



Fair Play For Women's response to the World Rugby draft transgender guidelines

17th August 2020

We commend the World Rugby transgender working group for its professional and comprehensive approach to this very sensitive issue facing women's sport.

This was the first ever meeting of its kind offering transparency and valuing all perspectives. The careful chairmanship of the meeting enabled an atmosphere of respectful disagreement and challenge. The breadth and depth of expertise and opinion heard during the 2-day meeting was exceptional. World Rugby has set a high standard that other sports should now follow.

We agree that current policy is 'not fit for the purpose of player welfare' and support the working principle adopted by World Rugby to 'facilitate inclusion at every opportunity, provided this can be done in an evidence-based manner that does not violate the prioritization of player safety above any other elements'.

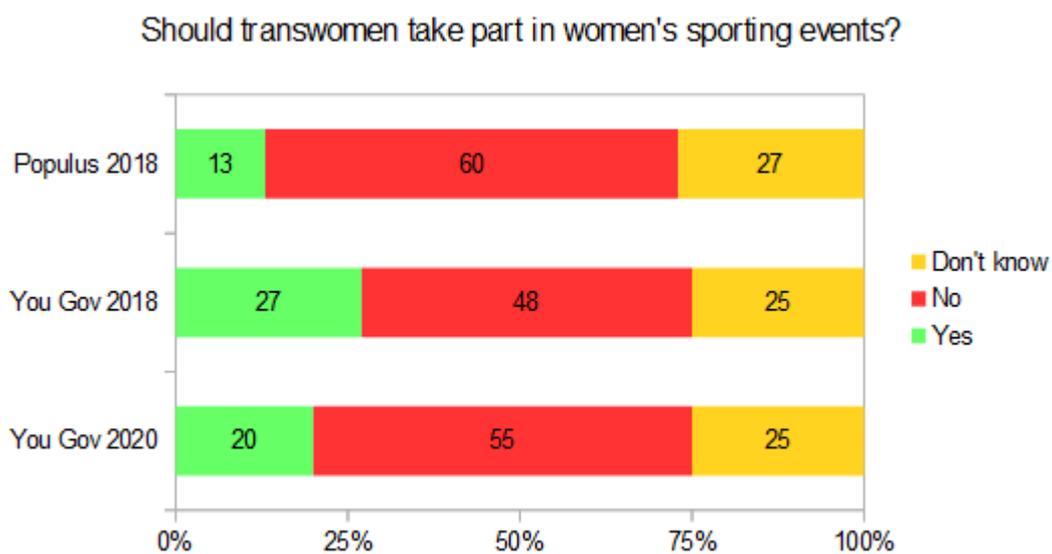
New eligibility criteria that distinguish between people whose puberty and development is influenced by androgens such as testosterone, and others who derived no changes due to androgens during puberty, offers a sensible and evidence-based approach.

We are grateful to have the opportunity to see and offer feedback on the draft proposals. Our response includes an updated summary on public opinion (within and outside sport), considerations regarding implementation and feedback on terminology used in the guidelines.

1.0 Public opinion

1.1 Public support for transwomen competing in female sport is low.

To date there have been three official polling surveys in the UK each asking whether transgender women should or should not be allowed in women's sporting events ([Populus 2018](#), [You Gov 2018](#), [You Gov 2020](#)). In 2018 just over a quarter of respondents answered 'yes'. By 2020 this dropped to just one in five respondents with a concomitant increase in the number of 'no's.



Media coverage of transwomen in sport has increased substantially in the past two years. Increased public awareness and access to information has coincided with falling public support for the trans-inclusive rules first adopted by the IOC in 2015 and then followed by all major sports governing bodies.

While support for gender identity is relatively high in the UK - up to 43% agree with the phrase "transwomen are women" - the public can and do distinguish between gender identity and biological sex, particularly in contexts such as sport where the latter is acknowledged as relevant. In such cases it is largely accepted that policies need to be based on an individual's biological sex rather than on their preferred gender identity. Similar results have been observed in a [recent survey](#) performed by the UK's Equality and Human Rights Commission (EHRC). They found high levels of respect and tolerance for transgender people but an increasing acknowledgement that sex-based policies are still necessary in some circumstances.

Notably, around 25% of respondents in the You Gov and Populus polls consistently answered 'don't

know' or 'prefer not to say' to survey questions about transgender women, including about their inclusion in female sport. This is unusually high (the norm for 'sensitive' questions is around 5% of respondents). Given that pro-trans campaigns have promoted the idea that only trans people can or should comment on trans lives, it's possible that people felt unqualified to comment, or unwilling to risk appearing 'transphobic'. Whatever the reason, many people are likely to feel that it's inappropriate for them to have a view on these questions. This factor should be taken into account when assessing the popularity or otherwise for any policy on transgender inclusion.

In addition to anonymous polling surveys there are other signs of widespread public support to reserve women's sport for the female sex. This includes a [public petition](#) hosted by the US campaign group called Save Women's Sport currently at over 15,000 signatures. Article 7 of the [Declaration of Women's Sex-based Rights](#) also calls for single-sex sporting opportunities for women. This document has been endorsed by over 200 organisations and has received over 11,000 signatories of support. In June 2019 over 700 people attended a [women's sport event](#) in London to discuss the impact of trans inclusion on women and girls.

In response to increased public concern and developing scientific evidence, the UK Sports Councils have now [commissioned a detailed review](#) of their own 2015 guidelines for transgender eligibility domestic competitive sport. Similarly, when asked about their current policy on transgender inclusion by Fair Play For Women, a majority of sports national governing bodies in the UK say their rules are 'under review'. Rugby Union may be the first sport to move away from the IOC's principle of trans inclusion in light of new evidence, but it is unlikely to be the last.

1.2 Players are unable to openly support the proposals

Few female athletes feel able to speak freely and safely about transgender inclusion in women's sport. This is in stark contrast with the ease with which supporters of transgender inclusion can signal their views, who may not otherwise have any interest or participation in Rugby or any other sport. For example, an [open petition](#) against World Rugby's proposals containing a number of factual errors has been widely circulated across social media and popular on-line rugby forums, gathering over 15,000 signatories and BBC [news coverage](#). Whereas, when Fair Play For Women asked to join the popular Facebook page [Women's Rugby Network](#) in order to post information about the topic, our request was rejected. As an alternative, we approached members of the group who we know support World Rugby's proposals and asked them to post a link to presentations given to the working group. None felt able to, telling us for example *"I use that group for networking and recruiting for my team and I don't want to risk getting kicked out of the group"* and *"I just can't face the backlash and accusations of transphobia that I know would follow"*. **This asymmetry of opportunity severely distorts the type of feedback that reaches World Rugby and the member Unions.**

To date, no female Rugby player, amateur or elite, has chosen to speak publicly to the media on the topic. This reluctance is understandable given the abuse received by other sportswomen, most

notably Martina Navratilova, Sharron Davies and Kelly Holmes. Reputational damage inflicted on those who speak out is significant, leading to individuals being [reported to sponsors](#), [removed from organisations](#), and the related [loss of paid-work opportunities](#).

In private, concern amongst sports professionals is high. In September 2019 a [private letter of concern](#) was sent to the IOC signed by over sixty British Olympic medallists, world-class sportsmen and women, and leading scientists. The letter asked the IOC to suspend its transgender guidelines pending further scientific study and analysis.

In July 2020, more than 300 current and former professional, Olympic and collegiate female athletes [sent a private letter](#) to the National College Athletic Association (NCAA), urging it 'not to give into bullying tactics' and to reject the call to boycott Idaho for passing the Fairness in Women's Sports Act. The law protects fair competition and athletic opportunities for women by ensuring that only female athletes compete in women's sports. Within days the names of all 309 sports women were [published following a leak to an LGBT sports website](#). This worrying development shows that even official correspondence to sports regulatory bodies can put individuals at risk.

We commend World Rugby's intention to re-survey elite female rugby players - this time with information about the scientific evidence - and hope this can be done in a way that guarantees confidentiality. However, the risks associated with sharing views on this topic means that World Rugby and member Unions are unlikely to hear from amateur players unless there are pro-active and trusted contact mechanisms in place.

We note from the Transgender Guideline Consultation paper that 'Unions and Associations are encouraged to share the draft guideline and FAQs with community and elite players and other stakeholders, from whom they draw views in the course of preparing a response to this consultation'. However, players tell us that no effective club outreach programme has been undertaken by England Rugby to gather the views of female players and officials on this issue. No player feedback was collected to inform their transgender eligibility guidelines (published May 2019) and the same appears to be true while formulating their position on the World Rugby draft proposals.

2.0 Considerations relevant to the implementation of the guidelines

2.1 Mixed-gender non contact rugby

The draft guidelines state that transwomen can play mixed-gender non-contact rugby. While safety concerns are less significant in the non-contact format, it is still considered a sex-affected sport. Male and female leagues exist for reasons of competitive fairness. Fairness is achieved in mixed-sex teams through the use of minimum sex quotas. The international standard set by the

Federation of International Touch ([FIT](#)) is a minimum of three females and a maximum of three males on the field.

In England the RFU endorses a [Touch Rugby](#) league sponsored by O2. The rules state that 'If you are playing in a mixed team then you must have two ladies on the pitch at all times. The Elite Mixed League ratio for the London Super League is 3/3'.

However, this rule is directly contradicted by the 2019 [RFU transgender guidelines](#) which state 'Non-contact forms of rugby such as 'Tag' or 'Touch' are mixed-gender and do not have gender based eligibility categories. Players may participate without exception in the gender with which they identify'.

If World Rugby includes recommendations for non-contact rugby within its draft proposals, further clarity is required as to whether it is considered a sex-affected competitive sport and, if so, how transwomen should be counted regarding any sex ratio rules.

2.2 Ethical and practical considerations of rules that differentiate between transition before and after puberty.

Androgenisation at puberty and beyond determines the physiological advantage in the male sex. It is therefore logical to base eligibility criteria on whether an individual has undergone this developmental step. However, this raises difficult ethical and practical issues when applied to male-born adults who took puberty blockers during childhood, followed by cross-sex hormones. Rules that permit only those who transition as children to later play women's rugby as adults risks incentivising early medical transition in young players.

Given that reliable diagnosis and the long-term harms associated with the medical transition of children are still largely unknown, policies that promote or encourage early medicalisation of children should be avoided. In the UK, the NHS has recently [updated its official advice](#) concerning the use of puberty blockers in children as follows:

'Little is known about the long-term side effects of hormone or puberty blockers in children with gender dysphoria. Although the Gender Identity Development Service (GIDS) advises this is a physically reversible treatment if stopped, it is not known what the psychological effects may be. It's also not known whether hormone blockers affect the development of the teenage brain or children's bones. Side effects may also include hot flushes, fatigue and mood alterations.'

'A diagnosis of gender dysphoria in childhood is rare. Most children who seem confused about their gender identity when young will not continue to feel the same way beyond puberty.'

'you may also find out that the feelings you had at a younger age disappear over time and you feel at ease with your biological sex'

It is also the case that children do not in fact transition 'pre-puberty'. Puberty blockers are never prescribed before the onset of puberty. The [WPATH Standard of Care](#) states 'the pubertal stage at which adolescents are allowed to start varies from Tanner stage 2 to stage 4'. In males, physical changes are evident by Tanner stage 2, indicating that some androgenisation has already begun. Further studies would be needed to quantify any corresponding performance advantage that may be carried into adulthood.

Under the circumstances, we strongly recommend that World Rugby removes any reference in the guidelines to transition pre-puberty pending further research into this complex issue.

2.3 Pre-pubescent male children may choose to play in girls' teams up to the age of 12 if they identify as non-binary.

Before puberty the physiological differences between boys and girls is small, meaning that mixed-sex teams up to the age of twelve is considered safe and fair. However, girl-only teams exist for an important reason; to encourage girls to play rugby.

World Rugby's [mixed-gender guidelines](#) states 'Research indicates that girls prefer to play sports with girls mainly due to reasons related to social interaction. Girls are more likely to stay involved in the sport if given this opportunity throughout their development pathway'.

The draft proposals recommend that children who identify as non-binary can choose either boys, girls or mixed-gender teams. This means that sometimes a male-born child may choose to play on the girls' team. **It is important that the impact on girls' participation is considered alongside that of the child who identifies as non-binary to ensure fairness and inclusion for all involved**

2.4 Monitoring compliance

In the section titled 'What if I have concerns about safety or fairness relating to someone I am playing with or against' it is suggested that 'appropriate actions may include a recommendation that a standardised endocrinological assessment be performed [appendix]'. The appendix is absent.

Rules that cannot be implemented fairly or consistently are unfit for purpose, even if on paper they are evidence-based and well considered. The ability to effectively monitor compliance is crucial component of rule making.

There are two concerns a female player may have when turning up to a women's match: if there is a transman playing on the team is he taking testosterone; are any of the women on the team actually transgender women who have not revealed their transgender status. A female player can only consent to accepting the risks of playing women's contact rugby if she can trust that these rules have not been broken.

However, an endocrinology assessment is only useful in one of the two cases; to see if a transman is taking testosterone. This is effectively an anti-doping approach that applies to all players, trans

or otherwise.

Endocrinology assessment is not a suitable approach for distinguishing between a transwoman on hormone therapy and a biological female. World Rugby's draft proposals are based on physiological advantage gained through androgenisation at puberty. Current hormone levels would no longer be informative or relevant under these new guidelines.

The best known marker for predicting whether an individual has been through an androgenising puberty is the presence or absence of a Y chromosome. This can be measured using a simple, non-invasive cheek swab test. The absence of a Y chromosome is an easy and reliable way to confirm eligibility for the women's game.

If a Y chromosome is detected further investigation may be necessary to rule out a Disorder of Sexual Development (DSD) that conferred androgen insensitivity during puberty. If a DSD is confirmed and the player wishes to remain eligible for the women's game this would then fall outside the scope of the transgender guidelines and World Rugby's DSD guidelines would instead need to be followed.

3.0 Terminology used in the guidelines

The language used to discuss issues involving gender identity and biological sex is widely contested and difficult to get right. We would like to thank World Rugby for taking care to use language that is necessary and relevant to the considerations specific to sport. Clearly distinguishing between the concepts of gender identity and biological sex is crucial, alongside the respectful acknowledgement that the necessary use of terms 'biological male' and 'biological female' within these guidelines passes no judgement on an individual's gender identity.

There some are phrases used in the guidelines that we would not choose to use. However, we accept that not all terms used will be agreed on by all people. Nevertheless, we would like to raise the use of the word 'ciswoman' in the FAQ to describe biological females who do not identify as transgender. This terminology is highly contested and considered offensive by some. 'Cis' implies an acceptance of the gender expression and stereotypes associated with being the female sex. Many women have spent a lifetime trying to escape the confines of the feminine gender box and do not wish to now be forced into the restrictive cisgender box instead. More neutral descriptor terms would be 'non-trans women', 'women who do not identify as transgender', females, or preferably 'women'. The latter term still carries the common meaning of adult members of the female sex for the vast majority of people. The word 'woman' is also clearly defined in the UK's Equality Act as 'a female of any age'. Whereas, the word 'ciswoman' is an ideological term with no meaning outside gender identity politics.

For the sake of accuracy, there is one descriptive term that is used incorrectly and we request it is not used in future iteration of the guidelines. In FAQ Appendix 2, Fair Play For Women is described as a 'cis-gender advocacy group'. We are not an advocacy group that campaigns or promotes any type of gender identity. We advise on people's sex-based rights and could be described as a sex-based rights advocacy group. We note that in the Transgender Guideline Consultation paper Fair

Play For Women is referred to as a women's advocacy group. This is an accurate descriptor and should be used throughout.

4.0 Conclusions

We commend World Rugby for the transparent, respectful, fully-inclusive and evidence-based approach taken to policy making in this difficult and sensitive area of sport. This process was the first of its kind within sport and sets the new gold standard that we hope other sports can and will follow.

We support the clear prioritisation of player welfare and competitive fairness with the recommendation that women's rugby should be reserved for biological females who have not experienced an androgen-influenced development.

We anticipate that there will be strong agreement from the public and within sport that these new guidelines are both fair and necessary. However, the visibility of this support is likely be distorted by the lack of opportunities to speak openly and safely on this topic.

We have identified a number of issues relating to implementation of the guidelines and would be very happy to work together with World Rugby on these.