

Explanatory Memorandum Inclusion of Transgender and Gender Diverse Athletes in Elite Netball Competitions Policy

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Background

Netball is committed to providing welcoming, inclusive and supportive places for all people to play our great game, and we take pride in our record of inclusion and diversity. There is no place for discrimination of any kind, including on the basis of gender, religious belief, age, race or sexual orientation.

Following the release on 13 June 2019 of the Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport (Australian Human Rights Commission), Netball Australia drafted an Inclusion of Transgender and Gender Diverse Athletes in Elite Netball Competitions Policy (**Policy**) on the understanding that netball is considered by the International Netball Federation as an elite Female Category sport and that strength, stamina and physique are relevant to Elite Netball Competitions.

In drafting the Policy, Netball Australia:

- used its best endeavours to balance that fact that netball is an elite female category sport with including transgender and gender diverse athletes in elite netball.
- acknowledges that the Policy was primarily informed by sports science and sports medicine evidence and secondarily on social science approaches.
- acknowledges that not all people and organisations involved in the consultation process to draft the Policy, support the Policy in its entirety.
- accepts that the notion of fair and meaningful competition goes to the very essence of what sport is about. It reflects the underlying need to preserve the uncertainty of the sporting outcome, with success being determined by those particular factors that are valued by the sport in question (such as natural talent and training).
- acknowledges that these are multifaceted issues and is aware that there are a multiplicity of views.
- recognises that research, insights and opportunities for the inclusion of transgender and gender diverse people in sport is evolving, is complex, with no obvious or straightforward solutions, and will identify opportunities for improvement that may require amendments to the Policy.
- will monitor the implementation and effect (positive and/or negative) of the Policy and will encourage stakeholders to share their reflective implementation insights.
- acknowledges that the governing position regarding the participation of transgender and gender diverse athletes in sport is complex. In particular, there is presently no consensus among sports (nationally and internationally) as to how best to respond to the sporting challenges, and no uniform approach.
- acknowledges that in some sports the challenges are simply not acknowledged or addressed at all, in others, the challenges are addressed

in a variety of different ways, from the very restrictive to the very permissive and inclusive.

- acknowledges that it could be problematic to draw a distinction between community netball and elite netball as community sport is often the first step on a pathway to elite sport.
- accepts that a key factor appearing in almost every approach is the consideration of testosterone levels, and the need for ongoing monitoring for compliance.
- was given permission to assess and use relevant provisions in Cricket Australia and the Australian Football League's respective policies.

In drafting the Policy, Netball Australia engaged with several people and organisations, including:

- All State and Territory Netball Member Organisations
- All Suncorp Super Netball Clubs
- The Australian Netball Player's Association
- The International Netball Federation
- Dr Susan White AM¹
- Dr David Hughes²
- Proud 2 Play³
- Pride in Sport⁴
- The Equality Project⁵
- The Australian Human Rights Commission
- The Office of Victoria's Gender and Equality Commissioner
- Netball Australia Board and Governance Committee
- Suncorp Super Netball League Commission
- Netball Australia High Performance Umpire Manager
- Netball Australia High Performance staff, including National Head Coach

¹ Dr Susan White AM is a Specialist Sports and Exercise Physician who has been practicing at Olympic Park Sports Medicine Centre in Melbourne for over 20 years. Dr White has been to three Paralympic Games, five Olympic Games, many Commonwealth Games and World Championships in roles ranging from Team Physician to Medical Director as well as International Medical Commission and Australian Olympic Commission roles. She has been team doctor for the Melbourne Vixens netball team for many years and the Team Doctor and Chief Medical Officer for Australian Netball. She has had similar roles with Swimming Australia and Victorian Rowing. Dr White was an inaugural member of ASDMAC, the Australian Sports Drug Medical Advisory Committee. She is also on a number of international committees including the World Anti-Doping Agency's Therapeutic Use Expert Group.

² Dr David Hughes is the Chief Medical Officer at the Australian Institute of Sport, Medical Director Australian Olympic Team Rio 2016 and Tokyo 2020 and a Member Australian Sports Integrity Network. Prior roles have included President Australasian College of Sports Physicians, Team Physician Australian Opals Basketball, Deputy-Chair Children's Physical Activity Foundation, Team Physician Canberra Raiders Rugby League, Team Physician ACT Brumbies Rugby, Australian Wallabies Rugby, London Wasps Rugby, Bath Rugby, Manchester City FC, Fulham FC.

³ Proud 2 Play focuses on increasing Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI+) engagement in sport, exercise and active recreation.

⁴ Pride in Sport is the only sporting inclusion program specifically designed to assist National and State sporting organisations and clubs with the inclusion of LGBTI employees, players, coaches, volunteers and spectators.

⁵ The Equality Project is a national health promotion organisation bringing together Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+) people with our allies across the social justice movement, to promote a better, more just, and fairer society for all Australians.

- Netball Australia Executive
- Netball Australia General and Legal Counsels

Netball Australia also reviewed material published by:

- Professor David Handelsman AO who has trained in Medicine and Endocrinology and is a world leading and respected expert on circulating testosterone in sport performance
- Loughborough University: Sport and Transgender People: A Systematic Review of the Literature Relating to Sport Participation and Competitive Sport Policies (April 2017)⁶.
- The Court of Arbitration for Sport
- The Australian Human Rights Commission
- The International Association of Athletics Federations
- The International Olympic Committee
- Transathlete⁷

Given there is presently no consensus among sports and experts as to how best to respond to the sporting challenges, and no uniform approach, specific areas for feedback were called out during the consultation process to provide additional context to the drafting. Following all feedback, the Policy was reviewed, finalised and submitted to the Netball Australia Board for approval.

Netball Australia acknowledges that this Explanatory Memorandum has attempted to simplify complex medical and scientific research with the aim of making findings easier to understand, and that some terminology may not reflect current practices.

Highlighted Policy Commentary

Clause 1 – Purpose

Netball Australia's Policy states that Netball is a Female Category Sport and defines Female Category as female sport most closely aligns with the Athlete's Gender Expression.

Some Policies require an athlete whose gender identity doesn't correspond with their sex assigned at birth to provide a statutory declaration or similar document confirming that they live their everyday life as a 'female'.

Netball Australia has not included this requirement in the Policy as it could exclude athletes who identify as non-binary, gender fluid or gender diverse.

⁶ The Report concluded that "Currently, there is no direct or consistent research suggesting transgender female individuals (or male individuals) have an athletic advantage at any stage of their transition (e.g. cross-sex hormones, gender-confirming surgery) and, therefore, competitive sport policies that place restrictions on transgender people need to be considered and potentially revised" & "There are several areas of future research required to significantly improve our knowledge of transgender people's experiences in sport, inform the development of more inclusive sport policies, and, most importantly, enhance the lives of transgender people, both physically and psychosocially".

⁷ transathlete is a web-based resource for students, athletes, coaches, and administrators to find information about trans inclusion in athletics at various levels of play. The website includes policies and positions from more than 50 sporting organisations globally.

Aligned with some broader sport sector policies and positions, Netball Australia's Policy applies to athletes whose Gender Identity is different to their Sex as assigned at birth.

Clause 4 – Scope

The Policy applies to Elite Netball Competitions, including State and Territory Member Organisation's highest female elite competition where a Member Organisation has not adopted their own Policy.

Athletes 15 years and over is the nominal age for the Policy based on historical evidence that 15 years and over would be the age that athletes are likely to participate at 17/Under National Championships.

Young people are medically transitioning at earlier ages, and that the use of medical treatments continuously since prior to the onset of puberty, such as puberty blockers, ought to enable athletes to participate without restrictions.

The Policy does not apply to community netball. Netball Australia is currently reviewing how to implement the Australian Human Rights Commission's Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport to support the participation of any Transgender or Gender Diverse Athletes in Australian Elite Netball Competitions.

Clause 5 – International Netball Federation

Netball Australia acknowledges that the Policy is not aligned with the International Netball Federation's Policy and has raised this accordingly. Netball Australia's Policy references that guidance will be sought from the International Netball Federation should a transgender or gender diverse athlete be available for selection in an Australian national team for events directly sanctioned by the International Netball Federation.

The International Netball Federation provided Netball Australia with its Gender Recognition Policy (March 2009), noting that its Policy is modelled on the International Olympic Committee's position and that the International Netball Federation is waiting further guidance from the International Olympic Committee to update this Policy.

In summary, the International Netball Federation's current Policy references that *Individuals who have undergone surgery post puberty are eligible to play in male and female competitions under the following conditions:*

- *Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy.*
- *Legal recognition of their assigned sex has been conferred by the appropriate official authorities.*
- *Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for a sufficient length of time to minimise gender-related advantages in sports competitions.*
- *Eligibility for a female to play international netball should begin no sooner than two years after gonadectomy.*

International Netball Federation's Policy requires a Gender Recognition Certificate.

If documentary evidence to verify the player's gender is not available, the International Netball Federation's Board shall have the discretion to immediately suspend the player from international competition.

This approach is based on the 2003 International Olympic Committee Stockholm Consensus, and was replaced in 2015 with the International Olympic Committee providing new guidelines and recommending that international federations and others consider the following when adopting their own rules in this area.

- those who transition from female to male are eligible to compete in the male category without restriction.
- those who transition from male to female are now eligible to compete in the female category provided that:
 - their declared gender identity is female (which declaration cannot be changed, for sporting purposes, for at least four years); and
 - their total serum testosterone level has been below 10 nmol/L for at least 12 months (although it is important to note that a longer time period may be imposed on a case-by-case basis, depending on whether 12 months is sufficient to minimise any advantage in women's competition in the circumstances of the particular case), and it remains below 10 nmol/L throughout the period of desired participation.
 - Compliance with those conditions may be monitored by testing, and in the event of non-compliance the athlete's eligibility for female competition will be suspended for 12 months.

Clause 6 – Eligibility

Netball Australia's Policy references circulating testosterone concentration of <5 nmol/L

Elite sport competitions have separate male and female events due to men's physical advantages in strength, stamina and physique so that a protected female category with objective entry criteria is required. Prior to puberty, there is no sex difference in circulating testosterone concentrations or sport performance, but from puberty onward a clear sex difference in sport performance emerges as circulating testosterone concentrations rise in men because testes produce 30 times more testosterone than before puberty with circulating testosterone exceeding 15-fold that of women at any age.

This wide, bimodal sex difference in circulating testosterone concentrations and the clear dose-response relationships between circulating testosterone and muscle mass and strength, as well as the haemoglobin level, largely account for the sex differences in sport performance.

Testosterone levels depend on a person's age, sex, and health. Males usually have much higher levels of testosterone in their body than females.

Testosterone is a hormone known as an androgen. Although primarily known as a male sex hormone, females also need certain levels of testosterone. However, most testosterone converts into the sex hormone estradiol in the female body.

In males, the testes produce testosterone, and the ovaries produce testosterone in females.

The adrenal glands also produce small amounts of testosterone in both sexes.

The total testosterone level test is a blood test. The best time to have the test is in the morning when levels of testosterone in the blood are usually highest. However, testosterone levels vary throughout the day, so some people may need to have the test again to confirm the result.

The goal of hormone therapy in transgender women is to reduce the endogenous effects of testosterone. There are potential benefits, risks and side effects associated with treatment. The medical effects and safety of “feminising” hormones are not fully understood. What is known is that the general risks of medications taken in hormone therapy are processed by the liver, whilst the other risks and side effects with specific medications, for example estrogen has an increased risk of blood clots. Risks could be intensified if the circulating testosterone concentration is too low or is reduced too quickly.

Establishing a “normal” level is complex, and measuring testosterone on its own may not be enough to estimate what is the correct circulating level to have in the blood for any one person. Doctors measure testosterone in nanomoles per litre (nmol/L) and the reported “normal” healthy range in **males** is anywhere from **9.2 to 31.8 nmol/L**. It is about ten times lower in **females**, with “normal” levels considered to be between **0.3 and 2.4 nmol/L**. Females with **Polycystic Ovary Syndrome (PCOS)** have levels considered to be between **3.1 nmol/L and 4.8 nmol/L**. PCOS occurs when the ovaries produce too much testosterone and reportedly affects 1 in 5 Australian women, with an overrepresentation in elite athletes.

It is difficult to know what the right level of testosterone is, and these ranges are often not agreed on by experts from different societies, countries or laboratories. Recent research has specified appropriate eligibility criterion for female sport events, with some national and international sporting organisations determining circulating testosterone concentration of <5.0 nmol/L and others determining <10 nmol/L.

Complicating this matter is the fact that testosterone levels don't stay the same through life, through the year or even through the day. These daily and seasonal variations can see levels change by as much as 19%. Complicating matters even further is the fact that everyone is different, particularly in the way that testosterone works.

Clause 6 – Eligibility

Netball Australia's Policy references a 24-month timeframe.

Experts have further noted that clinical studies to define the time course of changes, mainly offset, in testosterone-dependent effects, notably on muscle and haemoglobin, are needed to determine the optimal duration for cross-sex hormone effects in sports.

As discussed above, testosterone is the male hormone that makes it possible to develop the muscle mass of the male physique. In the absence of testosterone, the hormone estrogen takes over and lower levels of testosterone turns muscle to fat.

Haemoglobin is a protein in a person's red blood cells that carries oxygen to a person's organs and tissues and transports carbon dioxide from their organs and tissues back to their lungs. Women have mean levels approximately 12% lower than men and the normal range for haemoglobin for men is 13.5 to 17.5 grams per decilitre and for women, 12.0 to 15.5 grams per decilitre. The amount of oxygen delivered to the cells is constrained by how much haemoglobin one has in their body. While not the only variable to performance, haemoglobin is one essential instrument to endurance. It is unclear how long it takes to reduce levels to the normal female range for a transgender female.

Some physical characteristics aren't changed by hormone therapy, or are only slightly changed. Once a person's bones have stopped growing after puberty, feminising hormone therapy won't change the size or shape of an athlete's bones.

Not much is known about the effects of hormone suppression on bone mass in transgender individuals. Recent data from transgender females receiving hormone therapy have observed changes in bone mineral density (BMD) after 12 and ≥24 months.

The following table describes the time frame of physical traits that manifest in transgender women while taking feminising hormone therapy.

Physical Effect	Begins	Maximal Effect
Body fat redistribution	3-6mo	2-3y
Softened skin	3-6mo	1-2y
Breast Growth	3-6 mo	2-3y
Decreased libido	1-3mo	3-6mo
Decrease in muscle mass	3-6mo	1-2y
Scalp hair	No regrowth	-
Voice changes	None	-

(Based on Hembree WC, Cohen-Kettenis PT, Gooren L, Hannema SE, Meyer WJ, Murad MH, et al. Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society*Clinical Practice Guideline. J Clin Endocrinol Metab. 2017).

It is difficult to know what time period to apply in order to achieve materially significant changes in a transgender female athlete's physiology. These time periods are often not agreed on by experts from different societies, countries and sports. Some national and international sporting organisations have set a timeframe of 24-months, whilst others have set 12-months.

Clause 9 – Referral

Netball Australia's Policy references physical benchmarking and morphology.

Physical Benchmarking will assist in the assessment of Relevant Disparity in an Athlete's strength, stamina or physique which has an appreciable effect on the ability to compete.

Netball Australia will not specify the tests to be carried out or the mean, median and range of the normative and comparison data given measurements can be influenced by Playing Position, age group and the Elite Netball Competition the Athlete is participating in.

Where relevant, the National Protocols for the Assessment of Physical Performance Protocols (Sport Australia), ought to inform some of the tests required.

Sport and Exercise science testing must be carried out in laboratories accredited by the National Sport Science Quality Assurance Program.

This definition includes examples of tests that could be required.

Some Policies require an athlete whose gender identity doesn't correspond with their sex assigned at birth to also meet first instance sport specific eligibility requirements in order to determine if an athlete's strength, stamina and physique results in disparity in competitive advantage. Some sports only require sport specific profiling and benchmarking if after an athlete commences participating, a potential competitive disparity comes to the fore. The latter is predicated on inclusive participation. Again, there is no agreement from experts from different societies, countries and sports.

Clause 15 – Game Management

Game Management reflects the standard practices and rules of the International Netball Federation.

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