

GENDER DIVERSITY POLICY

Flying Bats Football Club 2016

Background

The Football Federation of Australia's [National Member Protection Policy](#) provides guidance on the inclusion of trans, gender diverse and intersex players in football. This policy acknowledges that Federal, State and Territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity, including gender expression, appearance, mannerisms or other gender-related characteristics (FFA 2015, pp 10). The policy also commits the FFA to a 'safe, fair and inclusive sporting environment' whereby all persons, regardless of gender identity or intersex status, can contribute, participate, and be treated fairly with dignity and respect (FFA 2015, pp 10). The FFA does not tolerate unlawful discrimination or harassment of a person on behalf of their gender identity (including a person who is trans, is assumed to be trans, or has an association with someone who is or is assumed to be trans) or intersex status, and outlines procedures for complaints if discrimination or harassment occurs. The policy calls for sensitivity when a person is undergoing gender transition/affirmation (FFA 2015, pp 10).

The Flying Bats Football Club (FBFC) acknowledges that strong evidence exists that trans, gender diverse and intersex people face significant barriers to participation in sports, and when they do participate, frequently face discrimination and harassment. [A report](#) on LGBT experiences in Victorian sport indicates that "[t]ransgender participants identified a number of ways in which they were excluded associated with their gender identity, and the more rigid and traditional interpretations and organisation of gender in sport" (Symons *et al* 2010, pp 9). As gender is a strong organising feature in sport, and drives subsequent expectations about how people should act and appear, the report concluded that "transgression from ... norms around gender and sexuality is punished in sport, and particularly in team sport" (Symons *et al* 2010, pp 7). The report found "experiences of discrimination based on this ignorance and prejudice, a lack of policies to enable their participation in sport, concerns with using change rooms, and being accepted and fitting in" (Symons *et al* 2010, pp 7).

The experience of gender diverse players in other states is not different. In the Australian Capital Territory, the [Inclusive Sport Survey](#) found that most people surveyed were 'not out' regarding their sexuality and/or being transgender (ACT Government 2014, pp 6). Furthermore, 40.8 per cent of respondents had felt unsafe in a sporting environment and that 58.4 per cent of respondents did not know if their club or recreation provider had anti-discrimination policies regarding sexual orientation, gender identity or intersex status (ACT Government 2014, pp 6). While data from other states is not currently available, the Australian Human Rights Commission (AHRC, 2015b) launched a national survey in 2015 on the participation of trans, gender diverse and intersex people in sport to ensure their rights are protected in the policies and practices of sporting codes. In announcing the survey, Human Rights Commissioner Tim Wilson acknowledged that in a national consultation while some "transgender, gender diverse and intersex people reported positive experiences in sport participation; others said they have experienced exclusion, violence and harassment on the basis of their gender identity or intersex status" (AHRC 2015b).

The Australian Human Rights Commission's [Sexual Orientation, Gender Identity and Intersex \(SOGII\) Rights Report](#) notes that lived experience of unjust discrimination can significantly limit an individual's sense of security to publicly participate in sports (AHRC 2015a). FBFC is committed to providing a safe space for trans, gender diverse and intersex people to play soccer and seeks to ensure that members do not experience unjust discrimination or harassment while playing in the North West Sydney Women's Football (NSWSF) competition.

Inclusion of Trans, Gender Diverse and Intersex Players

The FBFC supports section 5.6.2 of the Football Federation of Australia's (FFA's) [National Member Protection Policy](#), which states that the "FFA is committed to facilitating participation in football on the basis of the gender with which the person identifies". As such, FBFC will facilitate registrations from players who identify as women, including trans and intersex women.

However, FBFC acknowledges that gender is not binary, and not all people are or identify as either female or male, or women or men. The club recognises that transitioning and living as a trans, gender diverse or intersex individual can be an isolating experience, and many face rejection and exclusion from various

social groups (including family, work and sport) and violence and harassment from the community at large. As such, FBFC will facilitate registrations from players who do not identify as women if they:

- are trans, gender diverse (including non-binary and genderqueer) or intersex; and
- would not feel comfortable or safe playing for a club other than FBFC, and their exclusion from the club would result in their exclusion from the sport.

Unfair Advantage

FBFC recognises that each individual has different levels of hormones that affect their abilities, and this is not specific to trans, gender diverse or intersex people. FBFC recognises the many other systemic barriers and structural disadvantages that trans, gender diverse and intersex people face in accessing sport, including barriers to accessing training, participation, membership and mentoring. As such, FBFC rejects any suggestion that trans, gender diverse or intersex people have an unfair advantage over endosex cisgender women. This position is supported by [a submission](#) presented to the Australian Human Rights Commission by the Organisation Intersex International Australia (OII Australia) that “IAAF [International Association of Athletics Federations] evidence shows that there is no scientific basis for the exclusion of women athletes with intersex variations”.

The FFA [National Member Protection Policy](#) outlines that where “issues of performance advantage arise, the relevant Governing Body will consider whether the established discrimination exceptions for participation in sport are relevant in the particular circumstances”. FBFC considers the marginal advantage to a team of a potential marginal physical advantage of one player to be negligible. Further to this, FBFC contends that if the player in question is playing at a comparable level to other players in that division, no argument can be made that they are playing at a level at which other women cannot compete. As such, FBFC rejects that discrimination exceptions are relevant in the context of the NWSWF competition.

FBFC encourages all clubs in the NWSWF Association to be inclusive of trans, gender diverse and intersex players. As all clubs have the same capacity to register trans, gender diverse and intersex players, FBFC does not accept that one team has an unfair advantage over any other due to their inclusion. FBFC is happy to assist other clubs within the NWSWF Association in developing an inclusive culture within their club.

Use of Prohibited Substances or Methods

FBFC acknowledges that the FFA [National Member Protection Policy](#) states that “[d]rug testing procedures and prohibitions also apply to people who identify as Transgender” and that “[a] person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency’s (WADA) Prohibited List, should apply for a standard Therapeutic Use Exemption” (TUE). FBFC considers that the requirement to apply for an in-advance TUE constitutes a barrier to participation for trans players. FBFC welcomes the position of ASADA that players in the NWSWF competition do not need to apply for an in-advance TUE, and should only apply for one retroactively (after an anti-doping test) (ASADA, 2015).

FBFC does not support anti-doping testing that targets trans, gender diverse or intersex players. FBFC considers any targeted testing of trans, gender diverse or intersex players to be discriminatory, and to constitute victimisation of trans, gender diverse or intersex players. On the basis of WADA’s above guidelines, FBFC rejects any position a player’s status as a trans, gender diverse or intersex player is sufficient to compel them to submit to drug testing. FBFC contends that any drug testing within the NWSWF competition should be randomised or required for all players in the competition.

Code of Conduct and Action Plan

The Victorian Equal Opportunity and Human Rights Commission Guideline on Transgender People and Sport outlines how clubs have a positive duty to take reasonable and proportionate steps to prevent discrimination, sexual harassment and victimisation under anti-discrimination law. This positive duty focuses on eliminating the causes of discrimination, not just responding to complaints that arise, and clubs are vicariously liable for their staff (Human Rights Commission, 2015). In New South Wales, similar provisions exist under the Anti-Discrimination Act 1977.

FBFC commits to establishing a trans, gender diverse and intersex working party of members to guide and advise policy in this area. Inclusive policy and practice in this area requires the timely development of a

code of conduct, sensitivity training and an action plan to guide players, referees, clubs and coaches on the field.

References

ACT Government (2014), '[Inclusive Sport Survey](#)', Report, April.

AHRC (Australian Human Rights Commission) (2015a), '[Resilient Individuals: Sexual Orientation, Gender Identity & Intersex Rights](#)', Report, 10 June.

AHRC (Australian Human Rights Commission) (2015b), '[Survey on Transgender, Gender Diverse and Intersex Rights In Sport](#)', Media release, 20 August.

ASADA (Australian Sports Anti-Doping Authority) (2015), 'In Advance TUEs', ASADA website, 15 February, Available at <https://www.asada.gov.au/substances/therapeutic-use-exemption/advance-tues>.

FFA (Football Federation Australia) (2015), '[National Member Protection Policy](#)', Policy, 20 August.

Symons, C, Sbaraglia, M, Hillier, L and A Mitchell (2010), '[Come Out To Play. The LGBT Sport experience in Victoria](#)', Currency Productions, Brunswick.