

## Reform of the Gender Recognition Act Consultation – Submission by the Sport and Recreation Alliance

### 1. Introduction

- 1.1 The Sport and Recreation Alliance (the Alliance) is the representative body for the sport and recreation sector, with a diverse membership of more than 320 national and local organisations across the sport and recreation and charity sectors. As the voice of the sector, we work with Government, policy makers and the media to make sure grassroots sport and recreation grows and thrives.
- 1.2 This response is informed by comments submitted to the Alliance by our members, following a series of high-level questions, posed so that we might better understand their existing practice, challenges and opportunities around transgender participation in sport.
- 1.3 We also received a large number of responses from members of the public, and though we don't represent those people, this did demonstrate the strength of opinion around the topic and the complex nature of the issue.

### 2. Executive Summary

- 2.1 The Alliance recognises that a balance must be found between maintaining fair and safe competition, and optimising equality of access to sport, physical activity and recreation for transgender participants.
- 2.2 There is limited expertise around trans participation in recreational and competitive sport and activity, and an ongoing debate around medicalised or de-medicalised options. Although some guidance is being developed around the topic, this will remain limited and government should urgently address this knowledge deficit to help optimise trans inclusion in sport.

### 3. Equality of access balanced with safe and fair competition

- 3.1 The Alliance recognises the ongoing debate around a medicalised or de-medicalised route forward for sport, and the design of both recreational and competitive sport opportunities must carefully manage fair and safe competition and equality of access. The most recent guidance from the International Olympic Committee (IOC) dates back to their Medical and Scientific Commission's consensus meeting<sup>1</sup> in November 2015, with an urgent need for more updated guidance from this group.

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<sup>1</sup> International Olympic Committee Medical and Scientific Commission – Consensus Meeting, November 2015 - <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/Who-We-Are/Commissions/Medical-and-Scientific-Commission/EN-IOC-Consensus-Meeting-on-Sex-Reassignment-and-Hyperandrogenism.pdf>

- 3.2 National governing bodies of sport (NGBs) must be able to introduce appropriate rules to regulate recreational and competitive sport where there might be risks around maintaining fair and safe competition. A medicalised or de-medicalised approach to sport must be evidence-based, and where any changes might be made, government should first consider the implications for fair and safe competition at a grassroots and elite level. Where particular sports are not gender-affected, there will continue to be opportunities to optimise inclusive practice.
- 3.3 That being said, it should be noted that many sports are aligned with IOC guidelines via their respective international federations, and this may or may not mandate some form of medical treatment in order to compete at an elite level. With a clear international dimension to this, trans participation in sport may continue to pose some challenges despite any changes to the Gender Recognition Act, and should be discussed further with key sector stakeholders.
- 3.4 It should also be recognised that many organisations within the sport and recreation sector are run by volunteers or a small staff team. In such instances, they may not have the resource or expertise necessary to develop and implement a transgender policy, nor to understand their responsibilities under the Equality Act or Gender Recognition Act. Government should clarify the boundaries of, and interactions across, both pieces of legislation, including sport's existing legal exceptions to the Equality Act around single-sex provision. More guidance is needed here, in particular a clearer definition around what may be considered 'proportionate means' where considering and seeking to objectively justify a particular course of action.
- 3.5 One of the most common challenges within the sector is managing appropriate access to changing facilities where gender-segregated facilities are provided. Some NGBs have sought to advise their respective members on this topic, but with broadly similar challenges here for those across the sector, government should establish comprehensive sector-wide guidance for NGBs, facility operators and participants alike.
- 3.6 The gender-binary structure of sport also presents a challenge for our members around the engagement of non-binary individuals. Government should support Sport England and the other Home Nations' Sport Councils to investigate the options available to reduce existing ambiguity and ensure sport is as inclusive as is reasonably possible for non-binary would-be participants.
- 3.7 Considering this, we would commend sports where mixed-gender competition is deployed at younger ages, before their activities become increasingly gender-affected. This remains limited in scale at present, and mixed-gender opportunities in children's early years should be encouraged where reasonably possible to optimise inclusion. This could operate alongside or in place of any gender-segregated competition which might already exist.
- 3.8 There is also progress to be made around the engagement of transgender people to better understand their experiences and inform potential action moving forward. Organisations such as Pride Sports and Stonewall deploy their trans-networks to advise on trans-specific issues, and some NGBs work closely with them, but there is a need for the wider sector to embrace these and take this further.

#### **4. Knowledge, confidence and guidance**

- 4.1 As we have commented above, NGBs have a vital role to play in ensuring, and regulating, fair and safe competition whilst also optimising equality of access to their clubs, programmes and competitions for all participants, however there is very limited knowledge across the sector around managing transgender participation in sport. This lack of expertise around trans inclusion in sport, at both a policy and practice level, alongside recognition that this is an area that continues to develop quickly, means that there is a real lack of confidence around the topic and there isn't enough advice and guidance available for sport and recreation practitioners to draw upon.

- 4.2 Sport England are making inroads here, with a guidance document around trans inclusion, developed in partnership with Pride Sports, expected to be released in December 2018. This may alleviate some of the immediate pressures around guidance, but their limited capacity will continue to present an issue for the provision of ongoing advice and support. Government should provide greater resource to support this work, enabling such organisations to provide support around wider trans participation in sport and recreation.
- 4.3 The Alliance understands that the Sports Council Equality Group intends to review and update their existing 2015 guidance around domestic and international sporting competition, but this will take time. We encourage government to provide greater resource for this review to expedite the process without compromising the breadth and depth of the guidance provided.

## 5. Conclusion

- 5.1 The delivery of grassroots and elite level sport has the potential to be affected by any change to the Gender Recognition Act, and government must make sure that the sector is properly equipped to optimise equality of access whilst maintaining fair and safe competition.
- 5.2 Government should work with the sector and arms-length bodies – Sport England in particular – to make sure that any changes to the Gender Recognition Act are understood and any sport-specific issues resolved, as far as is possible, prior to implementation.
- 5.3 We would be happy to provide the Government Equalities Office with any further information with regards to our response to the consultation if required.

**Sport and Recreation Alliance**  
**October 2018**