

## **WORLD SAILING TRANSGENDER ELIGIBILITY POLICY**

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## 1. INTRODUCTION

- 1.1. World Sailing is the international federation responsible for the worldwide governance and regulation of sailing and is recognised as such by the International Olympic Committee (the “**IOC**”) and the International Paralympic Committee (“**IPC**”). One of its primary missions is to define and uphold the rules of sailing so that individuals and teams can compete in an open and fair way. Its ambition for the future is to progress and grow the sport of sailing, achieving greater reach and impact across the globe.
- 1.2. World Sailing’s responsibilities include developing and administering eligibility criteria for its events and international sailing competitions. In this respect, World Sailing is committed to providing safe, fair, inclusive, and non-discriminatory opportunities for all athletes wishing to participate in sailing. This transgender eligibility policy (the “**Transgender Policy**”) has been adopted by World Sailing for the participation of Transgender athletes in sailing in the category of competition and classification consistent with their gender identity.
- 1.3. This Transgender Policy reflects a broad medical, scientific and legal consensus based on discussions and interactions between sports physicians, medical experts, legal counsel, human rights experts, World Sailing stakeholders, members of the sailing community, including cisgender female, transgender and non-binary representatives, as part of a consultation process.
- 1.4. This Transgender Policy comes into effect on [date] and applies to cases arising after that date falling within its scope. It will be subject to periodic review and may be amended following such review to account for any new evidence, guidance and/or relevant medical or scientific developments.
- 1.5. The eligibility conditions contained herein are binding on and must be complied with by World Sailing officials (“**WS Officials**”), Member National Authorities (“**MNA(s)**”), athletes, athlete representatives, Event organising authorities (“**OA(s)**”) and all other applicable persons participating in Events.
- 1.6. This Transgender Policy applies globally, regulating the eligibility conditions for participation in Events and competitions taking place around the world, insofar as it is possible it is to be interpreted and applied not by reference to local or national laws, but as an independent and autonomous policy, in a manner that protects and advances the objectives identified herein.
- 1.7. This Policy applies to Events as defined in this Transgender Policy and to those sailing in such Events. An MNA may adapt this policy as provided for in this Transgender Policy in relation to those sailing under the jurisdiction of that MNA outside of Events and as may be required for compliance with applicable legal requirements.

## 2. POLICY OBJECTIVES

- 2.1. World Sailing wishes to provide equal opportunities for all athletes to participate in and excel at sailing and to provide them with fair and meaningful competition conditions. The eligibility conditions established in this Transgender Policy are steered exclusively by the desire to ensure fairness and safety within sailing competitions.
- 2.2. World Sailing has the following objectives regarding Transgender participation in sailing:
  - 2.2.1. To ensure a safe and harassment-free environment for all people involved in sailing events and competitions.
  - 2.2.2. To not allow any form of discrimination in World Sailing’s actions or decisions and ensure that everyone within the World Sailing community conducts themselves in a non-discriminatory and ethical manner.
  - 2.2.3. To protect the integrity of the sport and take action against any form of manipulation of competitions, including but not limited to doping, and other related corruption.
  - 2.2.4. To provide opportunities for Transgender and Non-Binary athletes to compete in Events in the competition category that reflects their gender identity based on eligibility criteria that are consistent with and do not undermine World Sailing’s goals for the Female category.
- 2.3. The need to respect and preserve the dignity and privacy of Transgender athletes and avoid improper discrimination and stigmatisation on the grounds of gender identity, is paramount. All forms of abuse and/or harassment against Transgender athletes are prohibited.
- 2.4. All cases arising under this Transgender Policy must be handled and resolved in a fair, consistent and confidential manner, recognising the sensitive nature of such matters.

### 3. DEFINITIONS

3.1. The words and phrases used in this Transgender Policy that are defined terms (denoted by initial capital letters) have the following meanings:

<b>“Class”</b>	means a World Sailing accredited class association.
<b>“Event”</b>	means: <ul style="list-style-type: none"><li>(i) World or continental championships of any Olympic Class;</li><li>(ii) World Sailing World Championships;</li><li>(iii) World Sailing Youth World Championships;</li><li>(iv) World Sailing World Cup Series;</li><li>(v) World Sailing Inclusive World Championships;</li><li>(vi) World Sailing Match Racing World Championships;</li><li>(vii) Olympic Games and Paralympic Games, and any events used as ranking and/or qualifying events for such; and</li><li>(viii) Any event where World Sailing is the Organising Authority..</li></ul>
<b>“Expert Panel”</b>	means a panel of no more than seven (7) medically qualified doctors with appropriate knowledge and expertise, appointed by World Sailing Board to perform the functions set out in this Transgender Policy, which will review cases arising under this policy in accordance with this Transgender Policy.
<b>“Female”</b>	means an athlete who has gone through female pubertal development past Tanner Stage 2.
<b>“Male”</b>	means an athlete who has gone through male pubertal development past Tanner Stage 2.
<b>“Medical Manager”</b>	means a medically qualified person who is appointed and authorised by the World Sailing Board to act on its behalf in matters arising under this Transgender Policy and in accordance with this Transgender Policy. The Medical Manager cannot be part of the Expert Panel.
<b>“Non-Binary”</b>	means a person whose gender is identified by them as neither male nor female, or both male and female, or whose gender is not identified as male and/or female.
<b>“Olympic Class”</b>	means a World Sailing Class Association which is designated as part of the Olympic Sailing Competition for the Olympic Games.
<b>“Tanner Stages”</b>	means the medical analysis that denotes the five stages of puberty during which individuals develop secondary sex characteristics. Tanner Stage 2 denotes the onset of puberty. The normal time of onset puberty ranges from 8 to 13 years old in females, and from 9 to 14 years old in males.
<b>“Transgender”</b>	means a person whose gender identity is different from their biological sex at birth (whether they are pre- or post- puberty and whether or not they have undergone any form of medical intervention). A <b>“Transgender Male”</b> is a person whose biological sex at birth was female and whose gender identity is male; and a <b>“Transgender Female”</b> is a person whose biological sex at birth was male and whose gender identity is female.

3.2. Words importing the singular only shall include the plural and vice versa. Any phrase introduced by the terms *including, include, in particular* or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### 4. APPLICATION

4.1. This Transgender Policy establishes the conditions enabling Transgender athletes to compete in Events, in the competition category that is consistent with their gender identity. A Transgender athlete who wishes to be eligible to compete in the classification consistent with their gender identity at Events, agrees, as conditions to such eligibility:

4.1.1. to fully comply with this Transgender Policy;

4.1.2. to cooperate promptly and in good faith with the Medical Manager and the Expert Panel in the discharge of their respective responsibilities under this Transgender Policy, including

- providing them with all the information and evidence they request to assess their compliance and/or monitor their continuing compliance with the eligibility conditions referred to in this Transgender Policy;
- 4.1.3.(to the fullest extent permitted and required under applicable data protection laws) to the collection, processing, disclosure, and use of information (including their sensitive personal information) as required to implement and apply this Transgender Policy effectively and efficiently; and
  - 4.1.4.to exclusively follow the procedures set out herein to challenge this Transgender Policy and/or to respect any appeal decisions made hereunder.
- 4.2. An athlete may revoke at any time, with or without giving reasons, the consent that they have granted in accordance with clause 4.1 above. Any revocation must be done in writing to the Medical Manager. In that event, the athlete will be deemed to have withdrawn any claim to satisfy the eligibility conditions for Transgender athletes set out in clause 5 below.
  - 4.3. Every person and entity under the jurisdiction of World Sailing:
    - 4.3.1.is bound by and must comply with this Transgender Policy, in particular, providing accurate and complete information, and not providing any information in bad faith or for improper purpose; and
    - 4.3.2.must cooperate promptly and in good faith with the Medical Manager and/or Expert Panel in the discharge of their respective responsibilities under this Transgender Policy.
  - 4.4. Each MNA must cooperate with and support World Sailing in the application and enforcement of this Transgender Policy and act in strict confidence. It is the obligation of MNAs to inform all athletes who are registered to Events about the existence of this Transgender Policy and ensure that any Transgender or Non-Binary athletes registered for Events contact World Sailing to ensure compliance with this Transgender Policy.
  - 4.5. It is the recommendation of World Sailing that each MNA adopts its own regulations to determine the eligibility of Transgender athletes to compete in events taking place under its own jurisdiction, in consideration of local and national laws. Non-Olympic Classes may also adopt their own regulations to determine the eligibility of Transgender athletes in their Class. At the level of national championships in Olympic Classes (or equivalent), it is recommended that this Transgender Policy be observed. The adoption, adaptation or alteration by an MNA of this Transgender Policy for other competition under the jurisdiction of that MNA is to be determined by that MNA.
  - 4.6. Any such adoption, adaptation or alteration of this Transgender Policy or any other policy covering the subject matter of this Transgender Policy shall be notified by the MNA or Class concerned to World Sailing, as soon as is reasonably practicable and in all instances, before implementing any adaptations or alterations.
  - 4.7. For the avoidance of doubt, the eligibility of Transgender athletes to compete in the Events will exclusively be determined by reference to this Transgender Policy

## **5. ELIGIBILITY CONDITIONS**

### Eligibility conditions for Transgender male athletes

- 5.1. To be eligible to compete in a Male Category or as a male in a Mixed Category at an Event, a Transgender male athlete must provide a written and signed declaration, in a form satisfactory to the Medical Manager, that their gender identity is male. Upon receipt of such declaration, the Medical Manager will issue a written certification of that athlete's eligibility to compete as a male in the Male Category or as a male in a Mixed Category at an Event and to have recognised any result as such, as soon as is reasonably practicable.
- 5.2. To ensure that certification is received in good time, the athlete must provide the declaration to the Medical Manager at least six (6) weeks in advance of the first Event in which he wishes to participate as a male.
- 5.3. For the avoidance of doubt, from the date that a Transgender male athlete commences hormone treatment, they will not be eligible to participate in the Female Category at Events or compete as

a female in the Mixed Category where the category of competition at Events requires one male and one female athlete.

#### Eligibility for Transgender female athletes

- 5.4. To be eligible to compete and have any recognised sailing performance in the Female category of competition at an Event or to be eligible to compete as a Female in the Mixed Category of an Event, a Transgender female athlete must meet each of the following conditions to the satisfaction of the Medical Manager:
- 5.4.1. the athlete must provide a written and signed declaration, in a form satisfactory to the Medical Manager, that her gender identity is female;
  - 5.4.2. the athlete must not have experienced any part of male puberty beyond Tanner Stage 2;
  - 5.4.3. the athlete must demonstrate that the concentration of testosterone in her serum has been less than 2.5 nmol/L continuously for a period of at least twelve (12) months prior to the first Event they wish to compete in. The athlete must send the relevant medical certificates to the Medical Manager at least six (6) weeks in advance of the first Event in which she wishes to participate in the Female category or as a Female in the Mixed category; and
  - 5.4.4. the athlete must continue to maintain the concentration of testosterone in their serum below 2.5 nmol/L at all times (i.e. whether they are in competition or out of competition) for so long as they wish to retain eligibility to compete in the Female category at Events and/or have recognised sailing performance in the Female classification.

(together the “**Transgender Female Eligibility Conditions**”).

- 5.5. If the Medical Manager is satisfied that the Transgender Female Eligibility Conditions have been met, then the Medical Manager will provide authorisation to enter the Event.
- 5.6. If the Medical Manager is not satisfied that the Transgender Female Eligibility Conditions have been satisfied, then they will notify the athlete accordingly.
- 5.7. Any athlete who has not been granted authorisation in accordance with Clause 5.5 may apply to the Expert Panel for assessment.
- 5.8. Upon receipt of an application under Clause 5.7 the Expert Panel will fully review all the information presented to the Medical Manager and any new information which the athlete wishes to present and determine if the Transgender Female Eligibility Conditions have been satisfied. The Expert Panel may, at their discretion, request further information from the athlete which must be provided by the athlete or the Medical Manager on behalf of the athlete, as soon as possible.
- 5.9. Subject to Regulation 35.9 the decision of the Expert Panel will be final and binding.
- 5.10. Any person or entity (including, without limitation, any other athlete, official, Class or MNA) that provides information to the Medical Manager and/or Expert Panel for consideration under this Transgender Policy is under a strict obligation:
  - 5.10.1. to ensure that the information is accurate and complete; and
  - 5.10.2. not to provide any information in bad faith, to harass, stigmatise or otherwise injure any athlete, or for any other improper purpose.

#### Eligibility for Non-Binary athletes

- 5.11. Non-Binary athletes who have experienced the biological effects of testosterone during puberty and adolescence cannot compete in a Female Category or as a female in a Mixed Category unless they satisfy the Transgender Female Eligibility Conditions.
- 5.12. For the avoidance of doubt, Non-Binary athletes wishing to compete in accordance with the Transgender Female Eligibility Conditions must follow the same process as Transgender female athletes, as set out in clauses 5.5 – 5.10.2.
- 5.13. From the date that a Non-Binary athlete (whose sex at birth is Female) commences hormone treatment, they will not be eligible to participate in the Female Category at Events or compete as a female in the Mixed Category where the category of competition at Events requires one male and one female athlete.
- 5.14. For the avoidance of doubt, Non-Binary athletes who have: i) experienced the biological effects of testosterone during puberty and adolescence; and/or ii) commenced hormone

treatment, may automatically compete in a Male Category or as a male in a Mixed Category at an Event.

#### Provisions applicable to all Transgender and Non-Binary athletes

- 5.15. For the avoidance of doubt:
  - 5.15.1. no athlete will be forced to undergo any medical assessment and/or treatment under this Transgender Policy. It is the athlete's responsibility, in close consultation with their physician(s), to decide on the advisability of proceeding with any assessment and/or treatment; and
  - 5.15.2. there are no other special conditions (i.e., other than the Transgender Female Eligibility Conditions) that a Transgender athlete must satisfy in order to compete in an Event and/or have recognised performance in any other competitions in the classification consistent with their gender identity. In particular, the following are not requirements that Transgender athletes have to satisfy: (i) legal recognition of the athlete's gender identity; or (ii) surgical anatomical changes.
- 5.16. Once a Transgender athlete has satisfied the relevant eligibility requirements set out above and has started competing in Events in the category of competition consistent with their gender identity, they may not then participate in the other category in an Event, unless and until: (i) at least two (2) years have passed since the first Event in which they participated as a Transgender athlete; and (b) they satisfy all of the conditions for eligibility to compete in the relevant category.
- 5.17. Each Transgender athlete will be considered on their own unique circumstances and no precedents are set in relation to this Transgender Policy.
- 5.18. Transgender and Non Binary athletes subject to doping control must still comply with applicable anti-doping rules, including any requirement to obtain a Therapeutic Use Exemption ("TUE") for the use of a substance on the WADA Prohibited List, such as testosterone.

#### **6. MONITORING COMPLIANCE AND DISCIPLINARY.**

- 6.1. The Medical Manager shall monitor compliance with this Transgender Policy and may, at any time, request additional information from a Transgender athlete to confirm their compliance with this Transgender Policy.
- 6.2. The Medical Manager will review any instances of non-compliance which come to their attention and/or any complaints of non-compliance made to them. If the Medical Manager is satisfied that these warrant further investigation then they shall refer the matter to the Expert Panel.
- 6.3. After review, if the Expert Panel is satisfied that there is a potential breach of this Transgender Policy then they shall refer the matter to the Chief Executive under Regulation 35.6 Part E: Other Disciplinary Complaints.
- 6.4. To avoid abuse, only the Expert Panel may refer a complaint to the Chief Executive, and they should only do so in good faith and on reasonable grounds based on information derived from reliable sources.
- 6.5. Potential non-exhaustive complaints of non-compliance include where:
  - 6.5.1. an athlete competes in an Event in a category of competition for which they have not satisfied the eligibility conditions set out in this Transgender Policy;
  - 6.5.2. a Transgender athlete who has been determined to be eligible to compete in the Female category at Events, and has not renounced that eligibility, fails to cooperate fully and in good faith with the efforts of the Medical Manager to determine their continuing compliance with the Transgender Female Eligibility Conditions;
  - 6.5.3. an athlete has failed to declare that they are Transgender and there is proof that they have changed gender and are subject to this Transgender Policy;
  - 6.5.4. a coach, trainer, agent, physician or other person or entity has been complicit in a breach of or non-compliance with this Transgender Policy by an athlete; and/or
  - 6.5.5. there is a complaint of stigmatisation and/or improper discrimination on grounds of gender identity. In particular, including but not limited to, persecution or campaigns against athletes

simply on the basis that their appearance does not conform to gender stereotypes are unacceptable.

- 6.6. In addition to the provisions within Regulation 35.6 Part E, where an Independent Panel considers it necessary to maintain integrity of competition results, they may disqualify the individual results obtained which were obtained in breach of this Transgender Policy. Subject to the provisions within the Racing Rules of Sailing and the relevant Notice of Race resulting consequences, may include forfeiture of any medals, ranking points, prize money, records (including world records), qualification or quota places and other items awarded to the athlete based on any such results.

## **7. CONFIDENTIALITY**

- 7.1. All cases arising under this Transgender Policy, and in particular all information relating to an athlete that is provided to World Sailing under this Transgender Policy, and all results of examinations and assessments conducted under this Transgender Policy, must be maintained in strict confidence at all times. All medical information and data relating to an athlete will be treated as sensitive personal information and the Medical Manager must ensure that it is processed as such in accordance with applicable data protection and privacy laws. Such information and data may not be used for any purpose that is not contemplated in this Transgender Policy and may not be disclosed to any third party save (i) as is strictly necessary for the effective application and enforcement of this Transgender Policy; and (ii) as is required by law.
- 7.2. Save for clause 7.3 World Sailing will not comment publicly on the specific facts of a case arising under this Transgender Policy (as opposed to general descriptions of the process and science involved) except in response to any public comments made by an athlete or their representatives.
- 7.3. In relation to disciplinary matters raised under this Transgender Policy those persons disciplined are deemed to have consented to publication of any decisions, subject to provisions within the World Sailing Regulations to request Judicial Board discretion for the decision not to be published.
- 7.4. The Medical Manager and each member of the Expert Panel must sign an appropriate conflict of interest declaration and confidentiality undertaking in relation to their work in accordance with this Transgender Policy.

## **8. COSTS**

- 8.1. The costs of any medical assessment, examination, treatment, monitoring, reporting and any other costs involved in complying with this Transgender Policy will be borne by the relevant athlete. The standing costs of the Medical Manager and Expert Panel will be borne by World Sailing.

## **9. LIMITATION OF LIABILITY**

- 9.1. In no circumstances will World Sailing, the Medical Manager, any member of the Expert Panel, or any of World Sailing's employees, officers, agents, representative and other persons involved in the administration of this Transgender Policy be personally liable for any acts or omissions in connection with the administration of this Transgender Policy.
- 9.2. Each case shall be addressed as quickly as is reasonably practicable in all circumstances. However, in no circumstances will World Sailing, the Medical Manager, or any member of the Expert Panel be personally liable for any detriment allegedly suffered by the athlete in question or anyone else as a result of the length of time taken to complete the investigations/assessment of their case.

## **10. GENERAL INFORMATION**

- 10.1. Subject to any different order being made by the Expert Panel the language of World Sailing is English, and all information, submissions, statements or evidence in any other language shall be accompanied, at the time they are introduced, by a translation into English, with such translation being provided by the athlete that introduced the information, submission, statement or evidence.
- 10.2. This Transgender Policy shall be governed by the laws of England and Wales.
- 10.3. This Transgender Policy will be subject to ongoing review.