

Swim England Transgender and Non-Binary Competition Policy

Background

Given the emotive subject of transgender competition within sport we believe it is necessary to provide an explanatory note with regards to the update of our Transgender and Non-Binary Competition Policy. A definitions page including reference to many of the terms utilised throughout this document can be found on page 2 of the policy document.

It is important to note that this policy refers *only* to Swim England competition (including those organised by our member Regions, Counties and Clubs). Those that participate in aquatics recreationally should be able to do so, in a fully inclusive environment, free from discrimination. In order to achieve this, we will continue to support operators to provide a varied pool programme, catering for the many demographics found in our communities across England.

Swim England Transgender Consultation

In August 2022 we commissioned an independent consultant to gather the views of our members and advocacy groups involved within this area. This consisted of two key activities:

- An online survey to gather the views on our general membership. This was primarily shared via direct communication with Swim England members.
- A series of interviews with the Leadership groups of each discipline and the aforementioned advocacy groups.

More than 2,000 responses were collected and these were subsequently taken forward for consideration.

Whilst we do not believe it would be appropriate to share the full outcome of the consultation we are able to summarise the following:

- There was a clear consensus via the online survey that fair competition must be protected within aquatics (86%) and that a 'Female' and 'Open' category would be the best way to achieve this (74%).
- There was also clear consensus across the leadership groups of our aquatic disciplines that they would be open to a greater level of transgender inclusivity within the sport, even if this was at 'the lower end of the pathway' or 'for part of the journey'.

Research

Swim England believes that there is a general consensus across the research that post-puberty transgender females retain a biological level of performance advantage post-transition. Peer-reviewed examples that confirm this include:

- Louis Gooren and Mathijs Bunck, 'Transsexuals and competitive sports' (2004)
- Emma Hilton and Tommy Lundberg, 'Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage' (2020)

- Joanna Harper and others, 'How does hormone transition in transgender women change body composition, muscle strength and haemoglobin? Systematic review with a focus on the implications for sport participation' (2021)

Whilst the existing policy regarding the use of hormonal therapy was found to be effective at reducing performance advantage it was insufficient as to negate it completely and trans females therefore likely retain an advantage over their cisgender peers.

As a result, we believe that the restriction of certain competition to birth sex females to be justified and proportionate in the pursuit of fair competition.

Legislation

In drafting our updated policy, we have taken into account both the Equality Act 2010 and the Gender Recognition Act 2004. Specifically, the references to 'gender-affected' sport.

A sport is deemed to be 'gender-affected' if 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 as competitors in events involving the sport.

We believe this to be true of all of our disciplines, with the added consideration of 'safety of competitors' within Water Polo also covered by the legislation. As a result, it is permissible to restrict the participation of transgender competitors to the category of their birth sex, rather than their gender identity.

Policy Approach

Taking into account the UK Sport's Council's Guidance for Transgender Inclusion in Domestic Sport ("**SCEG Guidance**") we recognise that a decision must be made between 'fair competition' and 'inclusion', however this choice isn't required to be mutually exclusive. As a result of the strength of feeling displayed within the consultation we appreciate that 'fair competition' is considered the backbone of our aquatic sports and therefore must be prioritised.

We do however believe that any measures put in place should be minimally obstructive and only go as far as is necessary to maintain sporting integrity across our competition and talent pathways. Any measures beyond this may be viewed as disproportionate.

In order for our aquatic disciplines to be enjoyed as *sport* there must be inclusive opportunities for transgender participants to compete. Therefore, taking into account the SCEG Guidance's suggestion to be 'creative', the drafted policy ensures that there are entry-level competitive opportunities for transgender people to participate in the majority of our disciplines within their gender identity. However, in order to progress further, the Female/Open categories are utilised as a means to protect fair competition within the sporting pathway.

Given that Water Polo is a contact sport we do recognise that 'safety of competitors' must be prioritised. Therefore, we believe it is justifiable to restrict all adult competition within this discipline to Female and Open categories.

How has the policy changed?

2015 Policy

The 2015 policy was a blanket policy applied in a similar method across all of our disciplines. Whilst specific consideration was given to Water Polo as a contact sport it predominantly focused on the assessment of applications via an Equality and Participation Panel. As with most policies published at this time, it largely refers to the performance advantage of transgender females.

As a result, it utilised a case-by-case approach assessing applications on the basis of factors such as hormone therapy and surgery.

2023 Policy

The 2023 policy aims to take into account the nuances of each sport whilst maintaining a consistent underlying approach. It can therefore be summarised as follows:

Artistic Swimming

Solo, Duet, Team and Combination: Competitors are permitted to self-ID.

Mixed Duet: A duet must consist of one competitor from the 'Female' category and one from the 'Open' category.

Diving

Swim England Competition: Competitors are permitted to self-ID.

Talent Games: Competition will be divided into 'Female' and 'Open' categories.

Indoor Swimming (Excluding Masters)

Unlicensed Competition: Competitors are permitted to self-ID.

Licensed Competition: Competition will be divided into 'Female' and 'Open' categories.

Masters Swimming

Competition not for submission to rankings: Competitors are permitted to self-ID.

Competition for submission to rankings: Competition will be divided into 'Female' and 'Open' categories.

Open Water Swimming

Swim England Competition: Competition will be divided into 'Female' and 'Open' categories.

Water Polo

U16 Competition: Competitors are permitted to self-ID.

16+ Competition: Competition will be divided into 'Female' and 'Open' categories.

Review Period

We recognise that research continues to evolve within this area and therefore a 12-month review period will be implemented. Should significant academic research be released, particularly related to aquatics, we reserve the right to review at an earlier stage.