

## **British Gymnastics policy and guidance on the inclusion of Trans People in gymnastics**

### **Questions and Answers**

#### **What does the term trans mean?**

Trans is an umbrella term used to describe people whose gender identity does not correspond with the gender assigned at birth.

Trans people include:

- those who were assigned male but identify as female (trans women)
- those who were assigned female but identify as male (trans men)
- those who do not identify as 'male' or 'female' (non-binary people).

We use the term trans (rather than transgender) as it is often considered to be a more inclusive term as it encompasses people who do not identify or do not exclusively identify with a binary sense of gender i.e. male or female.

#### **What is gender-reassignment?**

Gender Reassignment is one of nine protected characteristics under the Equality Act 2010. A person has this protected characteristic if they are proposing to undergo, are undergoing or have undergone the process of permanently changing their gender. Gender reassignment is a social process, not a medical one, although some individuals may seek medical intervention as part of their transition. It may involve the trans person changing their appearance and name, title and pronouns, including on their passport or driving licence and bank accounts but the only way to change sex (in a legal sense) is by obtaining a Gender Recognition Certificate (GRC).

Although the government is looking at reform of the Gender Recognition Act 2004, currently obtaining a GRC (and consequently a new birth certificate) is a medically-based process, open only to trans people who have been diagnosed with gender dysphoria and who fulfil other specified criteria.

#### **How does the law protect trans people?**

The Equality Act 2010 makes it unlawful to discriminate (includes harassment and victimisation) against anyone with a protected characteristic. Gender Reassignment and sex (being a man or a woman) are both protected characteristics.

As protection from sex discrimination applies only to the sex recorded on an individual's birth certificate, some elements of the Equality Act will apply differently to trans people dependent on whether they have a GRC.

The Equality Act does not generally protect non-binary people (those who do not identify as either male or female) or people who cross-dress on an occasional basis however, they may be protected if discrimination occurs in a situation where they are perceived to be a trans male or trans female.

Data Protection law provides protection against the unlawful disclosure of personal information. Where an individual's trans status is confidential, except in limited circumstances, it would be unlawful to disclose this information without the individual's explicit consent and may also be a criminal offence under the Gender Recognition Act 2004.

Irrespective of any legal protection, gymnastics should be a sport that is accessible to everyone who would like to take part and clubs and other gymnastics providers should take steps to ensure all trans people can participate without barriers.

### **Is it lawful to treat a trans person differently from another person of the same gender?**

Trans people should be treated as belonging to the gender in which they present (as opposed to their birth sex) as it is unlawful to discriminate against someone because of gender reassignment.

This means that where a club provides gender-segregated gymnastics activities a trans person should be able to participate in a class appropriate to their affirmed gender and access facilities and other activities in accordance with that gender.

However, there are some very limited circumstances where it could be lawful to provide a different service or refuse access, but such action must be objectively justifiable. Exceptions include competitive sport and in the provision of single sex services.

The single sex service exception tends to apply in very limited circumstances and where action taken is a proportionate means of achieving a legitimate aim. The starting point should always be to allow a trans person to access services based on their affirmed gender, unless to do so would mean you were unable to provide the service to other users.

Any decisions should be taken on a case-by-case basis having given due consideration to the trans person's needs as well as the needs of others who may be disadvantaged by if the trans person is permitted access. It would only be appropriate to consult with other participants and their parents where it does not compromise the privacy of the trans person.

### **Why have you produced specific inclusion guidance for trans people?**

People who are trans can face considerable barriers in terms of accessing sport. Our guidance aims to help make gymnastics more accessible to trans people and was produced in response to an identified need by our clubs. It is hoped that the guidance will increase understanding and confidence of club officials in this area and lead to a minimisation or removal of any barriers that might restrict the participation of people who are trans in gymnastics.

### **Can children access female or male changing rooms and toilets in gymnastics clubs just by saying they identify with that gender?**

We are aware of trans children who are currently participating in the sport, some of whom have transitioned at an early age and are only known to their peers in their affirmed gender. It is obviously a big decision to transition and the child and their family would usually have received support from GPs, NHS, family therapy and other specialist services. These children should, if they wish, be able to access toilets and changing rooms in their affirmed gender.

If a trans participant wishes to join the club, and they do not wish to be open about their trans status, and it would not otherwise be apparent, the club representative should have a confidential conversation with the participant to discuss how their needs can be best supported. It would be inappropriate and potentially unlawful to identify them as trans for the purpose of consulting with other participants and/or their parents about their access to changing rooms and toilets.

If an existing participant discloses the intention to transition, access to toilets and changing facilities should always be discussed and planned for in advance and informed by a risk assessment, where

appropriate. Factors to consider include the age of the participant, the facilities available and how they are used and the wishes of others who also use these facilities. It is important that any decision to restrict access or provide an alternative arrangement can be objectively justified and is not influenced by prejudice beliefs or lack of awareness.

If the trans person is a gymnast, access to changing facilities is not usually problematic as most gymnasts arrive already wearing their leotards and tend to only use changing areas to leave their belongings. However, providing private changing cubicles may be helpful to trans people as well as other individuals who do need to get changed and may have concerns about their privacy or require support from a parent or carer. As all club facilities and operations are different and individual needs and preferences will vary, it is important to consider each situation on a case by case basis. We can also provide clubs with additional guidance and support on request.

### **How can a club comply with the safeguarding requirement for separate facilities for males and females?**

The Equality and Human Rights Commission advises that where a trans person is visually and for all practical purposes indistinguishable from someone of their preferred gender, they should normally be treated according to their acquired gender unless there are strong reasons not to do so.

We advise clubs to be mindful of the need to always have effective safeguarding arrangements in relation to the use of changing facilities such as ensuring adults do not use the facilities at the same time as children. Any safeguarding concerns relating to the use of changing facilities should be reported to the Club Welfare Officer who, where appropriate, should respond in accordance with British Gymnastics and relevant local safeguarding procedures.

### **Does British Gymnastics guidance present any increased risk to gymnasts, particularly children?**

We have no evidence to suggest that trans participants present a safeguarding risk to other participants. The use of gendered toilets and changing facilities can be a source of considerable anxiety for trans young people, who are often particularly vulnerable to bullying and abuse by their peers.

It is highly unlikely that a participant who is not trans would claim that they identify as female simply to access the girl's changing facilities or toilets. We are confident that clubs would be able to tell the difference between someone who is genuine in their intention to live permanently in the opposite gender and someone who has an ulterior motive for accessing these facilities and would identify the latter scenario correctly as a child protection issue that should be reported without delay.

We do not believe that our trans inclusion guidance compromises the welfare of girls. This seems to be the position of the NSPCC who recently indicated that they do not consider there to be any specific child protection concerns in relation to trans-inclusive policies whilst stressing the importance of robust safeguarding policies and risk assessment.

Where a child's trans status is confidential, it would be unacceptable to consult with or inform other members of a club. However, where an existing participant transitions, we would encourage our clubs to work closely with British Gymnastics to agree on a case by case basis how best to support the participant whilst also ensuring that all other needs have been carefully considered.

We would encourage anyone with a safeguarding concern to report it to their club Welfare Officer. Any parent or club that is concerned or wants advice can also contact the British Gymnastics Integrity Unit.

### **Is the approach taken by British Gymnastics the norm in sport?**

Most of the mainstream sports already have similar policy and guidance in place although some sports governing bodies are still developing their approach.

Most competition policies have, like British Gymnastics, been informed by the International Olympic Committee (IOC) Guidance and have used the UK Home Country Sports Council Equality Group's policy framework to develop their own policy for domestic competition aimed at children under 16 years of age. The position in the Framework in respect of U16 trans girls is that they should be able to compete in their affirmed gender in any female or mixed-sex domestic competitions subject to an individual case-by case review.

Without exception, all sports whose guidance we reviewed adopted the position that trans participants should be able to use changing rooms and toilets in accordance with their affirmed gender.

### **Who was consulted when developing the policy & guidance?**

We have consulted a wide range of experts and organisations and have reviewed similar guidance developed by other sports, the education sector, Equality & Human Rights Commission, NHS, Citizen's Advice and ACAS.

Currently 83.7% of gymnasts are female and 81% of our coaches are female. Women are well-represented and consulted at all levels of the sport. In comparison, we have very few trans participants, so had limited understanding of the barriers faced by this group. Consequently, we considered it appropriate to consult specifically with organisations who support and advocate for trans people.

British Gymnastics clubs were also consulted at our inclusion conference and our Technical Committees have also been given the opportunity to contribute. Some parents and current gymnasts have also been consulted.

### **What does the policy on the inclusion of trans people in competition cover?**

The policy sets out the circumstances where trans people can take part in gymnastics competition in their affirmed gender.

Restricting a trans person from taking part in competitive sport in their affirmed gender may be justifiable in a 'gender affected sport'.

A 'gender affected sport' is defined in the Equality Act 2010 as a sport where one sex would have an advantage over the other because the average person of that sex would have greater strength, stamina or other physical attributes than the average person of the opposite sex. The increased capabilities are generally attributed to increased testosterone levels which start to increase in males at puberty.

The Equality Act requires that trans people are treated as belonging to the sex in which they present (as opposed to the physical sex they were born with) unless there is evidence that they have an unfair advantage, or there is a risk to the safety of other participants which may apply in some close-contact sports.

As a gender affected sport, our policy sets out the circumstances where trans gymnasts can compete. Trans males can compete without restriction as the average female is not considered to have attributes that would give them an advantage over the average male. Trans females who are under 12 can compete without restrictions and can continue to do so providing that their testosterone levels remain within the permitted range.

The policy also relaxes dress rules, enabling all participants to wear appropriate gymnastics shorts without penalty.

The policy also restricts the exclusion of trans people in events where the focus is on participation rather than performance, such as recreational competitions and festivals.

### **Can anyone wear shorts when competing or participating in gymnastics?**

Since 2013, FIG (International Gymnastics Federation) competition rules have permitted women and girls to wear unitards or leg coverings under or on top of a leotard.

Our policy on the inclusion of trans people in competition applies at domestic competitions and allows all participants to compete in gym shorts. We realised that only allowing trans females to wear shorts was unfair as there were likely to be other participants who would feel more comfortable competing in shorts. Therefore, except for competitions that must strictly apply FIG rules, all gymnasts can compete in shorts, providing that they are of a style that do not compromise the health and safety of the participant.

Clubs and local competition organisers are responsible for setting their own rules relating to training and competition, but we would strongly encourage the adoption of gender-neutral training and competition attire.

### **What should a competition organiser do if they receive an enquiry about the participation of a trans person?**

Where a competition is gender-segregated, organisers should accept that clubs will enter their gymnasts into the appropriate category and should not require a club to identify or provide evidence of a gymnast's trans status.

Anyone who participates in competitive gymnastics must confirm their gender as part of their British Gymnastics membership registration. Where a competition organiser uses the British Gymnastics event entry system, the system includes an automated check to ensure participants meet the entry criteria, including any gender restrictions, where applicable.

If a competition organiser receives an enquiry from a club about the participation of a trans gymnast, they should not ask for information that would identify the gymnast but should ensure the club is aware of the rules regarding when trans females (assigned male at birth) can compete and advise the club to liaise with British Gymnastics as required to ensure the gymnast's participation is in accordance with the policy requirements.

**How should a competition organiser respond if they believe someone has not complied with the policy?**

As this is a British Gymnastics policy, any alleged breach of the policy would be investigated by the Integrity Unit or home country equivalent where applicable. The investigation of such concerns may give rise to privacy issues and consequently require careful management.

It is important to note that any failure to comply with any competition rules or applicable policy may lead to the disqualification of the individual and team (if the event is a team competition). Competition organisers should ensure everyone is aware of the policy, particularly where an event is restricted to girls over the age of 12, where specific criteria and restrictions apply in respect of the participation of trans females.

**What should I do if I'm not sure how to apply the policy or am uncertain about how best to include a trans person?**

If you have any questions about the policy, please our Customer Support team [customersupport@british-gymnastics.org](mailto:customersupport@british-gymnastics.org) or call them on 0345 1297129. If you need guidance about a specific situation, Customer Support will put you in touch with someone in the Integrity team who will be able to provide more detailed advice.