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Dear Tess,

Thank you for your letter following my attendance at the Health, Social Care and Sports committee's evidence session as part of the Inquiry into Female Participation in Sport and Physical Activity on Tuesday 23rd May. We welcome the opportunity to clarify the position of LEAP Sports.

As Scotland's LGBTIQ+ sports charity, LEAP Sports believes in equality and works towards greater inclusion of LGBTIQ+ people in sport and physical activity.

LEAP Sports considers inclusion, fairness, and safety to be complementary values that can be adopted together. We consider fairness to encompass the need to ensure that no athlete has an unfair disproportionate advantage over others in their sport and we consider safety to entail that physical safety risks are prevented. These values are wholly consistent with the value of inclusion, to the extent that an evidence-based approach to fairness and safety are adopted. An evidence-based approach would entail that excluding athletes from sport on the grounds of fairness or safety would require robust and sound evidence that the excluded athletes indeed possess an unfair disproportionate advantage or pose a safety risk. In the absence of such evidence, the default position should be inclusion. This approach is consistent with the international position set out by the International Olympic Committee (2021)¹ which states that there should be no presumption of advantage based on someone being trans until evidence determines otherwise.

The IOC Framework recognises that "it must be in the remit of each sport and its governing body to determine how an athlete may be at a disproportionate advantage against their peers, taking into consideration the nature of each sport". Thus whilst LEAP Sports recognises the research cited, we do not believe that it can be applied in a universal way across all sports, and we approach the research in line with the principle of the evidence-based approach and standards of evidence outlined in the Framework. The Framework requires not only robust and sound evidence for the existence of unfair advantage or safety risks in order to justify excluding athletes from sport, but it also requires that such evidence must be based on data collected from the specific demographic group that is being excluded, and it must demonstrate that the advantage or safety risk exists in the specific sport that is being regulated.

¹ International Olympic Committee (IOC), 2021 Framework on Fairness, Inclusion and Non-Discrimination on the basis of gender identity and sex variations
<https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>

Further, we encourage sports bodies to consider how their decision making is applied at different levels within their sport, and so considerations of evidence relevant at elite and competitive sport could be different from at the community grassroots and recreational level for example. Sports bodies have a duty to ensure that any policies that exclude, are necessary and proportionate, and LEAP Sports does not believe that blanket bans of trans women in sport meet this duty.

Research in relation to trans people in sport continues to be limited, and as The Canadian Centre for Ethics in Sport (CCES) 2022² concludes, biomedical studies are overvalued with limited considerations made of sociocultural studies. As the report further highlights, the biomedical studies that do exist in this area are inconclusive and they are generally not based on research on the appropriate demographic group: biomedical studies have used cis men and sedentary trans women as a proxy to make conclusions about trans women athletes, but since trans women athletes are neither cis men nor sedentary, such studies cannot be used to make conclusions about trans women athletes.

Indeed, the Sports Councils Equality Group's International Research Literature Review's³ statement that "there are significant differences between the sexes which render direct competition between males and females unfair in most gender-affected sports" refers to differences between cis men and cis women rather than to differences between trans women and cis women. Research on the specific group of trans women athletes is extremely limited, and current understanding of the effects of gender-affirming medical interventions on trans athletes' sports performance is partial and incomplete.

Public and media discourse on this topic regularly characterises a polarised view where at one end we have inclusion of trans women without restrictions, whilst at the other end is complete exclusion. This does not reflect reality as trans women are already unable to participate in competitive sports that are considered to be gender-affected without some form of restrictions. This often means meeting a regulatory threshold that has been set, as well as providing a level of medical evidence that they meet this threshold. This is most commonly testosterone levels, and testosterone suppression for trans women, and includes the provision of comprehensive records of sensitive medical documents. It also almost always means some kind of process to gain permission to participate. Sport bodies in Scotland have spent more than a decade developing such policies already.

Despite this, policy changes since 2021 have led to increased thresholds and in some cases blanket bans on inclusion and participation. Prior to the change in the Scottish Rugby policy at the start of 2023 for example, there were less than 5 trans women who had met the threshold and were able to play competitive rugby in Scotland. This number is now zero as the new policy means no trans women are able to play. It is our view that this focus is making an already bad situation worse.

We know that participation rates in sport and physical activity for trans people are poor with 54% of trans people having stopped participating or feel excluded from particular sports⁴. We also know that 60% of trans people and 64% of non-binary people are not active enough to meet standards of good health⁵. As many sports bodies are focused on policy revisions that continue to tighten already existing restrictions in their sport (only today British Cycling have become the latest), we are greatly concerned by the lack of concomitant efforts to proactively address these issues of inequality.

² Canadian Centre for Ethics in Sport [CCES]. 2022. *Transgender Women Athletes and Elite Sport: A Scientific Review..* Available at <https://cces.ca/sites/default/files/content/docs/pdf/transgenderwomenathletesandelitesport-ascientificreview-e-final.pdf>

³ UK Sports Council Equality Group, Carmill Consulting (2021) International Research Literature Review Available at: <https://equalityinsport.org/docs/300921/Transgender%20International%20Research%20Literature%20Review%202021.pdf>

⁴ Menzel, T., Braumüller, B., & Hartmann-Tews, I. (2019). The relevance of sexual orientation and gender identity in sport in Europe: Findings from the Outsport survey. German Sport University Cologne, Institute of Sociology and Gender Studies. Available at: www.out-sport.eu/wp-content/uploads/2019/05/OUTSPORT-Report-Relevance-of-SOGI-in-Sport-in-Europe-3.pdf

⁵ The National LGBT Partnership (2016). Survey of Exercise & Physical Activity in LGBT Lives in England Available at: <https://blgbt.org/wp-content/uploads/2015/10/Survey-of-Exercise-Physical-Activity-in-LGBT-Lives-in-England.pdf>

Sport is a social environment where sexism and misogyny are still present and deeply linked with the history, structure and dynamics of participation of women in sport⁶, as has also been intimated in previous sessions of the current Inquiry. CCES report that “Policies that impact trans women’s participation in elite sport are the continuation of a long history of exclusion of women from competitive sport – an exclusion that resulted in the introduction of a ‘women’s’ category of sport in the first place”. LEAP Sports is acutely aware of the negative impact that current policy changes are having on not only trans women, but on all women. There is an increase in reported incidents of abuse and harassment from the community sports groups in our network. There is also a particularly worrying uptick in the number of such incidents related to women’s gender expression within sports settings where we are seeing that the restrictions and scrutiny directed at the physical bodies and performance levels of some (trans) women can cause further scrutiny of the bodies and performances of all women in sports (both cis and trans). We are also hearing increasingly regular reports from women’s sports clubs about the abuse they get when trans women are part of their clubs or teams. This point was illustrated by a participant in a focus group held as part of a women’s peer research project: "It used to be that inclusion was a good thing and something we wanted to shout about [...] We're not going to stop having trans women playing in the team but celebrating that just leads to abuse and accusations of being [abusive names]".

Concerns about trans women being a threat to women’s sport are often based on an undue conflation of trans women with men, where the concerns are often driven by fears of men taking part in women’s sports. Trans women, however, are women, and the celebration and protection of women’s sports should entail the celebration and protection of all women in sports, including trans as well as cis women athletes.

LEAP Sports believe that sport is for everyone, and that sport should be organised with a grounding in respect for equality and human rights. We look forward to continuing work with the sports sector to further improve inclusion and participation of all LGBTIQ+ people, to take a thoughtful and considered evidence-based approach to inclusion, and to tackle the persistent health and social inequalities through the power of sport and physical activity.

Sincerely,

Heidi Vistisen,



Policy Manager, LEAP Sports Scotland

⁶ ILGA-Europe, TGEU, Organisation Intersex International Europe, and European Gay & Lesbian Sport Federation. (2021) LBTI Women in Sport: violence, discrimination and lived experiences. <https://tgeu.org/wp-content/uploads/2021/08/2021-violence-and-discrimination-against-LBTI-women-in-sport.pdf>