



# Aquatics Participation & Training Information for Transgender & Non-Binary Individuals

## Guidance Document

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## SECTION 1: INTRODUCTION

*Scottish Swimming recognise that for many, Transgender inclusion is a developing, and sometimes emotive subject area. This document is an initial outline of where we are positioning ourselves as an organisation, and what support and guidance we can offer our clubs and individual members in this area. Reference to 'Trans' will be used throughout the document which is a shortened version for the term 'Transgender'.*

*We expect information and language to change, as it has done frequently over the past number of years, but we need a starting point, and this document will be reviewed (as stated within) and updated when required.*

Scottish Swimming's vision is: **'everyone can swim.'**

We are committed to creating a positive and inclusive environment where participation and fair competition is available to all.

The purpose of this document is to provide guidance to the Scottish Swimming community with regards to supporting individuals and adopting a trans inclusive approach to our sport(s). The guidance should also help increase the confidence of staff, coaches, and volunteers, in supporting members of the aquatics community who identify as trans, or who are beginning to question their gender identity.

Information within this document will allow Clubs to feel confident that they are complying with the Equality Act 2010, the Gender Recognition Reform (Scotland) Bill 2019 and meeting their specific requirements of safeguarding legislation.

It will also provide support mechanisms and approaches which can be applied to athletes, volunteers, and staff, to ensure that they are treated with dignity and respect. Above all, it will provide reassurance to all members that fairness in competition and safety of competitors will be at the heart of our policy.

## DEFINITIONS

For the purposes of this document:

|                                       |                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Birth sex</b>                      | The biological sex assigned to an individual at birth.                                                                                                                                                                                                                                                                                              |
| <b>Child</b>                          | Within The Children and Young People (Scotland) Act 2014 – a child is defined as anyone who has not reached the age of 18.                                                                                                                                                                                                                          |
| <b>Cisgender</b>                      | A person whose sense of personal identity and gender corresponds with their birth sex.                                                                                                                                                                                                                                                              |
| <b>Competitor</b>                     | Competitor denotes an entrant to competition promoted by or on behalf of the club or organisation.                                                                                                                                                                                                                                                  |
| <b>Contact sports</b>                 | Of the sports under the jurisdiction of Scottish Swimming this refers to Water Polo only.                                                                                                                                                                                                                                                           |
| <b>Eligibility category</b>           | The entry categories into which competition is split.                                                                                                                                                                                                                                                                                               |
| <b>Female category</b>                | Athletes with a birth sex of female. This can include: <ul style="list-style-type: none"><li>➤ Non-Binary athletes with a birth sex of female and</li><li>➤ Trans male athletes with a birth sex of female and have not begun medical transition in any way e.g. hormone therapy or surgery.</li></ul>                                              |
| <b>Gender-affected activity</b>       | A sport, game, or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.                                                          |
| <b>Intersex</b>                       | A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Competition category will be sex assigned at birth.                                                                                                |
| <b>Licensed meets</b>                 | Licensed meets are Level 1 (National and District), Level 2 (District and Club) and Level 3 (Club level).                                                                                                                                                                                                                                           |
| <b>Male &amp; Open category</b>       | One category, athletes with a birth sex of male, trans or non-binary competitors and any competitors not eligible for the Female category.                                                                                                                                                                                                          |
| <b>Non-binary</b>                     | Someone who does not subscribe to the customary binary approach to gender, and who may regard themselves as neither male nor female or take another approach to gender entirely.                                                                                                                                                                    |
| <b>Non-contact sports</b>             | For Scottish Swimming this refers to Swimming (including Para-Swimming, Masters & Open Water), Artistic Swimming & Diving.                                                                                                                                                                                                                          |
| <b>Rankings</b>                       | A National swimming results database of competitors/athletes and their times for each event completed. The system is managed by British Swimming/Swim England for use by the Home Nations. The personal information must be identical to that contained in the Scottish Swimming JustGo membership system.                                          |
| <b>Self-identification or self-id</b> | A process of recognition that accepts the individual's declaration of gender identity without a requirement for further evidence.                                                                                                                                                                                                                   |
| <b>Transgender or trans person</b>    | An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, gender-queer (GQ), gender-fluid, gender-variant, trans man, trans woman. |
| <b>Unlicensed meets</b>               | Unlicensed meets are currently the Level 4 registered meets (or meets which clubs run that are in house such as time trials, club friendly events, club championships that are not run for the purpose of generating accredited times etc).                                                                                                         |
| <b>Young Person</b>                   | An individual who is generally between the ages of 16 and 18.                                                                                                                                                                                                                                                                                       |

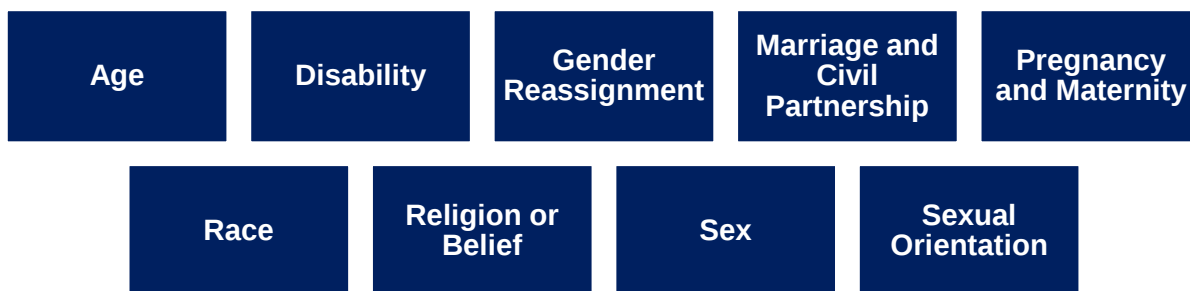
## SECTION 2: LEGAL CONTEXT AND POLICIES

### Legal Context

Under The Equality Act, 2010, everyone must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The act refers to the following protected characteristics:



Gender reassignment is defined in the Equality Act as applying to anyone who is undergoing, has undergone, or is proposing to undergo a process (or part of a process) of reassigning their birth sex by changing physiological or other attributes. This definition means that in order to be protected under the Act, a person will not necessarily have to be undertaking a medical procedure to change their sex but must be taking steps to live in the opposite gender or proposing to do so.

The Gender Reassignment Act defers to the Equality Act, as it is the over-riding legislation; however, there are some exceptions, as it does allow for conditions to be applied in a gender affected activity (*see definitions page*) to secure fair competition and safety of all competitors.

Section 195 of the Equality Act allows separate sporting competitions to continue to be organised for men and women where physical strength, stamina or physique are major factors in determining success or failure, and in which one sex is generally at a disadvantage in comparison with the other. It also makes it lawful to restrict participation of trans people in such competitions if this is necessary to uphold fair or safe competition, but not otherwise.

In addition, this section allows the existing selection arrangements of national sports teams, regional or local clubs to continue. It also protects “closed” competitions where participation is limited to people who meet a requirement relating to nationality, place of birth or residence.

### SCEG Guiding Principles

The Sports Council Equality Group released a guidance document for UK sports organisations in 2020. This was one of the first leading groups to issue guidance directly for transgender inclusion in domestic sport. This was widely seen as an excellent resource by many sports and the Scottish Swimming guidance is based on the principles outlined in the SCEG report. The full report can be found [UK Sport SCEG Report](#).

## KEY POLICY STATEMENTS

### **Scottish Swimming is committed to equality, diversity, and inclusion.**

While there are opportunities for all, we must ensure that at certain stages on the competitive pathway, fairness in competition is prioritised over participation. In addition, safety of competitors should be prioritised at all competitive and participation stages.

The male/female sex binary of sport has been enduring, and sport is underpinned by this division. Trans members should be supported so that they have access to club activities, including training and events. Scottish Swimming will provide support to all members and all clubs on request.

Given the wide range of trans identities, it is important that any support a club offers a trans member, starts with identifying their individual needs. An initial conversation would be a good time to allow the member to talk about how they identify or feel about their gender and any guidance offered tailored to the needs of the individual.

Wherever appropriate, Scottish Swimming will support club officials to consult the relevant professionals, members, parents/coaches, ensuring the needs of the trans member are properly understood and effectively supported, subject to duty of confidentiality.

This document should be read in conjunction with the Scottish Swimming Safeguarding Policy for Children and Young People and the associated appendices. This information can be found [HERE](#).

## PROMOTING INCLUSION AND PREVENTING TRANSPHOBIA

### **Whole Sport Approach**

As with all policies and guidance documents, a whole sport approach is needed to support and keep members including trans and non-binary members, their families and the club environment safe.

Several clubs are already working towards the current 'Equality Standard for Sport' ensuring that their whole club environment is supportive and inclusive. This is achieved by developing a culture that celebrates inclusion and diversity, and one in which members of all ages can see themselves reflected and valued in club policies and procedures which are supported.

With regards to trans-inclusion, clubs should:

- Acknowledge there will be trans people within the club community (parents, coaches, volunteers, and athletes)
- Provide appropriate support to members who identify as trans and signpost them and their families when needed, to local and national organisations providing support services. It is worth noting that the appropriate type of support will vary on a case-by-case basis
- Keep the needs of individual athletes at the centre of training activities. Where a club may decide to do alternative team-building activities, the focus should be on gender neutral activities to avoid gender stereotyping
- Ensure trans issues and transphobia is acknowledged across club policies to eliminate unlawful discrimination, harassment and victimisation, promoting opportunity for all, fostering good relations and enabling personal development
- Include trans issues in equality training for members

### **Mental Health Awareness**

It is recognised that trans people are disproportionately affected by mental health difficulties. Clubs should offer all members support and signposting for mental health issues where required (see [Scottish Swimming Mental Health Hub](#) or see *Signposting Section within the guidance section of the document*).

## Anti-Bullying

All clubs should have effective Anti-Bullying policies and equality policies in place. Please see the Wellbeing & Protection page on the [Scottish Swimming website](#) for more information.

The application of these policies ensures the whole club community challenges and tackles bullying behaviour and prejudice, including unconscious bias-based incidents effectively, where someone's personal opinion and actions may offend or prevent a trans member from participating in club activities.

Clubs should:

- Create a positive culture and environment in which all members, whatever their gender identity, feel equally welcome and valued and in which transphobic behaviour is effectively challenged as per the Club's disciplinary policy
- Effectively challenge and deal with transphobic abuse, harassment, and bullying (e.g., name-calling, derogatory jokes, unacceptable or unwanted behaviour, intrusive questions) and then monitor incidents of transphobic abuse, harassment, and bullying, and use this information to positively develop the Club

By not challenging negative behaviour, Clubs could be at risk of complaints or be seen as transphobic. Any bullying or transphobic concerns should be reported to the Club WPO in the first instance or by email to [equalities@scottishswimming.com](mailto:equalities@scottishswimming.com), or where considered a serious level concern, refer to Police Scotland and Scottish Swimming.

## SECTION 3: PRINCIPLES INTO PRACTICE (key action points)

### Club Environment & Managing a Training Session

Coaches should continue to coach in an inclusive environment, adapting sessions to the needs of the individual athlete and their goals.

It is our recommendation that clubs agree a working group to maintain confidentiality and support trans members. This could be the Wellbeing & Protection Officer ("WPO"), Head Coach and Chair.

In developing inclusive practice to support members identifying as trans, the working group should consider the following:

- Listen to the member, their parents/carers (when appropriate) and, wherever possible, follow their lead and preferences
- Outline the competition structure (all sports) with regards to trans members (see Competition Policy), the Clean Sport Policy and updating the JustGo membership system
- Speak with the trans member and agree a communications plan within the club (to avoid gossip and show the trans member they have support within the club)
- Check in regularly with the trans member and parent during the first 12 months and then as required
- Gender is often an important part of identity and developing a positive sense of gender identity is part of growing up
- Avoid where possible, gender segregated activities, and where this cannot be avoided allow the trans member to access the activity that corresponds to their gender identity. Such access should be considered on a case-by-case basis where it is deemed that there is no risk to others taking part
- Build upon existing good practice in ensuring that transphobia is seen as unacceptable and that it will be addressed as part of a whole sport approach to bullying and in upholding the principles of The Equality Act
- As per recommended practice a risk assessment should be in place for all Club activities. Where the inclusion of trans athletes poses additional points that need to be considered the risk assessment should be reviewed and updated as necessary

Where there is a member identifying as trans, it should be the club WPO's responsibility to initially engage with the athlete and parent where appropriate (i.e. athlete is under 18). If needed the WPO should utilise the working group to support the athlete and the club.

Scottish Swimming are available to the working groups for any additional support or signposting. For competitive activity in each sport, please refer to the Transgender & Non-Binary Sports Competition Policy.

### **Clothing (team kit and swimwear)**

Trans and non-binary individuals, including children and young people, have the right to dress in a manner consistent with their gender identity or gender expression. Depending on the individual, the choice to begin dressing in the clothes associated with preferred gender can be a very big step and potentially very daunting. This can often represent one of the earliest stages of social transition and is a profound statement of acceptance of one's identity and commitment to it.

Sensitivity may need to be shown in relation to swimwear and this would best be resolved through discussions with individual members. Swimwear must not give the effect of excessive nudity inappropriate for sport and must be dignified and suitable for competition. Where there is uncertainty, this would be in liaison with the club, pool provider/facility operator as appropriate.

Care must be taken to ensure that members identifying as trans are fully supported during this time. Staff, coach, and volunteer training is paramount to ensure that everyone understands what it means to be trans and exactly why a member may be dressing 'differently'.

### **Changing Rooms**

Many facilities differ in terms of changing facilities and clubs should discuss options for trans members with their pool provider/facility operator and the individual. CIMSPA, the professional development body for the UK's sport and physical activity sector, has provided its members with guidance in this area.

Conversations with facility providers could include, but not limited to:

- What are the protocols in place for toilet and shower areas?
- What are the protocols for changing room spaces?
- How to raise concerns or challenges experienced?

For additional advice on how to start such conversations or determining considerations with a facility, please contact [equalities@scottishswimming.com](mailto:equalities@scottishswimming.com)

### **Use of Pronouns**

Typical pronouns are 'he' or 'she'. Some trans people, especially those with a non-binary gender identity, are unhappy about people referring to them as 'he' or 'she,' and use the gender-neutral pronoun, 'they.'

Using pronouns is an indication of someone's gender identity. Club members should take care not to 'out' an individual by using a pronoun which differs from the one they use in public. Similarly, club members should avoid misgendering a trans individual.

If you are supporting a trans person, be led by them, checking with them what pronoun and/or name you should use and in which circumstances. This may be different depending on whether it is in public or private and may change over time. This is part of the process of their transition.

Club members must avoid 'deadnaming'. This is when someone intentionally calls a young person identifying as trans, by their previous name. Depending on the situation, it could be distressing for the young person or be viewed as bullying.

If someone accidentally calls a person by their previous name or using the wrong pronoun, they should simply apologise and try not to do this in the future.

## Confidentiality & Information Sharing

All members have a right to privacy. This includes the right to keep private one's trans status or gender. Information about a member's trans status, legal name, or gender assigned at birth also constitute medical and confidential information under the data protection act (GDPR).

When a member initially discloses their trans status, it is important to talk to them about confidentiality and who, if anyone, they would like information to be shared with. There will be cases when a member's trans identity is not widely known, and the club should protect this information unless the member wishes it to be known.

Staff and club committee members should involve parents/carers in the discussion with athletes in regards to their transgender status where considered appropriate and in line with the Scottish Swimming Safeguarding Policy.

Staff, club committees or club members should not disclose information that may reveal another member's transgender status to others, including coaches, volunteers, and other members of the aquatics community unless legally or practically required to do so or because the member has asked them to do so.

Staff, club committees or club members should not discuss members who are identifying as trans outside of the club or work environment, even when making no reference to their name or personal details, as even the smallest of details could compromise confidentiality.

Trans members have the right to discuss and express their gender identity openly and to decide when, with whom, and how information much to share. When contacting the parent/carer of a young trans member, Scottish Swimming staff or club personnel should use the individual's legal name and the pronoun corresponding to the young person's gender assigned at birth unless the young person, **and** their parent/carer have agreed otherwise.

## Team Travel & Overnight Stays

A degree of discussion, care and preparation is required to enable individuals who are identifying as trans of any age to participate in team travel and overnight stays. To exclude trans individuals from such trips would be discriminatory and contravene the Equality Act.

The following should be considered, but not limited to, by clubs in respect to conversations around team travel and overnight stays:

### *Athletes identifying as trans:*

- Are there any considerations for a trans child or young person, or the wider group, during team overnight stays with respect to accommodation options?
- Are there additional considerations associated with the trans child or young person travelling as part of the team on a trip?
- There are many accommodation options available for clubs depending on the type of trip/event/location. Planning around accommodation should be conducted in advance of going on the trip and decisions communicated timely and appropriately.
- What will the rooming requirements look like? Trans child or young person (defined as those under the age of 18) should sleep in dorms or shared rooms appropriate to their birth sex.
- If the trans individual is not comfortable doing this, alternative sleeping and living arrangements should be made in advance of the trip/event (e.g. single room), though it should be noted that this may alienate them from the wider group and additional costs may be incurred.

#### *Team staff identifying as trans:*

- Team staff composition needs to be considered with the appropriate accommodation sourced in advance of the trip and communicated as necessary
- Team staff composition should be recruited so that appropriate ratios are in place to allow the team staff responsibilities to be effectively carried out while on the trip

More information regarding team travel and overnight stays can be found in [Scottish Swimming Safeguarding Appendix 16](#).

Best practice should always be followed in line with the Club's Wellbeing & Protection Policies.

### **Moving From One Club to Another**

Some people may choose to make a transition into their preferred gender identity at a point when they change clubs. This may minimise the number of other members of the aquatics community who are aware that the person is trans.

Although a change of club may be a suitable time to transition for some, it should not be seen as the only opportunity. The right time to transition from one gender identity to another will be when individual feels they are ready.

Close work and consultation between the two clubs, the member, and where needed, their family is essential (required for under 18s) Safeguarding, respect and confidentiality are central to the approach taken. Information sharing should be in line with the wishes of the member and their family and data protection.

### **Clean Sport and Medication**

All athletes have the right to compete in sport knowing that they and their competitors are clean, but fairness in sport is at the centre of all competitive environments.

**All athletes** are responsible for anything found in their system, including prescribed medication, supplements, and hormone regimes, regardless of how it got there or whether there is any intention to gain an advantage. All athletes and athlete support personnel should make themselves aware of the risks, so they do not face being banned from the sport.

Useful information for athletes can be found on the [UKAD \(UK Anti Doping\) website](#) or on the [Scottish swimming website](#). All athletes taking medication (including supplements and hormone regimes) should refer to [Prohibited List | World Anti Doping Agency \(wada-ama.org\)](#) and secure a Therapeutic Use Exemption (TUE), as required.

### **Membership & Rankings**

Membership in Scottish Swimming is managed through the JustGo membership system. All memberships are currently listed as either male or female – these labels will be updated to 'Female' or 'Male & Open' category, with the data held in these fields currently remaining the same.

- The 'Female' category is for anyone with the birth sex of female
- The 'Male & Open' category is for all other members. This includes any individuals who are born female but undergoing hormone or other medical transition
- It is the 'sex' field in the Online Membership System that determines the category of competition

To change from male to female or vice versa, the member should apply to Scottish Swimming for guidance. A member of the Scottish Swimming team upon confirmation of the change will carry out the following process:

- The previous membership number will be retired
- Against the retired number there will be a record held of the date of changing category, and the new membership number and any details pertinent to the change
- A new membership number will be set up and a note will be kept of the previous membership number, date, and relevant information
- Courses or training held against the previous number will be transferred to the new number
- Due to change in name and gender and person in a regulated role would need to do a new PVG application (PVG update) using their new personal details

**Please note, the process to change someone's 'sex' shall take 28 days to confirm and can only be changed back once within 12 months.**

The rankings system will continue to accept data in two categories, and the front facing category of 'Male' will be updated to reflect the 'Male & Open' Category in due course.

Results and rankings information associated with the initial membership number for an individual will remain on the rankings system. However, after point of transition to the new membership number any new results set will be against the new membership number. Any previous times set will not be able to be used for the purposes of entry to future competitions or qualification for the National Squad Programme for example.

## REVIEWING THE POLICY

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

## SECTION 4: SIGNPOSTING FOR ADDITIONAL READING, INFORMATION AND SUPPORT

While Scottish Swimming can provide some level of support and guidance, there is a lot of agencies and documents available which can provide additional information and resource.

|                                                                                        |                                                                 |                                                                                     |                                            |
|----------------------------------------------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------------------------|
| <a href="#"><u>Engender</u></a>                                                        | <a href="#"><u>Equality in Sport Resources</u></a>              | <a href="#"><u>LEAP Sports Scotland</u></a>                                         | <a href="#"><u>LGBT Youth Scotland</u></a> |
| <a href="#"><u>LGBT Heath &amp; Wellbeing</u></a>                                      | <a href="#"><u>Scottish Trans</u></a>                           | <a href="#"><u>Scottish Government LGBTI and gender recognition Policy</u></a>      | <a href="#"><u>See Me Scotland</u></a>     |
| <a href="#"><u>Stonewall Scotland</u></a>                                              | <a href="#"><u>Supporting Transgender Pupils in Schools</u></a> | <a href="#"><u>Swim England Transgender &amp; Non-binary competition policy</u></a> |                                            |
| <a href="#"><u>UK Sport - guidance for transgender inclusion in domestic sport</u></a> |                                                                 | <a href="#"><u>World Aquatics</u></a>                                               | <a href="#"><u>Transactual</u></a>         |