

Gender Diversity Policy



Sydney Women's Baseball is committed to a safe, fair and inclusive sporting environment, where all people, regardless of gender identity or intersex status can contribute, participate, and be treated fairly with dignity and respect. We believe in promoting baseball for all.

We are a women's baseball league, however we recognise that gender isn't binary, and not all people are, or identify as, female or male, women or men. We also acknowledge that strong evidence exists that transgender diverse and intersex people face significant barriers to participation in sport, and when they do participate, frequently face discrimination and harassment. We aim to do what we can as a league to overcome this.

Background

The Baseball Australia's National Member Protection Policy provides guidance on the inclusion of Trans, gender diverse and intersex players in baseball. This policy acknowledges that Federal, State and Territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity, including gender expression, appearance, mannerisms or other gender-related characteristic. The policy also commits Baseball Australia (BA) to a 'safe, fair and inclusive sporting environment' whereby all persons, regardless of gender identity or intersex status, can contribute, participate, and be treated fairly with dignity and respect. The BA does not tolerate unlawful discrimination or harassment of a person on behalf of their gender identity (including a person who is Trans, is assumed to be Trans, or has an association with someone who is or is assumed to be Trans) or intersex status, and outlines procedures for complaints of discrimination or harassment occurs. The policy calls for sensitivity when a person is undergoing gender transition/affirmation.

The Sydney Womens Baseball League (SWBL) acknowledges that strong evidence exists that Trans, gender diverse and intersex people face significant barriers to participation in sports, and when they do participate, frequently face discrimination and harassment. A report on LGBT experiences in Victorian Sport indicates that "transgender participants identified a number of ways in which they were excluded associated with their gender identity, and the more rigid and traditional interpretations and organisation of gender in sport" (Symons *et al* 2010, pp 9). As gender is a strong organising feature in sport, and drives subsequent expectations about how people should act and appear, the report concluded that "transgression from ... norms around gender and sexuality is punished in sport, and particularly in team sport" (Symons *et al* 2010, pp 7). The report found "experiences of discrimination based on this ignorance and prejudice, a lack of policies to enable their participation in sport, concerns with using change rooms, and being accepted and fitting in" (Symons *et al* 2010, pp 7).



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The experience of gender diverse players in other states is not different. In the Australian Capital Territory, the Inclusive Sport Survey found that most people surveyed were 'not out' regarding their sexuality and/or being transgender (ACT Government 2014, pp 6). Furthermore, 40.8 per cent of respondents had felt unsafe in a sporting environment and that 58.4 per cent of respondents did not know if their club or recreation provider had anti-discrimination policies regarding sexual orientation, gender identity or intersex status (ACT Government 2014, pp 6). While data from other states is not currently available, the Australian Human Rights Commission (AHRC, 2015b) launched a national survey in 2015 on the participation of trans, gender diverse and intersex people in sport to ensure their rights are protected in the policies and practices of sporting codes. In announcing the survey, Human Rights Commissioner Tim Wilson acknowledged that in a national consultation while some "transgender, gender diverse and intersex people reported positive experiences in sport participation; others said they have experienced exclusion, violence and harassment on the basis of their gender identity or intersex status" (AHRC 2015b).

The Australian Human Rights Commission's Sexual Orientation, Gender Identity and Intersex (SOGII) Rights Report notes that lived experience of unjust discrimination can significantly limit an individual's sense of security to publicly participate in sports (AHRC 2015a). FBFC is committed to providing a safe space for Trans, gender diverse and intersex people to play soccer and seeks to ensure that members do not experience unjust discrimination or harassment while playing in the North West Sydney Women's Football (NSWSF) competition.

Inclusion of Trans, Gender Diverse and Intersex Players

The SWBL supports section 6.6.1 of the Baseball Australia's (BA's) National Member Protection Policy, which states that the "Baseball Australia is committed to providing a safe, fair and inclusive sporting environment all where people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity". As such, SWBL will facilitate registrations from players who identify as women, including Trans and intersex women.

However, SWBL acknowledges that gender is not binary, and not all people are or identify as either female or male, or women or men. SWBL recognises that transitioning and living as a Trans, gender diverse or intersex individual can be an isolating experience, and many face rejection and exclusion from various social groups (including family, work and sport) and violence and harassment from the community at large. As such, SWBL will facilitate registrations from players who do not identify as women if they:

- are Trans, gender diverse (including non-binary and genderqueer) or intersex; and
- would not feel comfortable or safe playing for a club other than SWBL, and their exclusion from the club would result in their exclusion from the sport.



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Issue of Performance Advantage

SWBL recognises that each individual has different levels of hormones that affect their abilities, and this is not specific to Trans, gender diverse or intersex people. SWBL recognises the many other systemic barriers and structural disadvantages that Trans, gender diverse and intersex people face in accessing sport, including barriers to accessing training, participation, and membership and mentoring. As such, SWBL rejects any suggestion that Trans, gender diverse or intersex people have an unfair advantage over cisgender women. This position is supported by a submission presented to the Australian Human Rights Commission by the Organisation Intersex International Australia (OII Australia) that “IAAF [International Association of Athletics Federations] evidence shows that there is no scientific basis for the exclusion of women athletes with intersex variations”.

The BA National Member Protection Policy 6.6.2 outlines that where “If issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances. Discrimination is unlawful unless an exception applies. Baseball Australia is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends to compete at an elite level, we will encourage them to obtain advice about the IOC’s criteria that may differ from the position we have taken”. SWBL considers the marginal advantage to a team of a potential marginal physical advantage of one player to be negligible. Further to this, SWBL contends that if the player in question is playing at a comparable level to other players in that division, no argument can be made that they are playing at a level at which other women cannot compete. As such, SWBL rejects that discrimination exceptions are relevant in the context of the SWBL competition.

SWBL encourages all clubs in the association to be inclusive of Trans, gender diverse and intersex players. As all clubs have the same capacity to register Trans, gender diverse and intersex players, SWBL does not accept that one team has an unfair advantage over any other due to their inclusion. SWBL is happy to assist other association and clubs within the BNSW League Inc. in developing an inclusive culture within their association and/or club.

Use of Prohibited Substances or Methods

SWBL acknowledges that the BA National Member Protection Policy states that “Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency’s Prohibited List, should apply for a standard Therapeutic Use Exemption”. SWBL considers that the requirement to apply for an in-advance TUE constitutes a barrier to participation for Trans players. SWBL welcomes the position of ASADA that players in the SWBL competition do not need to apply for an in-advance TUE, and should only apply for one retroactively (after an anti-doping test) (ASADA, 2015).



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SWBL does not support anti-doping testing that targets Trans, gender diverse or intersex players. SWBL considers any targeted testing of Trans, gender diverse or intersex players to be discriminatory, and to constitute victimisation of Trans, gender diverse or intersex players. On the basis of WADA's above guidelines, SWBL rejects any position a player's status as a Trans, gender diverse or intersex player is sufficient to compel them to submit to drug testing. SWBL contends that any drug testing within the SWBL competition should be randomised or required for all players in the competition.

Code of Conduct and Action Plan

The Victorian Equal Opportunity and Human Rights Commission Guideline on Transgender People and Sport outlines how clubs have a positive duty to take reasonable and proportionate steps to prevent discrimination, sexual harassment and victimisation under anti-discrimination law. This positive duty focuses on eliminating the causes of discrimination, not just responding to complaints that arise, and clubs are vicariously liable for their staff (Human Rights Commission, 2015). In New South Wales, similar provisions exist under the Anti-Discrimination Act 1977.

SWBL commits to establishing a Trans, gender diverse and intersex working party of members to guide and advise policy in this area. Inclusive policy and practice in this area requires the timely development of a code of conduct, sensitivity training and an action plan to guide players, referees, clubs and coaches on the field.

References

ACT Government (2014), 'Inclusive Sport Survey', Report, April.

AHRC (Australian Human Rights Commission) (2015a), 'Resilient Individuals: Sexual Orientation, Gender Identity & Intersex Rights', Report, and 10 June.

AHRC (Australian Human Rights Commission) (2015b), 'Survey on Transgender, Gender Diverse and Intersex Rights in Sport', Media release, 20 August.

ASADA (Australian Sports Anti-Doping Authority) (2015), 'In Advance TUEs', ASADA website, 15 February, Available at <https://www.asada.gov.au/substances/therapeutic-use-exemption/advance-tues>.

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Symons, C, Bergalia, M, Hillier, L and A Mitchell (2010), 'Come Out To Play. The LGBT Sport experience in Victoria', Currency Productions, Brunswick.

