

AUSTRALIAN FOOTBALL LEAGUE

GENDER DIVERSITY POLICY

ELITE FOOTBALL

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INTRODUCTION

This Policy outlines the AFL's position in respect to the participation of transgender and non-binary people in elite Australian Football competitions.

The AFL recognises that Australian Football is not just a sporting game. Australian Football is a beloved game that plays an important role in bringing families and communities together.

The AFL is committed to the inclusion of gender diverse people in our game. The AFL intends that gender diverse players who are registered to play football in the competition that accords with their identified gender are supported in doing so in a safe and inclusive environment. Harassment and discrimination of gender diverse players engaging in Australian Football at any level is not tolerated and will be handled in accordance with the applicable rules and regulations of the relevant Australian Football competition.

Both State and Federal legislation prohibits discrimination against a person on the basis of their gender identity in different areas of public life, including sport. An exception arises under various legislation to permit discrimination in sport on the basis of gender identity where the relative difference in strength, stamina or physique of a trans or non-binary player is significant in the sense that it has an appreciable effect on their ability to compete. The capacity to utilise this exception requires an evidence-based assessment.

The provision to all people of an equal opportunity to participate in an Australian Football competition necessarily involves the provision of an equal opportunity to be competitive and to win. This requires an appropriate balance to be reached between the interests of inclusion and ensuring a fair competition for all.

In August 2018, the AFL released its Gender Diversity Policy – Elite Football to facilitate inclusion of gender diverse players in the competitions known as the AFLW and the AFL. That Policy also noted that it would be reviewed at least every 24 months following it having been issued to ensure it appropriately reflected the evolving nature of Australian Football.

In June 2019, the Australian Human Rights Commission, in partnership with Sport Australia and the Coalition of Major Professional and Participation Sports, including the AFL, released the *Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport*. Those guidelines provide practical assistance on how to create and promote an inclusive environment in Australian sport for transgender and gender diverse people and are relevant to all levels of sporting organisations.

The AFL's consultation process in respect of this Policy included meeting with representatives of a number of State Bodies, local leagues, the Australian Sports Drug Medical Advisory Committee, inclusion subject matter experts including Pride in Sport, and gender diverse and cisgender players. We thank and acknowledge those who participated in this process. Following this consultation process, this updated Policy, a Community Football Policy and the companion document to these policies were reviewed, finalised and endorsed by the AFL Executive and Commission.

This Policy provides a framework for the inclusion of gender diverse players at the elite level of Australian Football.

SCOPE AND OPERATION OF POLICY

This Policy applies to all trans and non-binary persons who genuinely seek to play in an elite Australian Football competition, noting that in this Policy:

- ♦ “Elite Football” is used to collectively describe “Elite Football Competitions” and “Elite Pathway Competitions” as described below;
- ♦ “Elite Football Competitions” are, in relation to:
 - ♦ women’s football, the competition known as AFLW and State League women’s football competitions (or equivalent), namely VFLW, WAFLW, SANFLW, QAFLW, AFL Sydney Women’s Premier Division, AFL Canberra Women’s First Grade, NTLF Women’s Premier League and TSL Women’s **(Elite Football Competitions (Women))**;
 - ♦ men’s football, the competition known as AFL and State League men’s football competitions (or equivalent), namely VFL, WAFL, SANFL, QAFL, AFL Sydney Men’s Premier Division, AFL Canberra Men’s First Grade, NTLF Men’s Premier League and TSL **(Elite Football Competitions (Men))**;(collectively, **Elite Football Competitions**);

- ♦ “Elite Pathway Competitions” are, in relation to:
 - ♦ women’s football, the women’s football competitions known as at the date of this Policy as NAB League Girls (Under 19) and National Championships (Under 17 and Under 19) **(Elite Pathway Competitions (Women))**;
 - ♦ men’s football, the men’s football competitions known as at the date of this Policy as NAB League Boys (Under 19) and National Championships (Under 17 and Under 19) **(Elite Pathway Competitions (Men))**;**(collectively, Elite Pathway Competitions)**; and
- ♦ “Community Football” is used in this Policy to describe all competitions that are not Elite Football Competitions or Elite Pathway Competitions. As noted below, Community Football is dealt with by a separate policy.

This Policy outlines the AFL’s position in respect to the participation of trans and non-binary people in Elite Football, and (where appropriate) the procedure that will be followed in assessing an application made by a trans or non-binary person to play in an Elite Football Competition or Elite Pathway Competition.

It is the AFL’s view that the relative priority of considerations of competitive advantage and social inclusion may differ between Elite Football and Community Football, noting the former has the greatest potential rewards, including remuneration, for participants.

The AFL acknowledges the importance of providing guidance around the inclusion of gender diverse people in Community Football and has separately released a Gender Diversity Policy for Community Football **(Community Football Policy)**.

The AFL also acknowledges the importance of providing guidance around the inclusion of persons with an intersex variation. The AFL respects the need to consult on, and states its intention to develop, a policy that address the participation of persons with an intersex variation in Australian Football.

This Policy will be reviewed at least every 24 months from the date it is first issued, and may be amended from time to time to ensure it appropriately reflects the evolving nature of Australian Football and research relating to the inclusion of gender diverse people in competitive sport. In connection with that periodic review, the competitions included in the definitions of Elite Football Competitions and Elite Pathway Competitions will be evaluated and subject to amendment.

UNDERSTANDING GENDER IDENTITY

Unlike sexual orientation, which relates to an individual's romantic or sexual attraction toward others, gender identity is about how an individual perceives their own gender.

Gender expression refers to an individual's external expressions of gender, for example, through:

- ♦ behaviour, voice and speech patterns;
- ♦ names and pronouns used to identify oneself;
- ♦ clothing;
- ♦ personal appearance; and
- ♦ social interactions.

Administrators, coaches, players and other participants in Australian Football should seek at all times to use language that is respectful and inclusive, including by referring to all people, including those who are transgender or non-binary, by the name and pronoun they use (e.g. she / her; he / his / him; they / them).

A glossary of terms relevant to understanding transgender and non-binary experiences and gender identity is set out at the end of this Policy.

Administrators, coaches, players and other participants in Australian Football should refer to guidance material published by the AFL and by bodies such as the Australian Human Rights Commission and the Victorian Equal Opportunity and Human Rights Commission in supporting gender diverse people to participate in Australian Football in a safe and inclusive environment.

Application by trans women and non-binary people to play in Elite Football Competitions (Women) and Elite Pathway Competitions (Women)

Trans women and non-binary people are eligible to play in Elite Football Competitions (Women) and Elite Pathway Competitions (Women), provided:

- (a) they comply with all applicable laws, rules and regulations of the relevant competition including, but not limited to, the Australian Football Anti-Doping Code, in particular with respect to the use of testosterone;
- (b) the AFL, acting reasonably, is satisfied that unacceptable safety risks do not arise from the person's (potential) participation in the relevant competition (whether that be risks to the safety of the gender diverse player or risks to the safety of other players), such risks having been assessed in accordance with appropriate risk management procedures (where necessary); and
- (c) the person's application for approval to play in the relevant competition is approved by the AFL in accordance with the operation of this Policy.

The AFL may at its sole discretion set aside selected eligibility requirements, say where the following circumstances apply:

- ♦ the Applicant is a non-binary person assigned the female gender at birth; or
- ♦ the Applicant provides reliable evidence of the use of medical treatments (such as puberty blockers) continuously since prior to the onset of puberty.

Application for approval to play in an Elite Football Competition (Women) or Elite Pathway Competition (Women)

A trans woman or a non-binary person who seeks to play in the AFLW (**Applicant**) must lodge an application for approval with the AFL (**Application**). An Application must be submitted to the AFL (including by email to aflgdp@afl.com.au) using the form available at www.afl.com.au/policies.

An Application to play in the AFLW should be lodged as soon as practicable after the opening of the time period for AFLW draft nominations. Applications may only be made during the time period that AFLW draft nominations are open.

An Application to play in all other Elite Football Competitions (Elite) and Elite Pathway Competitions (Women) must be submitted in accordance with guidance to be provided by those competitions applying this Policy.

Information required for Application

The Applicant must provide the following information to enable the AFL to assess the relevant aspects of their strength, stamina or physique having regard to the particular characteristics of the competition the subject of the Application:

- (a) medical records that establish that the Applicant's total testosterone level in serum, has been maintained below **5 nmol/L¹** for at least **24 months prior** to the date of the Application;
- (b) a medical report from the Applicant's treating practitioner which documents the maintenance of their testosterone levels over the 24 month period prior to the date of the Application;
- (c) to the extent available to the Applicant and unless otherwise advised by the AFL, data over the 24 month period² prior to the date of the Application pertaining to the Applicant's:
 - ♦ height;
 - ♦ weight;
 - ♦ bench press (1RM and/or 3RM);
 - ♦ squat (1RM and/or 3RM);
 - ♦ 20m sprint time;
 - ♦ vertical jump;

- ♦ match raw GPS data (sample of three (3) Australian Football matches if available); and
- ♦ 2 kilometre run time.

The AFL may also conduct testing of the Applicant to collect data in relation to the measures set out at item (c) above and the Applicant must, as a condition of the Application process, cooperate in the provision of that data.

The AFL considers that the presence of testosterone levels above the thresholds set under this Policy would provide an Applicant with a relevant, and significant, disparity in the Applicant's strength, stamina or physique and consequential competitive advantage. An Applicant will not be regarded in breach of this requirement if occasional spikes in their total testosterone levels arise during the 24 month period prior to the date of the Application that are clinically consistent with the maintenance of the Applicant's transition.

The AFL may also have regard to longitudinal data collected by it or by third parties which relates to measures of relative strength, stamina or physique to supplement and/or verify the data collected. Any third party information that is relied upon by the AFL must be provided to the Applicant.

The Applicant will be required to provide a copy of any Therapeutic Use Exemption granted to them through Sport Integrity Australia.

Process for assessment of Application

The AFL has or will appoint a committee of AFL persons which comprises members covering at least the following areas of expertise:

- ♦ high performance;
- ♦ women's football operations;
- ♦ inclusion and social policy;
- ♦ risk;
- ♦ legal;
- ♦ medicine and mental health; and
- ♦ anti-doping,

(AFL GDP Committee).

The AFL GDP Committee will consider and where necessary determine all matters referred to it in connection with this Policy and the Community Football Policy, including determining Applications under this Policy.

In considering the Application, the AFL GDP Committee will have regard to:

- ♦ all information and data provided by the Applicant;
- ♦ all data collected by the AFL as part of the Application;
- ♦ any information relevant to the assessment of player safety;
- ♦ any relevant third-party data, including but not limited to statistical information maintained in respect of the Applicant's participation in other competitive sports;
- ♦ research and other information relating to the inclusion of gender diverse people in competitive sport; and
- ♦ any evidence of any significant difference or competitive advantage arising from the Applicant's participation in Community Football.

The AFL GDP Committee may also have regard to independent legal, medical, gender diverse and/or other expert advice obtained by it as it sees fit and in its absolute discretion in understanding and assessing information provided to it in connection with the nomination.

In the event that the AFL GDP Committee requests the attendance of the Applicant to appear before it and/or meet with representatives of the AFL GDP Committee to answer any questions in connection with the Application, the Applicant will be permitted to attend such meeting with a support person.

¹ Unit of measurement used in Australia and Europe. This threshold converts to 144 nanograms per decilitre for data used in the United States of America.

² The AFL acknowledges that in the first two years of the operation of this Policy, nominees may not have collected data regarding all of these measures. Where data for the 24 months preceding the date of this Policy is not available, the Applicant should provide the AFL with all available data from that period and which may be supplemented by testing following the submission of the Application.

The AFL GDP Committee may refuse an Application if it is satisfied, acting reasonably, that either or both of the following criteria are satisfied:

- ♦ **Relevant Competitive Advantage Criteria:** there is a relevant, and significant, disparity in the Applicant's strength, stamina or physique when compared to data procured from cisgender players in the preceding two seasons of the competition the subject of the Application (**Comparison Data**) which may reasonably be regarded to give rise to an unreasonable competitive advantage to the Applicant having regard to:
 - ♦ the Applicant's maintenance of their total testosterone levels;
 - ♦ mean, median and range of the Comparison Data pertaining to height, weight, 20m sprint, vertical jump, 2km run, squat and bench press; and
 - ♦ incidence or absence of any evidence of any significant difference or competitive advantage arising from the Applicant's participation in Community Football:
- ♦ **Unacceptable Safety Risk Criteria:** there is an unacceptable safety risk arising from the person's (potential) participation in the competition the subject of the Application (whether that be a risk to the safety of the gender diverse player or a risk to the safety of other players).

Where the AFL GDP Committee assesses, on a preliminary basis, that there *may* be an unacceptable safety risk, a risk assessment must be undertaken, noting:

- ♦ unacceptable safety risks will likely arise only in exceptional circumstances and will not arise simply from the proposed participation of a gender diverse person in an Elite Football Competition (Women) or Elite Pathway Competition (Women);
- ♦ exceptional circumstances *may* arise where there is a significant disparity in the Applicant's physique as compared to that of cisgender players in the relevant competition (noting that data may be limited in respect of competitions that sit below the level of AFLW and AFL in Elite Football);
- ♦ the risk assessment must, amongst other things, consider whether the rules applicable to the relevant Elite Football Competition (Women) or Elite Pathway Competition (Women) are unable to safely manage the risks arising from the proposed participation of the gender diverse person.

Decision by AFL GDP Committee to approve an Application

If the AFL GDP Committee determines to approve an Application, the AFL GDP Committee will inform the Applicant of that final decision.

An Applicant whose Application is approved, and who is subsequently plays in the competition the subject of the Application, is required to maintain their total testosterone level in serum below 5 nmol/L at all times (including during the off-season period), and may be required to provide reasonable medical documentation or undergo periodic testing to verify their total testosterone level.

Provisional decision by AFL GDP Committee to refuse an Application

If the AFL GDP Committee determines on a provisional basis to refuse an Application, the AFL GDP Committee will inform the Applicant of that provisional decision, including reasons for the provisional decision.

The Applicant will thereafter have seven (7) calendar days to respond to the provisional decision and such response may include additional information to support the Application.

Following receipt and review of any response from the Applicant to the provisional decision the AFL GDP Committee will issue its final decision within a further 7 days, which will either confirm the provisional decision to refuse the Application or approve the Application (in which case the requirement for maintenance and verification of testosterone levels will apply).

Final decision by AFL GDP Committee to refuse an Application

Any final decision to refuse an Application will be notified to the Applicant confidentially. The decision will not be disclosed to any third party without the express or implied consent of the Applicant. Any public disclosure made by the Applicant regarding their Application may be taken as their implied consent for the AFL to publicly address its decision to refuse the Application (provided at all times that no personal or confidential information will be disclosed by it).

AFL review of final decision

The AFL may, at its own initiative and at its sole discretion, refer back to the AFL GDP Committee a final decision made under this Policy by the AFL GDP Committee to approve or refuse an Application if it or a State Body becomes aware of new information which, if available at the time of making the final decision, may reasonably have affected the outcome of the Application.

Applicant may request review of final decision to refuse Application

An Applicant whose Application is refused may request a review of the decision by the General Counsel of the AFL within seven (7) calendar days of notification of the final decision.

The bases on which a final decision may be reviewed are:

- (a) The AFL GDP Committee failed to have regard to relevant considerations, or had regard to irrelevant considerations;
- (b) The AFL GDP Committee was affected by a conflict of interest; or
- (c) The final decision reached, or the decision-making process followed, is inconsistent with this Policy or any relevant laws.

The General Counsel will determine whether to confirm or overturn the decision of the AFL GDP Committee and/or any make any reasonable direction including remittal of the matter back to the AFL GDP Committee for further consideration.

A request for review of a final decision to refuse an Application is to be handled in a timely manner. If an Applicant is seeking to play in the AFLW, review of a final decision to refuse an Application will be undertaken with a view to determining the review prior to the scheduled date of the AFLW draft.

The Applicant seeking review may provide new information only if that information was not available in the first instance.

No review of decision to approve Application

The AFL will not hear any request or application by a third party to review any decision (whether it be a decision of the AFL GDP Committee or on review by the General Counsel) to approve an Application.

Eligibility of trans men and non-binary people to play in Elite Football Competitions (Men) and Elite Pathway Competitions (Men)

Trans men and non-binary people, are eligible to play in Elite Football Competitions (Men) and Elite Pathway Competitions (Men), provided:

- (a) they comply with all applicable laws, rules and regulations of the relevant competition including, but not limited to, the Australian Football Anti-Doping Code, in particular with respect to testosterone; and
- (b) the AFL, acting reasonably, is satisfied that unacceptable safety risks do not arise from the person's (potential) participation in the AFL (whether that be risks to the safety of the gender diverse player or risks to the safety of other players), such risks having been assessed in accordance with appropriate risk management procedures (where necessary).

In the event that such concerns are raised with the relevant competition, the matter must be referred to the AFL GDP Committee for assessment. Where the AFL GDP Committee assesses, on a preliminary basis, that there *may* be an unacceptable safety risk, a risk assessment must be undertaken, noting:

- ♦ unacceptable safety risks will likely arise only in exceptional circumstances and will not arise simply from the proposed participation of a gender diverse person in an Elite Football Competition (Men) or Elite Pathway Competition (Men);

- ♦ exceptional circumstances *may* arise where there is a significant disparity in the Applicant's physique as compared to that of cisgender players in the relevant competition (noting that data may be limited in respect of competitions that sit below the level of AFL in Elite Football);
- ♦ the risk assessment must, amongst other things, consider whether the rules applicable to the relevant Elite Football Competition (Men) or Elite Pathway Competition (Men) are unable to safely manage the risks arising from the proposed participation of the gender diverse person.

In the event that the AFL GDP Committee determines to exclude a transgender man or non-binary person from an Elite Football Competition (Men) or Elite Pathway Competition (Men) on the ground that unacceptable safety risks arise from their (potential) participation, that player may request the review of that decision by the AFL General Counsel within seven (7) calendar days of notification of the decision.

The bases on which the decision may be reviewed are:

- a. The AFL GDP Committee failed to have regard to relevant considerations, or had regard to irrelevant considerations;
- b. The AFL GDP Committee was affected by a conflict of interest; or
- c. The final decision reached, or the decision-making process followed, is inconsistent with this Policy or any relevant laws.

The General Counsel will determine whether to confirm or overturn the decision of the AFL GDP Committee and/or any make any reasonable direction including remittal of the matter back to the AFL GDP Committee for further consideration.

A request for review by the AFL General Counsel of such a decision is to be handled in a timely manner.

The AFL does not consider that there is the potential for relevant competitive advantage in favour of trans men or non-binary people over cisgender players in the AFL.

RESEARCH

The AFL recognises that there is presently limited peer-reviewed data in relation to safety risks that may arise from the participation of gender diverse persons in Australian Football. This, in part, reflects the fact that the participation of gender diverse persons in Australian Football has, to date, occurred without any formal recognition. In connection with the introduction of this Policy and the Community Football Policy, the AFL will undertake a study, with approval from an applicable institution's Research and Ethics Committee, that:

- ♦ considers injuries arising from incidents involving gender diverse persons in Australian Football; and
- ♦ considers issues arising from the implementation of this Policy and the Community Football Policy, including as to mental health.

That study will be important in reviewing this Policy and the Community Football Policy. Gender diverse persons should consider notifying the AFL's appointed researcher in order to maximise the potential outcome of that study.

PRIVACY & PERSONAL INFORMATION

All personal or health information provided by an Applicant to the AFL pursuant to this Policy must be treated in strict confidence and must not be disclosed to any person who is not involved in the assessment of, or advising upon, the Application. A gender diverse person in Elite Football must make any necessary notification to their Club and League of their previous participation in Australian Football competitions to ensure that any applicable disciplinary records are carried over to the competition that they are seeking to play in.

Any public disclosure made by the Applicant regarding their personal or health information provided by an Applicant to the AFL pursuant to this Policy may be taken as their implied consent for the AFL to publicly address its decision to refuse the Application (provided at all times that no confidential information will be disclosed by it). Gender diverse players may also elect to disclose such details to the AFL or its nominated research partner in connection with the research study foreshadowed above.

An Applicant is not required to provide a birth certificate to the AFL or any other person for the purposes of verifying their gender. A medical examination for the purposes of genital verification is not permitted.

Personal information should only be collected from participants if absolutely necessary and with the individual's consent, or where the individual is under the age of 18, the consent of their parent or guardian.

ANTI-DOPING

Nothing in this Policy is intended to displace applicable WADA or Sport Integrity Australia codes or guidelines, or the Australian Football Anti-Doping Code.

Relevant anti-doping codes or guidelines, or regulations, codes and policies pertaining to international standards for adherence with Therapeutic Use Exemptions will prevail to the extent of any inconsistency with this Policy.

ENQUIRIES

Any questions about this Policy and matters relevant to it may be directed to aflgdp@afl.com.au.

GLOSSARY

of terms relevant to gender and gender diversity

Language is a powerful tool for promoting inclusion and understanding.

Administrators, coaches, players and other participants in Australian Football should seek at all times to use language that is respectful and inclusive.

If there is an important reason why you need to confirm a person's gender and you are unsure, it is always best to introduce yourself first (by name and pronouns) and then respectfully ask the person which words they use to describe their gender, and then use these words accordingly.

Conventional pronouns are 'she/her/hers' and 'he/him/his'. Some people prefer to use gender neutral pronouns, such as 'they/them/their/ze'. The pronoun a person uses to describe themselves generally reflects their Gender identity.

The following glossary of terms has been developed to help assist people to use respectful and inclusive language.

Term	Definition
Brotherboy	A term used in Aboriginal and Torres Strait Islander communities to refer to an Indigenous trans man
Cis / Cisgender	A term used to describe people who identify their gender as the same as that assigned to them at birth (male or female). 'Cis' is a Latin term meaning 'on the same side as'
Deadname	A term used by some trans people to describe the name they were given and known by prior to affirming their gender and/or coming out
Gender	Gender is part of how you understand who you are and how you interact with other people. Many people understand their gender as male or female. Some may understand their gender as a combination of these or neither

It is important to understand that a person's sexual orientation and a person's gender are two separate concepts:

- ♦ Sexual orientation refers to a person's romantic and/or sexual attraction to others
- ♦ Gender refers to a part of a person's feelings and experience of who they are and how they relate to others - this may be male, female, a combination of both or neither. Gender can be expressed in different ways, such as through behaviour or physical appearance.

AFL acknowledges that language constantly changes and we encourage those using this policy to stay informed with other language and terminology relative to this space via Pride in Sport - www.prideinsport.com.au/terminology or TransHub - www.transhub.org.au/language

Gender dysphoria

The discomfort a person feels with how their body is perceived and allocated a gender by other people. The experience may occur when a person feels their biological or physical sex does not match their sense of their own gender. This feeling, that there is a mismatch, can trigger a range of responses. Some people experience serious distress, anxiety and emotional pain, which can affect their mental health

Gender expression

An individual's external manifestation of gender. This can include certain behaviours, voice and speech patterns, names and pronouns used to identify oneself, clothing, personal appearance and social interactions

Intersex

An intersex person is born with atypical natural variations to physical or biological sex characteristics such as variations in chromosomes, hormones or anatomy. Intersex traits are a natural part of human bodily diversity. Not all intersex people use the term intersex to describe themselves

LGBTI / LGBTIQ

Lesbian, Gay, Bisexual, Transgender, Intersex, Queer and/ or Questioning

Misgendering

Where a person is described or addressed using language that does not match their gender identity. This can include the incorrect use of pronouns (she/he/they), familial titles (father, sister, uncle) and, at times, other words that traditionally have gendered applications (pretty, handsome, etc.)

Non-binary

This is an umbrella term for any number of gender identities that sit within, outside of, across or between the spectrum of the male and female binary. A non-binary person might identify as gender fluid, trans masculine, trans feminine, agender, bigender etc.

A non-binary person may or may not use the gender-neutral pronouns of "they" and "them"

Queer

An umbrella term sometimes used to refer to diverse genders or sexualities, or a person who is not cisgender and/or heterosexual.

For some LGBTI people 'queer' may have negative connotations due to its historical use as a derogatory term, however this term has been "re-claimed" by many young LGBTI people

Sistergirl

A term used in Aboriginal and Torres Strait Islander communities to refer to an Indigenous trans woman

Trans

An abbreviation for transgender

Transgender

Someone whose gender does not exclusively align with the one they were assigned at birth. Transgender relates to a person's gender, not their sexual orientation



GENDER DIVERSITY POLICY

ELITE FOOTBALL