

**CAPITAL FOOTBALL
POLICY FOR THE INCLUSION OF
TRANSGENDER PLAYERS**

25 July 2017



FURTHER DETAILS ABOUT ALLEN + CLARKE

Allen and Clarke Policy and Regulatory Specialists Limited (*Allen + Clarke*) is a consultancy firm based in Wellington, New Zealand. We specialise in policy and programme development and implementation, research and evaluation, business change and secretariat services. A key component of our work is designing and developing policies that improve the outcomes for the public. Founded in 2001, the company is owned and managed by five of its senior staff and has a team of approximately thirty other senior evaluation and policy practitioners, analysts and policy support staff. Our company works extensively for a range of government agencies in New Zealand, and international clients and non-government organisations in the Pacific and Asia. More information about our work can be found on our website: www.allenandclarke.co.nz.

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This report has been prepared by:

Stephanie James, Mitchell Webb, Paul Houliston
Allen + Clarke

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1. INTRODUCTION

Capital Football requested support from *Allen + Clarke* to develop a policy for ensuring that transgender players have the opportunity to participate fully within the Capital Football region. This policy reflects law that New Zealand has on the treatment of transgender individuals, and draws on the policies of comparable international jurisdictions and relevant literature outlining findings and approaches to guiding the participation of transgender individuals in sport.

Participating in sport such as football has physical, psychological and social benefits. The rights of transgender individuals in society have become a more visible issue in recent years. Participation of transgender individuals in sport has been controversial, particularly the participation of transgender females (male-to-female individuals) in sex-segregated female sports teams. This concern is based on two assumptions:¹

1. Being born a male means that male-to-female transgender athletes have unfair physical or physiological advantages over cisgender female athletes; and
2. Cisgender males² might be tempted to pretend to be transgender so that they can compete against females at an advantage.

There is no direct or consistent peer-reviewed research which suggests that transgender individuals (either male or female) have an athletic advantage over cisgender athletes in general (although of course some individuals, especially high performance athletes, will always have an athletic advantage over the average person).³ The concern of temporary transition for competitive advantage is similarly unfounded – it can be easily established that an individual is transitioning genuinely through testimony of health care providers, friends and family, or the individual themselves.⁴

Therefore, it is considered that inclusive sporting policies should be adopted which enable transgender individuals to participate and enhance their lives physically, mentally and socially, as well as giving them the same opportunities that cisgender individuals have, and ensuring the safety of all players.

The draft policy (Section 6) reflects the law that New Zealand has on the treatment of transgender individuals, and draws on the policies of comparable international jurisdictions and relevant literature outlining findings and approaches to guiding the participation of transgender individuals in sport.

2. BACKGROUND

Capital Football is subject to the New Zealand Football (NZF) Code of Ethics, as a member federation under 3.1.2. The purpose of the Code of Ethics is to encourage fair and ethical treatment of all persons and organisations within New Zealand Football. Section 18 of the Code outlines non-discrimination and provides that:

¹ Erin Buzuvis *Including Transgender Athletes in Sex-Segregated Sport* (Western New England University School of Law Legal Studies Research Paper Series, 2012).

² See definition in section 3.

³ Bethany Alice Jones and others “Sport and Transgender People: A Systematic Review of the Literature Relating to Sport Participation and Competitive Sport Policies” 2016 *Sports Med*.

⁴ Buzuvis, above n 1.

- Persons bound by this Code may not offend the dignity or integrity of a country, private person or group of people through contemptuous, discriminatory or denigratory words or actions on account of race, skin colour, ethnic, national or social origin, **gender**, language, religion, political opinion or any other opinion, wealth, birth or any other status, sexual orientation or any other reason.

Encouraging the inclusion of transgender individuals in football is therefore consistent with the Code of Ethics, as well as NZF’s priority to “increase the number of participants in the game and the quality of their experience”.⁵

3. DEFINITIONS

It is important that relevant terms and concepts are well-understood by people who are implementing this policy:

TERM	DEFINITION
Agender	An identity that means “without” gender. Agender individuals have no gender identity and/or no gender expression. Often, they identify as a person rather than a gender. ⁶
Biological sex	A person’s biological make-up (body and chromosomes), usually defined as “male” or “female”. This can include indeterminate sex, such as intersex individuals, or individuals with chromosomal conditions. ⁷
Cisgender	A person whose gender identity corresponds with their sex assigned at birth. ⁸
Fa’afafine	Samoan biological males who behave in a range of feminine-gendered ways. Fa’afafine falls into a third gender, separate from male or female. They have been an integrated part of Samoan communities for centuries. ⁹
FtM/Female-to-male/Transgender Man	Someone assigned to the female gender at birth who has a male gender identity. ¹⁰
Gender	The complex relationship between physical traits and a person’s internal sense of self as male, female, both or neither, and that person’s outward presentations and behaviours relating to that perception. Gender is not inherently connected to a person’s biological sex. ¹¹

⁵ New Zealand Football “About NZ Football” <www.nzfootball.co.nz>.

⁶ RainbowYOUTH “Useful Words” <www.ry.org.nz>.

⁷ Human Rights Commission (HRC) *To Be Who I Am* (report of the Inquiry into Discrimination Experienced by Transgender People, 2008).

⁸ RainbowYOUTH, above n 5.

⁹ Ibid.

¹⁰ HRC, above n 8.

¹¹ Transathlete “Trans Terminology” <www.transathlete.com>.

TERM	DEFINITION
Gender fluid	Someone who has no fixed gender identity on the gender spectrum. ¹²
Gender identity	A person's deeply felt inner concept of themselves as male, female, both or neither. For some, gender identity is not the same as their assigned sex/gender at birth. ¹³
Genderqueer	Individuals who do not conform to traditional gender norms and express a non-standard gender identity. ¹⁴
Gender reassignment	Reassignment may include undergoing medical or surgical gender reassignment treatments. However, it is not necessary for someone to have undergone medical or surgical treatment to have the characteristic of gender reassignment. Gender reassignment is a personal, rather than medical process.
Intersex	A general term assigned to those whose reproductive or sexual anatomy doesn't fit the typical definitions of either male or female. There is a sliding scale between male and female and an individual can fall at any point of the scale. ¹⁵
MtF/Male-to-female/Transgender Woman	Someone assigned as the male gender at birth who has a female gender identity. ¹⁶
Sexual orientation	Refers to being romantically or sexually attracted to people of a specific gender, or in the case of bisexual people, any gender. Sexual orientation and gender identity are separate, distinct parts of an individual's overall identity.
Transgender	A broad term used to describe a person whose identity or behaviour falls outside stereotypical gender norms. More narrowly, it refers to a person whose gender identity is different from their assigned biological sex. ¹⁷
Transitioning	Steps taken by transgender people to live as their gender identity. This can involve medical treatment to change a person's sex through hormone therapy, and can also involve gender reassignment surgery. Transitioning can include social, medical, or surgical processes. It is not necessary for someone to have undergone or be undergoing medical or surgical treatment to be transitioning. Transition is a personal, rather than medical process. ¹⁸

¹² RainbowYOUTH, above n 5.

¹³ HRC, above n 8.

¹⁴ Ibid.

¹⁵ RainbowYOUTH, above n 5.

¹⁶ HRC, above n 8.

¹⁷ Transathlete, above n 12.

¹⁸ Transathlete.

TERM	DEFINITION
Transsexual	A person who has changed, or is in the process of changing, their assigned physical sex to conform to their gender identity. ¹⁹
Whakawahine, Hinehi, Hinehua	Some te reo Māori terms describing someone assigned to the male sex at birth who has a female gender identity. ²⁰

4. DISCUSSION OF INTERNATIONAL COMPARATORS

There are many international jurisdictions that already have in place sporting policies addressing the inclusion of transgender players. There is a range of approaches to the inclusion of transgender players. A number of international and national policies were critically analysed as part of developing the policy. The policies analysed were:

- International Olympic Committee Guidelines;
- New Zealand Indoor Netball Transgender Players Policy;
- The UK Football Association (FA) Policy on Trans People in Football;²¹
- Golf Canada Policy on Transgender Golfer Participation;
- United States Curling Association Transgender Participation in Curling; and
- The Scottish Football Association (FA) Policy.

The policies were chosen from jurisdictions that are comparable to New Zealand’s socio-political and policy environment. An outline of the approach of each policy reviewed is provided in Appendix 2.

Under the United States Curling Association Transgender Participation in Curling Policy, a transgender athlete is allowed to participate in accordance with their gender identity, irrespective of the gender listed on their birth certificate, and regardless of whether they have undergone any medical treatment. However, the policy does not prevent anyone from participating in an activity according to their assigned birth gender, even if they have undergone medical treatment. For example, a transgender female may compete in either a male category or a female category. This is the most inclusive example of a policy around transgender people’s participation in sport.

4.1. Under 16/Junior players

Two of six policies included references to junior players. The UK FA Policy on Trans People in Football adopts the view that a player in any Under 16 categories may play in a match involving boys and girls. The general rule is that players outside these ranges must be of the same gender. Likewise, the Scottish FA Policy states that matches involving male and female players may be played, provided that all of the participating players are younger than 16 years.

¹⁹ HRC.

²⁰ HRC.

²¹ The UK FA uses “Trans” as a general term for transgender and transsexual individuals.

According to the two policies above, it is generally accepted that pre-puberty, there are less perceived differences in athletic ability between genders. Many sports have mixed teams for junior players (usually under the age of 16), so the barriers to inclusion do not exist for younger transgender athletes in mixed-team cases.

4.2. Transgender Male (female-to-male) Athletes

Four of the six policies addressed transgender male athletes. The IOC guidelines state that those who transition from female to male are eligible to compete in the male category without restriction. This reflects the perception that those who are assigned to the female sex at birth will not have an athletic advantage over those who are assigned to the male sex at birth. This is potentially discriminatory, as it gives transgender male athletes more rights than transgender female athletes, who are subject to a number of requirements before they can compete in female categories, teams or divisions. This also encourages the unfounded assumption that individuals who are assigned as male at birth and transition to female have an athletic advantage over individuals who are assigned to the female sex at birth.²²

The UK FA and Scottish FA policies state that transgender males must undergo hormone therapy which results in blood testosterone levels within a range that is typical for an individual assigned as male at birth. The Golf Canada Policy on Transgender Golfer Participation states that transgender males must be treated with testosterone administration medication for gender reassignment purposes. Once this has occurred, a transgender male may compete in a men's event, but is not eligible to compete in a women's event. This is problematic, particularly at a social level of play, because it potentially discriminates against transgender athletes who are assigned to the female sex at birth, and identify as male socially, and who do not wish to undergo medical therapy to participate in sport.

4.3. Transgender Female (male-to-female) Athletes

All of the policies addressed transgender female athletes, with varying degrees of inclusion. Overall, most policies contained more detail on the requirements for transgender female athletes than for transgender male athletes. This is because of the unproven assumptions for female transgender athletes as outlined in the introduction above. Generally, there seems to be little concern that female-to-male transgender individuals will have a significant competitive advantage over male athletes in most sports. For this reason, the discussion of policies is broken down into three parts for transgender female athletes, to reflect the greater level of detail in the policies.

4.3.1. Gender identity

It has been suggested that until there is "direct and consistent" scientific data to suggest that transgender competitors have an advantage over other athletes, transgender people should be allowed to compete in accordance with their gender identity with no restrictions: that is, no requirement to have cross-sex hormones or gender-confirming surgery.²³

²² Erin Buzuvis "'As Who They Really Are': Expanding Opportunities for Transgender Athletes to Participate in Youth and Scholastic Sports" (2016) 34 Law and Inequality 341.

²³ Jones, above n 2.

Three of the six policies addressed the gender identity of a transgender female. The IOC Guidelines state that the athlete must declare that their gender identity is female, and that this declaration cannot be changed, for sporting purposes, for a minimum of four years. Under the UK FA Policy, if a transgender person is not undergoing hormone therapy or reassignment surgery, the UK FA can still consider their application taking into consideration:

1. The applicant's and fellow players' safety; and
2. Fair competition.

4.3.2. Hormone treatment

Four of the six policies mandated hormone treatment²⁴ for transgender females to be able to play as females. The IOC states that a transgender female athlete must demonstrate that their total testosterone level in serum has been below 10nmol/L for at least 12 months prior to their first competition. It must remain below that amount throughout the period of desired eligibility to compete in the female category.

Under the UK FA Policy, the athlete must undergo hormone therapy that results in blood testosterone within a range that is typical for an individual assigned as female at birth (or undergo reassignment surgery, as outlined in 4.3.3). The Golf Canada Policy on Transgender Golfer Participation states that a transgender female athlete can only compete in accordance with their birth gender unless they have undergone testosterone suppression medication for gender reassignment purposes. They may compete in a men's event but may not compete in a women's event until completing one year of testosterone suppression treatment. This policy is similar to the UK FA Policy; they may also undergo reassignment surgery instead of, or as well as hormone treatment.

The Scottish FA Policy states that a transgender female may compete in female or mixed-sex domestic competition by providing evidence that their hormone therapy has brought their blood-measured testosterone levels within the range of their affirmed gender.

4.3.3. Reassignment surgery

Policies which require reassignment surgery²⁵ are highly exclusive and discriminatory. There is no medical basis to require an athlete transitioning from male to female to undergo surgery as well as undergoing hormone treatment to neutralise the effect of testosterone in the body. The

²⁴ Hormone therapy is beneficial for many transgender individuals for aiding in a successful transition if choosing to live as the identified gender. There are four main types of subsidised hormone treatments fully funded and available in New Zealand. The maximum physical response to hormones may take up to two years of continued use. For more information, see Counties Manukau District Health Board *Gender Reassignment Health Services for Trans People within New Zealand* (Wellington, Ministry of Health, 2012).

²⁵ Reassignment surgery is undertaken after more than 12 months of continuous hormone treatment, more than two years of "successful and continuous life experience as a woman/man", and comprehensive multidisciplinary evaluation. Following surgery, the individual undertakes ongoing hormone therapy. Ministry of Health "Gender reassignment surgery" (3 February 2014) <www.health.govt.nz>. Sex/gender reassignment surgery involves the removal of some features as well as reconstruction. MtF surgery involves gonadectomy (removal of the gonads), and can be done in New Zealand. FtM surgery has two phases, the second of which can only be done overseas. FtM involves significant complications and is much less common. For more information, see Counties Manukau District Health Board *Gender Reassignment Health Services for Trans People within New Zealand* (Wellington, Ministry of Health, 2012).

requirement for surgery only seems to emphasise the permanence of an athlete's transition to ensure that the athlete is "really" transgender, and not just trying to secure a competitive advantage.²⁶ As discussed in section 1, this is not a reasonable concern.

None of the policies analysed required reassignment surgery outright, but two of six policies mentioned reassignment surgery. The UK FA Policy states that a transgender male must either undergo hormone treatment as outlined above, or undergo reassignment surgery which results in blood testosterone levels within a range that is typical for an individual assigned as female at birth. Likewise, under the Golf Canada Policy, an athlete can compete as a female if reassignment surgery has taken place. As it is mentioned above, neither of these policies require surgical changes – the athlete can choose to undergo hormone treatment only, or surgery (with ongoing hormonal treatment) in order to compete as a female.

Prior to 2015, the IOC required surgical changes for transgender females to compete in female categories. It is now widely accepted that to require surgical anatomy changes as a pre-condition to participation is not necessary to preserve fair competition, and is inconsistent with human rights. This is reflected in the current IOC Guidelines. It is also important to note that reassignment surgery is a complex,²⁷ irreversible, and expensive process,²⁸ and for many transgender individuals it is something that will never be a possibility. Requiring surgery as a precondition to competition can exclude people who would otherwise be able to participate.

4.4. Testing

Under the IOC Guidelines, compliance with the conditions may be monitored by testing. Athletes would need to be informed of the time that tests would be taking place, and given adequate warning.

Under the Scottish FA Policy, testosterone levels of transgender athletes (male and female) must be confirmed annually by a suitably qualified medical representative appointed by the Scottish FA.

4.5. The New Zealand position

One example of a transgender player policy from New Zealand was analysed. Unlike examples from overseas jurisdictions, the New Zealand Indoor Netball Transgender Players Policy does not contain hormonal or surgical requirements. That policy states that if a person wishes to play "as/under another sex that differentiates to what they were born as" they must supply New Zealand Indoor Sports Inc with a birth certificate (confirming the sex they wish to play as), and photo ID. Once this information is received, that player will be able to play "under the sex they

²⁶ Buzuvis, above n 1.

²⁷ Ministry of Health "Gender reassignment surgery" (3 February 2014) <www.health.govt.nz>.

²⁸ Usually between NZ\$ 50,000 and NZ\$ 2.5M. Gender reassignment is a treatment covered under the special high cost treatment pool. This pool is money set aside by the Ministry of Health for one-off treatments not otherwise funded by the public health system. About 20-30 applications are approved each year (there are many other surgeries covered too, not just gender reassignment). Public funding is available for three male-to-female surgeries (in New Zealand) and one female-to-male surgery (not available in New Zealand, so conducted overseas) every two years, with the surgeries taking place overseas. Ministry of Health "High-cost treatment pool" <www.health.govt.nz>; Georgia Forrester "Gender reassignment decades-long wait list 'horrendous'" (13 January 2017) Stuff News <www.stuff.co.nz>.

have disclosed". The process for having an individual's sex changed on a birth certificate is outlined in Appendix 1.

Birth certificate policies constitute discrimination on the basis of transgender status, because an individual might not be willing to have their sex changed on their birth certificate just to participate in a sports team of their choice.²⁹ Changing an individual's birth certificate to reflect their gender identity is a big step, and seems extreme just to be able to compete in a sports team. An athlete may simply be more comfortable playing in a certain team, and does not necessarily want to change their legal gender to reflect this. Generally, only an "eligible adult" (someone who is 18 years or over, or younger than 18 but in a marriage, civil union or de facto relationship)³⁰ can apply to have their sex changed on their birth certificate.³¹ A child's guardian may apply for a declaration as to the appropriate gender identity for a child,³² but this may not be appropriate for every child.

4.6. Player Safety

The safety of all players is paramount. There are two important forms of safety inherent in any sporting activity:

- Social safety- safety from bullying and harassment on and off the field. This can be dealt with through proper education of players, coaches, managers and governance, and Capital Football's disciplinary measures if necessary.³³
- Physical safety- of all players on the field. This is addressed in the policy (section 6).

5. DEVELOPMENT OF THE CAPITAL FOOTBALL POLICY

It is necessary to have a fair and considered policy to allow everyone to participate in football, and ensure fair competition and the safety of everyone on the field.

The development of this policy draws on key considerations that emerged from the literature review and the review of international comparator policies. To this end, the policy is based on the following principles:

- The aim of providing an inclusive environment which supports and welcomes transgender people in football;
- The view that gender identity should not be a barrier to participation in football;
- The prioritisation of inclusion and safety of all participants;
- The recognition that hormone therapy and/or gender reassignment surgery (medical reassignment) may not be appropriate or possible for all individuals; and
- The fact that before puberty, there is little difference in male and female strength development:

²⁹ Buzuvis, above n 7.

³⁰ Births, Deaths, Marriages, and Relationships Registration Act 1995, s 27A.

³¹ Births, Deaths, Marriages, and Relationships Registration Act 1995, s 28(1).

³² Section 29.

³³ New Zealand Football "NZF Disciplinary Code" (16 February 2017).

- Age grades are calculated on the age the player turns in that year, up to the 16th grade. 16th grade girls can play in the 14th mixed grade;
- Junior leagues (up to 16 years old) are mixed grades and girls-only grades unless stated otherwise.³⁴

The framework of this policy is drawn from the UK Football Association Policy on Trans People in Football. That policy is fair and inclusive, and is based on the IOC Guidelines. It also provides background information and a summary of how it was developed. Findings from the literature review were also used to define the scope of the policy. Allowing people to participate based on their social gender identity at most levels is the most inclusive method. At professional levels of play, testosterone ranges have been mandated. These ranges reflect the current scientific consensus to ensure fairness and physical safety of all players. For transgender females, the IOC has stated that testosterone levels must be below 10nmol/L. This has been accepted in the literature as a fair and appropriate test. The pronouns “their” and “them” are used throughout the below draft policy in order to be inclusive, and to reflect the fact that some individuals may not identify with traditional binary pronouns.

³⁴ Capital Football *Junior Playing Regulations* (2017).

6. CAPITAL FOOTBALL TRANSGENDER POLICY

6.1. General

Capital Football and its member clubs are committed to ensuring the inclusion of transgender people in football, and participants enjoyment of the sport. It is important that players, coaches, managers and governance are aware of this policy and its intent. The policy is based on the following principles:

- The aim of providing an inclusive environment which supports and welcomes transgender people in football;
- The view that gender identity should not be a barrier to participation in football;
- The prioritisation of inclusion and safety of all participants;
- The recognition that hormone therapy and/or gender reassignment surgery (medical reassignment) may not be appropriate or possible for all individuals; and
- The fact that before puberty, there is little difference in male and female strength development:
 - Age grades are calculated on the age the player turns in that year, up to the 16th grade. 16th grade girls can play in the 14th mixed grade;
 - Junior leagues (up to 16 years old) are mixed grades and girls-only grades unless stated otherwise.³⁵

6.2. Junior Framework

- There are no conditions on an individual participating in a girls-only team if that is where they feel most comfortable, regardless of their biological sex.
- Mixed football is allowed in all junior grades and players are entitled to play in a girls-only team regardless of their biological sex.

6.3. Youth Framework

- The Youth Framework aims to provide a high-quality experience for all so that players fall and stay in love with the game.³⁶

6.3.1. Community Participation (Federation Competition)

- There are no conditions on an individual playing in a team that best matches their gender identity, regardless of their biological sex.

³⁵ Capital Football *Junior Playing Regulations* (2017).

³⁶ New Zealand Football *Youth Framework* (2016).

6.3.2. Talent Perform (National Competition)

- Approval of an individual to play in a league that best matches their gender identity will be granted on a case-by-case basis by Capital Football. Where a competition is administered by a different entity, the rules of that organisation apply.
- The applicant should assume and maintain, or be willing to maintain, the gender identity of the team that they wish to play in for sporting purposes:
 - Where appropriate, this can be shown through testimony from the individual, their medical professional, family, friends and teammates.
 - It may be that a transgender individual is not comfortable with expressing this gender identity in other situations (for example, because there is a need to conform to their gender assigned at birth for their own safety or inclusion in family, friend or working situations). This should not be a barrier to participating in the team that an individual feels most comfortable in.
- Reassignment surgery or hormonal replacement is not necessary to show that the applicant has assumed a gender identity that is different from their biological sex. Reassignment is a personal process rather than a medical one.
- In deciding, Capital Football will consider:
 - The safety of the applicant and fellow players; and
 - The need to ensure fair play and fair competition.

6.4. Senior Framework

6.4.1. Community Participation (Federation Competition)

- Approval of an individual to play in a league that best matches their gender identity will be granted on a case-by-case basis by Capital Football.
- The applicant should assume and maintain, or be willing to maintain, the gender identity of the team that they wish to play in for sporting purposes:
 - Where appropriate, this can be shown through testimony from the individual, their medical professional, family, friends and teammates.
 - It may be that a transgender individual is not comfortable with expressing this gender identity in other situations (for example, because there is a need to conform to their gender assigned at birth for their own safety or inclusion in family, friend or working situations). This should not be a barrier to participating in the team that an individual feels most comfortable in.
- Reassignment surgery or hormonal replacement is not necessary to show that the applicant has assumed a gender identity that is different from their biological sex. Reassignment should be considered a personal process rather than a medical one.
- In deciding, Capital Football will consider:
 - The safety of the applicant and fellow players; and
 - The need to ensure fair play and fair competition.

6.4.2. Talent Perform (National Competition)

- Approval of an individual to play in a league that best matches their gender identity will be granted on a case-by-case basis. Where a competition is administered by a different entity, the rules of that organisation apply.
- When an application is being considered, there will be an assumption that the application will be approved if the applicant can satisfy the hormone-based requirements. If the requirements are met, an application will only be refused if it is necessary to do so based on:
 - The safety of the applicant and fellow players; or
 - The need to ensure fair play and fair competition.
- The applicant should assume and maintain, or be willing to maintain, the gender identity of the team that they wish to play in for sporting purposes:
 - This can be shown through testimony from the individual, their medical professional and family and friends to that effect, where appropriate.
- A transgender male wishing to play in a male league must undergo hormone therapy resulting in testosterone levels within the average range of biologically male individuals (9-38 nmol/L).
- A transgender female wishing to play in a female league must:
 - Undergo hormone therapy resulting in testosterone levels of less than 10nmol/L;
or
 - Undergo gender reassignment surgery and ongoing hormone therapy resulting in testosterone levels of less than 10nmol/L.
- Recognising that medical reassignment will not be possible or appropriate for all individuals, Capital Football can consider the application of a transgender person who has not undergone or is not undergoing hormone therapy, taking into consideration the above requirements of safety and fair play.

6.5. Procedures

- All applications by individuals to play in a league which matches their gender identity will be considered on a case-by-case basis by Capital Football in a fair, reasonable and respectful way, in accordance with their ethical guidelines.
- Capital Football may ask an applicant to permit their medical professional and/or friends and family to disclose any relevant information to Capital Football, where this is deemed appropriate.
- All applicants and their information will be treated with the utmost respect and confidentiality by Capital Football.

APPENDIX 1: LAW IN NEW ZEALAND

An eligible adult can apply under s 28 of the Births, Deaths, Marriages, and Relationships Registration Act 1995 to the Family Court to have their sex registered on their birth certificate as the opposite to the sex that they were assigned at birth.³⁷ Before the Family Court will approve this application, the applicant must satisfy the Court of a number of things:

1. The applicant's birth is registered with the opposite sex to that of the nominated sex; **and**
2. The applicant is not a person of the nominated sex, but
 - a. Has assumed and intends to maintain, or has always had and intends to maintain, the gender identity of a person of the nominated sex; **and**
 - b. Wishes the nominated sex to appear on their birth certificates; **and**
3. On the basis of expert medical evidence, that the applicant:
 - a. Has assumed (or has always had) the gender identity of a person of the nominated sex; **and**
 - b. Has undergone such medical treatment as is usually regarded by medical experts as desirable to enable persons of the genetic and physical conformation of the applicant at birth to acquire a physical conformation that accords with the gender identity of a person of the nominated sex; **and**
 - c. Will, as a result of the medical treatment undertaken, maintain a gender identity of a person of the nominated sex.

Change can never be 'complete'. Parliament did not intend that an applicant should necessarily have to undergo all available surgical procedures, including full genital surgery, to satisfy the test under the section. What is required is some degree of permanent physical change as a result of the treatment (including psychological treatment) received.³⁸

Applications will be decided on a case-by-case basis based on what an individual's medical advisors recommend, and what that **individual personally feels is required to be comfortable with their gender identity**.

If a declaration is made, the applicant's future birth certificates will include only the person's nominated sex and name, and it will appear that it has been that way since birth. This is not an all-encompassing declaration and the changes apply only to the applicant's birth certificate.

Notwithstanding recommendations from the Human Rights Commission,³⁹ there is no law relating specifically to the discrimination of transgender people in New Zealand. The Human Rights Act 1993 currently does not explicitly prohibit discrimination based on gender. Therefore, the only legal way to protect gender identity is to fit it under provisions preventing discrimination based

³⁷ Currently it is not possible to use this process to change the sex on the birth register from male or female to "indeterminate". A person's sex can be recorded as indeterminate at birth, but it is only possible to change a person's specified gender to indeterminate at a later stage if the sex was indeterminate at birth and was incorrectly recorded as male or female.

³⁸ Internal Affairs "Gender information regarding Declarations of Family Court as to sex to be shown on birth certificates" <www.dia.govt.nz>.

³⁹ Human Rights Commission *To Be Who I Am* (report of the Inquiry into Discrimination Experienced by Transgender People, 2008).

on either sex or sexual orientation.⁴⁰ However, there are problems with interpreting gender identity in these ways. If gender identity is included within the definition of “sex”, it is not known how this would apply to those who have not had, and will not have, gender reassignment surgery. Gender identity is a different concept to sexual orientation, so cannot be included in a definition of sex or sexual orientation.

⁴⁰ Human Rights Act 1993, s 21.

APPENDIX 2: INTERNATIONAL COMPARATORS

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
IOC Guidelines	Growing recognition of the importance of autonomy of gender identity in society. It is necessary to recognise transgender athletes so that they are not excluded from the opportunity to participate in sporting competition.	The overriding sporting objective is the guarantee of fair competition. Restrictions on participation are appropriate to the extent that they are necessary and proportionate to the achievement of that objective.	N/A	Those who transition from female to male are eligible to compete in the male category without restriction.	The athlete must declare that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.	The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition (with the requirement for any longer period to be based on a confidential case-by-case evaluation, considering whether or not 12 months is a sufficient length of time to minimise any advantage in women's competition). The athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category.	To require surgical anatomy changes as a pre-condition to participation is not necessary to preserve fair competition and may be inconsistent with developing legislation and notions of human rights.	Compliance with the conditions may be monitored by testing.	The guidelines are a living document and are subject to review in light of scientific or medical developments.

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
New Zealand Indoor Netball Transgender Players Policy	If a person that was born as one sex wishes to play as/under another sex that differentiates to what they were born as they must supply New Zealand Indoor Sports Inc with a birth certificate (confirming the sex they wish to play as) and a passport/drivers' license (Photo ID). Once this information is supplied and accepted by NZISI it shall be accepted as true and correct and that player shall be able to play under the sex they have disclosed.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
The UK Football Association Policy on Trans People in Football	Participating in sport and in our case football has physical, psychological and social benefits and The FA is committed to promoting Football for Everyone. The FA's policy is based on the fact that during the growth period, leading up to puberty, there is little difference in male and female strength development. Mixed football is allowed until the U16 age group and under 16's are entitled to play in boys' or girls' teams regardless of their natal sex.	Football belongs to, and should be enjoyed by, anyone who wants to participate in it. The FA regulates the participation of competitors in football matches and domestic competitions as set out in The FA Rules. Gender identity should not be a barrier to participation in football. The FA is intent on making football a lifelong experience, and ensuring the inclusion and safety of participants.	A child in the age ranges from Under 7 to Under 16 may play in a match involving boys and girls. Taking into account the age and stage of development of children who are likely to be competitors, players in a match outside of these age ranges must be of the same gender.	Hormone therapy results in blood testosterone levels within natal male range. Proof of ID required is identical to that required of all players.	If a transgender person is not undergoing hormone therapy or reassignment surgery, The FA will consider their application taking into consideration the two requirements to ensure 1) the applicant's and fellow players' safety and 2) fair competition.	Hormone therapy results in blood testosterone within natal female range OR	Reassignment surgery results in blood testosterone within natal female range.	N/A	N/A

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
Golf Canada Policy on Transgender Golfer Participation	Golf Canada believes in and is committed to diversity, inclusion and gender equality among its competitors.	The goals of the policy are to create opportunity for transgender golfers to participate in accordance with their gender identity while maintaining the relative balance of competitive equity within events.	N/A	Must be treated with testosterone administration medication for gender reassignment purposes. A transgender male may compete in a men's event, but is not eligible to compete in a women's event.	N/A	Can only compete in accordance with their birth gender unless she has undergone testosterone suppression medication for gender reassignment purposes. She may compete in a men's event but may not compete in a women's' event until completing one year of testosterone suppression treatment. OR	Can compete as a female if reassignment surgery has taken place.	N/A	N/A

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
United States Curling Association Transgender Participation in Curling	The US Curling Association is committed to preventing discrimination against any of its members, including discrimination based on gender identity. The USCA welcomes participation from all curlers in its competitions.	The purpose of the policy is to establish clear guidelines about the inclusion of transgender curlers in USCA events.	N/A	(See next column on gender identity).	A transgender athlete member of a curling club should be allowed to participate in accordance with their gender identity, irrespective of the gender listed on the athlete's birth certificate or other records and regardless of whether the athlete has undergone any medical treatment. The policy should not prevent an athlete from electing to participate in an activity according to their assigned birth gender. This means an athlete who is biologically female but has a male gender identity should be allowed to participate in male events or as a male athlete and an athlete who is biologically male but has a female gender identity should be allowed to participate in female events or as a female athlete.	N/A	N/A	N/A	N/A

Policy Name	Background	Introduction	Under 16's	FtM Requirements	MtF Gender Identity	MtF Hormone Treatment	MtF Reassignment Surgery	Testing	Other Information
The Scottish FA Policy	Scottish FA is committed to the principles of equality in sport. It aims to ensure that all people within football have a genuine and equal opportunity to participate in football at all levels and in all roles.	Football is a gender-affected sport in which the physical strength, stamina and/or physique of an average person of one sex puts them at an advantage or a disadvantage to an average person of the other gender as competitors in a football match.	Matches involving male and female players may be played, provided that all of the participating players are not older than 15 years.	May compete in his affirmed gender in male competition if his blood-measured testosterone level is within the range of his affirmed gender.	N/A	May compete in female or mixed-sex domestic competition by providing evidence that her hormone therapy has brought her blood-measured testosterone levels within the range of her affirmed gender.	N/A	Testosterone levels must be confirmed annually by a suitably qualified medical representative appointed by the Scottish FA.	N/A