



**FOOTBALL  
NSW**

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# **EXPLANATORY NOTE TO FOOTBALL NSW GENDER DIVERSITY POLICY**

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## INTRODUCTION

The Football NSW Gender Diversity Policy (**Policy**) (available [here](#)) sets out Football NSW's (**FNSW**) position on the participation of Transgender, Non-Binary and Gender Diverse people in the following competitions for the 2024 season:

- NPL NSW Women's Competition (First Grade and Reserve Grade);
  - FNSW League One Women's Competition (First Grade and U20s); and
  - FNSW Girls' Youth League One Competition (U18 only),
- each a **Relevant Competition**, and together the **Relevant Competitions**.

The Policy is intended to establish a policy for the inclusion of Transgender, Non-Binary and Gender Diverse Players in the Relevant Competitions for the 2024 season or, if Football Australia (**FA**) introduces a National Policy prior to the end of the 2024 season of the Relevant Competitions, until such time as FA introduces a National Policy.

FNSW remains committed to supporting the inclusion of Transgender, Non-Binary and Gender Diverse people in Football. FNSW intends that Gender Diverse Players who are registered to play Football in the gender competition which best suits the Player's Gender Identity shall be supported to play in a safe and inclusive environment. This requires an appropriate balance to be reached between the interests of inclusion and ensuring a fair and safe competition for all.

The Policy has been developed with reference to the Australian Sports Commission's '[Transgender & Gender-Diverse Inclusion Guidelines for HP Sport](#)',<sup>1</sup> published in May 2023 (**ASC Guidelines**), and consultation undertaken by FA as part of the development of the National Policy, which has included consultation with:

- [Pride in Sport](#);
- the FNSW community, by way of an online survey and a consultation session at FNSW's offices, attended by representatives of Relevant Clubs;
- Associate Professor Ada Cheung;<sup>2</sup> and
- Professor David Handelsman.<sup>3</sup>

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<sup>1</sup> For clarity, "HP Sport" in the title of the ASC Guidelines is a reference to "high performance sport".

<sup>2</sup> Associate Professor Ada Cheung is an Endocrinologist at Austin Health and a National Health and Medical Research Council & Dame Kate Campbell Research Fellow at The University of Melbourne. Driven by community need and working with the trans community, she established the Trans Health Research group and specialises in effects of Gender Affirming Hormone Therapy on both transgender women and transgender men and physical performance.

<sup>3</sup> Professor David Handelsman is trained in Medicine and Endocrinology. His expertise is in testicular function and androgen physiology, pharmacology, and toxicology. His experience spans basic, clinical, and public health domains including a recent focus on genetic models of androgen action, steroid mass spectrometry, and anti-doping science. His professional involvement includes the World Health Organisation Human Reproduction Programme, United Nations Fund for Population Activities, Endocrine Society of Australia and the World Anti-Doping Agency's Health, Medicine and Research Committee.

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## BACKGROUND AND RATIONALE

FNSW has embarked on the important journey of developing a Gender Diversity Policy in light of ongoing real-world cases, a steadfast commitment to ensuring the safety and well-being of all participants, and a recognised need for increased clarity within the Football community.

In recent times, concerns related to gender diversity and inclusivity have underscored the urgency of addressing these matters. Our dedication to creating a safe, respectful, and welcoming environment for everyone involved in Football is unwavering.

The Policy is a proactive step towards a more inclusive and equitable future for Football in NSW. We believe in fostering an environment where every individual, regardless of gender, feels valued, respected, and free from discrimination. By implementing the Policy, we aim to provide clarity and support for all members of our Football community, ensuring that everyone can enjoy the sport they love without fear or prejudice.

FNSW is committed to promoting diversity, championing inclusion, and upholding the highest standards of integrity and fairness. This is a pivotal milestone in our journey toward a more inclusive and equal Football landscape, reflecting our core values and dedication to a safer and more welcoming environment for all.

The Policy has been developed on the understanding that Football is a sport in which aspects of strength, stamina and physique are relevant and reflects FNSW's decision that, at this time and consistent with the ASC Guidelines, a policy regarding the inclusion of Gender Diverse players in **high performance** Football is required. For the purposes of the Policy, Football played in the Relevant Competitions (as defined in the Policy) is considered to be high performance Football.

The ASC Guidelines advise that, where a sport decides that a policy regarding the inclusion of Gender Diverse players in high performance sport is required, the sport should consider defined eligibility and fairness factors.

Consistent with the ASC Guidelines, FNSW has determined that **hormone suppression** (and the demonstration thereof over a prescribed period) is the eligibility requirement for Gender Diverse players in FNSW's high performance female competitions (that is, the Relevant Competitions).

The ASC Guidelines recommend that:

*“where a sport requires hormone (testosterone) suppression of trans athletes in the female category as part of its eligibility rules, an appropriate range is < 2.5 nmol/L for 24 months prior to competition, medically supervised and with ongoing monitoring.”*

The AIS Guidelines go on to state that:

*“As human biology is inherently dynamic, and as the range of results varies greatly across individuals, a level of < 2.5 nmol/L is advised. This level affords individuals a small ‘safety’ buffer while still falling within the scientifically understood female range for elite athletes.”*

With the ASC's Guidelines in mind, the Policy stipulates that eligibility for participation is contingent upon Relevant Players (defined below) meeting the testosterone requirement, which necessitates a sustained concentration of testosterone in serum of **less than 2.5 nmol/L continuously for a period of no less than 24 months** prior to the Relevant Player lodging a Notice of Intention to Play with FNSW.

FNSW recognises that research, insights and opportunities for the inclusion of Transgender, Non-Binary and Gender Diverse people in sport are ever evolving and will identify any opportunities for improvement that require amendments to the Policy.



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## KEY ASPECTS OF THE POLICY

We have highlighted below some of the key aspects of the Policy.

In this Explanatory Note, unless the context requires otherwise, capitalised terms will have the meaning set out in the Policy.

Where there is any inconsistency between this Explanatory Note and the Policy, the Policy will prevail.

### PURPOSE (clause 1)

The Policy establishes a policy for the inclusion of Transgender, Non-Binary and Gender Diverse Players in certain FNSW Competitions (referred to in the Policy as **Relevant Competitions**) for the 2024 season or, if FA introduces a National Policy prior to the end of the 2024 season, until such time as FA introduces a National Policy.

### SCOPE (clause 5)

The Policy applies to all Players.

A Player, for the purposes of the Policy, is any person who plays, or intends to play, Football in a **Relevant Competition**.

#### Relevant Competitions

The Policy applies only to the Relevant Competitions, which are the following FNSW Competitions:

- NPL NSW Women's Competition (First Grade and Reserve Grade);
- FNSW League One Women's Competition (First Grade and U20s); and
- FNSW Girls' Youth League One Competition (U18 only).

***The Policy does not apply to other FNSW Competitions or to community football competitions administered by Member Associations, Clubs or Centres. In the absence of a National Policy for community football, FNSW will continue to align with FA's adoption of the Australian Human Rights Commission's [Guidelines for the inclusion of transgender and gender diverse people in sport](#), under which, community (grassroots) players are permitted to participate in Football on the basis of the gender with which they identify.***

#### Participants

While the Policy applies to all Players, key elements of the Policy (for example, Eligibility (clause 6) and Assessment Process (clause 7)) apply only to Players who:

- are aged 15 years or over; and
- were **not** assigned female Sex at birth (**Relevant Player**).

The Policy does **not** apply to:

- Any Player who, under medical supervision, has used puberty blockers or anti-androgens continuously since prior to the onset of puberty, and provides reliable evidence of the same to FNSW.
- Coaches, referees, support staff, administrators and any other individual who has a non-playing role at a Relevant Club.

- Players participating in any competition organised by or under the auspices of FNSW which is not listed in the Policy.

### **ELIGIBILITY (clause 6)**

Relevant Players will only be eligible to play in any Relevant Competition if approved to do so by the Expert Panel convened under the Policy.

A Player who has been approved to play by the Expert Panel may later become ineligible to participate in the Relevant Competitions (see clause 8 of the Policy and the section on MONITORING below).

### **ASSESSMENT PROCESS (clause 7)**

The Policy stipulates that eligibility for participation is contingent upon Relevant Players meeting the testosterone requirement, which necessitates a sustained concentration of testosterone in serum of **less than 2.5 nmol/L continuously for a period of no less than 24 months** prior to the Relevant Player lodging a Notice of Intention to Play with FNSW (the **Eligibility Requirement**).

Relevant Players are required to provide evidence to FNSW demonstrating their compliance with the Eligibility Requirement.

This evidence, along with other relevant information, is to be lodged with FNSW via a Notice of Intention to Play which is available [here](#).

Relevant Players **must** lodge with FNSW a Notice of Intention to Play **prior** to participating in a Relevant Competition.

An Expert Panel will then assess whether the Player satisfies the Eligibility Requirement.

A Relevant Player is **not** eligible to participate in any Relevant Competition until the Expert Panel determines that the Player meets the Eligibility Requirement.

Any Player whom the Expert Panel determines does not meet the Eligibility Requirement may resubmit a Notice of Intention to Play after a period of sixty (60) days.

#### *Evidence and Information to be Lodged with the Notice of Intention to Play*

##### *Compulsory*

At the time of lodging with FNSW a Notice of Intention to Play, the Player **must** also lodge records of their concentration of testosterone in serum levels for the period of 24 months prior to the date of lodgement of the Notice of Intention to Play.

##### **Note:**

- The Player's latest test must be dated no more than **three months** prior to the Player lodging the Notice of Intention to Play.
- The Expert Panel may, at its discretion, not take into account any measurements of serum testosterone levels lodged with FNSW that were not conducted by means of tandem mass spectrometry.

### *Recommended*

Under clause 7.5 of the Policy, in making its determination as to whether a Player satisfies the Eligibility Requirement, the Expert Panel **may** take into account any relevant facts or circumstances including, without limitation:

- the frequency of testing and levels of testosterone in the Player's serum during the relevant 24-month period and any other monitored period, as well as the level of testosterone in the Player's serum recorded in the Player's latest test (which must be dated no more than three months prior to the Player lodging the Notice of Intention to Play);
- the results of any pre or post-transition monitoring; and
- any other supporting documentation or information produced by the Player for consideration.

Accordingly, a Player may wish to lodge the above information with their Notice of Intention to Play.

### Request for Additional Information

The Expert Panel may make such enquiries or investigations as it considers necessary to make the required determination effectively, including, without limitation, requesting further information from the Player or the Player's medical team and/or obtaining additional expert opinion(s).

### **MONITORING (clause 8)**

Relevant Players must **maintain** a concentration of testosterone in serum of below 2.5nmol/L (**Testosterone Limit**) to be eligible to participate in a Relevant Competition.

FNSW (at its own cost) may monitor compliance with the Policy by testing the serum testosterone levels of Relevant Players.

If the testing of a Relevant Player's serum testosterone levels indicates the concentration of testosterone in that Player's serum exceeds the Testosterone Limit, FNSW must direct the Expert Panel to conduct an Eligibility Review for that Player. That Player will be **ineligible** to participate in any Relevant Competition until the Expert Panel has delivered its determination in relation to the Eligibility Review.

### **CONSEQUENCES FOR PLAYERS AND TEAMS (clause 9)**

In the event that:

- the Expert Panel determines a Player is ineligible to participate in the Relevant Competitions for the remainder of the 2024 season in accordance with clause 8.6.3 of the Policy;
- a Player has participated in a Relevant Competition whilst not eligible to do so under the Policy; or
- a Player has otherwise not complied with the Policy,

FNSW will determine, in accordance with the FNSW Grievance and Disciplinary Regulations, if sanctions and/or misconduct charges ought to be brought against the Player and/or the applicable Relevant Club.

### **APPEAL BY A PLAYER (clause 10)**

Where the Expert Panel has made a determination that a Player is not eligible to participate in the Relevant Competitions, that Player may, within fifteen (15) days of receipt of the Expert Panel's determination, request a review of the determination, subject to the grounds of appeal set out in clause 10.1 of the Policy.

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## **PRIVACY AND PERSONAL INFORMATION (clause 12)**

All personal or health information provided by a Player to FNSW pursuant to the Policy will be treated in strict confidence and will not be disclosed to any person, except persons who are involved in the assessment of, or are advising upon, the Player's eligibility to play in any Relevant Competition.

Any public disclosure made by a Player regarding their personal or health information provided by such Player to FNSW pursuant to the Policy may be taken as their implied consent for FNSW to publicly address its decision to accept or refuse eligibility (as the case may be, provided at all times that no confidential information will be disclosed by FNSW).

## **ANTI-DOPING PROVISIONS (clause 13)**

Nothing in the Policy is intended to displace applicable World or Australian Anti-Doping Authority codes, standards or guidelines, or FA's National Anti-Doping Policy or the FIFA Anti-Doping Regulations.

Nothing in the Policy will be deemed to permit, excuse or justify any non-compliance with anti-doping requirements including, without limitation, any requirement for a Player to obtain a Therapeutic Use Exemption for the use of a prohibited substance, such as testosterone.

A Player who medically transitions to a different Gender Identity from the Sex the Player was assigned at birth may need to consider a Therapeutic Use Exemption.

## **MISCONDUCT (clauses 14 and 15)**

FNSW adopts a zero-tolerance policy to any form of harassment, discrimination, bullying or victimisation, whether in person or online.

Such behaviour by any registered participants will be dealt with in accordance with FA's and FNSW's policies and regulations.

## **RELATED MATTERS**

### **GAME MANAGEMENT AND PLAYER SAFETY**

Game management is a long-standing and effective means of ensuring the health, safety and well-being of all Football players.

The Laws of the Game (**Laws**), as published by the International Football Association Board (**IFAB**) note that:

- accidents inevitably occur, but the Laws aim to help make the game as safe as possible, balancing player welfare and sporting fairness.
- this requires referees to use the Laws to deal strongly with players whose actions are too aggressive or dangerous.
- the Laws embody the unacceptability of unsafe play in their disciplinary phrases, such as 'reckless challenge' and 'endangering the safety of an opponent' or 'using excessive force'.

The Policy does not in any way limit the ability of referees or FNSW to apply appropriate risk management procedures to safeguard Players participating in the Relevant Competitions.

FNSW remains committed to supporting the inclusion of Transgender, Non-Binary and Gender Diverse people in Football and understands this requires an appropriate balance to be reached between the interests of inclusion and ensuring a fair and safe competition for all.

## AVENUE FOR RAISING CONCERNS

Should a registered participant have a legitimate concern about the Policy and/or its application, they may contact the FNSW Head of Legal & Governance at [integrity@footballnsw.com.au](mailto:integrity@footballnsw.com.au) through the President, Secretary or General Manager of their club or association.

*Please note that:*

- *the management of concerns raised will not compromise or override FNSW's obligations with respect to privacy and confidentiality; and*
- *vexatious or frivolous concerns may amount to harassment and be dealt with as such in accordance with applicable FNSW policies.*

## QUESTIONS

Should a player participating, or intending to participate, in a Relevant Competition during the 2024 season (or their parent/guardian/club representative) require clarification about whether they are required to lodge a Notice of Intention to Play, they may contact the FNSW Head of Legal & Governance at [integrity@footballnsw.com.au](mailto:integrity@footballnsw.com.au).

## SUPPORT

Football NSW has created a dedicated [Gender Diversity in Football webpage](#) which, in addition to including links to the Policy and the Notice of Intention to Play, provides access to information and support services for Gender Diverse participants.





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