



Policy for the Inclusion of Transgender and
Gender Diverse People in Community Surfing

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1. INTRODUCTION

Participation in sport is a human right.ⁱ We are all born free and equal in dignity and rights.

Surfing Australia is committed to providing a safe, fun, and inclusive environment for all people, including transgender and gender diverse people. Being an inclusive organisation not only reflects our core values, but it also reflects the diversity of our local communities.

We're passionate about helping people lead happy, healthy, and active lives. Surfing Australia celebrates diversity of sex, gender identity, gender expression, sexual orientation, intersex status, body, ability, skill, cultural background, ethnicity, location, religious or political beliefs, and life stage. There is a place in our sport for everyone, exactly as you are.

2. BACKGROUND

- 2.1 Surfing Australia recognise that both intentional and unintentional prejudice-motivated behaviours exist within sport, recreation, services, programs, operations and facilities, which can create adverse and potentially significant consequences for some individuals and our communities. Surfing Australia will take steps to actively promote respectful, inclusive and collaborative behaviours within our sport at all times.
- 2.2 Sometimes these consequences mean that individuals who want to play the Sport or be a Sport volunteer or official, feel excluded and leave the Sport or chose not to become involved with it. In other instances, athletes or other participants are forced to hide their true self. In some cases, individuals who experience phobic language or actions stay with the Sport but continue to be subjected to discrimination and harassment, thus reducing their enjoyment of the Sport. None of these outcomes is acceptable.ⁱⁱ
- 2.3 Surfing Australia recognises that the inclusion of transgender and gender diverse people within sport is a complex and emotive issue.
- 2.4 Surfing Australia is a Member of the Federation Internationale de Surfing (FIH). Accordingly, in FIH sanctioned competitions, Surfing Australia must comply with the policies and regulations of the FIH.
- 2.5 The applicability of these guidelines to representative or elite domestic events, competitions or leagues is addressed in clause 8 of these guidelines.

3. SCOPE

- 3.1. These guidelines apply to Surfing Australia and all Australian Surfing Organisations who adopt them as their stated policy position.
- 3.2. These guidelines apply to the following individuals and entities;
 - a) Members;

- b) Participants; and
 - c) Any other person, including individuals and bodies corporate, who has agreed to be bound by these guidelines
- to the full extent that it is possible for Surfing Australia or an Australian Surfing Organisation to bind those persons and organisations.

- 3.3. It is the duty of each person and organisation to which these guidelines apply to comply with and so far as is lawfully possible, to require any other Surfing-related entity or participant who or which is not directly bound by these guidelines but who or which is participating in Surfing in any capacity in Australia, to comply with these guidelines.
- 3.4. Surfing Australia acknowledges that it could be problematic to draw distinction between community and elite Surfing competitions as community sport is often the first step on the pathway to elite sport. Notwithstanding this, these guidelines have been developed to apply to all transgender and gender diverse participants seeking to compete in Surfing unless the event, league or competition specifically requires otherwise.

4. OBJECTIVES

- 4.1. To affirm our commitment to supporting the inclusion of transgender and gender diverse identifying people in *Surfing*.
- 4.2. To ensure we foster a safe, welcoming environment for transgender and gender-diverse people by eliminating discriminative behaviour within Surfing facilities, programs, and services.
- 4.3. To assert our support of trans-affirming practices in our programs, operations, and competitions.
- 4.4. To promote a safe, inclusive, and welcoming environment that engages and keeps transgender and gender diverse participants involved with Surfing.

5. UNIFORMS

- 5.1. Individuals may wear the uniform and swimwear of their choosing as it aligns with their gender identity, so long as it abides by wider Surfing attire rules.
- 5.2. Individuals requiring uniforms (for example, athletes, officials and coaches) are to be provided with an appropriate range of uniform styles and sizes to select from.
- 5.3. If gendered uniforms are necessary, the individual may choose which uniform they would prefer to wear.

6. FACILITIES

- 6.1. *Surfing Australia* recognises the existing difficulties faced in having adequate changeroom and shower facilities.
- 6.2. Surfing Australia supports the right of people to use changing and bathroom facilities which best reflects their gender identity, whilst recognising a strong preference for privacy within those facilities.
- 6.3. Where new facilities are built, or upgrades are taking place, Surfing Australia and Australian Surfing Organisations will advocate for options to create inclusive spaces with appropriate private spaces. Examples would include:
 - a) Changing signage on some facilities to 'all-gender';
 - b) Modifying changerooms and bathrooms to create private spaces (higher doors, room dividers, shower curtains etc); and
 - c) Ensuring all changerooms have appropriate waste disposal.

7. COMMUNITY COMPETITIONS

- 7.1. For all *Community Surfing Competitions* (i.e. non representative competitions delivered and managed by local clubs or associations) an individual can participate in the competition which best reflects their gender identity. This is in accordance with the Sex Discrimination Act 1984 (Cth), which explains that it is unlawful to discriminate against a person on the basis of sexual orientation, gender identity and intersex status. Clubs and associations should have in place well-established practices of grading and the selection of athletes to:
 - a) Address any relevant disparity of athletes
 - b) Protect the health and safety of participants; and
 - c) Provide fair and meaningful competitions.
- 7.2. Such practices should be applied consistently across all athletes when considering varying skill levels.
- 7.3. Non-binary people are welcome and encouraged to participate in surfing competitions. *Surfing Australia* and Australian Surfing Organisations are encouraged to provide opportunities for mixed or gender-neutral events where possible. From a competition standpoint, where it is not possible to conduct mixed or gender-neutral events, Non-Binary people can participate based on their Sex assigned at birth or under the gender category of male or female that most affirms their gender.
- 7.4. For the purpose of clarity, community Surfing competitions applies to any competition, league or event outside of an International Surfing Association (ISA) sanctioned event or an elite or sub-elite competition as specified in clause 8.

- 7.5. For mixed-gender competitions, people can participate in a manner which best reflects their gender identity. Rules for mixed-gender competitions will be applied based on gender identity.
- 7.6. Participant/member registration platforms must be gender inclusive and align with ACON's Pride in Sport recommended gender indicators.
- 7.7. Where a third-party registration platform is used, Surfing Australia will advocate for changes to provide gender inclusive registration options, and where appropriate allow for a manual registration using the appropriate gender indicators.

8. ELITE AND SUB-ELITE COMPETITIONS

- 8.1. We recognise that international Surfing is conducted under the rules and regulations of the ISA, and all ISA sanctioned competitions and events must be played in accordance with ISA policy even where they vary from these guidelines.
- 8.2. Transgender and gender diverse individuals are welcome and included in all community Surfing competitions (as per *Clause 7 – Community Competitions* of this document). However, some competitions, leagues and events may require more specific or detailed regulations.
- 8.3. Competitions, leagues, or events that would not be subject to these guidelines, may include events for those seeking representative selection to national teams that compete in ISA sanctioned competitions.

9. PRIVACY & CONFIDENTIALITY

- 9.1. Collection of personal information is in accordance with the Surfing Australia Privacy Policy.
- 9.2. All personal information will be handled with confidentiality and be conducted in an inclusive manner.
- 9.3. Personal information should only be collected from participants if absolutely necessary and with the individual's consent, or where the individual is under the age of 18, the consent of a parent/guardian.
- 9.4. Any personal information collected by Surfing Australia or an Australian Surfing Organisation must only be disclosed if necessary and in accordance with the law.
- 9.5. Surfing Australia and Australian Surfing Organisations must:
 - a) securely store personal information, in line with privacy legislation;
 - b) not disclose the Gender Identity or sex assigned at birth of a participant without the express consent of the individual; and
 - c) ensure correct names and pronouns are used in conversations, databases, documents and correspondence.

- 9.6. Surfing Australia will accept a legal declaration to verify name and gender (e.g. by way of a statutory declaration), where required, in place of identity documents such as passport or birth certificate where those identity documents are inconsistent with a participant's gender identity;
- 9.7. Surfing Australia and Australian Surfing Organisations should be aware that, depending on the circumstances, requesting additional information from transgender and gender diverse people may be unlawful. This includes, but is not limited to, requesting a medical or physical examination, or requesting medical or physical details for the purposes of gender identification.
- 9.8. Surfing Australia and Australian Surfing Organisations shall protect the privacy of athletes. This is particularly important when dealing with any personal or sensitive information that may be held regarding a person's gender identity, or gender affirmation processes.
- 9.9. Surfing Australia and Australian Surfing Organisations should consider the provisions of the *Privacy Act 1988 (Cth)*, the Australian Privacy Principles (APPs), and the relevant legislation and regulations of the States and Territories.
- 9.10. Further information is available from the Office of the Australian Information Commissioner at www.oaic.gov.au/privacy-law

10. RELATED POLICIES

- 10.1. While each piece of governance may not clearly articulate it, every *Surfing Australia* policy is inclusive of people with diverse genders and sexualities, including their families (where applicable).
- 10.2. Other Surfing Australia policies that are relevant to this policy include, but are not limited to;
 - a) Surfing Australia Anti-Doping Policy
 - b) Surfing Australia Privacy Policy
 - c) Surfing Australia Member Protection Policy
 - d) Surfing Australia Rule Book
 - e) Surfing Australia Disciplinary Handbook

11. DISCRIMINATION

- 11.1. These Guidelines do not provide a definitive legal answer to all of the issues of discrimination, harassment or victimisation involving sex or gender identity that may arise under the Act. Organisations and individuals should seek their own independent legal advice if they have concerns regarding their compliance with the Act or with relevant state or territory anti-discrimination legislation.
- 11.2. Discrimination on the basis of sex or gender identity can include both direct and indirect discrimination and may be unlawful under Commonwealth and State legislation.

- 11.3. 'Direct discrimination' occurs when a person is treated less favourably than another person on the ground of:
- a) sex or gender identity, or
 - b) a characteristic generally associated with a person of that sex or gender identity in circumstances that are the same or not materially different.
- 11.4. An example of direct discrimination would be a sporting organisation refusing a transgender woman's application for membership because of her transgender status.
- 11.5. 'Indirect discrimination' can be less obvious. Indirect discrimination occurs when a condition, requirement or practice that applies to everyone, disadvantages persons of a particular sex or gender identity, and the condition, requirement or practice is not reasonable in the circumstances.
- 11.6. Further guidance on Federal and State and Territory laws and exemptions is available through the Australian Human Rights Commission and any State or Territory Human Rights Authority.

12. RELATED LEGISLATION

- 12.1. **Federal/Commonwealth Legislation:** The following laws operate at a federal level and the Australian Human Rights Commission has statutory responsibilities under them.
- a) *Sex Discrimination Act 1984* (Cth)
 - b) *Privacy Act 1988* (Cth)
- 12.2. **State/Territory Legislation:** The following laws operate at a state and territory level, with state and territory equal opportunity and anti-discrimination agencies having statutory responsibilities under them.
- a) Australian Capital Territory – *Discrimination Act 1991*
 - b) New South Wales – *Anti-Discrimination Act 1977*
 - c) Northern Territory – *Anti-Discrimination Act 1996*
 - d) Queensland – *Anti-Discrimination Act 1991*
 - e) South Australia – *Equal Opportunity Act 1984*
 - f) Tasmania – *Anti-Discrimination Act 1998*
 - g) Victoria – *Equal Opportunity Act 2010*
 - h) Western Australia – *Equal Opportunity Act 1984*.

13. GRIEVANCE PROCEDURES

- 13.1. Any complaint or breach of this policy shall be dealt with in accordance with the Surfing Australia Disciplinary Handbook.
- 13.2. The Australian Human Rights Commission or State or Territory Human Rights Commission may also assist individuals in relation to any complaints of discrimination, harassment and/or victimisation under Federal or State and Territory laws.

14. SUPPORT SERVICES

- 14.1. Surfing Australia recommends using the following LGBTQ specific providers:
- a) **ACON** provides counselling as well as social work support to help people resolve complex or ongoing violence and harassment matters.
Freecall: 1800 063 060
Web: www.acon.org.au/mental-health/#lgbti-counselling
 - b) **QLife** provides anonymous and free LGBTI peer support and referral for people wanting to talk about sexuality, identity, gender, bodies, feelings or relationships.
Freecall: 1800 184 527
Web: www qlife.org.au/get-help
 - c) **Lifeline** provides 24-hour crisis support and suicide prevention services to all Australians experiencing a personal crisis.
Phone: 13 11 14
Web: www.lifeline.org.au/gethelp

15. ADDITIONAL RESOURCES AND SUPPORT

TransHub (www.transhub.org.au)

This platform is an initiative from ACON Health, Australia's largest LGBTQ health organisation specialising in community health, inclusion and HIV responses for people of diverse sexualities and genders.

Pride in Sport Australia (www.prideinsport.com.au)

Pride in Sport is the only sporting inclusion program specifically designed to assist sporting organisations at all levels with the inclusion of LGBTQ employees, athletes, coaches, volunteers and spectators.

Australian Human Rights Commission (www.humanrights.gov.au)

The Australian Human Rights Commission is an independent statutory organisation, established by an act of Federal Parliament. We protect and promote human rights in Australia and internationally.

Trans Pride Australia (www.transprideaustralia.org.au)

Trans Pride Australia Inc is a social and support group for trans and gender diverse people and their loved ones in Australia.

QLife (www qlife.org.au)

QLife provides anonymous and free LGBTQ peer support and referral for people in Australia wanting to talk about sexuality, identity, gender, bodies, feelings or relationships.

Minus 18 (www.minus18.org.au)

Minus18 aims to improve the health and wellbeing of, and provide a safe environment for, same-sex attracted and gender diverse young people in Australia, seeking to empower them to feel comfortable and confident in their sense of identity and assisting them to grow as happy, healthy individuals well into the future.

Switchboard (www.switchboard.org.au/get-help/)

This service is for LGBTIQ+ identifying people and those who have questions or concerns about LGBTIQ+ issues. They also welcome contact from people who may not be LGBTIQ+ but who want to talk about someone else they care about. This includes families, friends, teachers and co workers of LGBTIQ+ people.

16. ACKNOWLEDGEMENTS

- 16.1. The *'Policy for the Inclusion of Transgender and Gender Diverse People in Community Surfing'* have been prepared in consultation with a number of stakeholders.
- 16.2. Pride in Sport, ACON Health, TransHub, State entities, members of the LGBTQ community, medical experts, athletes and administrators across Australia have aided and/or participated in consultations which informed the development of this work. We thank and acknowledge those who participated in this process.
- 16.3. We also acknowledge the *'Policy for the inclusion of Transgender and gender diverse people in sport'* developed by the Australian Human Rights Commission, in partnership with Sport Australia and the Coalition of Major Professional and Participation Sports. Many of the concepts and terms used throughout these Guidelines have been adopted from this work.

ⁱ United Nations Educational, Scientific and Cultural Organization, International Charter of Physical Education, Physical Activity and Sport (21 November 1978) art 1; Universal Declaration of Human Rights, GA Res 217A (III), UN GAOR, 3rd sess, 183rd plen mtg, UN Doc A/810 (10 December 1948) art 24; International Olympic Committee, Olympic Charter (entered into force 9 October 2018) 11.

ⁱⁱ Bingham Cup Sydney, (2014). *Anti-Homophobia & Inclusion Framework for Australian Sport*.