



Transsexual people and sport

Guidance for sporting bodies

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Transsexual people

1. Transsexual people have the deep conviction that the gender to which they were assigned at birth on the basis of their physical anatomy (referred to as their “birth gender”) is incorrect. That conviction will often lead them to take steps to present themselves to the world in the opposite gender. Often, transsexual people will undergo hormonal or surgical treatment to bring their physical identity into line with their preferred gender identity (referred to in this guidance as their “acquired gender”).
2. Transsexualism is not the same as cross-dressing for sexual thrill, psychological comfort or compulsion. It is not the same as being sexually attracted towards people of the same sex.
3. Many transsexual people will wish to keep their condition private, and this must be respected. Others may be willing to discuss their transsexualism confidentially or in the open. This is a matter for them. In any event, transsexual people should be treated as members of their acquired gender.

This guidance

4. The purpose of this guidance is to assist those involved in running or administering organised and competitive sport in the United Kingdom to deal with the very special set of circumstances that transsexual people present.

5. The guidance seeks to make individuals and governing bodies aware of the legal framework with regard to transsexual people and to provide some practical suggestions on best practice in this area. The guidance covers access to facilities, participation in sports by transsexual people and the issues of drug testing and gender verification.
6. Sports organisations will be given an overview of their responsibilities under the law and non-statutory ways in which they can ensure transsexual people have access to opportunities in sport.

Why publish guidance?

7. Sporting bodies have been dealing with transsexual people for a number of years, usually with no cause for difficulty or conflict. Until recently there has been an absence of legal framework which has meant that organisations of all kinds have approached the particular needs of transsexual people on a case by case basis.
8. There are varying opinions about the causes of transsexualism and how best to deal with it. Increasingly, however, the Government and the courts have taken the view that controversy over the nature of transsexualism should no longer stand in the way of transsexual people enjoying their human rights, as others do. This extends far beyond sport and into such fundamental issues as the right to marry and the right to privacy.
9. Recognition that transsexual people should be afforded some protection by the law has led to the legal provisions on sex

discrimination being extended to cover discrimination on grounds of gender reassignment, and new legislation granting transsexual people legal recognition in their acquired gender.

10. The extension of legal rights to transsexual people means that everyone has a responsibility to uphold those rights. A better understanding of the challenges facing transsexual people has developed along with the legal framework. It is therefore timely to publish guidance about how best to respond to those challenges in areas such as sport.

The legal context

11. There are several legal provisions relevant to the treatment of transsexual people. In particular:
 - **The Gender Recognition Act 2004** makes it possible for transsexual people to gain full legal recognition in their new gender.
 - **The Sex Discrimination Act 1975 (as amended by the Sex Discrimination (Gender Reassignment) Regulations 1999 and by the Gender Recognition Act 2004)** makes discrimination against transsexual people in the area of employment and vocational training unlawful, except within narrow exceptions.
12. The legal requirements need to be understood and taken into account by sporting bodies in their dealings with transsexual people, whether as participants in sport or as employees. However, they do *not* give transsexual people the automatic right to participate in competitive sport alongside other people of their acquired gender. In certain circumstances explained

below, the participation of transsexual people in sporting events may be legitimately restricted in order to ensure fair competition or the safety of competitors.

Gender Recognition Act 2004

13. The primary driver behind this guidance is the Gender Recognition Act 2004. Under the Act, transsexual people can, for the first time, be recognised in the eyes of the law as belonging to the gender with which they identify. Briefly, legal recognition in the acquired gender entitles a transsexual person to obtain a birth certificate stating the acquired gender, to marry in that gender, and to enjoy all the other rights and responsibilities appropriate to someone of that gender.
14. Gender Recognition Panels assess applications from transsexual people. If the applicant meets the criteria, he or she will be granted a Gender Recognition Certificate. From the date of issue of a full certificate the holder is legally entitled to be treated for all purposes as a person of their acquired gender. The criteria for recognition are contained in the Act. In most cases applicants must provide medical evidence of 'gender dysphoria' – the medical term for transsexualism – and demonstrate that they have lived fully in the acquired gender for at least two years and that they intend to do so permanently. Transsexual people who have been legally recognised in their acquired gender in another member State of the European Union or European Economic Area are also entitled to have that recognised in the UK without having to obtain a UK Gender Recognition Certificate.

15. Section 19 of the Act relates to sport. It makes clear that the Act does not require persons responsible for regulating participation of competitors in sporting events to permit transsexual people to compete in their acquired gender in all circumstances. In certain circumstances they may be restricted or prohibited from doing so to ensure fair competition or the safety of competitors.
16. This may only be done where all of the following conditions apply:
 - The body is responsible for regulating the participation of persons as competitors in an event or events in the sport in question; and
 - The sport is a “gender-affected sport”, which means one where the physical strength, stamina or physique of average persons of one gender would put them at a disadvantage to average persons of the other gender; and
 - The prohibition or restriction is necessary to secure fair competition or the safety of competitors (including the safety of transsexual competitors).
17. Where these conditions are not fully met, transsexual competitors should be allowed to compete in their acquired gender.
18. This exemption only covers those participating in the sport as ‘competitors’ and cannot be applied to people participating in the sport as non-competitors, e.g. referees or line judges. Neither can the exemption be applied to those involved in or connected with the sport, e.g. managers, coaches, spectators, supporters, or sports-ground staff.

Sex Discrimination Act 1975

19. The Sex Discrimination Act 1975 (SDA) as amended prohibits discrimination in the fields of employment and vocational training on the ground that a person intends to undergo, is undergoing or has undergone gender reassignment (ie the process of changing from one sex to the other or any part of that process).
20. Section 44 of the SDA provides an exception in relation to single-sex sporting activities. It relates only to those sports, games or competitive activities in which the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man or vice versa – so it would apply, for example to football, tennis or athletics but not to bridge or chess. It states that nothing in the Act applies to the participation of a person as a competitor in single-sex events involving such sports.
21. This exception therefore means that discrimination in the employment or vocational training of transsexual people as competitors in single-sex competitive sport is not unlawful under the SDA. However it does not permit discrimination against transsexual people in relation to their employment in ancillary roles such as coaches, referees or line judges, which does not involve participation as a competitor in the sport itself.
22. Given that section 44 applies only to competitors, sporting organisations need to be aware of their obligation under the SDA not to discriminate against transsexual people in relation to sports-related employment or vocational training. Here the

SDA provides for a number of situations in which being of a particular sex is regarded as a “genuine occupational qualification” and where discrimination against transsexual people, up until the time when they have obtained a full Gender Recognition Certificate under the Gender Recognition Act, may be lawful provided the employer’s conduct is reasonable. Guidance on the Sex Discrimination Act, including on the limited circumstances in which exceptions apply, can be obtained from the Women and Equality Unit of DTI (www.womenandequalityunit.gov.uk).

Participation in sports by transsexual people

23. Transsexual people already participate in a wide variety of sports and physical activities, enjoying the benefits of a healthy lifestyle and sharing the social and competitive aspects of such activities. They also contribute to sport in a variety of ways as officials, coaches and administrators in paid and voluntary capacities, benefiting the sport sector through their involvement and participation.
24. A transsexual person who has had their new gender recognised will often be able to participate in physical activity and sport in their new gender. However this is subject to the exception set out above.
25. It should always be remembered that gender reassignment is a complex and long-term process based on genuine medical need. It is not something people undertake lightly or in order to gain competitive advantage.

26. Individual sports are best placed to decide on what basis a situation might arise whereby a transsexual person's participation poses risks to safety or fair competition. The technical and physiological aspects will vary from sport to sport and the application of one model or set of regulations would be inappropriate. Sports are advised to review the principles against which safety of competitors and fair competition are assessed. These should be based on sound evidence and ensure no group is unfairly discriminated against. This will help avoid legal challenge. A review of existing policies, including equality policies in light of the Gender Recognition Act might be a useful starting point before reviewing other areas including membership or selection. For many sports bodies, guidance from International Federations will support this process.
27. In a case of dispute, in order to minimise the risk of successful legal challenge the organising body should take all reasonable steps to enable the person concerned to submit appropriate evidence, including inviting the person to submit evidence from their GP and to give consent to the Gender Recognition Panel being approached, that any evidence submitted should be properly and fairly considered, that the authority should remain open to further evidence being submitted later.

Club membership

28. Most sports clubs in the UK are community amateur clubs that offer an open membership, and transsexual people can expect to gain access to such clubs in the same way as any other individual.

29. Transsexual people who have been issued with a Gender Recognition Certificate should be treated in their acquired gender. Clubs should respect the person's acquired gender and treat them in that gender for the purposes of membership categories.
30. Single-sex clubs will be able to admit transsexual members provided they can show suitable identification in the appropriate gender.
31. Clubs that organise or are involved with competitive sporting events should be aware of the governing body policy on competition and consider whether it is necessary to exclude a transsexual person from competitive events on the basis of fair competition or safety.

High performance sport

32. Some transsexual participants will wish to extend their involvement in competitive sport and seek selection at higher levels. Not all sports will be affected by the physical or hormonal changes undergone by a transsexual person and would therefore not need to exclude the individual from selection at elite levels. However it remains for the governing bodies of each gender-affected sport to ensure there are valid reasons for single sex competition as well as deciding whether it is necessary to exclude transsexual athletes in order to ensure fair competition or the safety of competitors, in compliance with the provisions of the Gender Recognition Act as set out above.
33. The International Olympic Committee has set out its policy on selection and participation in the Olympic Games by

transsexual athletes (see the section on IOC guidance) and this may form the basis on which International Federations set their own policies and direct their national federations.

34. Sports bodies are likely to have to established systems for developing and communicating policies and procedures and these same systems can be adopted for policies and procedures for transsexual people. Where a sport is governed by more than one body, the established communication, consultation and decision making procedures should be used.

Use of facilities by transsexual people

35. The use of facilities prior to and during gender reassignment where the individual may present an ambiguous appearance and be highly self-conscious represents a difficult issue. Many transsexual people prefer to refrain from using communal sports facilities during this time, particularly facilities where privacy is likely to be an issue.
36. You may be asked if there are private changing facilities by transsexual people during this period of transition, just as you may be asked for other reasons. Such requests should be treated with sensitivity.
37. Staff training should sensitise staff to the issues involved and ensure they are aware of the organisation's equal opportunities policy. It is good practice in club or facility management to provide:
 - changing facilities with cubicles which offer greater privacy and feel safe

- where no cubicles are available, club officials should discuss where the transsexual individual would be most comfortable changing
- courteous and sensitive treatment from staff or club officials
- existence of an equality policy that outlines the facility or club position on transsexual people and participation, including action that can be taken in the event of unfair discrimination.

Not only will these steps cater for the needs of transsexual people but all users of the club and facilities are likely to benefit including people with diverse religious beliefs and disabled people.

38. It is recognised that many community amateur sports clubs may not have facilities as described above. However they are encouraged to consider how a transsexual person can continue to gain access to their facilities and participate without fear or humiliation or misunderstanding. This may be as simple as discussing the situation with the transsexual person in order to find a solution. Whilst some transsexual people may wish to keep their condition secret, others may be willing to discuss it confidentially or openly.
39. Complaints from other users must be handled carefully. It may be that other users find it uncomfortable to share facilities with transsexual people but it is the duty of staff or club officials to ensure that confidentiality is not compromised and that members are not subjected to abuse, whether physical or verbal, on any ground. However other users' or members' discomfort must not be ignored and they too should be treated

with dignity. The provision of good quality facilities, an open and welcoming atmosphere and well trained staff may help alleviate such discomfort.

Drug testing

40. There is no change to the drug testing procedures. Athletes will be tested by a Doping Control Officer (DCO) of the same gender. Where an athlete has yet to complete gender reassignment surgery he/she will be given the choice as to the gender of the DCO to test them. When providing a sample, only the athlete and DCO will be in the toilet, thereby providing the athlete with the optimum amount of privacy. The DCO must observe the urine sample leave the athlete's body and this cannot be compromised. The UK Sport DCOs will be trained for such a scenario and will be expected to handle the situation sensitively, sympathetically and confidentially (see the section on confidentiality below). No written record disclosing a variance between the athlete's gender and their genitalia will be made.
41. Where a transsexual athlete is receiving treatment involving a Prohibited Substance or Method as described on the World Anti-Doping Agency's Prohibited List 2005, as amended from time to time, he/she may apply for a standard Therapeutic Use Exemption (TUE). The UK Sport Therapeutic Use Exemption Committee (TUEC) will assess the requirement for the use of the Prohibited Substance or Method based on the supporting medical evidence submitted by the athlete. At this stage an athlete would need to disclose the fact that he/she is undergoing gender reassignment and a medical or gender recognition certificate may be submitted in support of their

TUE application. An athlete's identity and medical status must remain confidential between the panel members of the TUEC (see the section on confidentiality below).

42. Where an athlete undergoes a drug test and returns an adverse finding, by reason of the hormones he/she is taking as part of their reassignment process, UK Sport will establish whether there is a valid and applicable TUE in place for that athlete and the substance concerned. Where there is such a TUE, no further action will need to be taken by the athlete's national governing body. An athlete who returns an adverse analytical finding but who has not applied for a TUE for the medication he/she has been prescribed will be subject to the full disciplinary hearing and appeal process, if applicable. A national governing body is expected to disclose the identity of any athlete who, after completing the due process, is determined to have committed a doping offence. At this stage an athlete's identity would be put into the public domain, although the details surrounding their adverse finding, that is, the fact that he/she is undergoing gender reassignment should not be disclosed (see the section on confidentiality below).

Verification of gender

43. It is possible that a national governing body will have been made aware that a particular athlete is undergoing gender reassignment. If the governing body's policy on transsexual athletes' participation permits transsexual athletes to compete in their acquired gender, the athlete may need to provide evidence that they are legally a person of that gender. Under the Gender Recognition Act, transsexual people can, for the

first time, be recognised in law as belonging to the gender with which they identify. Legal recognition in the acquired gender entitles a transsexual person, among other things, to obtain a birth certificate stating the acquired gender. This should therefore be considered suitable identification to enable them to compete in that gender.

44. As indicated above, in certain limited cases sports governing bodies may be permitted to exclude transsexual people from competing in their acquired gender in gender-affected sports in order to ensure fair competition or the safety of competitors (see paragraphs 15-18 above).
45. Accordingly there may be cases where, in order to give effect to such a policy, it is genuinely necessary for a sports body to ascertain the birth gender of a competitor. If this should be the case, sporting bodies need to handle the matter sensitively, with due respect to the individual's right to privacy and the law on confidentiality (see below). Requesting such information will not be in breach of the Gender Recognition Act, provided the club or governing body can demonstrate that it is necessary to do so in order to give effect to a lawful policy on participation of transsexual athletes. Verification would be expected to be based on documentation rather than a physical gender test as physical tests have at times proved inconclusive including the Barr body test administered in the Olympic Games until 1996 but no longer carried out due to its fallibility.
46. Because the Gender Recognition Act permits the issue of birth certificates showing a transsexual person's acquired gender, provision of a birth certificate will not be sufficient to confirm a person's biological gender at birth. However, sporting bodies

who wish to verify the birth gender of a participant could request that the individual present a letter from his or her GP, confirming the birth gender.

Confidentiality

47. As from April 2005, it will be 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 transsexual 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.
48. A governing body or club may seek evidence of a participant's transsexual status and in order to minimise the risk of successful legal challenge, the organising body should take all reasonable steps to enable the person concerned to submit appropriate evidence. This includes inviting the person to submit evidence from their GP and to give consent to the Gender Recognition Panel being approached, that any evidence submitted should be properly and fairly considered, that the governing body or club should remain open to further evidence being submitted later.

IOC guidance

49. In May 2004 the International Olympic Committee (IOC) announced the conditions under which transsexual athletes may compete in sports competitions. This announcement follows a period of consideration and consultation carried out by

an ad hoc committee convened by the IOC Medical Commission. These conditions were applied as of the Athens Olympics in 2004.

50. Any transsexual women who underwent sex reassignment surgery before puberty should be accepted in sport as girls and women (female). This also applies to individuals undergoing female-to-male reassignment, who should be regarded as boys and men (male).
51. The group also recommends that individuals undergoing sex reassignment after puberty be eligible for participation in the acquired gender under the following conditions:
 - Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy (the surgical removal of the testes or ovaries)
 - Legal recognition of the acquired gender has been conferred by the appropriate official authorities
 - Hormonal therapy appropriate to the acquired gender has been administered in a verifiable manner and for a sufficient length of time to minimise gender-related advantages in sport competitions.
52. The group recommends that eligibility should begin no sooner than two years after gonadectomy. A confidential case-by-case evaluation will occur.
53. In the event that the gender of a competing athlete is questioned, the medical delegate (or equivalent) of the relevant sporting body shall, as now, have the authority to take all 'appropriate measures' to determine the gender of a competitor.

54. Any body regulating entry into competitions in the UK must also comply with the stricter requirements of the GRA, which are that if the person has obtained legal recognition they may only be excluded from participation in that gender in the limited circumstances described above.
55. For further information, please see the explanatory note by IOC Medical Commission Chairman Arne Ljungqvist:
www.olympic.org/uk/news/media_centre/press_release_uk.asp?id=855

Courses of Action

56. National governing bodies and sports organisations are advised to:
- Review existing policies and procedures in light of the Gender Recognition Act to ensure transsexual people are not being discriminated against illegally. This will include any existing equality policies that may not have previously considered the rights of transsexual people yet which should now include this group.
 - Any changes should be based on consultation with relevant groups and individuals, and be published for the wider audience.
 - Review and reinforce the definition and parameters of competitive parity within the sport. All participants should be assured that they take part within a safe and fair environment. This should address any potential safety factors affecting both transsexual and non-transsexual competitors. In addition, each sport should consider whether an individual

who has reassigned his or her gender has a competitive advantage as a result of the reassignment process.

- Review the reasons for sports organised on a single sex basis in competition. This will enable them to make informed decisions about the involvement of transsexual individuals as competitors.
- Establish fair, sensitive and confidential procedures for establishing whether it is necessary to exclude a transsexual competitor in order to ensure fair competition and the safety of competitors.
- Seek legal advice in the event that the sport is challenged on the basis of its policies or practices in relation to transsexual people.

Case Study

57. Following the release of the IOC policy on transsexual athletes' participation in the Olympic Games, the international federation for cycling, Union Cycliste Internationale (UCI), has amended its policy on transsexual athletes and competition. This took place after the British Cycling Federation negotiated the issue of a competition licence to a transsexual athlete who wished to continue competing in her acquired gender.
58. By adopting the IOC policy, the UCI was able to establish consistency with the policy of the British Cycling Federation which had originally issued a competition licence thereby providing access to the individual athlete. Ultimately, finding a consistent approach to this issue has made it possible for the

international federation and national governing body to develop a degree of uniformity in policy and practice whilst ensuring equal and fair access to competition.

Contacts

59. This guidance aims to give sports organisations an overview of their responsibilities under the law and non-statutory ways in which they should seek to accommodate transsexual people. It also seeks to allay the fears of sporting bodies by outlining some of the things that they do not need to do, especially with regard to competition.
60. In some cases, organisations faced by a particularly complex issue may feel they have to resort to legal advice. However, in the first instance, if you wish to receive advice on gender reassignment the following organisations may be able to help:

Contacts

The Gender Trust

A registered charity which specifically helps people who are transsexual, gender dysphoric or transgender

PO Box 3192, Brighton, BN1 3WR

Helpline 07000 790347

www.gendertrust.org.uk

The Women's Sport Foundation

An organisation dedicated to improving and promoting opportunities for women and girls in sport and physical activity

3rd Floor, Victoria House, Bloomsbury Square, London, WC1B 4SE

Phone 020 7273 1740

E-mail: info@wsf.org.uk

www.wsf.org.uk

CCPR

An umbrella body covering governing bodies of sport and recreation

Francis House, Francis Street, London, SW1P 1DE

Phone 020 7854 8500

Email: info@ccpr.org.uk

www.ccpr.org.uk

UK Sport

UK Sport is the agency charged by the Government with responsibility for creating a strategy for developing high-performance sport in the UK

40 Bernard Street, London, WC1N 1ST

Phone 020 7211 5100

Email: info@uksport.gov.uk

www.uksport.gov.uk

The Department for Culture, Media and Sport (DCMS)

DCMS is responsible for Government policy on sport

2-4 Cockspur Street, London, SW1Y 5DH

Phone 020 7211 6200

Email: enquiries@culture.gov.uk

www.culture.gov.uk

The Department for Constitutional Affairs (DCA)

The Government department responsible for upholding justice, rights and democracy

Selborne House, 54-60 Victoria Street, London, SW1E 6QW

Phone 020 7210 8500

Email: general.queries@dca.gsi.gov.uk

www.dca.gov.uk

The Gender Recognition Panel

<http://www.grp.gov.uk/>



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