

Transgender & Transsexual Policy

February 2016

1. Introduction and policy statement

British Rowing has developed a policy in respect of transgender people, which includes those who are transsexual and transgender, in all aspects of the Sport: rowers, employees, coaches, volunteers and spectators.

British Rowing will promote a zero tolerance approach to transphobia. Transphobia includes discriminatory language or behavior directed towards anyone who comes under the umbrella term of transgender; in addition it may be towards a transsexual person's friend or supporter, or anyone that may be perceived to be a transsexual person (whether they are transsexual or not). The behaviour may include a reluctance or refusal to provide access to services to the same extent as that provided for a non-transsexual person. British Rowing and its affiliated clubs will ensure that any unacceptable behaviour and language is tackled effectively and appropriately and sanctions and /or educational programmes implemented to ensure compliance and the creation of a safe, inclusive and welcoming environment for trans people.

The following points are considered good practice for local sporting organisation officials:

- Treat the individual with dignity and respect.
- Explain the NGB policy and procedure and ask their view on how to proceed. Provide contact details for NGB contact.
- Respect the private and confidential nature of the individual's situation.
- Agree with the individual what information is to be shared with others and, if this is necessary, how this should be shared. In general no information should be shared by the local official unless they have express permission from the transsexual person. Thereafter, NGB policy with regard to information sharing should be followed.
- Ask the individual what communal changing facilities they would prefer to use, as not every changing facility will have private cubicles. This will depend on whether the individual has transitioned or is in the process of transitioning and whether they have undergone any gender reassignment surgery. It may be that the most appropriate option is to use the cubicles in the toilets appropriate to their full time gender role, or that they should arrive changed and ready to participate, to avoid any misunderstanding should they still have secondary sex characteristics of their former gender. In line with good safeguarding practice, British Rowing recommends that adults (unless they are parents) do not use the same changing facilities as children under the age of 18 unless there are separate cubicles.
- Encourage the individual to feedback any inappropriate language or behavior from other individuals so that it can be dealt with.
- Ensure a Code of Conduct is publicized indicating their zero-tolerance policy towards all bullying/harassment of people with protected characteristics

2. Trans people competing

NGBs must not restrict the participation of a transsexual person in competitive sport unless this is strictly necessary to uphold fair or safe competition; any other restriction would amount to direct discrimination. NGBs should treat a transsexual person as belonging to the sex in which they present (as opposed to the biological sex they were born with) unless this might give the transsexual person an unfair advantage or would be a risk to the safety of competitors. Any negative effect of restricting the participation of transsexual people must be mitigated as far as possible, to permit as much inclusion as is fair and safe.

British Rowing recognises that consistency with FISA’s position is appropriate for international competition. FISA itself is in the process of adopting IOC guidelines. In line with guidance from UK Sport, British Rowing has therefore adopted the IOC’s statement with regards to transsexual athletes and their status in international competitions.

However, these guidelines do not allow for the different approaches to treatment and legal status in the UK. The Sports Council advises that they should not therefore be applied to domestic competitions run by UK NGBs. A more pragmatic solution is to adopt different policies for the inclusion of transsexual rowers, depending on whether the rower seeks to participate in domestic or international competitions and taking into consideration the difference between transsexual people. The aim should be to include transgender people, as far as is possible.

Accordingly, for domestic competition, British Rowing has adopted a policy based on the Home Countries Sports Council Equality Group policy framework for non-contact sports for competition at domestic level:

| Affirmed Gender | Domestic Competition |
|---|---|
| Any transsexual male (female-to-male transsexual person) | May compete in his affirmed gender in any male or mixed-sex domestic competition |
| Transsexual woman over 16 and post-puberty (male-to-female transsexual person) | May compete in her affirmed gender in female or mixed-sex domestic competition by providing evidence that her hormone therapy has brought her blood-measured testosterone levels within the range of her affirmed gender OR She may compete in any male or mixed-sex competition if she has not started treatment. |
| Transsexual girl – under 16 and post-puberty | Either she may compete in her affirmed gender in any female or mixed-sex domestic competitions subject to an individual case-by-case review, if required, undertaken by the NGB Or She may compete in any male or mixed-sex competition if she has not started hormone treatment. |

| | |
|---------------------------------------|---|
| Transsexual girl – pre-puberty | May compete in her affirmed gender in any female or mixed-sex domestic competition subject to confirmation of her stage of pubertal development |
|---------------------------------------|---|

Note: Anyone may compete in Open events.

In the case of transsexual people who have a Gender Recognition Certificate (GRC), the Gender Recognition Act (GRA) (section 19) is not breached where prohibition or restriction of their participation is necessary to secure fair competition, or the safety of competitors, including that of transsexual people themselves. Similarly, under the Equality Act 2010, all transsexual people are protected against discrimination, but this should be proportionate to the aim of securing fair and safe competition.

For the time being, the designated point of contact at British Rowing for all enquiries relating to the participation of transgender or transsexual people in rowing is the Lead Equity Officer, who will liaise with British Rowing’s Medical Advisor.

3. Trans people as spectators

Spectators may themselves be transgender and may be subjected to transphobic comments from others around them. Transphobic language and behaviour can be reported either directly to club officers or race officials. In the same way that racist or homophobic language and behaviour is challenged it is vital that coaches and club staff respond to transphobic language whenever it happens and take all reasonable steps to resolve the situation safely and effectively.

Transphobic comments from spectators may also be directed at rowers. This is not always because a rower is known to be trans, but simply as a term of abuse, in the same way that ‘gay’ may be used as a derogatory term, even if there are no gay people present. Whenever phobic language is used it creates a hostile environment and must be addressed.

4. Transsexual people as British Rowing employees

British Rowing will not discriminate against transsexual people in any aspect of their employment and will endeavour to ensure that the culture of the workplace is supportive and welcoming throughout the transitioning process or as a transgender person.

In accordance with our Equity policy, and other key policies such as the BR anti-bullying policy, any discrimination or unfair or unreasonable behaviour or treatment will be taken seriously and action taken in accordance with the Employee Handbook.

British Rowing will work to meet the individual needs of each person to ensure that they have a positive experience of their employment with British Rowing.

See: www.gires.org.uk/assets/Workplace/transition-at-work.pdf for further information

Confidentiality:

It is illegal under the Gender Recognition Act 2004 for a person who has acquired the information in an official capacity to disclose personal information about a transgender person's gender history once he/she has applied for a gender recognition certificate or been granted one, except with his/her permission or in other very limited circumstances. Any information relating to a transsexual person's former gender (regardless of whether or not they have a Gender Recognition Certificate) is also likely to be classed as sensitive personal data under the Data Protection Act 1998.

APPENDIX 1:

Preferred terms:

In the UK context, a **transsexual person** is someone whose gender identity does not match their physical body **and** who proposes to undergo, is already undergoing, or has undergone 'gender reassignment', that is a permanent change of gender role, which may or may not be facilitated by medical treatment such as hormones or surgery. This is not the same as a cross-dresser or transvestite, nor is it the same as sexual orientation. Transsexual people, as well as those who transition part or full time from living as men to living as women, or vice versa, may prefer the description 'trans woman' or 'trans man'.

The term **transgender** originally referred to individuals who had chosen to live as the opposite gender without the aid of surgery or hormones. Currently, transgender is used as an umbrella term which includes all people who have gender identities, expressions, or behaviours not traditionally associated with their birth sex, which may be expressed intermittently or full time. This includes, individuals such as transsexuals and cross dressers, as well as other gender variant individuals, this may (but does not necessarily) include, male-to-female and female-to-male transsexuals, male and female cross dressers, drag kings and queens, and others with non-traditional gender expressions. Some people also regard themselves as non-gendered, i.e. people who identify as neither male nor female and may have medical treatments that neutralise their sex characteristics.

In this document the description 'transsexual person' is used in respect of those who transition their role permanently, because this is a protected characteristic and the law distinguishes between them, and those who fall under the wider transgender umbrella description. Gender identity disorder (GID) is the formal diagnosis used by psychologists and physicians to describe persons who experience significant gender dysphoria (discontent with their biological sex and/or the gender they were assigned at birth).

The role change is not a life-style choice. The change of role and medical treatments help to align the physical presentation with the innate gender identity thus alleviating the gender dysphoria. The changes are onerous and challenging, and are not undertaken lightly, nor in order to gain competitive advantage

APPENDIX 2: RELATED LEGISLATION

Equality Act 2010

The law covers transgender people in different ways.

The small number of transsexual people who, by definition, have the 'protected characteristic' of 'gender reassignment', are specifically protected, by the Equality Act 2010, from discrimination, harassment and victimisation, in employment and in the provision of goods, facilities and services, from the time that they disclose their intention to change their role.

However, equality law does also protect individuals in the wider transgender community, if they are discriminated against or harassed on the grounds that they are 'perceived' to be

transsexual, as well as those who are 'associated' with a transsexual person, such as partners, family members or carers.

The Act is, therefore, relevant to transgender employees, club members, volunteers and spectators who are, or who may be perceived to be transsexual and could, potentially, be subjected to transphobic behaviour.

Gender Recognition Act 2004

A minority of the people who have undergone permanent transition of their gender role, obtain a gender recognition certificate (GRC) in accordance with the Gender Recognition Act, 2004 (GRA). In order to obtain a GRC it is not necessary to have had genital or other surgeries. Those whose births were registered in the UK, automatically receive a new birth certificate. The GRA provides enhanced privacy protection with regard to sensitive information about their gender status, from the time of application to the Gender Recognition Panel (GRP). In these circumstances, breach of privacy by any club official could amount to a criminal offence. The GRC confers on transsexual people their post-transition gender status 'for all purposes'. It may be considered to be harassment, to ask if a person has a GRC, so it is advisable to extend the same level of protection and privacy to all those who have changed their gender role on a permanent basis.

The privacy of the wider group of transgender people, as well as transsexual people, is also protected under the Data Protection Act 1998, which means that any processing of their data should seek to avoid causing any damage or distress.

Human Rights Act 1998

The Human Rights Act 1998 is wide ranging in its protections. Article 8 particularly, protects the right of individuals to have their private lives respected, and to be treated with dignity. Article 14 ensures that this and the other rights and freedoms contained in the Act, are enjoyed without discrimination.

APPENDIX 3

IOC Statement (November 2015)

1) Transgender Guidelines

A. Since the 2003 Stockholm Consensus on Sex Reassignment in Sports, there has been a growing recognition of the importance of autonomy of gender identity in society, as reflected in the laws of many jurisdictions worldwide.

B. There are also, however, jurisdictions where autonomy of gender identity is not recognised in law at all.

C. It is necessary to ensure insofar as possible that trans athletes are not excluded from the opportunity to participate in sporting competition.

D. The overriding sporting objective is and remains the guarantee of fair competition. Restrictions on participation are appropriate to the extent that they are necessary and proportionate to the achievement of that objective.

E. To require surgical anatomical changes as a pre-condition to participation is not necessary to preserve fair competition and may be inconsistent with developing legislation and notions of human rights.

F. Nothing in these guidelines is intended to undermine in any way the requirement to comply with the World Anti-Doping Code and the WADA International Standards.

G. These guidelines are a living document and will be subject to review in light of any scientific or medical developments.

In this spirit, the IOC Consensus Meeting agreed the following guidelines to be taken into account by sports organisations when determining eligibility to compete in male and female competition:

1. Those who transition from female to male are eligible to compete in the male category without restriction.

2. Those who transition from male to female are eligible to compete in the female category under the following conditions:

2.1. The athlete has declared that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.

2.2. The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition (with the requirement for any longer period to be based on a confidential case-by-case evaluation, considering whether or not 12 months is a sufficient length of time to minimize any advantage in women's competition).

2.3. The athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category.

2.4. Compliance with these conditions may be monitored by testing. In the event of non-compliance, the athlete's eligibility for female competition will be suspended for 12 months.

2) Hyperandrogenism in female athletes

In response to the interim award dated 24 July 2015 in Chand v AFI and IAAF CAS 2014/A/3759, the IOC Consensus Meeting recommended:

- Rules should be in place for the protection of women in sport and the promotion of the principles of fair competition.
- The IAAF, with support from other International Federations, National Olympic Committees and other sports organisations, is encouraged to revert to CAS with arguments and evidence to support the reinstatement of its hyperandrogenism rules.
- To avoid discrimination, if not eligible for female competition the athlete should be eligible to compete in male competition.

APPENDIX 4:

Sport Council Advisory Documents

IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism
November 2015

http://www.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf

Transsexual People and Competitive Sport – Guidance for National Governing Bodies of Sport <http://www.equalityinsport.org/download?id=1155>

Transsexual People - Eligibility to compete in Domestic Competition
<http://www.equalityinsport.org/download?id=1142>

Transgender and Intersex Sports Provision at the University of Cambridge
<http://www.equalityinsport.org/download?id=913>

British Rowing

Approved by Council February 20th 2016