



# Transgender and Gender Diverse Policy

**Version:** 2

**Last Reviewed:** November 2022

**Next Reviewed:** November 2023

**Responsibility:** GM – Affiliate Services

## Foreword

Netball Victoria (**NV**) is committed to promote principles of equality and ensure respect and diversity is intrinsic to the netball culture. All individuals will be treated equally, with dignity and respect to ensure that all people experience a safe and inclusive netball environment. This policy is driven by our purpose as an organisation to *improve people's lives* through our sport and believe participation in netball has the power to unite communities, empower individuals and breakdown barriers.

This policy for the inclusion of trans and gender diverse people in Netball has been written by NV in consultation with Proud 2 Play. These guidelines have been created to assist NV affiliates in setting a standard for inclusion of trans and gender diverse people in compliance with the federal *Sex Discrimination Act 1984* and is based on the *Guidelines for the inclusion of trans and gender diverse people in sport* (2019) written by Sport Australia, the Australian Human Rights Commission and the Coalition of Major Professional and Participation Sports.

NV will be guided by the Victorian Equal Opportunity & Human Rights Commission (**VEOHRC**) to ensure our legal obligations are met and everyone is treated equally and fairly when playing, coaching, umpiring, and meeting in our netball community. The policy will assist associations, leagues, clubs, administrators, coaches, umpires, volunteers, players and spectators to deliver netball in a safe, welcoming, and inclusive way that will be free of harassment and discrimination for gender diverse people involved in grassroots netball.

NV is committed to providing a safe, fun and inclusive environment for all people including those with diverse sexuality and genders. NV have a zero tolerance of bullying, harassment or vilification and celebrates diversity of sex, gender identity, gender expression and gender sexual orientation.

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## 1. Aim

- 1.1 NV is committed to providing a safe, supportive, and welcoming environment for volunteers/staff, players, coaches, officials, administrators, spectators, and members.
- 1.2 NV recognises and respects all gender identities and believes everyone has the right to participate in a safe, respectful, and welcoming environment.
- 1.3 NV has zero tolerance to harmful behaviour motivated by homophobic, biphobic, transphobic and or interphobic attitudes. This behaviour has no place in netball.

## 2. Purpose

- 2.1 This Policy aims to set a standard for the inclusion of transgender and gender diverse people in all NV and Affiliate, competitions and events, allowing them to participate as their true and authentic selves. As such, NV is committed to supporting people to participate in the gender category they identify with, or feel most comfortable participating in, regardless of their sex assigned at birth.
- 2.2 NV recognises that research, insights and opportunities for the inclusion of transgender and gender diverse participants in sport is evolving and will identify any lessons for improvement that require amendments to this Policy.

## 3. Scope

This Policy applies to:

- 3.1 NV board members.
- 3.2 All NV staff, including managers and supervisors; full-time, part-time, or casual, temporary, or permanent staff; job candidates; student placements, contractors, and sub-contractors.
- 3.3 All NV members associated with affiliated netball associations, leagues, clubs, administrators, coaches, umpires, volunteers, players and spectators participating in community netball competitions.
- 3.4 NV acknowledges the need to distinguish between community netball and elite netball as community sport is often the first step on a pathway to elite sport. Many of NV's pathway competitions and programs align with the national pathway, therefore in exceptional or extenuating circumstances, NV may act reasonably and alter, vary, or waive the requirements set out in this policy.  
A NV Pathway Competition is any netball program or match played as part of:
  - a. Association Championships
  - b. State Titles
  - c. Talent Academy.
- 3.5 For the avoidance of any doubt athletes participating in the Victorian Netball League (VNL) and members of the Victoria Fury team **do not** fall within the scope of this policy and should refer to the Netball Australia (NA) Inclusion of Transgender and Gender Diverse Athletes in Australian Elite Netball Competitions Policy (NA Policy).

- 3.6 Transgender and Gender Diverse Athletes who seek to participate in Australian Elite Netball Competitions should refer to the NA Policy.

An Australian Elite Netball Competition is any netball match played as part of the:

- a. Australian 21/Under, 19/Under and 17/Under Team and Squad (and other Team and Squads as determined by Netball Australia);
- b. Australian Fast5 Team (or its successor);
- c. Australian Netball Diamonds Squad and Team;
- d. Australian Netball League (or its successor);
- e. National Netball Championships (including 19/Under and 17/Under and other championships as determined by Netball Australia); Netball Centre of Excellence (including Australian Development squad or equivalent, 21/Under squad, 19/Under squad, 17/Under squad, Talls squad and other programs or squads as determined by Netball Australia); and Suncorp Super Netball (or its successor).

#### 4. Definitions

**Gender:** Is the state of being male or female in relation to the social and cultural roles that are considered appropriate for men and women.

**Gender Expression:** The way in which a person expresses their gender identity, typically through their appearance, dress, and behaviour.

**Gender diverse:** Umbrella term for gender identities expressing diversity beyond binary genders.

**Gender identity:** The way in which a person feels their gender, how they express or present this to others and how they want to be treated by others. A person's gender identity could be male, female, neither, a combination, and can also change over time.

**Sex:** Biological, anatomical or any other physical sex characteristics. Sex exists on a spectrum of traits that include conventional 'male' and 'female' characteristics.

**Transgender (or trans):** When a person identifies with a different gender than the one, they were assigned at birth.

**Trans woman/Trans:** Trans woman generally describes someone assigned male at birth who identifies as a woman. This individual may or may not actively identify as trans.

**Trans man/Trans:** Trans men generally describes someone assigned female at birth who identifies as a man. This individual may or may not actively identify as trans.

**Transphobia:** Refers to negative beliefs, prejudices and stereotypes that exist about transgender/trans and gender diverse people.

**Homophobia:** Refers to negative beliefs, prejudices and stereotypes that exist about people who are not heterosexual.

**Biphobia:** Refers to negative beliefs, prejudices and stereotypes towards someone who is attracted to more than one gender, and even includes when that person's identify is erased.

**Interphobia:** Refers to negative beliefs, prejudices and stereotypes that exist about people who are believed to possess biological sex traits that are not typically male or female, known as Intersex Traits.

**Non-binary:** A gender identity where someone does not feel exclusively male or female but may experience a mix of genders or outside of the gender binary entirely.

**Cis-gender:** When a person identifies with the gender they were assigned at birth.

**Affirmation (or transition):** Processes or actions a person may go through to live their authentic gendered selves. Everyone's affirmation or transition is different, and it is best not to assume how one affirms their gender or transitions. Transition/affirmation can include:

**Social affirmation:** coming out to one's family, friends, and/or co-workers.

**Legal affirmation:** changing one's name and/or sex on legal documents.

**Medical affirmation:** hormone therapy and possibly (though not always) some form of surgery.

**LGBTIQ+ (or variations):** acronym for lesbian, gay, bisexual, transgender, queer, questioning and intersex. It is used to refer collectively to these communities.

**Intersex:** Someone born with natural variations in chromosomes, hormones or sexual organs that differ from conventional ideas about what it means to be male or female.

**Pronouns:** Grammatical means of referring to a person or persons. Binary pronouns are 'she/her/hers' and 'he/him/his'. Some people use gender neutral pronouns such as 'they/them/their'. The pronoun a person used to describe themselves generally reflects their gender identity.

## 5. Abbreviations

**"Players":** People who play netball relevant to this organisation or club.

**"Participants":** People who are involved in netball relevant to NV, affiliates and or clubs, that include, but is not limited to: coaches, officials, club administrators, volunteers, and spectators.

**"Employees/Volunteers":** People who are engaged on a paid or voluntary basis with, NV or one of its affiliates or clubs that may include: managers, supervisors, full-time staff, part-time staff, casual staff, temporary staff, student placements, apprentices, contractors, and sub-contractors.

**Affiliate:** Association and/or League which is a not-for-profit incorporated association or company limited by guarantee that has an interest in netball and is affiliated by NV.

## Guiding Principles

NV will use the following principles to guide decision making in accordance with the following guidelines.

- The implementation and administration of the policy will be respectful, inclusive and ensure each person's human rights.
- The policy will be supported by external organisations with knowledge and expertise in this area.
- The policy will always be in line or above the guidelines produced by the VHREOC and the *Equal Opportunities Act 2010*.

## 6. Summary of the Federal Sex Discrimination Act 1984 (Cth)

It is unlawful to discriminate based on sex or gender identity in sport unless, the different treatment amounts to a 'special measure', or an exemption applies.

A special measure can be understood as 'positive discrimination' or affirmative action. Special measures are positive actions used to promote equity for disadvantaged groups.

An exception 'exempts' a person or organisation from the operation of the Act and means that a successful claim unlawful discrimination cannot be brought.

There are four exemptions that are particularly relevant to sport.

1. Voluntary body exemption  
A 'voluntary body' is an association or other body (incorporated or unincorporated) 'the activities of which are not engaged in for the purpose of making profit.'
2. Club exemption  
Under the Act, a 'club' means an association of 30 or more people associated together for social, literary, cultural, sporting, political, athletic or other lawful purposes, that:
  - provides and maintains its facilities wholly or partly from its own funds, and
  - sells or supplies liquor for consumption on its premises.
3. Competitive sporting activity exemption  
The exemption allows for discrimination on the grounds of sex or gender identity only in 'any competitive sporting activity in which the strength, stamina or physique of competitors is relevant.'
4. Temporary exemption  
A sporting organisation may apply to the Commission for a temporary exemption. Given the permanent exemptions that already exist in the Act, the Commission grants temporary exemptions sparingly. The Commission has published guidelines about how it assesses applications for temporary exemptions under the Act.<sup>52</sup>  
Temporary exemptions can be granted:
  - subject to certain terms and conditions, and
  - for a period of up to five years.

## 7. Player Eligibility

- 7.1 Players may participate in any affiliated competition in accordance with their gender identity. This is irrespective of the Player's legal sex classification. NV recognises that gender affirmation can be diverse, and that each person's gender affirmation journey is diverse. As such, medical or surgical intervention is not required, and Players will not be asked to undergo medical examination for the purposes of gender verification.
- 7.2 The Player's gender identity shall determine the category they participate in:
  - 7.2.1 Players identifying as male can participate in the male category.
  - 7.2.2 Players identifying as female can participate in the female category.
  - 7.2.3 Players who do not identify as neither trans or gender diverse, non-binary may participate in the category they feel most comfortable participating in.
  - 7.2.4 In mixed competition, the Player's gender identity is respected, and the Player can participate without any gender-based restrictions. To assist in the management of a mixed competition in accordance with NV's Gender regulation, the competition organisers will communicate with the player and relevant parties to ensure the players welfare is taken into consideration and the experience is a positive one.
  - 7.2.5 Players must nominate their Gender Identity at the time of registration. If Other is chosen, information on gender, gender identity or sex must only be collected, when necessary to operate the competition.
- 7.3 Each individual transition and/or affirmation is different, so consideration should be given to every individual. For some, changing their gender expression is enough and they may not want or need to seek medical assistance. This is sufficient for a person to be protected from discrimination on the basis of gender identity under the Equal Opportunity Act. Discretion and understanding should be applied in respect to an individual not always feeling safe or comfortable to outwardly demonstrate their gender identity across all aspects of their everyday life.
- 7.4 NV recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. Sport is about more than just strength, factors such as fitness, training, age and experience also play a part in making someone a good athlete. NV will not tolerate the promotion of Transphobia, and these debates cannot seek to alienate and exclude trans and gender diverse athletes from the sport of netball.
- 7.5 If issues of performance advantage arise NV will seek advice on the application of those laws in the particular circumstances. NV acknowledges the gender regulation in relation to Mixed Competition will create challenges but is committed to work through those challenges. There is a need for education and guidance about the practical steps NV can take to ensure transgender and gender diverse people feel safe, and their welfare is at the forefront when navigating each scenario on an individual basis.



- 7.6 Under Federal and State and Territory law it is unlawful to discriminate based on Sex or Gender Identity in sport unless an exemption applies. A club, association or league may be in breach of these laws if they do not follow these eligibility requirements.

## 8. Participant Eligibility

- 8.1 Participants can be involved in any NV affiliated competition or activity in accordance with their gender identity. This is irrespective of the participant's legal sex classification. NV recognises that gender affirmation can be diverse, and that each person's gender affirmation journey is different. As such, medical or surgical intervention is not required, and participants will not be asked to undergo medical examination for the purposes of gender verification.

- 8.2 Participants in any NV or affiliated event must always be respected:

8.2.1 Participants identifying as male must be treated as a male.

8.2.2 Participants identifying as female must be treated as female.

8.2.3 Participants identifying as neither male or female or non-binary must be treated in accordance with their gender identity (for example, if the Participant is non-binary, they must be treated as neither male or female).

## 9. Playing in single sex competitions

- 9.1 Affiliates are encouraged to provide some gender-neutral teams, whereby participation is not limited based on gender identity, giving participants the option to play netball.
- 9.2 NV supports the participation of trans and gender diverse people in single sex competitions as appropriate to their identified gender. Non-binary players can elect which team they consider more appropriate to join.

## 10. Privacy and confidentiality

- 10.1 Gender, gender identity and sex are private matters. All players, participants, employees, and volunteers must treat information surrounding a person's gender, gender identity or sex as private and confidential, even if it has not been explicitly stated to be private and confidential. Information shall only be disclosed, if necessary, in accordance with the law, in particular privacy legislation.
- 10.2 Any issues heard through a disputes tribunal, complaints handling processes, or any other mediation process must be treated as private and confidential in accordance with usual privacy and confidentiality steps outlined in NA's Member Protection Policy (NAMPP).

- 10.3 Information on gender, gender identity or sex must only be collected when necessary for a legitimate object of the organisation. An example of this legitimate object is officiating a mixed competition which states in our gender regulation, there can only be one male in each third of the court. Legal declarations such as a statutory declaration to verify characteristics such as name, age and gender can be accepted in place of identity documents like passports and birth certificates.

## 11. Resolving Issues and Complaints Handling

- 11.1 NV does not tolerate any form of harassment, discrimination or bullying in grassroots netball. NV has in place policies and codes, in particular the NAMPP that will address instances of harassment, discrimination or bullying. In the event an issue or complaint occurs the NV LGBT+ support group should be contacted for guidance.
- 11.2 The NAMPP states it will not tolerate any unlawful discrimination, bullying or sexual harassment against a person who identifies as transgender or transsexual, or who is thought to be transgender or transsexual. Descriptions of some of the types of behaviour that could be regarded as discrimination, sexual harassment or bullying are provided in clause 8 of the NAMPP.
- 11.3 If any person feels they are being sexually harassed, bullied or discriminated against by another person or organisation bound by this Policy, they can make a complaint in accordance with clause 14 of the NAMPP.

## 12. Management of a Complaint

- 12.1 NV and its Affiliates will seek to deal with complaints in a fair, timely and transparent manner.
- 12.2 All complaints will be treated seriously. Individuals may seek to resolve complaints through an informal process, a formal process or through making a complaint to a relevant external body. If a complaint is referred externally at any stage, the process under the NAMPP will immediately cease.
- 12.3 NV and its Affiliates aim to address complaints in a manner that maintains confidentiality and will seek to ensure no one is victimised for making, supporting or providing information about a complaint.

## 13. Resolving a Grievances or Complaint

- 13.1 A complaint must be made in writing to the Complaint Manager at the club or association where the incident occurred. A complaint should be made using the C1: Written Complaint Form located in the [NAMPP](#) and include specifics about the

complaint/s including location, dates, times and witnesses and details of the section/s of the Policy that the Complainant alleges have been breached.

13.2 When a complaint is received by the Complaint Manager, the Complaint Manager will firstly discuss the possible options with the Complainant for resolving the problem using these Guidelines, including:

- (a) Mediation in accordance with the process under Attachment 2B of the NAMPP.
- (b) further evidence collection by the Complaint Manager and Hearing Tribunal determination.
- (c) referral to an external body (ie court, tribunal, government agency, external mediator, police, other authority); or other process agreed between the Complaint Manager and the parties.

For a detailed description on each of these options refer to Attachment B1 in the [NAMPP](#).

## 14. Disciplinary Measures and Penalties

14.1 A proposed penalty may be issued by a Hearings Tribunal when a complaint (or part of a complaint) is substantiated under the Hearings Procedure in Attachment B5 of the NAMPP. There are three penalty levels under Attachment B6 of the NAMPP, ranging from less serious to most serious. For a detailed description and examples of each level refer to the [NAMPP](#)

## 15. Relevant documents

**Member Protection Policy:** This document outlines protections against discrimination or harassment on the basis of many characteristics including gender, gender identity, sex and sexuality. Access the policy here: [Member Protection Policy](#)

**Netball Victoria's Gender Regulation:** When conducting competitions, tournaments or similar activities, Affiliates (and other bodies which organise netball competitions) must comply with this Regulation. Access the regulation here: [NV Gender Regulation](#)

**Guidelines for the inclusion of transgender and gender diverse people in sport:** These guidelines have been used to inform the creation of the NV guidelines and provide information on ways affiliates can be inclusive and fully comply with legal discrimination protections outlined in the *Sex Discrimination Act 1984*. Access the guidelines here: [Guidelines for the inclusion of transgender and gender diverse people in sport](#).

**Netball Australia Inclusion of Transgender and Gender Diverse Athletes in Australian Elite Netball Competitions Policy:** This Policy is intended to establish a framework for the inclusion of transgender and gender diverse athletes in Australian Elite Netball Competitions.

Access the policy here: [Netball Australia Inclusion of transgender and gender diverse people in sport](#)

## 16. Key Contacts & Resources

### **Netball Victoria**

NV LGBT+ Support Group

[memberservices@netballvic.com.au](mailto:memberservices@netballvic.com.au)

03 9321 2255

### **Proud 2 Play**

Proud 2 Play is a peak body for LGBTI+ inclusion in sport. Proud 2 Play work at all levels of the sporting community providing education, policy advice, running inclusive events, conducting research and forming partnerships.

[www.proud2play.org.au](http://www.proud2play.org.au)

[info@proud2play.org.au](mailto:info@proud2play.org.au)

### **Sport Australia**

Sport Australia promotes and supports the development of a cohesive national sport sector that creates opportunities for all Australians to participate and excel in sport and physical activity.

[www.sportaus.gov.au](http://www.sportaus.gov.au)

02 6214 1111

### **Australian Human Rights Commission**

The Australian Human Rights Commission is an independent statutory organisation, established by an act of Federal Parliament to protect and promote human rights in Australia and internationally.

[www.humanrights.gov.au](http://www.humanrights.gov.au)

02 9284 9600

### **Coalition of Major Professional and Participation Sports (COMPPS)**

COMPPS Australian Football League, Cricket Australia, Football Federation Australia, National Rugby League, Netball Australia, Rugby Australia and Tennis Australia.

[www.compps.com.au](http://www.compps.com.au) [jsetright@compps.com.au](mailto:jsetright@compps.com.au)

### **Gender Wellbeing Service**

The Gender Wellbeing Service is a free service and safe space for people who are questioning their gender or who identify as transgender or gender Diverse, as well as their families, friends and other support people.

<https://www.shinesa.org.au/community-information/sexual-gender-diversity/gender-wellbeing/>

08 7099 5320 or 08 7099 5322

### **Ygender**

Ygender is peer led support and advocacy group for young transgender and gender diverse young people.

<https://www.ygender.org.au/>

### **Parents of Gender Diverse Children**

Offers support for parents of transgender and gender diverse children

<https://www.pgdc.org.au/>

P: 03 9663 6733

### **Victorian Equal Opportunity and Human Rights Commission**

An independent statutory body with responsibilities under three laws; Equal Opportunity Act, Racial and Religious Tolerance and Charter of Human Rights and Responsibilities. The Commissions role is to educate people about the rights and responsibilities contained in the Charter and to report annually to the government about the operation of the Charter.

<https://www.humanrights.vic.gov.au/>

P: 1300 292 153

### **Transgender Victoria**

Can provide information and advice on a range of issues and provides training and education.

<https://tgv.org.au/>

P: 03 9020 4642

### **Other resources**

- Netball Victoria Gender Regulation
- Netball Australia Explanatory Memorandum Inclusion of Transgender and Gender Diverse Athletes in Elite Netball Competitions Policy
- Sport Australia Guidelines for the inclusion of transgender and gender diverse people in sport.