

# Proactive Release: Transgender Guiding Principles – Ministerial Advice

<b>Minister</b>	Hon. Chris Bishop	<b>Portfolio</b>	Sport and Recreation
<b>Title of Paper</b>	Transgender Guiding Principles – Ministerial Advice	<b>Date of Issue</b>	18 November 2024

These documents have been proactively released:

<i>Date</i>	<i>Title</i>	<i>Author</i>
5 December 2023	Email advice: Advice for media interview	Sport New Zealand
7 December 2023	Email advice: Rainbow Resources & FAQs	Sport New Zealand
19 January 2024	OTH-13510 - Transgender Inclusion	Sport New Zealand
30 April 2024	BRF-13545 - Transgender Inclusion Sport Sector Policy Update	Sport New Zealand
5 September 2024	BRF-13741 – Meeting with InsideOUT & Gender Minorities Aotearoa	Sport New Zealand
10 September 2024	AM-13787 – Summary from External Consultation on Guiding Principles for the inclusion of transgender people	Sport New Zealand
13 September 2024	AM-13788 – Overview of select overseas positions on including transgender people in community-level sport	Sport New Zealand

## *Information redacted*

Some parts of this information release are not appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the applicable sections of the Act have been noted.

Information has been withheld from this release under the following grounds of the Official Information Act 1982:

- s9(2)(a) - protect the privacy of natural persons, including that of deceased natural persons

- s9(2)(g)(ii) - maintain the effective conduct of public affairs through the protection of such Ministers, members of organisations, officers, and employees from improper pressure or harassment
- Out of Scope

Under section 9(1) no public interest has been identified that would outweigh the reasons for withholding this information.

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**From:** s9(2)(g)(ii)  
**To:** s9(2)(g)(ii)  
**Cc:** Nick Kingston; SportNZ Policy; Raelene Castle; Michelle Pickles; s9(2)(g)(ii)  
**Subject:** RE: Lines for Minister's interview with Liam Napier  
**Date:** Tuesday, 5 December 2023 12:49:46 pm  
**Attachments:** Final Lines NZ Herald Interview 6 Dec.docx  
image001.png  
image002.png  
image003.png  
image004.png

Kia ora s9(2)(g)(ii)

out of scope

Ngā mihi

s9(2)(g)(ii)

s9(2)(g)(ii)

Senior Ministerial Communications and Servicing Advisor



s9(2)(g)(ii)

s9(2)(a)

[sportnz.org.nz](https://sportnz.org.nz)



**From:** s9(2)(g)(ii)

**Sent:** Tuesday, December 5, 2023 10:40 AM

**To:** Raelene Castle s9(2)(g)(ii) Michelle Pickles

s9(2)(g)(ii); s9(2)(g)(ii)

**Cc:** Nick Kingston s9(2)(g)(ii); SportNZ Policy <policy@sportnz.org.nz>

**Subject:** RE: Lines for Minister's interview with Liam Napier

out of scope

s9(2)(g)(ii)

Private Secretary – Sport and Recreation | Office of the Hon Chris

**Bishop**

Minister of Housing, Minister for Infrastructure, Minister Responsible for RMA Reform, Minister for Sport and Recreation, Leader of the House, Associate Minister of Finance  
Parliament Buildings | Wellington | s9(2)(g)(ii) |

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**From:** Raelene Castle s9(2)(g)(ii)  
**Sent:** Tuesday, 5 December 2023 10:38 AM  
**To:** s9(2)(g)(ii) Michelle Pickles  
s9(2)(g)(ii); s9(2)(g)(ii)  
**Cc:** Nick Kingston s9(2)(g)(ii) SportNZ Policy <[policy@sportnz.org.nz](mailto:policy@sportnz.org.nz)>  
**Subject:** Re: Lines for Minister's interview with Liam Napier

out of scope



Ngā mihi  
Raelene Castle  
Group Chief Executive  
Sport New Zealand  
s9(2)(g)(ii)

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**From:** s9(2)(g)(ii)  
**Sent:** Tuesday, December 5, 2023 10:32:17 AM  
**To:** Raelene Castle s9(2)(g)(ii) Michelle Pickles  
s9(2)(g)(ii); s9(2)(g)(ii)  
**Cc:** Nick Kingston s9(2)(g)(ii); SportNZ Policy <[policy@sportnz.org.nz](mailto:policy@sportnz.org.nz)>  
**Subject:** Lines for Minister's interview with Liam Napier

Hi all,

Have just spoken with Press Sec about the lines for tomorrow's interview.

Based off my conversation with Michelle, what we have already will hit the mark well. Out of scope



- [Redacted]
- [Redacted]

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3. Transgender inclusion (FYI no steer from Press Sec on this but he is going to see what is appropriate in relation to their coalition agreement with NZF once he receives our lines)

OUT OF SCOPE

Give me a call if anything needs clarifying, otherwise if I could please have the **final lines by 1pm** then that would be great.

Many thanks,

s9(2)(g)(ii) ) | **Private Secretary – Sport and Recreation | Office of the Hon Chris Bishop**

Minister of Housing, Minister for Infrastructure, Minister Responsible for RMA Reform, Minister for Sport and Recreation, Leader of the House, Associate Minister of Finance  
Parliament Buildings | Wellington | s9(2)(g)(ii)

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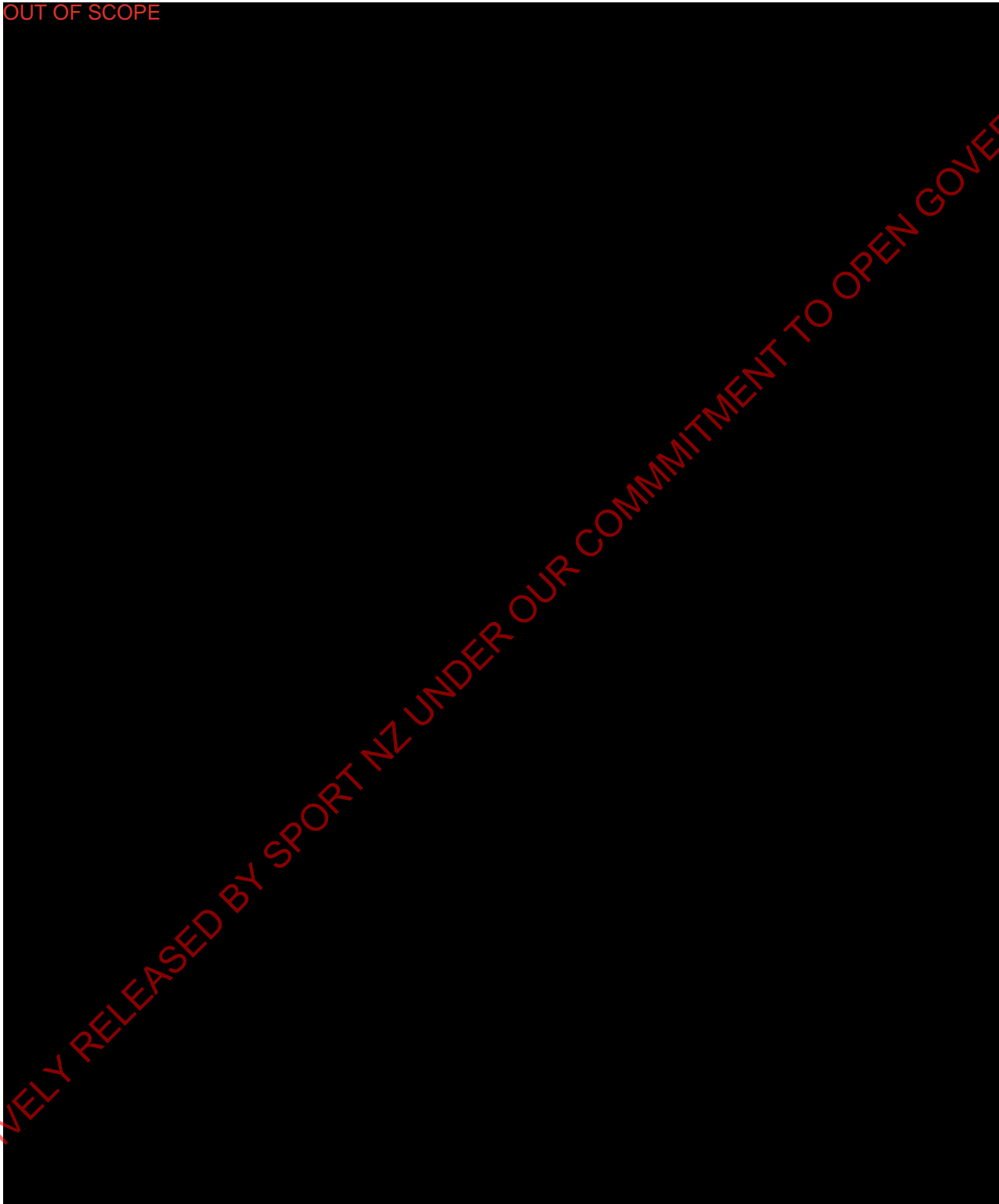
Sport New Zealand is the crown entity responsible for Aotearoa New Zealand's play, active recreation and sport system.

For more details, visit [www.sportnz.org.nz](http://www.sportnz.org.nz)

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Transgender

- Sport NZ developed the transgender guiding principles to help individual sports foster an environment where transgender participants are welcome, accepted, comfortable and safe taking part in community sport.

- They are designed as a framework to help national bodies develop their own policies, which we encourage them to do, and to support clubs, schools and other bodies improve how they approach the inclusion of transgender participants.
- As the visibility of transgender, gender diverse and non-binary people in society has increased, we have received more and more frequent requests for assistance from sports organisations around how they should approach the inclusion of transgender participants.
- The guiding principles have been developed for community sport only. The regulations relating to transgender participation in elite sport will continue to be managed by the relevant international bodies.

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**From:** [SportNZ Policy](#)  
**To:** s9(2)(g)(ii)  
**Subject:** FW: Rainbow resources FAQs  
**Date:** Thursday, 7 December 2023 10:13:00 am  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[Update Email Rainbow resources for community sport and physical activity.msg](#)  
[Rainbow Resources - FAQs.docx](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)

FYI – might be useful for you to file away! But as always here if you need to request anything.

Ngā mihi

s9(2)(g)(ii)

s9(2)(g)(ii)

Senior Ministerial Communications and Servicing Advisor



Mob. s9(2)(g)(ii)

s9(2)(a)

[sportnz.org.nz](http://sportnz.org.nz)



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**From:** s9(2)(g)(ii)

**Sent:** Thursday, December 7, 2023 9:58 AM

**To:** SportNZ Policy <policy@sportnz.org.nz>; s9(2)(g)(ii) Michelle Pickles

s9(2)(g)(ii)

**Cc:** s9(2)(g)(ii)

**Subject:** Rainbow resources FAQs

Kia ora team

You will have seen Bron's email from yesterday (attached for reference) about additional resources supporting the sector to provide more inclusive opportunities for rainbow communities, which are now available on the [Sport NZ website](#). The e-modules are also available on [Sport Tutor](#). We will share these resources with the sector in this month's Sector Update on Dec 19.

We've prepared some FAQs to support responses to any media requests and correspondence received by Sport NZ and/or the Minister – see attached.

If you have follow-up questions, please feel free to reach out to me or 9(2)(g)(ii) in the DEI team.

Ngā mihi

9(2)(g)(ii)

9(2)(g)(ii) (she/her)

Senior Communications Advisor



MOBILE s9(2)(a)

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**From:** [Bron Hall](#)  
**To:** [SportNZ All Staff](#); [9\(2\)\(g\)\(ii\)](#)  
**Subject:** Update Email | Rainbow resources for community sport and physical activity  
**Date:** Wednesday, 6 December 2023 4:37:28 pm  
**Attachments:** [image001.png](#)

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Kia ora koutou,

We wanted to give you a quick update on additional resources supporting the sector to provide more inclusive opportunities for rainbow communities. These are now available on Sport Tutor and the [Sport NZ website](#).

These resources are a continuation of the work done to date in supporting the sector, including the guiding principles for the inclusion of transgender people in community sport (released in December 2022). A common theme throughout the consultation process of those guiding principles was the need for more opportunities for sector organisations to increase their knowledge and understanding of rainbow communities.

We know there are barriers to rainbow participation – a 2018 national survey of transgender and non-binary people found that only 14% participated in organised sport and 61% were worried about how they would be treated. To achieve our vision of ‘Every Body Active’, we all play an important role in creating environments where rainbow communities feel accepted, comfortable, and safe participating.

Developed in partnership with [InsideOUT Kōaro](#), the educational resources include a three-part e-learning module, fact sheets on rainbow awareness and inclusion, and an animated video highlighting the experiences of trans rangatahi. Made for anyone supporting young people to be active, the resources provide guidance on key concepts and correct use of language, so that everyone can increase their understanding and create a more inclusive environment for all.

A big thank you to the working group that’s been involved right from the creation of the guiding principles. That group included representatives from NZ Rugby, NZ Cricket, NZ Football, NZ Netball, Golf NZ, Swimming NZ, School Sport NZ, Waka Ama NZ and Aktive Auckland as well as Sport NZ staff. Their help and expertise made this work possible.

While the focus of these resources is community sport, the content is relevant to all forms of physical activity and for anyone supporting people to be active. The resources will be shared with the sector in this month’s Sector Update (19 Dec). We also encourage you to engage in these topics and set aside some time to complete the e-modules.

Please contact [9\(2\)\(g\)\(ii\)](#) in the DEI team if you have any questions about the resources.

**Want to show your support to inclusivity?**

You can practice inclusivity through including your pronouns in your email signature. Check out [these guidelines from the Public Service Commission](#) for how to do this.

Ngā mihi,  
Bron

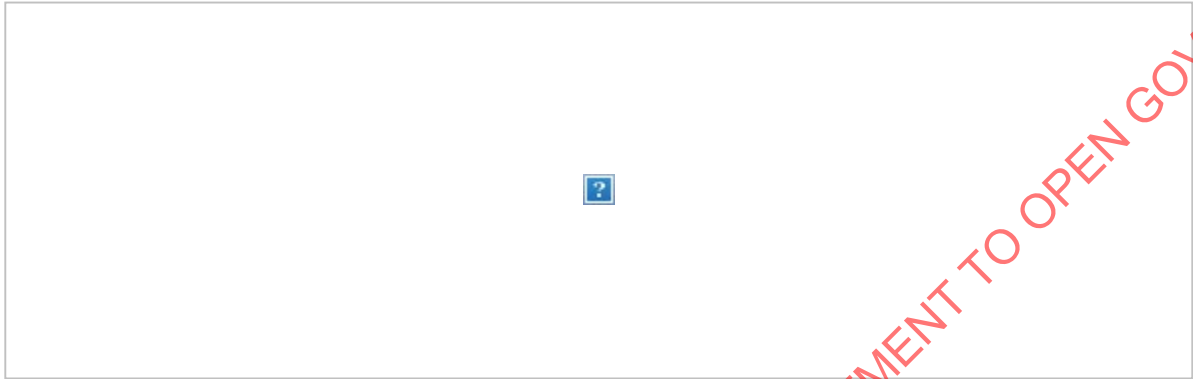
**Bron Hall**

Group Manager - People & Culture  
Sport NZ, High Performance Sport NZ

+9(2)(g)(ii)

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[HPSNZ.org.nz](http://HPSNZ.org.nz)



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# Frequently Asked Questions

## Rainbow resources



### Introduction

These FAQs are for us by Sport NZ staff only in managing partner enquiries reactively, media requests and correspondence received by Sport NZ and/or the Minister for Sport and Recreation.

### Rationale

#### Why were [these resources](#) developed?

These resources build on and support the sector to apply the guiding principles for the inclusion of transgender people in community sport (released in December 2022).

Through consultation with the community sport sector, it became clear that organisations wanted further resources to build appropriate knowledge, understanding, skills and strategies to enact change and give life to the guiding principles in their different contexts. [InsideOUT Kōaro](#) was then contracted to develop and deliver educational resources for this purpose.

It's important that organisations are committed to being inclusive to all members of their community and actively create safe and welcoming environments in which everyone can fully participate and thrive. These resources support Sport NZ's vision that no one misses out on the benefits of physical activity, regardless of age, gender, disability, cultural or religious background, or sexual orientation.

#### Who are these resources for?

These resources are for sports organisations that have responsibilities for the provision of sporting competitions at the community level, both club and school sport. They are not for elite sport.

The resources were designed to support a wide range of roles—from coaches and club administrators delivering sport and active recreation activities to sector leaders delivering staff training and championing inclusive practice, to policy makers and decision makers at the board and governance level. Many of the topics in these resources can also be applied to organisations providing wider physical activity opportunities.

#### Are transgender participants currently excluded from sports?

In 2018, 1,178 self-identified transgender and non-binary people took part in the first comprehensive national survey on the health and wellbeing of transgender and non-binary people in Aotearoa New Zealand.<sup>1</sup> The survey found that:

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<sup>1</sup> Veale and others, above note.

- one-in-five participants had been told they could only participate based on their sex assigned at birth.
- more than half (61 per cent) were worried about how they would be treated as a transgender or non-binary person in competitive sports. This concern was more common for transgender men (81 per cent) than for transgender women (42 per cent).
- only 14 per cent participated in sports competitions, events or other organised activities. This is almost half the rate of participation by the general population (26 per cent)
- These results show that fear of discrimination and concerns about eligibility limit the opportunities of transgender people to have equal access to sports.

## Approach

### How were these resources created?

Over the last year, Sport NZ has been working on further support and guidance to equip the sector with appropriate knowledge, understanding, skills and strategies to enact change and give life to the Transgender Guiding Principles in their different contexts.

We formed an implementation working group with representatives from nine NSOs to identify support needs across the sector.

We then partnered with InsideOUT Kōaro – a leading expert in Aotearoa for matters related to the inclusion of rainbow communities – to develop a suite of educational resources on rainbow inclusion for the community sport and active recreation sector. These were created in consultation with many groups that support members of rainbow communities.

### Why was InsideOUT Kōaro contracted to deliver this work?

Sport NZ ran a closed tender RFP process to find a provider to develop generic and function-specific rainbow and transgender awareness and inclusion resources. After thorough assessment of submissions, a panel of representatives from the implementation work group selected [InsideOUT Kōaro](#) as the preferred provider based on the organisation's extensive experience and expertise supporting the inclusion of rainbow communities.

### Why was InsideOUT Kōaro contracted to deliver this work?

Sport NZ ran a closed tender RFP process to find a provider to develop generic and function-specific rainbow and transgender awareness and inclusion resources. After thorough assessment of submissions, a panel of representatives from the implementation work group selected [InsideOUT Kōaro](#) as the preferred provider based on the organisation's extensive experience and expertise supporting the inclusion of rainbow communities.

## Scope

### What does 'transgender' mean?

For the purpose of these guiding principles, 'transgender' is used as an umbrella term for a person whose gender differs from their sex assigned at birth.<sup>2</sup>

Gender is part of a person's internal sense of self. It can be female, male, neither, a combination of the two, or exist completely outside of that.

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<sup>2</sup> PRISM Report (2020), above at 5.

## **What is the definition of 'community sport'?**

Community sport includes organised sports taking place through clubs, schools and events. It does not include active recreation (such as gym classes), passive recreation (such as gardening) or elite sport, which generally operates under the rules of the relevant international federation.

## **Why are these resources only for community sport and not elite sport?**

At the elite level, sporting codes will generally be guided by the relevant international sporting body around what specific rules apply to the inclusion of transgender athletes at a representative level. This recognises the requirement at that level to ensure that no athlete has a disproportionate competitive advantage in competition.

## **Are these resources also applicable to active recreation activities?**

While they are intended for community sport, active recreation providers may find them useful when considering issues around inclusion of transgender participants in their activities.

## **Elite sport**

### **Where is the line between 'community sport' and 'elite' sport?**

We recognise that elite sport can be difficult to define and that where the line is drawn between community and elite differs from sport to sport. As such, that will need to be determined by individual sports as they review or develop any relevant policies of their own.

### **Will Sport NZ or HPSNZ be producing guidance around transgender participants in elite level sport?**

Not at this stage. Initial work on the inclusion of transgender participants at the elite level will be for each of the codes to establish by reference to the relevant international rules and regulations.

## **Implementation**

### **Does my organisation have to do anything differently to help transgender participants feel welcome?**

There may be some specific steps your organisation wants or needs to take to ensure that any transgender participants feel welcome. The best approach is to ensure that any member of your organisation feels supported and safe when participating and that they can raise any concerns or issues they have around their participation with the organisation. As with all participants, some transgender participants may require a different approach to others. It is about recognising that and being open to feedback and suggestions around the best ways to support their inclusion.

### **How should sports organisations approach inclusion and categorisation of participants who identify as non-binary or intersex?**

The best way to approach inclusion and any necessary gender classification of non-binary participants is to ask them what their preference is around categorisation and inclusion. It is best to approach it from the perspective of inclusion and work with those participants to ensure they feel supported to take part in the way they want to. There may also be benefit in



requesting assistance from the relevant national sports organisation and any other sports organisations you have connections with to find out about how others have approached similar situations.

## **Safety and fairness**

### **What about safety in collision or combat sports with the inclusion of transgender women in female sport?**

The evidence around safety concerns with the inclusion of transgender women in female sport is not conclusive at this stage. However, the welfare of all competitors in all codes is something that sports need to be aware of and actively addressing.

In addition to a transgender inclusion policy, further steps can be taken by sports to support the health, safety and wellbeing of all participants, including transgender participants. This includes having mechanisms in place to allow players to participate safely and ensure the competition is comprised of an appropriately similar cohort of players, for example weight bands and age brackets.

### **What about safety between participants in a team environment? Aren't there risks for both transgender and cisgendered participants?**

In any team environment there are potential risks around the behaviour of individuals towards one another. To ensure sports are inclusive of transgender, it is essential that those who lead sporting bodies (for example, the Board) are committed to inclusion. Leaders can show their commitment to inclusion in a variety of ways, including ensuring the organisation's culture is reflective of these policies and that the environment created is one in which transgender participants feel confident and comfortable participating. This will help to ensure that any potential risks are reduced and that there is clarity in how any risks will be addressed should they arise.

### **Will there be situations where you [can/are able to] exclude transgender athletes from competing due to safety concerns?**

Safety will need to be considered on a sport by sport basis in thinking about any policies that are developed and how they will be implemented. The issues are very different, for instance, in contact sports versus target sports.

## **Concerns about impacts on women's sport**

### **What about the impact on female sport of the inclusion of transgender women?**

There is no conclusive evidence about the potential impact on female sport from the inclusion of transgender women. It may be that further research into this will be undertaken in the future, either by academics or sports themselves.

The resources have been developed to support the inclusion of transgender participants in community sport. We know transgender people are less likely to be involved in organised sport than the rest of the population, in part, because of concerns around inclusion and acceptance, and that 41 per cent of transgender women are worried about how they would be treated as a transgender or non-binary person in competitive sports. Inclusion, therefore, needs to be the starting point for any discussion about transgender participants in community sport whether they are players, coaches, officials or administrators.

### **Is it fair, in terms of competition, to have transgender women competing against females?**

There is no conclusive evidence that transgender women have an advantage over cisgender peers in community sport. Transgender participants vary in athletic ability just like cisgender participants.

This is something that needs to be considered on a sport by sport basis in thinking about any policies that are developed and how they will be implemented. The issues are very different, for instance, in contact sports versus target sports.

### **Sport NZ have done work to try to keep more young women active, won't this just lead to displacement of young women from sports, or of them not feeling safe to participate?**

Our vision is Every Body Active. While there are significant challenges in teenage participation (particularly among young women) we want all New Zealanders to have access to quality opportunities to be active that meet their needs.

There is no conclusive evidence that transgender inclusion has resulted or will result in a decline in young women's sports participation. Allowing transgender individuals to participate in a sport category that aligns with their gender identity instead leads to an increase in participation for the New Zealand population as a whole.

### **Related work**

#### **Will Sport NZ release more resources in the future?**

Yes, Sport NZ are always looking to support our partners to provide inclusive opportunities for all participants.

#### **What other work does Sport NZ have underway around diversity and inclusion matters?**

We recently launched the [Inclusivity Hub](#), a new resource on the Sport NZ website dedicated to helping ensure sport and recreation is inclusive for everyone. Created specifically for those working in play, active recreation and sport, the Inclusivity Hub provides a range of resources for organisations and individuals wanting to

# Transgender Inclusion

<b>Date</b>	19 January 2024
<b>From</b>	Raelene Castle, Group Chief Executive
<b>Subject</b>	Transgender Inclusion

## Purpose

1. This paper provides an overview of our work on the inclusion of transgender people in community sport.

## Overview

2. Sport NZ published the 'Guiding Principles for the Inclusion of Transgender People in Community Sport' (the Guiding Principles) in December 2022.
3. Sport NZ has developed these Guiding Principles to help individual sports foster an environment where transgender participants are welcome, accepted, comfortable and safe taking part in community sport.
4. They are designed as a guide to help national sports bodies develop their own policies - which we have encouraged and supported them to do - and to help clubs, schools, and other organisations to improve how they include transgender participants, and the matters they need to consider when doing so.
5. The Guiding Principles do not apply to high-performance or professional sport. However, Sport NZ officials have commenced some work to understand the type of support required to assist sport organisations and transgender athletes in high-performance sport environments and those on high-performance pathways.

## The development of the Guiding Principles responded to a need identified by the community sport sector, from research, and to societal shifts.

6. The visibility of transgender, gender diverse, and non-binary people in society is increasing and we have received more frequent requests for assistance from sports organisations around how they should approach the inclusion of transgender participants.
7. We also know from research that transgender people are far less likely to take part in sport, and when they do participate, they are more likely than average to have a negative experience, including because of not feeling safe or included.
8. We are helping sport organisations with this work because playing sport provides many physical and psychological benefits. These include providing the opportunity for people to socialise, build relationships, and engage with their communities. Exclusion from sport can have an alienating effect that can be particularly harmful to transgender people who may have lived experience of mental distress and marginalisation, including chronic and repeated experiences of exclusion, stigma, and discrimination.
9. Participation in sport is a powerful means of social inclusion and is a basic human right. To achieve our vision of 'Every Body Active', sports organisations and clubs play an important role in creating environments where rainbow communities, including transgender people, feel accepted,

comfortable, and safe participating. Transgender people live, work, and play in New Zealand, and it is important our sporting communities reflect this.

**Sport NZ developed guidance, including a set of six guiding principles, to support organisations to include transgender participants in community sport.**

10. The development process included multiple rounds of targeted engagement and consultation with a significant group of stakeholders that included representatives from sporting organisations, transgender and rainbow organisations, academics, government agencies, and advocacy groups.
11. There are six guiding principles made up of an overarching principle of 'inclusion' and five supporting principles, which provide guidance on establishing an inclusive and safe environment:
  - **Inclusion (overarching principle):** Every New Zealander has the right to participate in Sport and to be treated with respect, empathy, and positive regard. Transgender people can take part in sports in the gender they identify with.
  - **Wellbeing and safety:** The health, wellbeing and safety of all participants must be supported.
  - **Privacy and dignity:** The privacy and dignity of all participants must be respected.
  - **Anti-discrimination, anti-bullying, and anti-harassment:** There is zero tolerance for discrimination, bullying and harassment.
  - **Listening and responding:** All participants must be listened to and provided with appropriate channels and mechanisms to raise any concerns.
  - **Education:** Education of ourselves and our communities must be a priority.

**The Guiding Principles are not intended as a Policy position, nor do they include any specific requirements for sports organisations to comply with.**

12. We developed Guiding Principles rather than a set of rules or criteria because a 'one-size-fits-all' approach across every code is not appropriate (e.g., proposed settings may be different for contact vs. non-contact sports). Where changes may be required, it is up to each sports organisation to consider the best way to make them, but inclusion should be the starting point for any discussion about transgender people in community sport, whether they are players, coaches, officials, or administrators.
13. A small number of individuals and advocacy groups have been critical of our work to include transgender people in community level sport. Criticism has largely focussed on the potential impact to women's sport and perceived safety concerns. Comments often focus on gaining a competitive advantage and winning, quickly moving the conversation onto high-performance pathways and competition, and beyond the scope of this work. We have not received a significant number of complaints that involve specific cases of 'unfairness' due to transgender inclusion, and the guidelines have been well received by our partners.
14. Transgender participants make up only a very small percentage of community sport participants and there is no conclusive evidence about the impact on female sport from the inclusion of transgender women. The Guiding Principles also include advice on having mechanisms in place to ensure any competition is comprised of an appropriately similar cohort of players, for example via weight bands and age brackets. Safety in sport is also critical, and sports codes are best placed to use our guidance to manage the inclusion of participants appropriately and safely.

**After publishing the Guiding Principles, Sport NZ formed an implementation working group to identify support needs across the sector.**

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15. The working group included subject matter experts from Sport NZ and representatives from NZ Rugby, NZ Cricket, NZ Football, NZ Netball, Golf NZ, Swimming NZ, School Sport NZ, Waka Ama NZ and Aktive Auckland.
16. The group has focussed on developing further support and guidance to equip the sector with appropriate knowledge, understanding, skills and strategies to give life to the Guiding Principles in their contexts.
17. As part of this work, we have partnered with InsideOUT Kōaro - a leading expert in Aotearoa New Zealand for matters related to the inclusion of rainbow communities - to develop a suite of educational resources on rainbow inclusion which we have shared with the community sport and active recreation sector. These resources go beyond our initial focus on transgender people and were created in consultation with many groups that support members of rainbow communities.
18. We are continuing to support partners with inclusion of transgender people in community sport and physical activity, and more broadly in relation to including rainbow communities. This support is critical for increasing participation and improving participant experiences.

**Our partners have responded very well to the guidance and resources we have provided.**

19. Our partners are engaging in frequent dialogue with our Diversity, Equity, and Inclusion team on how to be more inclusive and provide safer environments for all coaches, officials, staff, spectators, players, and volunteers.
20. Whilst we continue to support our partners with matters related to inclusion, some are however seeking clarity on the Government's position on transgender participation in community sport and how this may impact investment settings.
21. As we look to finalise investments for our community partners, it would be helpful to get a clear directive from you on the Government position, so we can communicate with sports bodies on how best to proceed with this work.

**Our work on community-level guidance has highlighted some potential issues in high-performance sport environments and high-performance pathways.**

22. The Guiding Principles do not cover high-performance sports, which are generally governed by the policies of international sports federations. International Federations in several sports have released policies concerning transgender people competing at various levels, including conditions related to transition timelines (e.g., pre/post-puberty) and testosterone levels over time.
  23. In the consultation phase of developing the Guiding Principles, sporting organisations pointed to issues for those needing to navigate pathways to high performance sport and with defining the line between community and high-performance competition.
  24. Sport NZ do not hold a record of the number of transgender athletes competing at any level in New Zealand. However, we are looking to better understand the type of support required to assist sport organisations and transgender athletes in high-performance sport environments including on navigating International Federation policies and maintaining athlete wellbeing.
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# Transgender Inclusion Sport Sector Policy Update

Provided to Minister's office on 30 Apr 2024

<b>To</b>	Minister for Sport and Recreation
<b>Date</b>	30 April 2024
<b>Subject</b>	Sport Sector Transgender Inclusion Policies
<b>From</b>	Raelene Castle, Group Chief Executive
<b>Sensitivity</b>	In Confidence

## Purpose

1. This paper responds to your written request for information about the policies Sport NZ funded sporting bodies have in place to appropriately include transgender people in community sport.

## Recommendations

2. **Note** Sport NZ's response to your request for information about the policies funded sporting bodies have in place to include transgender people in community sport.

### **Sport NZ published the 'Guiding Principles for the Inclusion of Transgender People in Community Sport' in December 2022**

3. Sport NZ developed guidance, including a set of six guiding principles, to help individual sports foster an environment where transgender participants are welcome, accepted, comfortable and safe participating in community sport. The Guiding Principles responded to a need identified by the community sport sector, from research, and to societal shifts.
4. The Guiding Principles are not a Policy position, nor do they include any specific requirements for our partners. However, the guidance has been well received and a number of organisations that we provide with investment have either developed a policy concerning the inclusion of transgender people or are in the process of doing so, some with direct support from a Sport NZ led implementation working group.<sup>1</sup>

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<sup>1</sup> The group included experts from Sport NZ and representatives from NZ Rugby, NZ Cricket, NZ Football, NZ Netball, Golf NZ, Swimming NZ, School Sport NZ, Waka Ama NZ and Aktive Auckland.

5. As part of this work, we partnered with InsideOUT Kōaro to develop a suite of educational resources on rainbow inclusion which we have shared with the community sport and active recreation sector. These resources – developed in response to sector needs - go beyond our initial focus on transgender people and were created in consultation with many groups that support members of rainbow communities.
6. We consider this work an important part of our diversity equity and inclusion work programme and see value in continuing to support our partners. Our partners are seeking ongoing clarity from Sport NZ and there is demand for continued advice and clear communication.

### **A number of sports codes have developed policies on transgender inclusion**

7. In response to your letter of 19 February 2024, we reached out to organisations who have received investment from us either as a part of a formal partnership agreement or as funding for specific programmes to seek information on current and prospective transgender inclusion policies.
8. We received a high number of responses to our request (n=63). Out of these, 18 (29%) codes stated that they have a transgender inclusion policy in place. Of the 18, 11 (61%) used Sport NZ's guidance to help develop their policy. 45 (71%) organisations do not have a policy, but just under half (21) of these are currently developing one. Those developing a policy are aware of our guidance and many are using it. Others are using our guidance to update existing policies. A table showing which organisations do or do not have a policy is provided in **Appendix One**.
9. Many of the policies in place prioritise inclusion of people in the gender they identify with, at the community level. However, there are some exceptions, including to ensure fairness of competition and the safety of participants. These include:
  - Creating open categories which anyone, including transgender people, can participate in. Triathlon NZ is an example of a code which has established an open category.
  - Setting age and stage conditions for inclusion of transgender people in the gender they identify with. For instance, NZ Rugby League has a policy that at age 13 and over participants must participate in the gender they are assigned at birth.
  - Requiring, at certain levels of the sport, that participants have either undergone hormone therapy, have testosterone levels below a stated level for a period of time, or providing a document confirming their legal gender. For instance, Netball NZ have taken this position for non-elite level Zone and Centre competitions. This approach is more in line with many International Federation positions for high-performance sport.
10. The policies developed thus far are in line with our expectations. As you know, we have taken the approach that sports codes are best placed to use our guidance to manage the inclusion of participants appropriately and safely, and that they will determine what conditions best maintain fair competition. A 'one-size-fits-all' approach across every code is not appropriate and what we are seeing are considered, flexible and bespoke positions based on the specific nature of a particular code. Many of these positions start with inclusion where possible and support our strategic aspiration of Mauri Tū, Mauri Ora - every body active, in their way, every day.

### Several organisations are currently developing a policy, some supported by Sport NZ

11. 21 organisations have confirmed that they are developing a policy for the inclusion of transgender people in their code. The vast majority of these are looking to include transgender people in the gender they identify with. Again, there are some exceptions where organisations are considering what is fair and safe for their code, and some examples where the code is adopting their International Federation's policy.
12. Most of the organisations have advised that they are using our Guiding Principles to develop their policy position. NZ Rugby are one such code developing a policy with our support, which may have some age and stage conditions (for safety reasons) but will prioritise inclusion where possible.
13. NZ Rugby have previously endorsed this work, and commented during this information request that *“NZ Rugby wants everyone to have an opportunity to meaningfully participate and be a part of the rugby community, ideally allowing people to play in the gender with which they identify and ensuring that rugby clubs (and schools) are inclusive and supportive of all their members... Given the barriers to sport and level of discrimination faced by sex and gender diverse people, NZ Rugby considers it important that such people participating at lower levels of the game do not face further restrictions (when these have not yet been justified).”*

### Some organisations do not have a policy in place and are not currently working on one

14. The Guiding Principles are not intended as a Policy position, nor do they include any specific requirements for sports organisations to comply with. Therefore, we do not expect sports to engage with this work in a formal capacity, nor would we push them to do so.
15. This said, most organisations without a policy in place have an inclusion first approach for the participation of transgender people in the gender they identify with. Others are mixed gender codes – which is a common way to participate in many activities - so do not require a policy.
16. Some codes have not considered a policy position because they are working on other priorities, whilst others are looking to align with their International Federation.
17. We would note that the majority of the organisations who do not have a policy are small national sports organisations with few or zero full time paid staff, and a relatively small participation base.

### Your letter also states an interest in our comments on any circumstances where policies or rules do not support fair competition.

18. We do not have any evidence of a code specific policy position or set of rules which prohibit fair competition. We maintain that inclusion should be the starting point for any discussion about transgender people in community sport, whether they are players, coaches, officials, or administrators. Sports codes are considering the best way to make changes to their policies where appropriate and are acting in good faith to better include people, irrespective of their gender and sexuality.
19. Where support is required, Sport NZ will continue assisting organisations who are developing policies on transgender inclusion, and more broadly with rainbow inclusion.



## Recommendations

It is recommended that you

- 1 **NOTE** Sport NZ's response to your request for information about the policies funded sporting bodies have in place to include transgender people in community sport

**Noted**

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**Hon Chris Bishop**

Minister for Sport and Recreation

Name	Role	Telephone	1st Contact
Katy Cook	Group Policy Manager	s9(2)(g)(ii)	
Raelene Castle	Chief Executive	s9(2)(g)(ii)	X

## Appendix One: Overview of information received on Transgender Inclusion Policies

Table shows extent of policies in place regarding inclusion:

Have a Policy	Currently Developing a Policy	NO Policy and NOT developing one
AFL New Zealand	Athletics NZ	Blind Sport NZ
Archery NZ	Baseball NZ	Boccia New Zealand Inc
Badminton New Zealand	Basketball New Zealand	Canoe Slalom NZ Inc
Bowls New Zealand	Canoe Racing New Zealand	Croquet New Zealand
Cycling NZ	Golf NZ	Flying New Zealand
Judo New Zealand	Halberg	Gliding New Zealand
MotorSport New Zealand	Hockey New Zealand	Gymnastics New Zealand
Netball New Zealand	New Zealand Darts Council	Karate New Zealand
New Zealand Cricket	NZ Ice Figure Skating Assoc	Marching NZ
NZ Shooting Federation	New Zealand Rugby	New Zealand Alpine Club
NZ Rugby League	NZ Curling Association	NZ Billiards and Snooker Assoc
School Sport NZ	NZ Ice Hockey Federation	New Zealand Māori Golf
Scouts Aotearoa	NZ Outdoor Instructors Assoc	New Zealand Polocrosse Inc
Softball New Zealand	NZ wheelchair rugby	NZ Pony Clubs Assoc
Table Tennis New Zealand	Orienteering New Zealand	NZ Powerchair Football
Triathlon NZ	Recreation Aotearoa	NZ Wheelchair Tennis
Volleyball New Zealand	Special Olympics NZ	NZ Water Ski Association
Waka Ama NZ	Squash NZ	Paralympics New Zealand
	Swimming NZ	Petanque NZ
	Touch New Zealand	Snow Sports New Zealand
	Yachting New Zealand	Speedway New Zealand Inc
		Surf Life Saving NZ
		Surfing New Zealand
		Te Huinga Tākaro o Aotearoa

# Meeting with InsideOUT & Gender Minorities Aotearoa

Provided to Minister's office on 5 September 2024

## Purpose

1. This aide memoire supports your meeting with s9(2)(a) (InsideOUT Kōaro) and s9(2)(a) (Gender Minorities Aotearoa) and provides a high-level summary of both organisations and their work with SportNZ.
2. Biographies are provided as **Appendix 1**.

## Meeting

3. On Thursday 12<sup>th</sup> September you are scheduled to meet with s9(2)(a) and s9(2)(a) between 11.45am and 12.15pm in your office.
4. The purpose of the meeting is to discuss the inclusion of rainbow communities, especially transgender people, within the Play, Active Reaction, and Sports (PARS) areas.

## Background Information

### InsideOUT Kōaro

5. InsideOUT Kōaro is a national charity working to make New Zealand safer for all rainbow and takatāpui (Māori who identify with diverse genders, sexualities, and sex characteristics) people. They provide resources, workshops, consulting, advocacy and support for rainbow (LGBTQIA+) communities.
6. Their vision is for all rainbow and takatāpui young people to have a sense of safety, wellbeing and belonging in their schools, workplaces and communities and they offer guidance and professional development opportunities to support their goals.

### Gender Minorities Aotearoa

7. Gender Minorities Aotearoa is a nationwide transgender human rights organisation. It is run by and for transgender people, including binary and non-binary, takatāpui, and intersex trans people. Their vision is to support transgender people of all ages, cultures, and backgrounds so they can participate fully within New Zealand society, and they provide a range of information, advocacy, and support services to achieve their goals.
8. They operate within the kaupapa Māori public health framework, Te Pae Māhutonga, which focuses on Mauriora (cultural identity), Toiora (healthy lifestyles), Waiora (physical environment) and Te Oranga (participation in society) and their aim is to facilitate health and well-being for

transgender populations which includes physical, mental, emotional, spiritual, and social support.

### **Sport NZ Supports the Rainbow Community**

9. In December 2022 Sport NZ released the '*Guiding Principles for the Inclusion of Transgender People in Community Sport*'. The guiding principles were designed to help and encourage sport and recreation organisations, particularly at a national level, to have a policy for transgender inclusion (this could include amending existing policies or creating a new transgender policy).
10. The aim is to foster an environment where transgender participants are welcome, accepted, comfortable and feel safe participating in community sport, and to help national bodies develop their own policies to support clubs, schools and other bodies to improve how they approach the inclusion of transgender participants, and the matters they need to consider when doing so.
11. The guidelines are important because participation in sports is a powerful means of social inclusion, is a basic human right and the opportunity to take part in sports should be available to everyone, regardless of their gender. Transgender people live, work and play in New Zealand, and it is important our sporting organisations and communities reflect this.
12. In December 2023 SportNZ created '*Rainbow Awareness and Inclusion Resources*' to further support the sport sector in applying the transgender guiding principles. They were a series of E-learning modules aimed at enhancing our knowledge and awareness of LGBTQIA+ communities and included a working group with representatives from NZ Rugby, NZ Cricket, NZ Football, NZ Netball, Golf NZ, Swimming NZ, School Sport NZ, Waka Ama NZ and Aktive.
13. A Request for Proposal was developed to ensure that subject matter experts could be utilized to create the E-learning modules. A contract for services, worth \$40,000, was awarded to InsideOUT Kōaro who partnered with Gender Minorities Aotearoa to design and deliver the product.
14. Sport NZ's Diversity, Equity and Inclusion Team worked closely with 9(2)(a) to ensure the resources responded to the needs of the community sport sector.

**Appendix 1 - Biographies**

9(2)(a)	InsideOUT Kōaro
s9(2)(a)	

9(2)(a)	Gender Minorities Aotearoa
s9(2)(a)	

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# Summary from External Consultation on Guiding Principles for the inclusion of transgender people

Provided to Minister's office on 10 September 2024

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## Purpose

1. The purpose of this aide memoire is to provide you with an overview of feedback received by Sport New Zealand (Sport NZ) as part of the consultation process on the development of the Transgender Guiding Principles.
2. **A full overview of feedback received has been provided at Appendix 1.**

## Sport NZ published the 'Guiding Principles for the Inclusion of Transgender People in Community Sport' in December 2022

3. Sport NZ developed guidance, including a set of six guiding principles, to help individual sport organizations foster an environment where transgender people are welcome, accepted, comfortable and safe participating in community sport. The Guiding Principles responded to a need identified by the community sport sector, from research, and to societal shifts.
4. As part of the process of developing the Guiding Principles, Sport NZ provided opportunities for individuals, groups, and organisations, to provide written and verbal feedback through a series of seminars and webinars. This took over 6 weeks between 2 June 2022 and 15 July 2022.
5. The purpose of this final external consultation phase was to:
  - raise awareness across the community sport sector that this guidance would soon be in play;
  - provide an opportunity for our sector stakeholders to check that the approach we have taken in the guiding principles is easy to understand, relevant, and fit for purpose;
  - support sports codes and community sport entities to consider the work they would likely need to consider should they choose to implement the guiding principles; and
- ensure Sport NZ could get feedback on the support the sector will need for successful

implementation.

6. These opportunities for consultation fostered supportive and effective discussion both with Sport NZ, and between sector stakeholders, on the Guiding Principles and their implementation. They also provided a chance for stakeholders to ask questions and provide feedback both via email and during the workshops.
7. A total of 20 email submissions were received which have been summarized for your information in Appendix 1.
8. Following the feedback process, Sport NZ reviewed all responses and adopted much of the feedback provided as part of this process, for example, a number of written responses noted the use of the word 'paramount' in earlier iterations which was removed from the final document.
9. It is important to note that the feedback provided from National Sport Organisations was supportive of the implementation of the Guiding Principles, and the feedback was mostly around wording of the policy, typos and administrative feedback and questions.
10. The Guiding Principles are not a Policy position, nor do they include any specific requirements for our partners. However, the guidance has been well received and a number of organisations that we provide with investment have either developed policies or are in the process of doing so, while others have reviewed their processes and practices to enhance the inclusion of transgender people in community sport. We provided you a briefing summarizing this work earlier this year (BRF-13545 refers).

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**December Appendix 1 – Summary table of external consultation on the Transgender Guiding Principles**

DISCLAIMER: All feedback provided in the table below has been taken verbatim, full copies of each item are available on request.

**Overall comments**

Who	Feedback
Ministry of Education <span style="background-color: black; color: red;">s9(2)(a)</span>	<ul style="list-style-type: none"> <li>• While this paper is great in its inclusion of binary trans people, it doesn't speak much to the inclusion of people whose genders are outside the binary, other than allowing people to play in the binary gender that "best reflects" their gender. But for many gender-diverse people, though their body may be viewed as fitting the category of a particular binary gender, it's painful to continue to be forcibly viewed that way by society, and gendered rules around sporting codes are a continuation of that. This is especially important for young people, who are just forming their gender identities and need encouraging environments to explore this in. Aware that this is a hard one, as gender has been historically baked into sport so deeply, but wondering whether you're having conversations about creating sports spaces that aren't defined by gender, particularly at this community sports level? Would be really interested in these kinds of discussions.</li> <li>• There is not a lot of specific discussion on children and young people, so there may be scope for more inclusion of the specific issues school-aged kids and school sports codes might face in this space. Maybe it's best as some follow-up, more specific guidance for schools and interzone organisations, depending on what you hear back from school-focused organisations in this round of consultation.</li> </ul>
Motu Kairangi Netball Chair <span style="background-color: black; color: red;">s9(2)(a)</span>	<ul style="list-style-type: none"> <li>• Firstly, I am concerned that grassroots community has not been included in the consultation process. There is no copy of the draft Guiding Principles available on the website to enable discussion within community sport organisations, nor has the consultation been mentioned in SportNZ e-newsletters to community sport organisations. In section 3 of the document, there is guidance for sports organisations on how to consult when developing policy with the quote "<i>Nothing about us without us.</i>" Yet this policy has been written for community sport without "<i>full participation of</i></li> </ul>

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	<p><i>members who are affected by this policy.</i>" Given that the expectation is that sporting codes will develop their <i>"own policies based on the guiding principles"</i> the opportunity to participate in the development of the guiding principles should have been far more open.</p> <ul style="list-style-type: none"> <li>Secondly, I am concerned about the use of the word <i>"paramount"</i> within the guiding principles, without any limitation or context. Every decision a community sports organisation makes involves balancing priorities (inclusion, safety, fairness, resources, risk). Many decisions impact on inclusion - the time games are scheduled; the fees to play the season; the uniform requirements; the rules on substitutes and playing out of grade; umpire qualification requirements; and the location of the competition are some examples. To make a sole principle - any sole principle - paramount, by definition makes every other factor secondary, and removes the ability to try and balance priorities for the best overall result for all involved. Further, the current wording of the principles make the inclusion of a particular group of players of greater importance than the inclusion of any other group of players. Is this the intended purpose of this principle?</li> </ul>
<p>Aktive 9(2)(a) [REDACTED]</p>	<ul style="list-style-type: none"> <li>Noted that there can be damage from the current gender binary applied in sports. See there is an opportunity to create open, non-gendered spaces and event for all people to participate in.</li> </ul>
<p>Athletics New Zealand 9(2)(a) [REDACTED]</p>	<ul style="list-style-type: none"> <li>Consider should have wider scope, covering all of sport, attempts to separate Community Sport from HP sport, not based in reality – is a continuum</li> <li>Most challenges in athletics in the ‘competitive community’ area, where Athletics may impose restrictions to align with World Athletics policy – do not consider GPs provide helpful guidance to support sports in this regard. Noted may not be able to align with both World Athletics and Sport NZ guidance</li> <li>Consider guidance takes a strong ideological position, doesn’t support actionable guidance codes can use</li> </ul>

Rainbow Tick 9(2)(a)	<ul style="list-style-type: none"> <li>• We fully support the intent of the guiding principles and commend Sport NZ on an excellent document and thorough process to develop it. The document clearly spells out every area of consideration, gives practical examples to aid people to understand the importance of an inclusive community sport environment for trans and non-binary participants, and includes a comprehensive glossary. It is visually well set out, provides great references and is very well researched with the latest local data.</li> <li>• We wholeheartedly agree with the assertion that trans and non-binary communities should be able to participate in sport at all levels and to enjoy the benefits it offers them – for the purposes of this process we acknowledge your focus is on sport at the community level. We believe this set of guidelines is comprehensive enough to be of enormous value to community sporting organisations in their development of trans and non-binary inclusive policies and flexible enough to be adapted to the nuances of different sporting codes.</li> <li>• We agree that education is key to embedding the values of trans and non-binary inclusion and we commend you for such a strong focus on this aspect of the guidelines. This must also be balanced with the idea that the emotional burden of education shouldn't only fall on the shoulders of trans and non-binary communities and that allies and advocates play a vital role in upskilling, raising awareness and increasing confidence of their peers.</li> </ul>
Boxing New Zealand 9(2)(a)	<ul style="list-style-type: none"> <li>• Did not provide feedback on the document itself, rather provided feedback on inclusion of transgender participants in Boxing including detail on the challenges they have encountered through work undertaken to consider it.</li> <li>• Noted Boxing competitions continue to be run in male and female (as identified at birth) categories, understanding is its current policy does not provide for inclusion of transgender participants in those.</li> <li>• Further engagement undertaken with Boxing NZ on this and will work with them around implementation issues specific to combat codes.</li> </ul>

<p>Save Women's Sport Australiasia</p> <p>9(2)(a)</p>	<ul style="list-style-type: none"> <li>• The presence of a biological female and male category creates inclusion.</li> <li>• Human Rights Act provide grounds to separate sporting categories based on biological sex.</li> <li>• Community sport is the pathway to elite sport and the guiding principles risks impacting female participation and inclusion at all levels.</li> <li>• Including transgender women in the female category will negatively impact women's participation levels, health and safety.</li> </ul>
<p>9(2)(a)</p>	<ul style="list-style-type: none"> <li>• Believes the GP's do not rely on objective scientific data, and instead is based on non-peer reviewed subjective commentary.</li> <li>• The document heavily favours the voice of transgender participants and not biological female voices. Their rights to wellbeing, safety, privacy, dignity, discrimination, harassment and bullying are essentially ignored.</li> <li>• Safety and fairness deserve priority over inclusivity.</li> <li>• The definition of sex assigned at birth is scientifically incorrect, and sex is immutable.</li> <li>• Cannot separate community and elite sport, as it is a pathway for female athletes.-</li> <li>• Ignores the impacts of male pubertal testosterone levels.</li> <li>• Policy on transgender participants inclusion in comm sport cannot be universal and NSO's must consider where they sit on the spectrum of gender affected sport.</li> <li>• Physical activity for all is an unalienable human right. But the line should be drawn when transwomen seek inclusivity in women's sport after their development has been enhanced through pubertal influences. The credibility of objective scientific data must outweigh subjectivity, which is at best an unhelpful criterion and very blunt instrument.</li> <li>• In conclusion, my sincere belief is that Sport New Zealand must remain neutral in this divisive debate, providing the same dignified leadership displayed by the combined UK</li> </ul>

	Sports Councils.
Gender Minorities Aotearoa	<ul style="list-style-type: none"><li>• Very supportive of the Guiding Principles and state that they are happy to endorse these guidelines as they stand.</li></ul>
Diving NZ	<ul style="list-style-type: none"><li>• Submitted a survey of Diving NZ members based on the Guiding Principles.</li></ul>
outside of scope	
9(2)(a) [redacted] AUT	<ul style="list-style-type: none"><li>• Thank you for the opportunity to feedback on the DRAFT '<i>Guiding Principles for the Inclusion of Transgender Participants in Community Sport</i>'. It's a comprehensive document and I look forward to the webinar process.</li><li>• 9(2)(a) [redacted] [redacted] [redacted] [redacted] [redacted]</li><li>• outside of scope [redacted] [redacted]</li></ul>

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	<ul style="list-style-type: none"> <li>The DRAFT principles paper is, in my view, a most worthy document.</li> </ul> <p>OUT OF SCOPE</p>
Netball NZ, s9(2)(a)	<ul style="list-style-type: none"> <li>This is an incredibly in depth document, I thoroughly enjoyed reading it 😊</li> <li>Nothing to add.</li> </ul>
s9(2)(a) NZ Olympic Committee	<ul style="list-style-type: none"> <li>On the whole, the document is great. Just a couple of points:</li> <li>There is a substantial amount of work being done by International Federations in the Transgender space. There is an assumption this may only be relevant for elite sport but that may not be the case. This is unclear at this point, so there should be reference to participation being subject to the eligibility criteria of the International Federation (not just for elite sport).</li> <li>All sporting organisations must ensure they consider the health and safety of all their participants as well as provide for fair and meaningful competition for all participants, inclusion does not override these considerations and is therefore, is not paramount. Accordingly, I think the first point is inherently misleading as says:  <i>“Inclusion of transgender participants in community sport is paramount. Transgender participants can take part in the sport in the gender they identify with.”</i></li> </ul> <p>This should read something to the following effect:</p>

	<p><i>“Inclusion of transgender participants in community sport should be encouraged and facilitated.”</i></p> <ul style="list-style-type: none"> <li>• There should also be an acknowledgement that sport is currently binary. While this doesn't impact administrators and officials, it does impact participants and should be noted to avoid confusion.</li> </ul>
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**Feedback and implementation of the Guiding Principles:**

Who	Feedback
<p>Aktive <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• Through discussions, noted need for educations for the community above all else. How do you ensure access for everyone (for example volunteers and parents) and what can be provided alongside educational resources, to ensure the GPs become practice. ‘The overwhelming feedback on this document is that to make progress towards including transgender people in community sport, a pragmatic plan with resourcing must be put in place to ensure these guiding principles are carried out.’ Some suggestions of educational resources that could sit alongside this document were:             <ul style="list-style-type: none"> <li>○ An education resource specific to the contexts of sport and active recreation in Aotearoa New Zealand, made in partnership with a Rainbow-focused agency.</li> <li>○ One- and two-page summative documents that are simple, visual and would provide "building blocks" of knowledge on this topic to someone regardless of their starting point, either that already exist and could be linked on the Sport NZ website, or made in partnership with a Rainbow-focused agency.</li> </ul> </li> <li>• These could fill in any knowledge gaps that are sometimes taken advantage of when misinformation spreads, and could include:             <ul style="list-style-type: none"> <li>○ "Trans101" - simple bullet points on the basics,</li> <li>○ What a medical transition may consist of, how age impacts access to medical transition, how it can impact a transgender person holistically,</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>○ What a hormonal transition may consist of (including less known information, such as that there is no standard way to hormonally transition yet, and there is a huge variety of results depending on person's environment, genetics, etc.),</li> <li>○ Empathy tools, such as transgender people in different levels of community sport sharing their stories,</li> <li>○ Education on the administrative side of being a transgender person, and why people might not have affirming paperwork (this would underscore the guiding principle of not requiring said paperwork at a community sport level),</li> <li>○ Education on the variation within cisgender participants (as opposed to between cis and transgender participants)—that is, there is more variation between different cisgender women than there is between cis women and cis men. We believe this will help dispel myths around transgender women having unfair advantages.</li> <li>● Download resources, such as: <ul style="list-style-type: none"> <li>○ Forms for player registration without gender requirements,</li> <li>○ Forms that ask for pronouns, and when to use them (such as the example on the above),</li> <li>○ Examples of inclusive policy a N/RSO could adopt.</li> </ul> </li> <li>● Resources tailored to specific communities, created with Rainbow members from those communities, and translated into the applicable languages for dissemination.</li> <li>● Also noted need for: <ul style="list-style-type: none"> <li>○ In-person rainbow competency training,</li> <li>○ Crucial to engage schools,</li> <li>○ Also consider need for 'human-resources' with lived experience – provide connections, be a go-to contact for challenges as they arise etc.</li> </ul> </li> <li>● Facilities – cost considered a major barrier to being able to provide these. Noted early</li> </ul>
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	<p>findings of research showing that facility’s ability to cater for TG people is a defining factor for participation.</p> <ul style="list-style-type: none"> <li>• Safety and Fairness – Noted points on this for transgender participants, around injury risk due to binding/tucking, ensuring requirements are not onerous for TG participants over other participant</li> </ul>
<p>Canoe Racing NZ <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• Some further support/guidance on how to deal with some of those reasons why being inclusive may be challenging for some sport and balancing the opposing arguments that we may encounter would be well-received.</li> <li>• Guidance on supporting/educating our community on the differentiation between community and elite sport would be useful – can be difficult to differentiate.</li> <li>• Could a similar approach be taken with the transgender community as with the disabled sport community, where both inclusive and exclusive opportunities are offered? <small>Note - this response was in regard to the implementation of the Transgender Guiding Principles</small></li> <li>• The education piece is paramount to this so any resources, tutorials etc you can offer to all stakeholders (NSOs, clubs, officials, participants, parents, coaches etc) would be of great value.</li> </ul>
<p>Surf Life Saving <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• To pivot a sport to operationalise these principles is potentially beyond the resources and capabilities of many NSOs. It is also unlikely to be a high priority, and it is unfair for Sport NZ to unilaterally set a very high bar that sports then feel obliged to meet.</li> <li>• NSO’s have limited resources (and there is a difference between smaller and larger NSO resourcing) and they are already focusing on making their sport more inclusive to a range of groups. Transgender participants may not be the highest priority group.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Ways Sport NZ can support Surf Life Saving NZ:             <ul style="list-style-type: none"> <li>○ Widen the scope around inclusion initiatives for a number of other minority groups or those who traditionally find sport inaccessible.</li> <li>○ Additional funding for new initiatives in this area, otherwise resources will need to be taken away from other areas to tackle this (zero sum game).</li> <li>○ Personal &amp; professional development opportunities and education resources, for club, regional and National level staff and volunteers, e.g. Hui's, workshops, domestic and international examples and best practice on inclusion and policy development and implementation process.</li> <li>○ Lead collaboration opportunities (we are all trying to solve the same problems)</li> <li>○ Share NSO submissions regarding this piece of work for all NSOs to consider</li> </ul> </li> </ul>
<p>Tennis NZ <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• Tennis NZ sees this guidance as an extremely positive step, and having the support of Sport NZ to lead the sector on this subject is gratefully received. Tennis would very much like to ensure that the sport is accessible and welcoming to transgender players, volunteers or supporters. I think the main feedback we would like to give includes:             <ul style="list-style-type: none"> <li>○ We will require lots of support and guidance for navigating the physicality of sport especially when relating to transgender women and speed and strength differences</li> <li>○ Also of importance is access to support and guidance specifically relating to individual sports. For example, how transgender players might need more support or considerations in an individual sport, compared to team environments</li> <li>○ Education for players, leaders and administrators, particularly relating to the above points as this is where most of the debate/mis-understanding/un-acceptance can stem from</li> <li>○ Sport NZ to provide lots of supporting material for all scenarios that sports can pick and choose from to build their own approach. It would be great to have a</li> </ul> </li> </ul>

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	marketing suite of tools like soundbites, statistics, examples, snippets from studies that we can use to curate an approach or have on hand to proactively approach, or respond to specific challenges.
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### Foreword section

Who	Feedback
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>• Include word 'on-going' (para 3, p. 3)</li> <li>• Seems to be a word missing – include 'supporting' (para 5, p. 3)</li> </ul>

### Glossary section

Who	Feedback
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>• Include how important it is to use the right language to show respect for people's self-determination (para 2, p. 5).</li> <li>• Ally definition – suggested rewording to make more active.</li> <li>• Discrimination definition – suggest adding that the HRC interprets sex as grounds for discrimination to include gender identity and expression.</li> <li>• Pronoun definition – consider changing to pronouns.</li> <li>• Rainbow communities' definition – consider a separate definition for endosex.</li> <li>• Safety definition – to include free from harm.</li> <li>• Transgender definition – suggested rewording.</li> </ul>
Aktive s9(2)(a)	<ul style="list-style-type: none"> <li>• Inclusion of Pacific communities: We tautoko the inclusion of a definition of MVPFAFF+ peoples in this document and respect the work of LeVa that has been quoted. However, we encourage Sport NZ to awhi and platform any potential future of Rainbow Pacific people on MVPFAFF+ experiences as that work is released to the</li> </ul>

	<p>public, as a primary source of MVPFAFF+ education.</p> <ul style="list-style-type: none"> <li>• Sex characteristics: We tautoko Gender Minorities Aotearoa's definition of sex as "the system for assignment and classification of people as male or female based on perceptions of their physical anatomy", however this document did not go into how a transgender person's medical transition change their sex characteristics. This may be a helpful piece of education, and dispel any harmful misinformation on what "biological sex" is.</li> <li>• Neopronouns: may be used by people in the transgender community, this could be worth including. (<a href="http://www.insideout.org.nz/33038-2/">www.insideout.org.nz/33038-2/</a>)</li> </ul>
<p>9(2)(a)</p>	<ul style="list-style-type: none"> <li>• The glossary is very long – could commonly used terms be up the front of the document and longer definitions towards the back? Especially as terms are defined when used throughout the document.</li> <li>• Gender affirmation, suggested rewording to make less clunky.</li> <li>• Gender diverse – revise some of the wording around 'gender diverse' and also include an explanation that transgender people can either be binary or non-binary.</li> <li>• Intersex – provides a contact to get a definition from. 12 footnote, correcting the number from 3 to 4.</li> <li>• MVPFAFF+ correction of spelling and removal of rae rae as derogatory.</li> <li>• Pronoun – insertion of wording "including many non-binary people."</li> <li>• Rainbow communities – change to and/or. Perhaps include second para as a footnote.</li> <li>• Tanagata ira tāne – suggested rewording.</li> </ul>

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**Background section:**

Who	Feedback
Ministry of Education s9(2)(a)	<ul style="list-style-type: none"> <li>Noted more common to use 'transitioning over 'gender affirmation' (para 4, p. 12)</li> </ul>
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>Consider including gender-diverse and non-binary too (para 2, p. 12)</li> <li>Further clarification required (minor wording) (para 4, p. 12)</li> <li>Suggest another word than 'choice' to reaffirm that gender identity is not a choice or a phase (para 5, p. 12)</li> <li>Ensuring transgender participant meaning is consistent through doc, and whether it does/does not include non-binary/gender diverse (para 7, p. 12)</li> </ul>
s9(2)(a)	<ul style="list-style-type: none"> <li>Have Intersex Aotearoa been consulted about included/not including intersex specific guidance and any further work that may be specific to intersex.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>Insert sentence - it is important to respect the person's privacy. (para 5, p. 12)</li> </ul>

**Guiding Principles - Inclusion section:**

Who	Feedback
Ministry of Education s9(2)(a)	<ul style="list-style-type: none"> <li>'Better to say 'self-determined binary gender' and use the phrase 'binary gender' to refer to any situations like referring to sports codes where there's only the two options throughout the paper, only using 'gender' more broadly when talking about all genders - this helps with non-binary inclusivity' (p.15)</li> <li><i>Leadership section</i> (p.15) - Say 'transgender people' here - it's not great practice to use transgender as a noun'</li> </ul>
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>Do we mention the place of an open category some international codes have decided</li> </ul>

	<p>to adopt and that they can actually be considered a form of exclusion of transgender people as they do not allow for self-determination?</p> <ul style="list-style-type: none"> <li>• In light of FINA's gender 'inclusion' policy, I wonder if there's any space here to discuss the issue of gender-neutral/open categories.</li> <li>• The way that FINA has interpreted 'inclusion' is by forcing trans women athletes to compete in an open category, which ironically is a form of exclusion as it allows no space for self-determination. Though this is an elite sport context, it might be that some community sport bodies decide to do something similar in the name of 'inclusion', in which case it should be addressed here.</li> <li>• In some ways having an open category, as long as participants can choose to play in, could open up space for non-binary participants to play and break down some of the binary gendered divisions. The key is supporting participants in their choice about where they feel most comfortable!</li> <li>• Do we highlight in this section the higher rates of mental health challenges amongst the trans population? (Noted by InsideOUT in the last paragraph of p. 14).</li> <li>• Should there be a footnote citation for Touch Football Australia example? (p. 15)</li> <li>• Change transgender to transgender people (p. 15, first para under Leadership)</li> </ul>
<p>Aktive <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• Language: While language such as 'self-determined' has the good intention of being inclusive, it adds redundancy to the document. We truly believe transgender women are women, and transgender men are men, therefore, we can be inclusive with our language and just say 'women' or 'men'.</li> <li>• For this reason, we suggest an edit on page 15: "An inclusive transgender policy allows individuals to take part in their self-determined gender and not the sex/gender they were assigned at birth."</li> </ul>
<p>Surf Life Saving NZ <span style="background-color: black; color: red;">s9(2)(a)</span></p>	<ul style="list-style-type: none"> <li>• Determining that the "Inclusion of transgender participants in community sport is paramount" is problematic. Paramount is defined as "being more important than</li> </ul>

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	<p>anything else” and is therefore interpreted to mean setting it above all other priorities and the rights of others, which is not inclusion, but favouritism</p> <ul style="list-style-type: none"> <li>• In reality, the transgender community is a very small part of society, so for Sports to adopt the principle to give any group rights that are paramount to all their other participants will cause division and conflict. Surely the intent is to have rights equal (or no less) than any other participant?</li> </ul>
s9(2)(a)	<ul style="list-style-type: none"> <li>• Clarification on the survey results.</li> <li>• Suggested rewording under heading “transgender inclusion policy”.</li> <li>• Change transgender to transgender people under “leadership” heading. And reword first bullet as we can’t always know who is a transgender person.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>• Suggested rewording from ‘in’ to ‘as’ (p.15, first para under ‘Transgender inclusion policy’.</li> <li>• Add full stop in first para of Ra example.</li> <li>• Make sure we say transgender people not just transgender.</li> </ul>

**Guiding Principles – Wellbeing and Safety section:**

Who	Feedback
Ministry of Education s9(2)(a)	<ul style="list-style-type: none"> <li>• Under <i>Travel</i> 'Would also recommend including that this conversation should be had with the trans player privately, rather than discussing it in front of the whole team.</li> <li>• Also recommend that the privacy section (below) should reflect the idea that discretion around a trans person’s gender should be the default until coaches or managers have had a chance to discuss this with the person and determine what level of disclosure they’re comfortable with. This doesn’t just relate to the disclosure of their transness, but also considerations like the above around sharing a room, in which they are treated differently from their cis peers – these conversations should be had privately</li> </ul>

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	unless the player has indicated otherwise.' (p.19)
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>• Suggested word change – including to such as, to avoid repetition (p. 18, first para under Active Steps)</li> <li>• Comment around Facilities and asking individuals what they would prefer to use. Instead suggest making it clear that people can use facilities of their choice (without abusing this) putting the onus less on the individual and create wider awareness and accountability for all involved (p. 18).</li> </ul>
s9(2)(a)	<ul style="list-style-type: none"> <li>• Under facilities, reword as might not always know who is a transgender person.</li> <li>• Under uniforms, this might benefit other participants too, including for cultural and religious reasons.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>• Under facilities, say so all people can use them safely and comfortably.</li> <li>• Break sentence up between facilities and however. (p. 18) It is appreciated many sports organisations will be operating with older facilities, however, where possible the following changes could be considered to make facilities more welcoming:</li> <li>• Move changing signage above bathrooms to top of list as possibly the easiest and cheapest (p.18).</li> </ul>

**Guiding Principles – Privacy and Dignity section:**

Who	Feedback
Ministry of Education s9(2)(a)	<ul style="list-style-type: none"> <li>• Unsure about the use of this example - it implies that all policies need to reflect is that trans people should be treated with respect and dignity, and while this is true, it serves to undermine all the work the document sets up in demonstrating that there are a number of considerations many people might not be aware of in order to truly create an environment when trans people are treated with dignity and respect (p.22)</li> </ul>

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InsideOUT <b>s9(2)(a)</b>	<ul style="list-style-type: none"> <li>• Suggested word change, “they may prefer to” to “they may” (para 2, p. 20)</li> <li>• Suggested additions to para 2, p. 21 in terms of titles, sex/gender and pronouns on registration forms.</li> <li>• Suggested word change “exclusionary of” to “a barrier for” (para 3, p. 21)</li> <li>• Suggested word change “sex” to “sex assigned at birth” (para 5, p. 21)</li> <li>• Suggested rewording “the pronouns chosen by people” to “a person’s self-determined pronouns” (para 6, p. 21)</li> <li>• Consider moving first para, p. 22 up to the section on registration forms.</li> <li>• Potentially more bullets missing at end of this section.</li> </ul>
<b>s9(2)(a)</b>	<ul style="list-style-type: none"> <li>• Suggested rewording in para 3 + 4 and last bullet of page 20.</li> <li>• Change sex on page 21 to sex assigned at birth and add in “and” in last para.</li> <li>• Page 22, para 2 – add in mail to members.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>• (p.21, para 3) simplify wording to ‘can exclude transgender participants’.</li> <li>• (p.22, bullet 1) include kia ora koutou.</li> <li>• End of p. 22 – mentioned by someone else also, bullets may be missing?</li> </ul>

**Guiding Principles – Anti-discrimination, Anti-Bullying and Anti-harassment**

Who	Feedback
InsideOUT <b>s9(2)(a)</b>	<ul style="list-style-type: none"> <li>• Suggested rewording of the bullets at the top of p. 24.</li> <li>• Formatting – turn scenario at top of p. 25 into a box.</li> </ul>



<p>s9(2)(a)</p>	<ul style="list-style-type: none"> <li>• Insert a sentence before mentioning HRA on p. 23.</li> <li>• Citation for last para on p. 23? And add in a sentence to conclude.</li> <li>• P 24, remove the act of from bullet 6. Add and in second lot of bullets.</li> <li>• Replace of with against and suggested rewording of second sentence in para.</li> <li>• Rewording on second to last para of p.24.</li> <li>• p.25 – remove bullets from scenario.</li> <li>• Under education heading – suggested rewording to not put a burden on sports clubs/NSO’s to educate people too. Instead speak to benefits of people learning to be more inclusive.</li> </ul>
<p>Human Rights Commission</p>	<ul style="list-style-type: none"> <li>• End of p. 23 para 1, add ‘at all times’.</li> <li>• Include ‘in areas of public life’ p. 23, para 2.</li> <li>• P. 23, para 3 - This paragraph defines indirect discrimination, then gives an example of direct discrimination, then gives an example of indirect discrimination. I suggest the middle example (direct discrimination) is added on to the end of the previous para.</li> <li>• p. 24 – First sentence, remove comma after transgender</li> <li>• p. 24 first bullet, add or being asked if they are in the wrong bathroom.</li> <li>• p.24, bullet 3 – simplify language to about their bodies.</li> <li>• p. 24, third to last para - remove comma between transgender and people.</li> <li>• p. 24, third to last para - This sentence could read better. Suggest 'References to anti discrimination should also...'</li> </ul>

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**Listening and Responding**

Who	Feedback
s9(2)(a)	<ul style="list-style-type: none"> <li>• Same as education feedback – phrase this to not put an expectation/burden on sport clubs/NSO's to educate everyone.</li> <li>• Last bullet – change from people to anyone.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>• Fix formatting of footnotes.</li> </ul>

**Education**

Who	Feedback
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>• Suggested wording changes throughout the section.</li> </ul>
s9(2)(a)	<ul style="list-style-type: none"> <li>• Check description of HRC with them.</li> <li>• Add the rod service to end of OutLine def.</li> </ul>
Human Rights Commission	<ul style="list-style-type: none"> <li>• Under appointing a champion - Yes, and provide a handover if they leave the role. It is important that institutional knowledge is not lost</li> </ul>

**Consultation and development of transgender inclusive policies**

Who	Feedback
Ministry of Education s9(2)(a)	<ul style="list-style-type: none"> <li>• Concerns around recommending public consultation, need skilled facilitators to undertake it (p.31)</li> </ul>
InsideOUT s9(2)(a)	<ul style="list-style-type: none"> <li>• Suggested rewording in Table 1.</li> </ul>
s9(2)(a)	<ul style="list-style-type: none"> <li>• Adding in further wording for clarification around “How to Consult”.</li> <li>• Remove non-binary clubs from p. 30 bullet 3.</li> <li>• Suggested rewording under drafting considerations, second to last bullet.</li> </ul>

# Overview of select overseas positions on including transgender people in community-level sport

Provided to the Minister's office on 13 September 2024

## Purpose

1. This aide memoire summarises the positions taken by Australia, Canada, and the UK concerning transgender inclusion in community sport.

## Background

2. While we do not have evidence that trans-inclusive policies have a negative impact on cisgender people at the community level, exclusions for trans people are likely to cause them harm and put them off being active. Transgender people are already less likely to play sports than their cisgender peers. In addition to policy barriers, one main reason is that many transgender people do not feel safe or welcome in sport.
3. This is why many countries worldwide have developed policies to ensure the inclusion of transgender people in community sports, sometimes otherwise described as amateur or grassroots sports. We have provided a summary of the positions taken by a small number of countries on this topic: Australia, Canada, and the UK.
4. This is only a brief desk-based summary of positions. We would happily provide in-depth analysis, including consultation with international bodies, upon request.

## Australia

5. Sport Australia partnered with the Australian Human Rights Commission and the Coalition of Major Professional and Participation Sports to develop Guidelines for including transgender and gender-diverse people in sport, a group they saw missing out on being part of their sport system.
6. Australia's national sport plan states that 'successful societies are inclusive societies', and the Australian Trans and Gender Diverse Inclusion Guidelines support including transgender and non-binary people in the gender they identify in their sport. The Guidelines, released in 2019, provide practical advice on how sporting organisations can create and promote an inclusive environment for trans and gender-diverse people. They provide advice and a checklist to help sporting organisations, their staff, and volunteers, identify practical steps that they can take to promote including transgender and gender-diverse people. Similar to the approach we have taken in New Zealand, sporting organisations can consider the steps in the way that best fits their needs. Many sports codes in Australia have developed policies for the inclusion of transgender people in the gender they identify with.
7. However, under the Australian Sex Discrimination Act 1984, it is not unlawful to '*discriminate on the grounds of sex, gender identity or intersex status by excluding persons from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant.*' Sports organisations can argue for exemption from including gender-diverse or trans

people on this basis. The exemption does not apply to coaching, officiating, administration or for children under 12 years. This is similar to the current wording of section 49(1) of the Human Rights Act in New Zealand, which allows for *‘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.’*

8. Human Rights Act protections for people who are transgender, non-binary or who have an innate variation of sex characteristics are currently subject to review by the NZ Law Commission. Sport NZ provided a submission to this review (**see Appendix One**) and, upon request, met with the Law Commission to provide them with an overview of Sport NZ’s Guiding Principles.

### Canada

9. The Canadian Centre for Ethics and Sport have developed ‘Creating Inclusive Environments for Trans Participants in Canadian Sport’, which provides guidance to sports bodies to include transgender people in sport better.
10. Principles of inclusivity, fairness, and respect for human rights guide Canada’s policy for including transgender people in amateur sports. It emphasises that all individuals, regardless of their gender identity or expression, should have the opportunity to participate in sports in a manner that is safe, fair, and respectful. At its best, sport balances a series of principles to create a fair, safe, inclusive and open environment. Most sports participation in Canada is at the grassroots or amateur level. At this level, the Canadian’s True Sport Principles (a set of approaches to sport that most Canadians believe in and practice) of ‘Include Everyone’, ‘Stay Healthy’, ‘Keep It Fun’, and ‘Respect Others’, emphasise the importance of trans participants being welcomed and encouraged to participate in sport as they are, in whichever gender category that best suits them.
11. Leading Canadian sports bodies, such as Canadian Women and Sport, the Canadian Centre for Ethics and Sport, and Athletes CAN, have come out in opposition to any bans targeting trans women and girls in sport. They argue that trans-inclusion means gender inclusion and that the inclusion of trans women and girls in sport does not negatively impact the opportunities for or exclude cisgender people in women’s sports.
12. Again, Canadian sports organisations are using the guidance to develop policies for their codes. Canadian Athletics, for example, has strong inclusion policies at the grassroots level. For events that are geared towards participation rather than performance (e.g., any domestic competition that World Athletics or World Para Athletics does not oversee), athletes can compete in the gender in which they identify.
13. Human rights laws in every jurisdiction in Canada prohibit discrimination against people based on specific listed grounds, such as sex, ethnic origin, religion, disability or sexual orientation. The Canadian Human Rights Act was amended in 2017 to include gender identity and expression, which means transgender rights are protected at the federal as well as provincial levels throughout Canada. This legislative change affirms that sport in Canada must be inclusive for transgender people.

### The UK

14. The five Sports Councils responsible for supporting and investing in sport across England, Wales, Scotland and Northern Ireland, worked together to develop guidance to support the inclusion of transgender people in sport. The approach concluded that for many sports, the inclusion of transgender people, fairness, and safety cannot co-exist in a single competitive model. Each sport should use its framework and guidance to define the priorities for its sport. This was set out as a choice for sports bodies. Where a governing body considers that transgender inclusion, fairness, and safety are all priorities, then a model for decision-making

around the best options and opportunities should be developed.

15. Education and training in policy development are offered to facilitate best practice and opportunities for inclusion in sport. For instance, Sport England has worked with rainbow advocacy organisations to provide resources and education on creating inclusive sports environments.
16. At the community level, sports codes have adopted different approaches to transgender inclusion. For instance, England Touch supports transgender, non-binary and gender-diverse people and their right to participate in Touch in a way that best reflects their gender identity. On the other hand, Swim England's policy takes a nuanced approach. It contains provisions for athletes to self-ID in low-level events, such as intra-club recreational races, and they have created an open category for more competitive meets in which athletes assigned male at birth can compete.
17. The Equality Act 2010 in the UK includes a general exemption for sporting organisations to discriminate based on sex. It provides that sports can be lawfully segregated where an activity is 'affected by gender'. Gender-affected activity is defined as '*a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.*' The Equality Act also permits organisations to discriminate on grounds of gender reassignment where this is necessary to secure fair competition, or the safety of competitors.

### Summary

18. The transgender inclusion positions and guidance in community sports for the UK, Australia, Canada, and New Zealand share a common goal of promoting inclusivity and non-discrimination. Still, there are differences in how each country implements and balances inclusivity with considerations for safety and fairness and nuance in each country's human rights legislation.
19. The table below summarises each country's position, as far as we understand:

	What guidance is provided?	Is it enforced?	How are Human Rights Considered?
<b>Australia</b>	Sport Australia promotes inclusion, with guidance supporting including transgender people in accordance with their gender identity.	No. It is up to the sports code to use the guidance in a way that works for their code.	Human Rights legislation allows for discrimination in sports contexts where competitors' strength, stamina or physique is relevant, and participants are over 12.
<b>Canada</b>	The Canadian Centre for Ethics in Sport (CCES) promotes inclusion in line with gender identity. Canadian sports organisations are encouraged to adopt inclusive policies that respect gender identity.	Sport Canada does not appear to enforce mandatory transgender inclusion policies, but many sports have developed them. It appears to breach human rights to have an exclusive policy.	Human Rights protections in Canada <b>do not</b> allow for discrimination based on gender identity.

<b>New Zealand</b>	Sport NZ encourages sport organisations and other providers to develop policies which are inclusive of transgender people.	No. It is up to sport organisations and other providers to determine what works best for them.	Human Rights legislation allows for discrimination in sports contexts where competitors' strength, stamina, or physique is relevant and participants are over 12.
<b>UK</b>	The UK Sports Councils encourage sports to consider fairness, safety, and inclusion when developing transgender policies. Their advice does not prioritise inclusion over safety or fairness.	No. The Sports Councils advise sports codes to interpret what works best in their sport.	Equalities Act legislation allows for discrimination in sports contexts, where the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex, and to secure fair competition or the safety of competitors.

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**Appendix 1 – Submission to the Law Commission on the La Tangata Review**

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## **Sport NZ Submission to the Law Commission Ia Tangata review**

Tēnā koe

Thank you for the opportunity to provide feedback on the Ia Tangata Issues Paper (the Issues Paper). Our feedback relates only to chapter 14 concerning 'competitive sports'.

### **Background to our submission**

As you know, Sport NZ introduced the 'Guiding Principles for the Inclusion of Transgender People in Community Sport' (the Guiding Principles) in December 2022. These principles, which have already shown a significant positive impact, were developed to assist sports organisations and providers foster an environment where transgender participants feel welcome, accepted, comfortable, and safe in community sports. They serve as a roadmap for national sports bodies to formulate policies, which we have actively promoted and supported. They also guide clubs, schools, and other organisations in enhancing their inclusion of transgender participants and the considerations they should consider when doing so.

Our guidance includes a set of six principles, to support organisations to include transgender participants in community sport. The six guiding principles are made up of an overarching principle of 'Inclusion' and five supporting principles. The Inclusion principle states that 'every New Zealander has the right to participate in Sport and to be treated with respect, empathy, and positive regard. Transgender people can participate in sports in the gender they identify with.' Whilst we have provided guidance, the principles are not intended as a Policy position nor include any specific requirements for sports organisations to comply with.

We firmly believe that inclusion should be the cornerstone of any discussion about transgender people in community sports, be it as players, coaches, officials, or administrators. At the same time, we respect the expertise and experience of sports organisations, which puts them in the best position to decide how to include transgender people in their code. As such, we strongly recommend considering their submissions (if received) on this topic.

### **The Guiding Principles do not apply to high-performance or professional sports.**

The Guiding Principles apply only to community sports, whereas the Issues Paper refers to competitive sports. This is an important distinction as competitive sports can range from a casual game of 6-a-side soccer on a weekend to a national or international event qualifier. Whilst we firmly believe that community sports should aim to be inclusive of transgender people, National Sports Organisations need to comply with the direction of their International Federations when it comes to elite or professional-level competitions. The level at which this applies will differ from sport to sport.

### **Should the exception be amended?**

We would agree that the current wording of section 49(1) of the Act may cause confusion and is perhaps weighted towards exclusion rather than inclusion. Most sports codes could reasonably argue that 'strength, stamina or physique of competitors is relevant', for instance, as an explanation for excluding certain groups.



From the options provided, a refined version of **Option 6** would appear to be most consistent with our position as the Sport NZ Group (including Sport NZ and High Performance Sport NZ).

There are two areas in which sports organisations could reasonably exclude:

- (a) to ensure the physical safety of all participants if exclusion is reasonable and proportionate
- (b) to comply with International Federation rules that apply to that sport if they are being performed at the level at which those rules must be applied.

Safety in sports is critical, and sports codes are typically best placed to manage the inclusion of participants appropriately and safely. Sports organisations already do this by ensuring competition comprises an appropriately similar cohort of players, for example, via weight bands and age brackets. An exclusion clause roughly in line with (a) would allow consideration to be given to the emerging evidence base (this is still an under-researched field, especially in sport-specific contexts) and for individual sports to assess what is reasonable and proportionate for their specific code.

International Federations principally determine policy for high-performance, elite-level, and professional sports. Without an exclusion along the lines of (b), legislation in NZ may contradict the rules set by International Federations, which a sport must follow at a certain level. This may then cause a legal and procedural grey area and/or contradict messages and criteria provided to athletes when performing at the top of their discipline.

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