

# WRN Sports Group

## Inclusive Sport

*A guide to Writing Single-Sex Sport Policies*



### **Key Points**

- All UK sporting organisations must bring their policies in line with discrimination law and the relevant Sports Councils Equality Group guidance.
- Female athletes or participants, and women's groups should be consulted in any policy review process, or on any new policies that have an impact on the female category.
- UK sports organisations must ensure they provide single-sex facilities (toilets, showers and changing areas) where the safety, privacy and dignity of women and girls is fully protected.

## Terms used in this document

Sex – Female or Male.

Female - of or denoting the sex that can bear offspring or produce eggs, distinguished biologically by the production of gametes (ova; large) that can be fertilised by male gametes.

Girl – Female under the age of 18 years.

Women – Adult Female.

Male – of or denoting the sex that produces gametes (small), especially spermatozoa, with which a female may be fertilised or inseminated to produce offspring.

Boy – Male under the age of 18 years.

Man – Adult Male.

Gender – a term that was once used interchangeably with 'sex' to mean male or female. Gender is a social construct.

Transgender policy – the policies published by individual National Governing Bodies (NGBs) of UK Sports that describe eligibility criteria for male and female categories.

## Writing Policies that comply with the law

Every Sports' National Governing Body has a responsibility to provide fairness and safety on the field of play. Organisers of sports and fitness activities, such as fun runs or sports taster sessions, are also bound by law to provide fair and safe events for all their participants. The law applies to all levels of sport and fitness activity from grassroots recreational through to elite competition, and to all ages from childhood through to 'Masters'.

Sports venues must also comply with laws to provide privacy, dignity and safety for females using changing rooms and toilets.

Women and girls have seen their access to single-sex sport eroded in recent years as sports providers attempt to navigate the issue of 'inclusivity'. Confusion over the legal rights of individuals claiming protections under the protected characteristic of 'gender reassignment' in sport and fitness activities has resulted in the vast majority of sports writing policies that allow males to self-identify into female categories. This is having a devastating impact on women and girls.

Rights to fairness and safety for protected groups are enshrined in UK Law. Sex, *i.e.*, female or male, is a protected characteristic under the Equality Act 2010.

The Women's Rights Network has written this document to aid sports governing bodies that are updating their Transgender Policy documents. It is designed to be read in conjunction with the Sports Councils Equality Group Guidance and the UK Government's guidance to the Equality Act 2010. A report with more details on the various aspects to be considered when writing a Transgender Policy is available on the WRN website:

[https://www.womensrights.network/files/ugd/18f02a\\_d7d96bf3d91c4d0ab804c8c1d33ef8e4.pdf](https://www.womensrights.network/files/ugd/18f02a_d7d96bf3d91c4d0ab804c8c1d33ef8e4.pdf).



## Who should read this Guidance?

- UK-based Sports' National Governing Bodies and Fitness / Activity providers
- Event and competition organisers
- Equality and Diversity officers tasked with writing policies
- Anyone who is required to understand the Equality Act 2010 as it applies to sport and activities, from grassroots recreational through to elite level (for example, sports coaches, safeguarding and welfare officers)

## Why is it needed?

A Women's Rights Network survey of NGBs affiliated to Sport England found that the vast majority do not protect the legal rights of women and girls to fair and safe sport, despite the requirements of the UK Equality Act 2010. [Sporting Body Policies | Women's Rights Network | UK](#)

Of the 77 sports surveyed (February 2024), 53 have policies that allow males to self-identify into the female category, and in many cases also allow them into female toilets and changing facilities. This leaves sports at risk of legal challenges on the ground of direct or indirect discrimination.

Protecting the female category is important for:

- Fairness and safety
- Inclusion of all women and girls

### *Fairness and safety*

The majority of sports are 'sex-affected' *i.e.*, being male carries a significant biological advantage in terms of speed, power and strength. Some of the UK's most popular sports – football, cricket, golf, tennis, allow males to self-identify into female categories. In addition to the unfair advantage of being male, there are safety concerns. Males hit balls harder, they tackle harder, they are physically more powerful, this brings a significantly greater risk of injury to the women and girls who play against them. Shockingly some combat sports, such as karate, also allow males to self-identify into the female category, which carries significant risk of injury to female competitors.

### *Inclusion of women and girls*

Every time a male is included in female sport, a woman or a girl is excluded. The loss of opportunity is an unacceptable outcome of an 'inclusive policy' for women and girls in sport.

One of the most prominent cases occurred at the Tokyo Olympics 2020 when weightlifter Laurel Hubbard, a 41-year-old male who identified as female, was selected to represent New Zealand. Hubbard took the place of 18-year-old Roviela Detenamo, a woman from the island of Nauru.

There are many similar cases in a growing number of sports where women have missed out on podium places, prize money, or team selection because sports have not protected the female category.

## ***Why does protecting the female category matter?***

Campaign group Fair Play for Women reported on the impact of Unfair Policies on women and girls. Testimonies from 35 different sports revealed the full extent of:

- Risking women's and girls' physical safety
- Unfair competition and demoralisation
- Losing out on records, rankings, prize money or on opportunities to participate
- No consent or being coerced into a mixed-sex environment
- The chilling climate of intimidation, fear and silencing
- Loss of privacy and dignity

<https://fairplayforwomen.com/new-report-how-trans-inclusion-in-sport-is-harming-women-and-girls/>

It is important to capture accurate sex-based information on data and registration forms. Tackling inequalities is not possible if only self-identified gender is recorded.

## ***Who should we consult before reviewing or writing a policy?***

Many sports have introduced a Transgender Policy without consulting those athletes / participants who are most affected by changes to eligibility for the female-only category, *i.e.*, women and girls.

While policy must be drawn up with due regard to the law, sports should ask women for their views, ideally as an anonymised survey to encourage genuine opinions and concerns that women and girls may have, with well-framed questions that do not lead to biased results.

## ***Writing a policy – what to take into consideration***

- UK Sports Councils Equality Group Guidance
- Equality Act 2010,
- Legal challenges
- UK Initiatives
- Consultation with sports participants affected by the policy
- Changing rooms and toilets

Further details on each of these aspects of policy delivery can be found in the WRN report on Sex-segregated Sport in the UK

[https://www.womensrights.network/files/ugd/18f02a\\_d7d96bf3d91c4d0ab804c8c1d33ef8e4.pdf](https://www.womensrights.network/files/ugd/18f02a_d7d96bf3d91c4d0ab804c8c1d33ef8e4.pdf)

WRN recommends the British Triathlon Transgender policy as balanced and fair for women and girls. The competitive female category is protected, and the policy references all the principal sources of information to be considered when writing a Transgender Policy.

<https://www.britishtriathlon.org/britain/documents/about/edi/transgender-policy-effective-from-01-jan-2023.pdf>

## **FAQ for Sports Policy Writers**

### **1. Are we at risk of litigation if we exclude transgender people from sport?**

No one should be excluded from sport and policies should make this clear. It is lawful to exclude males (however they identify) from female categories. Even those born male and who have a Gender Recognition Certificate may be lawfully excluded from female categories of sport as this could compromise the fairness and possibly the safety of female competitors (depending on the sport).

Sports are risking litigation by including males in the female category. There is a strong case of direct or indirect discrimination under the Equality Act 2010.

### **2. If we offer male and female categories which category would a male who identifies as female go into?**

Many sports provide a protected Female category (for female from birth only) and an Open category (for all males and anyone who identifies out of their sex at birth). This should be the model for all sports.

### **3. How can we include people who are 'non-binary'?**

Everyone has a sex, male or female. People who choose to identify as non-binary may compete in the sex category of their birth, or in the Open category.

### **4. Our current policy allows males who have reduced their testosterone to compete in the female category. That's okay isn't it?**

No. Males who reduce their testosterone should compete in the Male or Open category. Testosterone reduction does not eliminate the biological advantage of being born male, such as longer bones, larger heart and lungs (for greater oxygen transfer), larger muscles etc. Even if testosterone is eliminated the male advantage is retained. Male advantage is life-long.

<https://pubmed.ncbi.nlm.nih.gov/33289906/>

### **5. Which categories should females who identify as male compete in?**

A Female may compete in the Female category OR the Open category if they do not wish to compete against other females. However, females who take testosterone must be advised that this hormone is banned by the World Anti-Doping Authority as it is a performance-enhancing drug. This applies to males and females in all sports from grassroots to elite level. Anyone taking testosterone should be made aware of the possible consequences for them, their coaches and their club. There is more information at UKAD.

<https://www.ukad.org.uk/>

### **6. We have gender-neutral toilets and changing rooms. That's okay isn't it?**

No. UK law states that females must have access to single-sex changing rooms and toilets for the purposes of privacy and safety when in a state of undress. Separate male and female toilets and changing rooms must be provided. 'Gender-neutral' facilities may be provided in addition to, but not instead of, single-sex facilities.

### **7. Our International Federation allows males to identify into female categories. We can't go against that can we?**

UK-based sports governing bodies and sports events must comply with UK law. International federations do not need to comply with the laws of the nations they represent, therefore national governing bodies must adapt their policies to the law that applies in their own nations.

Several sports NGBs, including British Triathlon and British Rowing have policies which differ from their International Federations because they have recognised that they are bound by UK law (they are now lobbying their international governing bodies for change to the rules so that women's sport is protected).

### 8. Should we follow International Olympic Committee guidelines?

The IOC governs international elite sport. The vast majority of sport and fitness activities are non-elite and do not need to comply with the IOC, only the law of the country in which they are based.

IOC guidance, published in 2022, has been widely criticised for its non-scientific approach.

UK-based sports should follow UK law and Sports Council Equality Group guidance.

### 9. We have a policy of assessing each transgender case individually. Can we continue to do this?

This is not recommended and the UK Sports Councils guidance document provides several reasons why case-by-case assessments are unlikely to be practical or verifiable when considering eligibility into gender-affected sports:

- 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."

Case-by-case assessments of male eligibility into the female category are subjective, inappropriate and likely to be discriminatory. These processes lack transparency.

### 10. Where can I get more advice?

If your board or management staff would like training on your obligations under the Equality Act 2010, we are happy to recommend **UK Equality Network** who specialise in delivering bespoke Equality Training.

[www.UKequalitynetwork.co.uk](http://www.UKequalitynetwork.co.uk)

#### Useful links:

<https://www.womensrights.network/sport>

<https://fairplayforwomen.com/>

<https://womeninsport.org/>