



Report of the Petitions Committee

Petition of Save Women's Sport Australasia: Request Sport NZ extend consultation on Transgender Participation Guidelines

November 2022

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Hon Jacqui Dean
Chairperson

Petition of Save Women's Sport Australasia

Recommendation

The Petitions Committee has considered the petition of Save Women's Sport Australasia—Request Sport NZ extend consultation on Transgender Participation Guidelines—and recommends that the House take note of its report.

Trans women's participation in women's sports

The petition was presented to the House on 22 November 2021. It requests:

That the House of Representatives urge Sport New Zealand to extend the consultation on the Draft Guiding Principles for the Participation of Transgender Players in Sport (April 2021) to all sporting associations, clubs and their stakeholders around New Zealand before the guidelines are finalised.

In 2021, the Crown entity Sport New Zealand drafted a document called *Guiding Principles for the Inclusion of Transgender Participants in Community Sport*. The petitioner, an organisation called Save Women's Sport Australasia, objects to Sport NZ's consultation process about the proposed guiding principles. It is seeking wider consultation before the draft is finalised. It also disagrees with some of the arguments in favour of including trans women in women's sport.¹

We invited and received submissions from the petitioner and Sport NZ.

Petitioner wants wider consultation on the draft principles

The petitioner submitted that Sport NZ did not engage enough with female athletes during consultation about the proposed guiding principles. It said that the only consultation was with sporting bodies and player associations. We heard that Sport NZ told the petitioner that it would encourage the draft principles to be shared with athletes "in some way" for further feedback after the first draft principles were created.

The petitioner is also dissatisfied with the way feedback on the principles was gathered, which it said was via an online form supplied by consultants. It said the form was a limited mechanism for providing robust feedback.

The petitioner would like Sport NZ to consult on the draft principles with all sporting clubs and associations. It would like Sport NZ to allow time for those clubs and associations to gather feedback from their communities, athletes, and families.

The petitioner is concerned that some people who might want to speak out about fairness and safety concerns do not do so. It said that some people are afraid of recrimination or lack the confidence to express their views.

¹ "Trans woman" refers to a woman who was identified as a male at birth. For more information and a glossary of other terms, see <https://genderminorities.com/glossary-transgender/>.

We learnt that the United Kingdom's Sports Councils recently produced guidance for the inclusion of transgender athletes.² The petitioner considers that the UK Sports Councils consulted widely on the draft guidance and reviewed all research.

Research on trans women in sport

The petitioner argues that Sport NZ's draft principles focus on the inclusion of transgender athletes in their chosen sports but do not consider "all available scientific and peer reviewed evidence".

The petitioner submitted on Sport NZ's comments that research on the physiology of transgender players and the effects of testosterone is "unsettled". The petitioner believes that research around the physiology of transgender players is in fact settled, and has led to the exclusion of transgender women from some international sports such as women's rugby. In the petitioner's view, trans women playing women's sport denies cis women opportunities to compete fairly and safely.³

The petitioner also said it commissioned a survey about the inclusion of trans women in female sport and found that most New Zealanders do not agree with the direction of the guiding principles.

Petitioner's objections to the draft principles

The petitioner said it firmly supports universal participation in sports. However, it also considers that the draft principles would affect female participation levels, health, safety, and opportunities. It said that cis women would be "displaced" from their class of sport by "male-bodied" athletes. It said this would be a particular problem in highly competitive grades.

The petitioner submitted that men have natural advantages in sport. For example, it said that more than 15,000 males can run faster than the world record holders for women's running, and the women's shotput is more than 3kg lighter than the men's one.

The petitioner said that female athletes who feel the odds are stacked against them might not bother to participate. To illustrate, it told us about an athlete who had been an average competitor when competing as a man but won a number of races when she began competing as a woman. The petitioner told us that very few cis female athletes turned up to compete in the sport's national competition after that athlete began participating as a woman.

The petitioner also submitted that, in its view, trans women are more likely to be selected for teams because they have a known advantage. This would lead to cis women losing places on teams.

² The UK's Sports Councils, *Guidance for Transgender Inclusion in Domestic Sport*. More information on the guidance is available on [UK Sport's website](#).

³ "Cis woman" refers to a woman who was assigned female at birth. For more information and a glossary of other terms, see <https://genderminorities.com/glossary-transgender/>.

The petitioner also submitted that some female athletes may be uncomfortable about having to share changing rooms with trans women. It said that females should have “safe spaces away from male bodies”.

Petitioner's views on the first draft principle

The petitioner said it agrees with some aspects of the guiding principles. However, it strongly disagrees with the first draft principle:

Inclusion of transgender players in community sport is paramount.
Transgender players have the right to play in the gender that they identify with.

Instead, the petitioner proposes the following first draft principle:

As with all people, the inclusion of transgender players in community sport is important for their physical, emotional and mental wellbeing. The inclusion of transgender players must be balanced with the right of female players to fair and safe competition.

The petitioner said that the draft principles do not properly consider the safety of female sportspeople. It agreed with a statement in the draft principles that “the gender identity of a player does not create a danger or a risk to safety”; however, it said, “biological sex most definitely does!”

The petitioner said that everyone has the right to play sport, including trans women. However, it submitted that Sport NZ should consider creating a new transgender category or changing men's sports to an “open” category. It also suggested putting measures in place to ensure that men's sports do not discriminate against or alienate trans athletes, “so that everyone can feel welcome and included in the category of their biological sex”.

Definition of transgender

The petitioner said that Sport NZ's definition of transgender is anyone who says they identify as the opposite sex to their birth. However, it believes that, in addition to identifying as female, the athlete should also have to have taken “specific and significant medical steps to alter their body (either hormonally and/or physically)”.

Recent UK principles

We heard that the UK guidance was that some sports may have to decide whether to prioritise transgender inclusion or fair and safe competition for females. The UK guidance said:

This is due to retained differences in strength, stamina and physique between the average woman compared with the average transgender woman or non-binary person assigned male at birth, with or without testosterone suppression.⁴

⁴ The UK's Sports Councils, *Guidance for Transgender Inclusion in Domestic Sport*, p 6.

Women's sport is a protected category

The petitioner pointed out that women's sport is protected under section 49 of the Human Rights Act 1993, which provides that

...nothing in section 44 shall prevent the exclusion of persons of one sex from participation in any competitive sporting activity in which the strength, stamina, or physique of competitors is relevant.

The petitioner said that women's sports are protected to provide competitive opportunities to those who do not have the "benefit of testosterone" during adolescence. It likened women's sports to other sporting categories that provide performance integrity and meet safety concerns, such as the Paralympics and weight classes in certain sports.

According to the petitioner, women who play on a sex-segregated team "are doing so for a reason". The petitioner said trans women have "plenty of opportunities" to play in social, mixed-sex sports.

Principles not intended for elite sport

We note that the principles are not intended to apply to elite sport, but rather to community sport. However, said the petitioner, community sport is still competitive: scores are kept; people know and care who won. Community sport includes all levels, and is the pipeline that produces athletes for representative and professional teams. The petitioner said that it finds the "insinuation that females only want to participate in community sport condescending".

Comments from Sport NZ

At the time of its written submission to us, Sport NZ was undertaking a final phase of consultation on the principles with "a broader group of stakeholders". Sport NZ gave us a list of the organisations and individuals with whom it was consulting. The list included many national sporting organisations, nine transgender and rainbow organisations, five academics, eight government agencies, and four advocacy groups, including the petitioner. The final consultation was planned to run for six weeks, finishing on 15 July 2022.

Sport NZ said that one purpose of the final consultation was to ensure that the guiding principles are fit for purpose. It was also to help Sport NZ understand what support sports may need to develop a policy for their code.

Sport NZ said it did not consult directly with sporting clubs or regional bodies because it believes they are not the primary audiences for the work. It intends national bodies to use the principles in developing policies specific to their codes. It expected national bodies to consult with their networks, including regional bodies and clubs, in developing their policies.

After the guiding principles are finalised and published, Sport NZ expects to work with the sector on implementing them. It said it is committed to working with sporting codes "to support them with how they will address the inclusion of transgender participants in community sport".

We learnt that different codes may want to take different approaches to implementing the principles. Sport NZ said the principles will advise wide consultation with those involved in each code, including at regional and community level.

Sport NZ expects to review the principles three years after they are published. It also said it considers the principles to be a “living document” that may be reviewed as needed to remain useful to the sector.

Our response to the petition

The petition requests wider consultation on the draft principles for transgender inclusion in community sport. We note Sport NZ's comment that it did not consult with individuals and clubs because the principles are not intended to be used directly by them. The last consultation included national sporting organisations, transgender and rainbow organisations, academics, government agencies, and advocacy groups. We consider the expanded consultation to be appropriate. We also note that, once the principles are finalised, Sport NZ expects them to be reviewed regularly.

We note the petitioner's view that trans athletes cannot safely or fairly compete against cis women in most sporting codes. We also note Sport NZ's comments that different sporting codes are likely to take different approaches to including trans people in sports. We expect that Sport NZ will continue to consider this issue as it works with sporting communities to finalise and implement the principles.

We look forward to the results of the last consultation on the draft, and to seeing the final version of the guiding principles.

Appendix

Committee procedure

The petition was referred to us on 22 November 2021. We met between 31 March and 24 November 2022 to consider it. We received written submissions from the petitioner and Sport New Zealand.

Committee members

Hon Jacqui Dean (Chairperson)
Rachel Boyack
Steph Lewis
Nicole McKee
Sarah Pallett
Teanau Tuiono

Evidence received

The documents we received as evidence in relation to this petition are [available on the Parliament website](#).