



## **Transgender Athlete Policy**

### **DRAFT**

#### **Purpose**

Hockey New Zealand (Hockey NZ) has developed a policy in respect of transgender people, which includes those who are transsexual and transgender including players, employees, coaches, volunteers and spectators, and is committed to the principle of equality in all aspects of the sport.

Hockey NZ aims to ensure that all people within the hockey family, irrespective of their age, gender reassignment, disability, marriage or civil partnership, pregnancy and maternity, race (including ethnic origin, nationality and colour), religion or belief, sex and sexual orientation have a genuine and equal opportunity to participate in hockey at all levels and in all roles. Under current New Zealand legislation, hockey, as a gender-affected sport, may be regulated by Hockey NZ in respect of the participation of a trans person.

We use the term trans or transgender to describe those people who, as defined by the Equality Act 2010, share the protected characteristic of gender reassignment and are described in the legislation as transsexual people. We do not include intersex people, androgynous and polygender people, cross-dressing and transvestite people in these terms.

In addition, Hockey NZ will promote a zero-tolerance approach to transphobia. Transphobia includes discriminatory language or behaviour directed towards anyone who comes under the umbrella term of transgender; in addition, it may be towards a transsexual person's friend or supporter, or anyone that may be perceived to be a transsexual person (whether they are transsexual or not). The behaviour may include a reluctance or refusal to provide access to services to the same extent as that provided for a non-transsexual person. Hockey NZ and its members will ensure that any unacceptable behaviour and language is managed effectively and appropriately with sanctions and or educational programmes implemented to ensure compliance and the creation of a safe, inclusive and welcoming environment for transgender people.

#### **Scope**

This Policy applies to all players including elite athletes, development pathway, and members of the hockey community.

#### **Policy Statement**

The following points are considered good practice for all Hockey NZ and its members:

- Treat the individual with dignity and respect.
- Explain the Hockey NZ policy and procedure to the individual and ask their view on how to proceed. Provide contact details for the HNZ contact.
- Respect the private and confidential nature of the individual's situation.

- Agree with the individual what information is to be shared with others and, if this is necessary, how this should be shared. In general, no information should be shared by the local official unless they have express permission from the transsexual person.
- Ask the individual what communal changing facilities they would prefer to use, as not every changing facility will have private cubicles. This will depend on whether the individual has transitioned or is in the process of transitioning and whether they have undergone any gender reassignment surgery. It may be that the most appropriate option is to use the cubicles in the toilets appropriate to their full-time gender role, or that they should arrive changed and ready to participate, to avoid any misunderstanding should they still have secondary sex characteristics of their former gender.
- Encourage the individual to feedback any inappropriate language or behaviour from other individuals so that it can be dealt with.
- Ensure a Code of Conduct is publicized indicating their zero-tolerance policy towards all bullying/harassment of people with protected characteristics.

### **Transgender People Competing at International and National Levels**

Hockey NZ recognises the importance of consistency on what is appropriate for international and national competition. Hockey NZ has therefore adopted the “IOC Transgender Guidelines” adopted by the IOC in November 2015—see Appendix 2.

Hockey NZ and its members must not restrict the participation of a transsexual person in competitive sport unless this is strictly necessary to uphold fair or safe competition; any other restriction would amount to direct discrimination.

Hockey NZ and its members should treat a transsexual person as belonging to the sex in which they present (as opposed to the biological sex they were born with) unless this might give the transsexual person and their team, an unfair advantage, or, would be a risk to the safety of competitors. Any negative effect of restricting the participation of transsexual people must be mitigated as far as possible, to permit as much inclusion as is fair and safe.

The Transgender Guidelines aim to facilitate the participation of transgender athletes at the international level in the category of competition that is consistent with their gender identity, in accordance with sporting imperatives. For the avoidance of doubt, the Transgender Guidelines apply to individuals whose gender identity (ie, how they identify) is different from the sex designated to them at birth (whether they are pre- or post-puberty, and whether or not they have undergone any form of medical intervention). The Transgender Guidelines do not address the eligibility of athletes with differences of sex development, also referred to as “intersex”.

IOC has issued the following guidelines, to be taken into account by sports organisations when determining eligibility to compete in male and female competition:

1. Those who transition from female to male are eligible to compete in the male category without restriction (although athletes subject to doping control must still comply with applicable anti-doping rules, including any requirement to obtain a Therapeutic Use Exemption for the use of a substance on the WADA Prohibited List, such as testosterone).
2. Those who transition from male to female are eligible to compete in the female category under the following conditions:
3. The athlete has declared that her gender identity is female.

4. The athlete must demonstrate that the concentration of testosterone in her serum has been less than 5 nmol/L<sup>1</sup> continuously for a period of at least 12 months (with the requirement for any longer period to be based on a confidential case-by-case evaluation, considering whether or not 12 months is a sufficient length of time to minimise any advantage in women's competition).
5. The athlete must keep her serum testosterone concentration below 5 nmol/L for so long as she continues to compete in the female category of competition.
6. Compliance with these conditions may be monitored by testing. In the event of non-compliance, the athlete's eligibility for female competition will be suspended until such time as she demonstrates that she has maintained her serum testosterone concentration below 5 nmol/L for a new continuous period of at least 12 months.
7. Once a transgender athlete has satisfied the relevant eligibility requirements and has started participating in international events in the category of competition consistent with his/her gender identity, he/she may not then switch back to participating in the other gender category in international events unless and until (a) at least four years have passed since the first international event in which he/she participated as a transgender athlete; and (b) he/she satisfies all of the conditions for eligibility to compete in the other gender category.

### **Transgender people competing in Community Hockey**

Hockey NZ and its members must not restrict the participation of a transsexual person in competitive sport unless this is strictly necessary to uphold fair or safe competition; any other restriction would amount to direct discrimination. Any negative effect of restricting the participation of transsexual people must be mitigated as far as possible, to permit as much inclusion as is fair and safe.

If there is an ongoing advantage of a transsexual person competing in individual or team sport, this should be raised with Hockey NZ. Hockey NZ will assess each instance on a case by case basis.

### **Dealing with issues**

In dealing with complaints of the types of behaviour outlined in this policy, or behaviour that falls short of our expectations or our values, we will:

- deal with the matter fairly and as quickly as possible;
- respect the feelings and views of the complainant;
- provide a fair process for the respondent to the complaint.

### **Process:**

- The complaint must be made in writing to the People & Culture Representative or to your immediate supervisor/manager/coach (or to that supervisor/manager/coach's manager, if you prefer).

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<sup>1</sup> For these purposes, all measurements of serum testosterone levels must be conducted by means of liquid chromatography coupled with mass spectrometry. The decision limit of 5 nmol/L is a conservative one and is based on (among other things) Handelsman et al, *Circulating Testosterone as the Hormonal Basis of Sex Differences in Athletic Performance*, *Endocrine Reviews* (in press, 2018) and references cited within that paper. The decision limit also takes into consideration that, for clinical purposes, the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons recommends that transgender females should have serum testosterone levels of less than 50 ng/dL (i.e. approximately 1.7 nmol/L) (Hembree et al, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, *J Clin Endocrinol Metab*, November 2017, 102(11):1–35).

- The complaint must set out what happened with details of time, date, location and potential witnesses. Proof of instances where there has been an ongoing unfair advantage or safety is compromised or in another instance where discrimination has occurred.
- The complaint will then be assessed fully, promptly and confidentially. Options include recommending an informal process including mediation.
- If appropriate, an internal or external investigator will be appointed to investigate the complaint. The role of the investigator is to gather the facts, decide what happened and whether this meets the test for unfair advantage or compromised safety. Once the investigator has been appointed, the parties will be advised of the process that will be followed.
- If you make a complaint (or you are notified of a complaint about you) you should not approach any potential witnesses.
- The investigation will be handled sensitively and confidentially.

In some circumstances, Hockey NZ may decide that an investigation is necessary even where a formal complaint has not been made.

### **Other avenues of laying a formal complaint**

If your complaint is not resolved satisfactorily or you wish to seek outside assistance you can refer the problem to:

- [Hockey NZ's Whistleblower Policy](#);
- [Human Rights Commission](#);
- [Netsafe](#); and/or
- [WorkSafe New Zealand](#)

### **Responsibilities of Managers and Coaches**

Managers and Coaches have the following responsibilities to:

- understand what is acceptable and what is not;
- model appropriate behaviour at all times;
- ensure the personnel within their supervision are aware of this Policy;
- listen and seek to fully understand concerns raised;
- intervene in any inappropriate behaviour, and seek to stop it;
- ensure that complainants are not victimised as a result of making a complaint;
- investigate any allegations of personnel; take reasonably practicable steps to prevent the recurrence that has been found to have occurred;
- ensure that competition is safe and fair.

### **Responsibilities of Personnel**

Personnel are responsible for:

- promoting respect for each other;
- not retaliating if an issue is raised and providing support to those who may raise an issue;
- participating openly and honestly in any discussions or investigations taken;
- being aware of their own conduct and the potential impacts this may have on others;
- accepting personal responsibility for their actions;
- ensuring that competition is safe and fair.

### **The Outcome**

Possible outcomes of the investigative process:

- a satisfactory mediated outcome;

- Disciplinary action imposed for a breach of this policy;
- no action taken due to finding no breach of the policy or insufficient evidence;
- action against the complainant (or other person) due to a finding of frivolous, vexatious or malicious allegation; and/or
- referral to another agency.

Types of actions or penalties that could potentially result from a breach of the policy:

- written warnings;
- suspension of a person from a role they hold within Hockey NZ;
- banning of a person from activities held by or sanctioned by Hockey NZ;
- a direction to complete a reasonable task, ie, letter of apology or corrective action;
- referral of the matter to an appropriate authority; and/or
- ongoing education on the matter.

### **Vexatious or Malicious Complaints**

The purpose of the complaint procedure set out in this policy is to provide an avenue to raise genuine complaints in good faith.

If a complaint was vexatious or maliciously made, then disciplinary action against the complainant may be taken. However, just because a complaint is not upheld does not mean that it is vexatious and / or malicious.

### **Support Available**

You can seek support from:

- Your manager
- Your coach
- EAP Services (0800 327 669 or [www.eapservices.co.nz/booking](http://www.eapservices.co.nz/booking))
- People & Culture representative

Other internal and external support available can be found in our Health and Wellbeing Policy.

### **Relevant Legislation**

This Policy takes into account the following legislation:

- Employment Relations Act 2000
- Harassment Act 1997
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Privacy Act 1993
- Harmful Digital Communications Act 2015
- Crimes Act 1961 – Protection of Children
- Children, Young Persons and their Families Act 1989
- Health and Safety in Employment Act 1992
- Vulnerable Children Bill

**Breach of Policy**

Any breach of this Policy will be taken seriously and could result in termination of employment of the Hockey NZ personnel concerned.

**Designated Points of Contact**

The designated point of contact at Hockey NZ for all enquiries relating to the participation of transgender or transsexual people in Hockey is the Chief Executive Officer or the General Manager, Community Hockey and Events who will liaise with Hockey NZ's Medical Advisor, and will consult with Sport New Zealand to understand best practice in other sporting codes.