

Community Guidelines:

**For the Inclusion of Transgender
and Gender Diverse People in Rugby**

INTRODUCTION

Rugby Australia recognises that encouraging people to participate in sporting events and activities is beneficial for their health, wellbeing and involvement in community life. Rugby Australia is committed to supporting a player's participation in the gender with which they identify.

We want, need and affirm trans and gender diverse people in Rugby, not just because everyone should be able to play and inclusion is the right thing to do, but because Rugby benefits from trans players, spectators and communities. Trans people live, work and play across Australia, and it is important that Rugby reflects this anywhere sport is played. We celebrate and honour the diversity of those interested in playing Rugby, including those who are trans.

This aligns to the Rugby Australia Participation Policy which states that *"all endeavours must be made for Rugby participants with broadly compatible physical development, in conjunction with ability and/or experience to play with and against each other."* The policy itself is aimed at *"ensuring that as many people as possible can participate in Rugby"*.

It is with this policy in effect that in 2014, Rugby Australia joined with four other professional sports in the signing of a *Statement of Commitment* for the Australian Sports Commission and Australian Human Rights Commission's *Anti-homophobia and Inclusion Framework*.

In 2018, Rugby Australia's Gender Identity Dispensation procedure was formally approved. In 2019, Sport Australia partnered with the Australian Human Rights Commission and the Coalition of Major Professional and Participation Sports (including Rugby Australia) to develop *Guidelines for the inclusion of transgender and gender diverse people in sport*. The Guidelines provide practical advice on how sporting organisations can create and promote an inclusive environment for transgender and gender diverse people.

The "Community Guidelines for the inclusion of transgender and gender diverse people in Rugby" (*The Guidelines*) have been based on the industry guidelines and are designed to support the existing Rugby Australia Gender Identity Dispensation Procedure.

Additionally, these guidelines were developed through a consultation process with past and present Trans players and members of the Trans community, Rugby Australia Member Unions and stakeholders, other sporting bodies, Pride in Sport, and internal individuals including the Chief Medical Officer, Legal and Integrity representatives, Coaching staff, and the Head of Diversity and Inclusion.

It is acknowledged that these community guidelines for the Gender Identity Dispensation Procedure do not wholly align to the existing World Rugby policy, which is based on that of the International Olympic Committee. It is further noted that the above policies are concerned with elite players and competitions. These guidelines focus on the Community game. Rugby Australia is confident that this approach maximises adherence to our Safety and Participation Policies and strives to provide a safe and inclusive sporting environment for all people.

PURPOSE

The purpose of the Guidelines is to provide additional information and support to community Rugby organisations, administrators, coaches, parents, players, and officials on the application of the Gender Identity Dispensation Procedure and the creation of safe and welcoming environments for all people.

WHO NEEDS GENDER IDENTITY DISPENSATION AND IN WHICH COMPETITION MAY A PLAYER PLAY IN IF THEY RECEIVE DISPENSATION?

This procedure defines the step-by-step process and set outs the documentation required to enable players, who identify as a gender that is different to that listed on their birth certificate, to participate within their identified gender. It is applicable to all players who are not bound by the World Rugby Transgender Policy, (i.e. players other than those in the Wallabies, Wallaroos, Super Rugby or Australian Sevens squads) or those participating in the non-contact form of Rugby, Touch 7s.

RESPONSIBILITIES

It is the responsibility of all Coaches, Club Officials, Unions/Affiliates and Parents/Guardians to follow this procedure to ensure that all players, regardless of their gender identity, are always treated fairly and with dignity and respect. Rugby Australia seeks to ensure that all players feel included, and their rugby environment is free from any discrimination or harassment based on their gender identity.

However, the Rugby Australia Safety Policy must be at the forefront of any participation decisions as rugby must be a sport that is safe for all players.

Once dispensation is granted for players participating in an age-grade competition it is valid for the relevant playing season. Thereafter, it will need to be sought at the beginning of each season.

Once dispensation is granted for players participating in a senior rugby competition it is valid for up to 2 years. A consent form is all that is required ahead of the second year. Thereafter, dispensation will be required every two years.

STEP-BY-STEP PROCEDURE

STEP	DESCRIPTION OF ACTION	RESPONSIBLE	NOTES
1	Player wishes to participant in a gender competition different to that listed on their birth certificate.	Player or Parent / Guardian	A player (or Parent / Guardian of a player) expresses, to an Accredited Coach / Club or School Official, a desire to participate in a gender competition that is different to the sex listed on their birth certificate.
2	Player or Parent/Guardian receives the Gender Identity Dispensation Consent Form.	Club / School	The Club / School provides the player or Parent / Guardian with the Gender Identity Dispensation Consent Form.
3	Player or Parent/Guardian completes the Consent Form.	Player or Parent / Guardian	The Gender Identity Dispensation Consent Form is completed, and the required documents are attached, including the signed gender identity declaration.
4	Medical Specialist completes the Gender Identity Dispensation Consent Form. A Medical Specialist for the purpose of this dispensation is defined as a specialist doctor who has relevant experience and has assisted the player with their gender identity.	Medical Specialist known to the player	The Gender Identity Dispensation Consent Form is completed by a Medical Specialist with an understanding of the demands of contact sport, specifying that the player's physical development, skill level and experience are appropriate, and that the player can compete safely and on an equal basis with players in the competition. The safety and wellbeing of other players in the competition also needs to be considered. (Please note that many hormone treatments may result in a breach of the Rugby AU Anti-Doping Code and as such a Therapeutic Use Exemption will be required. Please see below for further information*.)

STEP	DESCRIPTION OF ACTION	RESPONSIBLE	NOTES
5	An Independent Qualified Assessing Coach is assigned by the Club/School	Club / School	A Qualified Assessing Coach is assigned by the Club/School to assess the physical development, ability and / or experience of the player with reference to the proposed playing competition. An Qualified Assessing Coach must hold a minimum Level 2 Accreditation, current Smart Rugby and have completed the Assessing Coach Module in the Rugby Learning Centre.
6	The player is assessed by a Qualified Assessing Coach	Independent Qualified Assessing Coach	This is undertaken with prescribed field-based tests and Rugby match assessment.
7	Assessing Coach Report is completed	Independent Qualified Assessing Coach	Assessing Coach Report is completed and returned to the Club / School with a recommendation of the appropriate competition for the participant. Please Note: Players seeking Gender Identity Dispensation wishing to play in the <u>Front Row</u> (prop or hooker) in a Senior / Junior competition for Males, must also apply for approval from Rugby AU as outlined in <i>Schedule B* - Exception for Front Row</i>. (*Not required for Sevens Rugby).
8	Assessing Coach Report and Consent Form provided to the Competition Manager	Club / School	Assessing Coach Report (and Schedule B approval, if required) along with the Gender Identity Dispensation Consent Form are forwarded to the Competition Manager.

STEP	DESCRIPTION OF ACTION	RESPONSIBLE	NOTES
9	Assessment reviewed, and decision made on Gender Identity Dispensation	Competition Manager	The Competition Manager will review the assessment and determine whether to: • accept or reject the application for dispensation; OR • request an independent assessment in line with the Safety Policy; OR • make a recommendation to the player (or their parent/guardian) as to the appropriate age-grade or competition for that player based on the initial assessment or any subsequent independent assessment; OR • refer the player seeking dispensation to a medical practitioner retained or identified by the union prior to accepting or rejecting the application.
10	Competition Manager contacts the Club/School regarding environmental and off-field factors	Competition Manager	The Competition Manager will contact the Club / School and ensure that all appropriate environmental and off-field factors[#] have been considered with respect to the safety and wellbeing of the player and other participants in the competition.
11	Changes made in the Competition Management System	Competition Manager	Relevant changes are made in the Competition Management System (Rugby Xplorer) to enable participation in the approved competition. The Club / School is notified along with the player and/or their Parent / Guardian.

[#] including but not limited to gender neutral changeroom, shower and toilet facilities and the safety of the club/team and competition.

UNIFORMS

- Participants should be able to participate while wearing a uniform in which they feel comfortable.
- Participants requiring uniforms (i.e. players and match officials) should be provided with an appropriate range of uniform styles and sizes to select from.

FACILITIES

Rugby clubs need to be welcoming and offer amenities in order to attract and maintain all participants, coaches, referees, volunteers and supporters. The clubs' facilities should be user friendly, well maintained and safe. There needs to be suitable change rooms, bathrooms and social areas to ensure there aren't barriers for involvement.

This could include altering changerooms for unisex use such as removing the urinals and replacing them with bathroom cubicles or making the open showers private. It should also allow for persons to use the facilities of their gender identity.

APPEALS AND GRIEVANCES

All persons are bound by existing RA Policies including the Code of Conduct, Member Protection Policy, Inclusion Policy, Safety Policy, and Participation policy.

Any grievance by players (or their parents/guardians) regarding decisions made by the competition manager pursuant to these guidelines must be dealt with pursuant to the grievance procedure of the relevant Union with jurisdiction for the competition.

Rugby AU has the discretion to review a decision or conduct any investigation as deemed necessary and appropriate.

DISCRIMINATION, SEXUAL HARASSMENT, AND VICTIMISATION

Under the federal Sex Discrimination Act 1984 (Cth), **discrimination** on the basis of sex or gender identity can include both direct and indirect discrimination. 'Direct discrimination' occurs when a person is treated less favourably than another person on the ground of:

- sex or gender identity, or
- a characteristic generally associated with a person of that sex or gender identity in circumstances that are the same or not materially different.

An example of direct discrimination would be a sporting organisation refusing a trans woman's application for membership because she is transgender. 'Indirect discrimination' can be less obvious. Indirect discrimination occurs when a condition, requirement or practice that applies to everyone, disadvantages persons of a particular sex or gender identity, and the condition, requirement or practice is not reasonable in the circumstances.

An example of indirect discrimination might be a sporting organisation requiring a birth certificate upon registration, and not accepting any alternative form of documentation to verify a person's gender. This may disadvantage transgender and non-binary players if their birth certificate does not align with their gender identity. If reasonableness could not be established, the sporting organisation might be at risk of a successful discrimination claim.

Sexual harassment is unlawful under the Act in certain areas of public life, including in the provision or receipt of goods, services and facilities. It is also unlawful for a member of the management committee of a club to sexually harass a member, or applicant for membership, of the club. 'Sexual harassment' is defined in the Act as an unwelcome:

- sexual advance
- request for sexual favours, or
- conduct of a sexual nature, in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

The sex and gender identity of the person who is harassed are relevant circumstances to be taken into account in determining if a person has been sexually harassed. Sexual harassment can be physical, spoken or written, and may include comments online or in social media. It may include a range of unwelcome behaviours including:

- requests for sex
- intrusive comments about someone's private life
- sexually suggestive behaviour, such as leering or staring
- sexually suggestive comments or jokes
- repeated requests to go out
- sexually explicit messages.

Sexual harassment can also include sexually suggestive or invasive questions, such as asking a transgender or gender diverse person about their sex life, or asking them about their physical characteristics.

Victimisation is an offence under the Act. A person will be taken to have victimised another person if they threaten to, or do, subject that person to a detriment because they have either made a complaint under the Act, or have engaged with the Commission's complaints process in some other way (for example, as a witness in proceedings).⁶⁰ This applies to complaints of discrimination and sexual harassment.

PRIVACY

- Affiliated Associations and Clubs shall protect the privacy of players.
- This is particularly important when dealing with any personal, health or sensitive information that the Affiliated Association or Club may collect or hold regarding a person including their Gender Identity, or transition or affirmation process.
- Affiliated Associations and Clubs should consider the provisions of the Privacy Act 1988 (Cth), the Australian Privacy Principles (APPs), and the relevant legislation and regulations of the States and Territories.
- Further information is available from the Office of the Australian Information Commissioner at www.oaic.gov.au/privacy-law. If in doubt, Affiliated Associations and Clubs should obtain their own legal advice regarding privacy issues.

ANTI-DOPING

Many hormone treatments may lead to a breach of the Rugby AU Anti-Doping Code. In the event of an Adverse Finding resulting from an Anti-Doping Test the player will be required to apply for a Therapeutic Use Exemption for the treatments they are using. It is recommended that the World Anti-Doping Authority's (WADA) Transgender Player TUE Physician Guidelines are provided to the player's doctor.

Please note that players seeking dispensation to play in the National Rugby Championship or the Super W competition require a Therapeutic Use Exemption prior to playing. For further information, please refer to the SIA website: www.sportintegrity.gov.au.

OTHER INFORMATION

Rugby competitions are generally male or female. Players with non-binary gender identity may wish to play a mixed version of the game, for example Touch 7s or under Veterans Laws. The physical development, ability and experience Rugby assessment is analogous to the criteria of strength, stamina and physique of the athlete as is referenced in the Sex Discrimination Act.

RELATED DOCUMENTS

- Rugby Australia Code of Conduct
- Gender Identity Dispensation Consent Form
- Gender Identity Dispensation Assessing Coach Report
- Schedule B – Exemption for Front Row
- Rugby Australia Safety Policy
- Rugby Australia Participation Policy
- Rugby Australia Facilities Guidelines

These are hosted at <https://australia.rugby/about/codes-and-policies/all-codes-and-policies>

OTHER RESOURCES AND SUPPORT

- **ACON** provides counselling, as well as social work support to help people resolve complex or ongoing violence and harassment matters.
Freecall: 1800 063 060
Web: www.acon.org.au/mental-health/#lgbti-counselling
- **QLife** provides anonymous and free LGBTI peer support and referral for people wanting to talk about sexuality, identity, gender, bodies, feelings or relationships.
Freecall: 1800 184 527
Web: www.qlife.org.au/get-help

COMMONLY USED TERMS

Rugby Australia acknowledges that terminology can have an impact on a person's identity, wellbeing and inherent dignity. Using appropriate terminology respects individuality and enhances the visibility of transgender and gender diverse people in the community.

The terminology in this area is evolving and contested. The following section provides general guidance on relevant terminology. An understanding of these terms can help prevent discrimination and create an inclusive environment.

Please note that when the terms 'man' and 'woman' or 'trans man' and 'trans woman' are used in these Guidelines, the discussion is also generally applicable to boys, girls and trans children respectively.

Gender identity: 'Gender identity' is defined in the Act as 'the gender related identity, appearance or mannerisms or other gender related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth'. For example, a person's birth certificate may include a marker which indicates that the person's designated sex is female when that person identifies as a man (in other words, their gender identity is that of a man).

Gender diverse: 'Gender diverse' is an umbrella term that includes all the different ways gender can be experienced and perceived. It can include people questioning their gender, those who identify as trans/ transgender, genderqueer, non-binary, gender nonconforming and many more.

Intersex status: 'Intersex status' is a protected attribute under the Act. Under the Act 'intersex status' means the status of having physical, hormonal or genetic features that are:

- neither wholly female nor wholly male
- a combination of female and male, or
- neither female nor male.

The term 'intersex' does not describe a person's gender identity (man, woman, neither or both). A person born with a variation in sex characteristics may identify as a man, woman, neither or both.

LGBTQI: 'LGBTQI' (or variations of it) is an acronym for lesbian, gay, bisexual, transgender, queer/ questioning and intersex. It is used to refer collectively to these communities. The 'LGB' refers to sexuality/sexual identity; the 'T' refers to gender identity; and the 'I' refers to people who have an intersex variation. 'Q' can refer to either gender identity or sexuality.

Non-binary: 'Non-binary' is a term used to describe a person who does not identify exclusively as either a man or a woman.

Pronouns: 'Pronouns' are a grammatical means of referring to a person or persons. Conventional pronouns are 'she/her/hers' and 'he/him/his'. Some people prefer to use gender neutral pronouns, such as 'they/ them/their'. The pronoun a person uses to describe themselves generally reflects their gender identity.

Sex: 'Sex' refers to a person's biological sex or sex characteristics. These may be genetic, hormonal, or anatomical. Unlike 'gender identity', 'sex' is not defined in the Act.

Transgender: 'Transgender' (commonly abbreviated to 'trans') is a general term used to describe a person whose gender identity is different from the sex they were assigned at birth. Being transgender is about how an individual describes their own gender. It is not necessarily about their biological characteristics.

A person whose birth certificate originally described them as female, who now identifies as a man, may use the labels 'trans', 'trans man' or 'man'. Similarly, a person originally described on their birth certificate as male, who now identifies as a woman, may use the label 'trans', 'trans woman' or 'woman'.

Transition: ‘Transition’ or affirmation refers to the social, medical or legal steps that a transgender person takes to affirm their gender identity. A transition or affirmation may or may not involve medical treatment, including surgeries or hormone therapy. People can transition as children or as adults. Each transition is different.

Social transition: is the process by which a person changes their gender expression to better match their gender identity. This may include changing their name, pronouns, and appearance.

Medical transition: is the process by which a person changes their physical sex characteristics to align with their gender identity. This may include hormone therapy, surgery or both.

Legal transition: is the process by which a person changes their identity documents, name, or both, to reflect their gender identity. This may include changing their gender marker on a passport or birth certificate, or changing their name on a driver’s licence or bank card.

ACKNOWLEDGEMENTS

The Community Guidelines for the Inclusion of Transgender & Gender Diverse People in Rugby and the imbedded existing Gender Identity Dispensation Procedure has been prepared in consultation with various stakeholders. Rugby Australia extends its thanks to those people and groups including:

- Sport Australia
- Rugby Union Players’ Association
- Representatives of the LGBTQI community
- Medical experts
- Pride in Sport
- Rugby Administrators, coaches and players

Rugby Australia acknowledges that these Community Guidelines for the inclusion of Transgender and gender diverse people in Rugby draws heavily on the Sport Australia, Australian Human Rights Commission, and Coalition of Major Professional and Participation Sports (including Rugby Australia) *Guidelines for the inclusion of transgender and gender diverse people in sport*.