, or other harmful and improper behaviour



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13.	Privacy & confidentiality	<ul style="list-style-type: none"> – Consider clear policy stipulations around rights and protocols with regard to identification to ensure that this process is led and managed by the trans athlete involved. Consider processes for updating gender identity in any formal or membership-profile context, and ensure that the playing/performance history associated with the previous gender identity is not lost through the process – Outline the processes in place for the confidential management and storage of private medical information about all HP athletes, and highlight any additional or complementary processes that might be important to observe in a trans context – When developing information and record-keeping systems, and considering the use and any disclosure of the personal information held by the sport, ensure the provisions of the Privacy Act 1988 (Cth) are adhered to
14.	Review & legal review	<ul style="list-style-type: none"> – Internally review the draft trans policy to assess its meeting of the ‘reasonable and justifiable’ standard, and the ‘minimally restrictive’ standard – Consider guidance notes as to the limits of the trans policy’s application, especially with respect to policies in place at international level that are or may be at variance with it – Prior to publication, forward the (draft) trans policy for legal review to ensure compliance with Australian laws (federal and state/territory) – Ensure that the trans policy is tailored to the NSO’s/NSOD’s unique profile of legal and governance requirements
15.	Impact reduction & athlete wellbeing	<ul style="list-style-type: none"> – Include procedural arrangements for supporting individuals impacted by the trans policy – Highlight phases or periods when support should be maximised in the interests of safeguarding athlete wellbeing (scheduled check-ins from the sport’s AW&E Manager around selection barriers, selection notification, or in periods immediately before and after a trans Panel hearing or review (for example) – Emphasise the services available to elite athletes, including access to the AIS Mental Health Referral Network (MHRN)
16.	Periodic review	<ul style="list-style-type: none"> – When will the sport’s trans policy be reviewed? Will reviews be scheduled at regular intervals? Will the review process be internal, external, or a combination of both? – Ongoing evaluation of the scientific evidence base that informs decision-making should form part of the periodic review





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