

## Introduction

Little Athletics NSW is committed to providing a safe, fair and inclusive sporting environment, where transgender or transsexual people involved in our sport are able to contribute and participate.

Little Athletics NSW expects everyone who is bound by this policy to treat people who identify as transgender or transsexual fairly and with sensitivity, dignity and respect. Little Athletics NSW will not tolerate any unlawful discrimination or harassment against a person who identifies as transgender or transsexual or who is thought to be transgender or transsexual.

Little Athletics NSW recognises that the exclusion of transgender or transsexual people from participation in sporting events has significant implications for their health, well-being and involvement in community life. Little Athletics NSW is committed to facilitating participation in our sport on the basis of the gender with which the person identifies.

## Definitions

### Gender Identity

The gender-related identity, appearance or mannerisms or other gender-related characteristics of a person. This includes the way people express or present their gender and recognises that a person's gender identity may be an identity other than male or female. Some terms used to describe a person's gender identity include trans, transgender and gender diverse.

**LGBTI** = lesbian, gay, bisexual, transgender and intersex

### Intersex

Intersex refers to those people who are born with biological characteristics that do not fit neatly within ideas of what is 'male' and 'female'. This may be because a person has some, but not all, characteristics that are usually associated with being either male or female. It can also be because a person has some characteristics that are usually associated with being male, as well as some characteristics that are usually associated with being female.

### Transgender

Transgender is used as an 'umbrella term' to describe those people whose biological sex at birth is either male or female, but who identify and/or express their gender in a different way.

A person is counted as transgender under NSW anti-discrimination law if any of the following apply:

- they identify as the opposite gender to their birth gender and live as their identified gender;
- they identify as the opposite gender to their birth gender and are seeking to live as their identified gender;
- they are intersexual (born with indeterminate sex, for example with sexual parts of both sexes), and live as their identified gender;
- they are thought of as a transgender person.

A person does not have to have had any sex change or other surgery to be counted as transgender under NSW antidiscrimination law. They do not have to have taken any hormones in the past or be taking them now. It does not matter what gender they were at birth. It does not matter which gender is their identified gender, or why they are transgender. It does not matter how they describe or label themselves (for example as transgender, trans, transsexual or something else).

What matters is how a person lives and behaves, or how they want to live and behave. If they fit any of the definitions given above, then the anti-discrimination law counts them as transgender.

## Anti-Discrimination Laws

Federal, State and Territory anti-discrimination laws provide protection from discrimination against people on the basis of their Gender Identity. Discrimination law applies to organisations and also to individuals.

Under both the NSW Anti-Discrimination Act 1977 and the Commonwealth Sex Discrimination Act 1984 (“the Act”), it is unlawful to discriminate against intersex or transgender people in sport. Discrimination law covers more than just issues about athletes or player participation – it also covers areas such as engagement of volunteers and officials, club membership provisions, accessibility of other services or facilities and employment.

Little Athletics NSW recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, Little Athletics NSW will seek advice on the application of those laws in the particular circumstances.

It is ***not*** however unlawful to discriminate on the ground 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**.

The Act also states however, that people aged **under 12** years of age ***cannot be excluded on the basis of sex or gender identity, from participating*** in a competitive sporting activity.

Little Athletics NSW notes that drug testing procedures and prohibitions also apply to people who identify as transgender or transsexual. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency’s Prohibited List, should apply for a standard Therapeutic Use Exemption.

### Complaints and Policy Breaches

Little Athletics NSW and affiliated centres must investigate fully any report of a breach of this policy in accordance with the Little Athletics NSW Member Protection Policy and either Little Athletics NSW Regulation 11, Complaint Handling and Grievance Procedure or the corresponding centre regulation or procedure. Investigations may result in Police notification by Little Athletics NSW or affiliated centre’s when legally obliged to do so.

### Further Information and References

- Everyone Can Play: Guidelines for local clubs on best practice for inclusion of transgender and intersex participants - ACT Human Rights Commission, April 2017
- Play By The Rules - [www.playbytherules.net.au](http://www.playbytherules.net.au)
- Pride in Sport Index (PSI), launched in March 2016, is a support program sport that provides members with a range of services to assist them to develop and implement effective LGBTI inclusion practices. To find out more about Pride in Sport, and the Pride in Sport Index, visit [www.prideindiversity.com.au/prideinsport](http://www.prideindiversity.com.au/prideinsport)
- Guideline: Transgender People and Sport – Victorian Equal Opportunity and Human Rights Commission, May 2017  
<https://humanrightscommission.vic.gov.au/home/our-resources-and-publications/ea-practice-guidelines/item/1560-guideline-trans-and-gender-diverse-inclusion-in-sport-complying-with-the-equal-opportunity-act-2010>