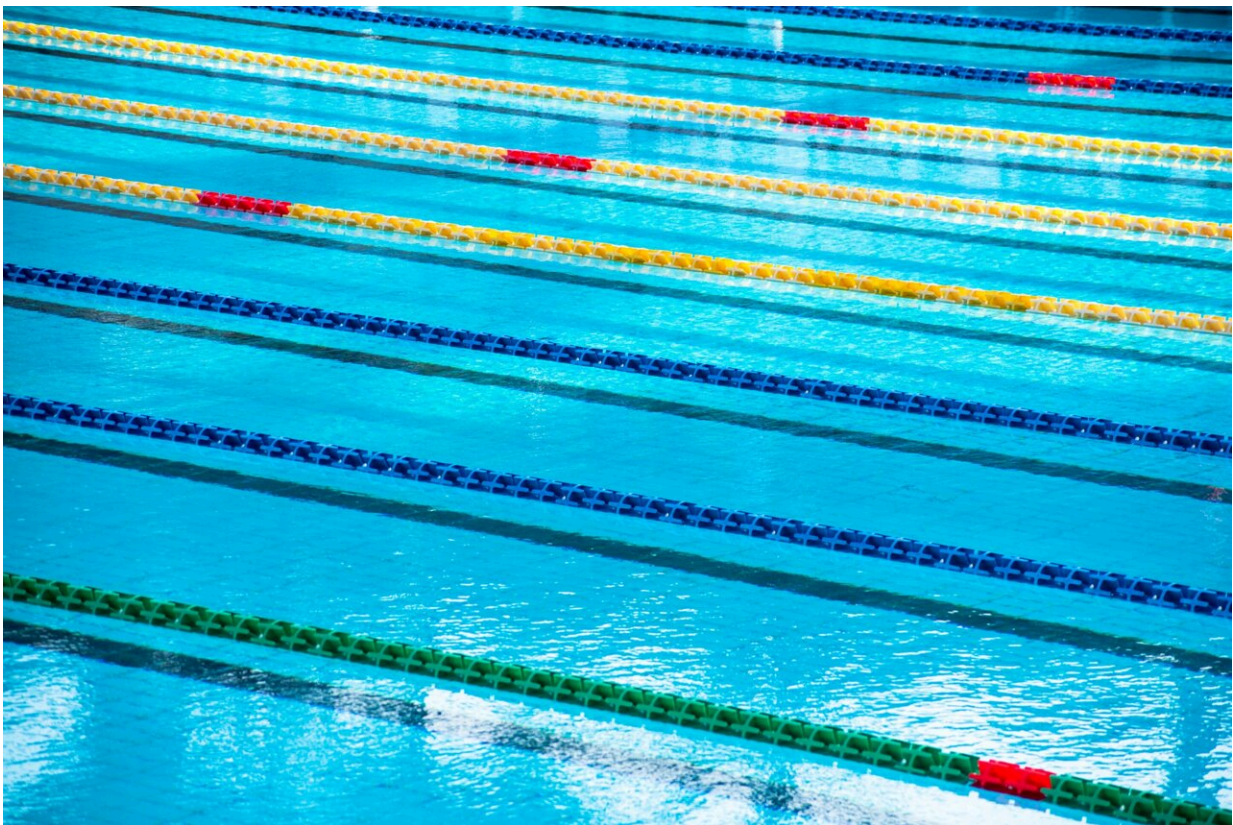


Transgender athletes: Balancing the debate between science, performance and human rights

June 21 2022, by Seema Patel



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The world governing body for swimming, FINA, have announced their eligibility policy for trans athletes and 46 XY DSD athletes. Following

extensive consultation with athletes, scientists and lawmakers, they have voted to prohibit those gender diverse athletes from competing in the female category if they have experienced any part of male puberty. The policy states that those who are ineligible to compete may participate in the open categories that FINA plan to develop in the future.

This [policy](#) is released at a highly polarized and political time for the participation of gender diverse athletes. In November 2021, the IOC introduced their [Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations](#) which seeks to shift the attention onto gender equality, non-discrimination and inclusion. For the first time, the IOC ensures that everyone can participate in sport irrespective of their [gender identity](#) or sex variations. However, the impact of the IOC Framework remains to be seen, with criticisms from international medical associations and sports bodies for failing to consider science. The UCI recently [banned a trans female cyclist from competing](#) which fueled further tensions and led to the British Prime Minister offering uninformed views on the matter.

During the FINA consultation, it was positive to see the arrangement of three working groups—athletes, science and legal/human rights. This is a step forward for a more balanced approach to inclusion. It is hoped that these were not discrete groups and instead the experts collectively consulted on these matters. In the report the legal/[human rights](#) group provide limited specific points about the core principles of gender rights that require recognition and protection when establishing eligibility policies.

Ultimately, the scientific aspects continue to dominate the policy but as previously argued, there is simply [insufficient evidence](#) and information on performance advantage and testosterone impact to accurately develop policy in this area. Grouping trans athletes and DSD athletes in the policy complicates this further and ignores the differences between those

gender diverse groups.

Furthermore, athletes are required to certify their chromosomal sex in order to be eligible under the policy. This is reflective of previous sex testing methods which were abandoned because of their inaccuracy. The reference to gender diverse athletes as biologically male is potentially harmful and inaccurate because it dismisses the complexity and diversity of trans and DSD people.

Any [legal challenge](#) to this ban is still limited given the exclusive authority of CAS within the sport policies. This is part of a much wider concern regarding the adequacy of the sport regulatory structure for dealing with discrimination issues and the ability of an athlete to assert their [legal rights](#). To put it simply for the public, if you feel you were treated unfairly in the workplace, you could seek [legal advice](#) and the law is in place to offer protection. It does not work in the same way for athletes, and they are often restricted from this right.

Such policies are placing too many conditions on gender diverse [athletes](#) and almost trying too hard to define the binary female, when the tides are changing and the meaning of [gender](#) identity is evolving.

Provided by Nottingham Trent University

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