

# **The International Cricket Council**

## **Gender Recognition Policy**

*Effective as from 20 February 2017*

For information regarding the Gender Recognition Policy, please contact:

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## 1. INTRODUCTION

1.1 The *ICC* is the international federation responsible for the global governance of the sport of cricket and the *Gender Recognition Policy* (the “**Policy**”) is adopted and implemented in order to facilitate the participation of *Transgender* players at the international level of the sport in the category of competition that is consistent with their gender identity, in accordance with the following imperatives:

1.1.1 The need to establish conditions for participation in the sport of cricket, including eligibility categories, that (a) protect the health and safety of participants; and (b) guarantee fair and meaningful competition that displays and rewards the fundamental values and meaning of the sport:

- (a) The *ICC* wants its players to be incentivised to make the huge commitments required to excel in the sport, and so to inspire new generations to join the sport and aspire to the same excellence. It does not want to risk discouraging those aspirations by permitting competition that is not fair and meaningful.
- (b) Most relevantly for present purposes, because of the significant advantages in size, strength and power enjoyed (on average) by males over females from puberty onwards (due in large part to much higher levels of androgenic hormones), and the impact that such advantages can have on sporting performance, it is necessary to have separate competition categories for males and females in order to preserve the safety, fairness and integrity of the sport, for the benefit of all of its participants and stakeholders.

1.1.2 The desire to be as inclusive as possible, to impose only necessary and proportionate restrictions on eligibility, and to provide a clear path to participation in the sport for all:

- (a) The *ICC* recognises that *Transgender* players may wish to compete in cricket in accordance with their gender identity. The *ICC* wishes to encourage and facilitate such participation, on conditions that go only so far as is necessary to protect the safety of all participants and to deliver on the promise of fair and meaningful competition offered by the division of the sport into male and female categories of competition.
- (b) The eligibility conditions established in this *Policy* is driven solely by the desire to guarantee fairness and safety within the sport. In no way are they intended as any kind of judgement on or questioning of the gender identity or the dignity of any *Transgender* player.

1.1.3 The need to respect and preserve the dignity and privacy of *Transgender* players, and to avoid improper discrimination and stigmatisation on grounds of gender identity. All cases arising under this *Policy* must be handled and resolved in a fair, consistent and confidential manner, recognising the sensitive nature of such matters.

- 1.2 The term '**Transgender**' is used in this *Policy* to refer to individuals whose gender identity is different from the biological sex assigned to them at birth (whether they are pre- or post-puberty, and whether or not they have undergone any form of medical intervention).
- 1.3 This *Policy* is based on the principles set out in the IOC's Transgender Guidelines (the current version of which can be found at [www.olympic.org/medical-and-scientific-commission](http://www.olympic.org/medical-and-scientific-commission)). As such, it reflects a broad medical, scientific and legal consensus as to the approach required to achieve the imperatives identified above. Since the *Policy* is intended to operate globally, regulating the conditions for participation in international-level events, it is to be interpreted and applied not by reference to national or local laws, but rather as an independent and autonomous text, and in a manner that protects and advances the imperatives identified above.
- 1.4 In the event an issue arises that is not foreseen in this *Policy*, it will be addressed by the *ICC* in a manner that protects and promotes the imperatives identified above.
- 1.5 Unless otherwise indicated, references to Articles and Appendices are to articles and appendices of the *Policy*. Words in italicised text in the *Policy* are defined terms and their definitions are set out in Appendix 1.

## **2. APPLICATION**

- 2.1 This *Policy* establishes the conditions enabling *Transgender* players to compete in *International Matches* in the category of competition that is consistent with their gender identity.
- 2.2 A player who wishes to participate in an *International Match* agrees, as a condition to such participation:
  - 2.2.1 to comply in full with this *Policy*;
  - 2.2.2 to cooperate promptly and in good faith with the *Designated Medical Officer* and the *Expert Panel* in the discharge of their respective responsibilities under the *Policy*, including providing them with all of the information and evidence they request to assess his/her compliance and/or monitor his/her continuing compliance with the eligibility conditions referred to in this *Policy*;
  - 2.2.3 (to the fullest extent permitted and required under all applicable data protection and other laws) to the collection, processing, disclosure and use of information (including his/her sensitive personal information) as required to implement and apply this *Policy* effectively and efficiently;
  - 2.2.4 to submit to the exclusive jurisdiction of the *Judicial Commissioner* to hear and determine charges brought pursuant to this *Policy*;
  - 2.2.5 to submit to the exclusive jurisdiction of *CAS* to hear and determine (i) any challenge to this *Policy* and/or (ii) to hear and determine any appeal to a decision made under this *Policy*;
  - 2.2.6 not to bring any proceedings in any court or other forum that are inconsistent with the foregoing submission to the jurisdiction of the *Judicial Commissioner* and the *CAS*; and
  - 2.2.7 to provide written confirmation of this agreement upon request by the *ICC*.
- 2.3 A player may revoke at any time, with or without giving reasons, the consent that he/she has granted in accordance with Article 2.2. In that event, the player will be deemed to have withdrawn any claim to satisfy the eligibility conditions for *Transgender* players set out in Article 3.

- 2.4 Every person and entity under the jurisdiction of the *ICC* (including any person who brings him/herself within the jurisdiction of the *ICC* by providing information to the *ICC* pursuant to Article 5.4 of this *Policy*):
- 2.4.1 is bound by and must comply in full with this *Policy*, including in particular (where information is provided to the *ICC* pursuant to Article 5.4) by only providing accurate and complete information, and not providing any information in bad faith or for any improper purpose; and
- 2.4.2 must cooperate promptly and in good faith with the *Designated Medical Officer* and the *Expert Panel* in the discharge of their respective responsibilities under this *Policy*.
- 2.5 Each *National Cricket Federation* must cooperate with and support the *ICC* in the application and enforcement of this *Policy* in relation to *International Matches*.
- 2.6 It is recommended that each *National Cricket Federation* adopts its own regulations to determine the eligibility of *Transgender* players to compete in events taking place under its own jurisdiction. At the level of national championships (or similar), it is recommended that this *Policy* is followed. At lower levels, however, less stringent eligibility requirements may be imposed, where appropriate. For the avoidance of doubt, however, anything that the *National Cricket Federation* does (or does not do) at national level will not affect the eligibility of *Transgender* players to compete in *International Matches*, which will instead be determined exclusively by reference to this *Policy*.

### 3. ELIGIBILITY CONDITIONS FOR TRANSGENDER PLAYERS

#### 3A. Eligibility conditions for female-to-male *Transgender* players

- 3.1 To be eligible to participate in the male category of competition at an *International Match*, a female-to-male *Transgender* player must provide a written and signed declaration, in a form satisfactory to the *Designated Medical Officer*, that his gender identity is male. As soon as reasonably practicable following receipt of such declaration, the *Designated Medical Officer* will issue a written certification of that player's eligibility to compete in the male category of competition in *International Matches*.

**Guidance Note:** To ensure that certification is received in good time, the player should provide the declaration to the *Designated Medical Officer* at least six weeks in advance of the first *International Match* in which he wishes to participate in the male category of competition.

#### 3B. Eligibility conditions for male-to-female *Transgender* players

- 3.2 To be eligible to participate in the female category of competition at an *International Match*, a male-to-female *Transgender* player must satisfy the following requirements (together, the **MTF Transgender Eligibility Conditions**):
- 3.2.1 she must provide a written and signed declaration, in a form satisfactory to the *Designated Medical Officer*, that her gender identity is female; and
- 3.2.2 she must demonstrate to the satisfaction of the *Expert Panel* (on the balance of probabilities), in accordance with Article 4, that the concentration of testosterone in her serum has been less than 10 nmol/L<sup>1</sup> continuously for a period of at least 12 months, and that she is ready, willing and able to continue to keep it below that level for so long as she continues to compete in the female category of competition.

#### 3C. Provisions applicable to all *Transgender* players

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<sup>1</sup> For the purposes of this *Policy*, all measurements of serum testosterone levels must be conducted by means of tandem mass spectrometry.

- 3.3 For the avoidance of doubt, no player will be forced to undergo any medical assessment and/or treatment. It is the player's responsibility, in close consultation with her medical team, to decide on the advisability of proceeding with any assessment and/or treatment. Deciding not to do so may have consequences in terms of the player's eligibility to participate in *International Matches* in the category of competition that is consistent with his/her gender identity, but it will not be considered a breach of any rule.
- 3.4 For the further avoidance of doubt, the following are not required in order for a *Transgender* player to compete in the category of competition at an *International Match* that is consistent with his/her gender identity (because such requirements are not relevant to the imperatives identified above):
- 3.4.1 legal recognition of the player's gender identity as the player's sex; or
- 3.4.2 surgical anatomical changes.
- 3.5 Once a *Transgender* player has satisfied these eligibility requirements and has started participating in *International Matches* in the category of competition consistent with his/her gender identity, he/she may not then switch back to participating in the other gender category in *International Matches* unless and until (a) at least four years have passed since the first *International Match* in which he/she participated as a *Transgender* player; and (b) he/she satisfies all of the conditions for eligibility to compete in the other gender category.
- 3.6 For the avoidance of doubt, the eligibility conditions for *Transgender* players set out in this Article 3 operate without prejudice to all other eligibility requirements that are applicable to all players (*Transgender* or otherwise) under the rules of the *ICC*, which must also be satisfied at all relevant times. In particular, nothing in this *Policy* is intended to undermine or affect in any way any of the requirements of the World Anti-Doping Code, of the WADA International Standards (including the International Standard for Therapeutic Use Exemptions), or of the *ICC Anti-Doping Code*. Nothing in this *Policy* will be deemed to permit, excuse or justify non-compliance with any of those requirements, including (without limitation) any requirement for a player to obtain a Therapeutic Use Exemption for the use of a prohibited substance, such as testosterone.<sup>2</sup>

#### **4. ASSESSMENT BY THE EXPERT PANEL**

- 4.1 A male-to-female *Transgender* player who wishes to compete in the female category of competition at an *International Match* must file the appropriate declaration with the *Designated Medical Officer*, along with a comprehensive medical history and such other evidence as is required to demonstrate her satisfaction of the *MTF Transgender Eligibility Conditions*, including evidence addressing any of the factors set out at Article 4.4 that are applicable to her case. The player is responsible for ensuring that the information provided is accurate and complete, and that nothing relevant to the *Expert Panel's* assessment of the case has been withheld. The player must also provide the appropriate consents and waivers (in a form satisfactory to the *Designated Medical Officer*) to enable her physician(s) to disclose to the *Designated Medical Officer* and the *Expert Panel* any information that the *Expert Panel* deems necessary to its assessment.
- 4.2 The *Designated Medical Officer* will review the submission and, after communicating with the player and/or the player's physician to remedy any obvious deficiencies, will refer the file to the *Expert Panel* for assessment in accordance with the following provisions of this Article 4.
- 4.3 The *Expert Panel* will assess cases referred to it by the *Designated Medical Officer* to determine whether the *MTF Transgender Eligibility Conditions* have been met (or, if not, then what else the player must do to satisfy those conditions). It may make such enquiries or investigations as it considers necessary to carry out the required assessment effectively,

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<sup>2</sup> See, e.g., the WADA TUE Physician Guidelines, Medical Information to Support the Decisions of TUE Committees, Female-to-Male Transsexual Athletes, available at [www.wada-ama.org](http://www.wada-ama.org).

including (without limitation) requesting further information from the player or the player's physician and/or obtaining additional expert opinion(s).

- 4.4 In making its assessment, the *Expert Panel* will take into account all relevant and reliable evidence, including (without limitation) as to:
  - 4.4.1 the player's age;
  - 4.4.2 any sex reassignment procedures the player has undertaken, including the date(s) of any such procedures and whether they took place before or after puberty;
  - 4.4.3 any other relevant treatment the player has received (including any pre- or post-reassignment treatment), including the dosage and frequency of such treatment;
  - 4.4.4 the levels of testosterone in the player's serum during the relevant 12 month period and any monitoring period, as well as the current level of testosterone in the player's serum; and
  - 4.4.5 the results of any pre- or post-reassignment monitoring.
- 4.5 If the *Expert Panel* has any concerns about the adequacy of the evidence provided by the player on any particular point, it must give the player a fair opportunity to try to address those concerns before it comes to its final decision.
- 4.6 The *Expert Panel* will complete its assessment as soon as is reasonably practicable in all of the circumstances of the case. However, in no circumstances will the *ICC* or any member of the *Expert Panel* be liable for any detriment allegedly suffered by the player or anyone else as a result of the length of time taken by the *Expert Panel* to complete its assessment.
- 4.7 Once it has completed its assessment, the *Expert Panel* will send its decision in writing to the *Designated Medical Officer* and to the player (with a copy to the player's physician).
  - 4.7.1 If the *Expert Panel* decides that the *MTF Transgender Eligibility Conditions* have not (yet) been met, it must explain in writing the reasons for its decision. Where applicable, it should also specify what else the player may do in order to satisfy those conditions (including, for example, maintaining the concentration of testosterone in her serum at less than 10 nmol/L for a longer period; other treatment; monitoring; reporting; and further reviews).
  - 4.7.2 If the *Expert Panel* decides that the *MTF Transgender Eligibility Conditions* have been met (such that the player is eligible under this *Policy* to compete in the female category of competition in *International Matches*), the *Designated Medical Officer* will issue a written certification of that player's eligibility to compete in the female category of competition in *International Matches*. That eligibility will be subject in every case to the player's continuing satisfaction of the *MTF Transgender Eligibility Conditions*, including (without limitation) continuously maintaining her serum testosterone at a concentration of less than 10 nmol/L. The *Expert Panel* may specify particular means (e.g., further treatment, monitoring and/or reporting) of achieving and/or demonstrating such continuing compliance. In any event, the player must produce, on request, evidence satisfactory to the *Designated Medical Officer* of such continuing compliance.
- 4.8 The *Expert Panel's* decision will be final and binding on all parties. It may only be challenged by way of appeal in accordance with Article 9.

## **5. MONITORING/INVESTIGATING COMPLIANCE**

- 5.1 The *Designated Medical Officer* may monitor a player's compliance with the *MTF Transgender Eligibility Conditions* at any time, with or without notice, whether by random or targeted testing of the player's serum testosterone levels (and the player agrees to provide serum samples for

this purpose, and also agrees that any samples that she provides for anti-doping purposes and/or any anti-doping data relating to her may also be used for this purpose), or by any other appropriate means.

5.2 In addition to the general power to monitor continuing compliance with the *MTF Transgender Eligibility Conditions*, the *Designated Medical Officer* may investigate, at any time:

5.2.1 whether a player who has not filed a declaration under this *Policy* is a *Transgender* player who needs to establish his/her eligibility to compete in a particular competition category in accordance with this *Policy*;

5.2.2 whether (because of a subsequent change in circumstances, subsequent learning or experience, or otherwise) it is necessary to require a *Transgender* player who has previously been determined to satisfy the *MTF Transgender Eligibility Conditions* to undergo further assessment by the *Expert Panel* to determine whether she still satisfies those conditions; and/or

5.2.3 any circumstances indicating potential non-compliance with this *Policy*;

and in such cases the player in question must cooperate fully and in good faith with that investigation, including (without limitation) by providing serum samples upon request. Where necessary to safeguard the fairness and/or integrity of competition and/or the safety of the competitors, the *Designated Medical Officer* (acting on behalf of the *ICC*) may provisionally suspend the player from competing in *International Matches* pending resolution of the matter, provided that in such cases all reasonable endeavours should be used to complete the investigation as expeditiously as possible. Any such provisional suspension may be appealed in accordance with Article 9.2.1.

5.3 To avoid abuse, only the *Designated Medical Officer* may initiate an investigation under Article 5.2, and he/she should only do so in good faith and on reasonable grounds based on information derived from reliable sources, such as (for example) the affected player him/herself, the *National Cricket Federation* to which the affected player is affiliated, results from a routine pre-participation health examination, or data as to serum testosterone levels and/or other data obtained from analysis of samples collected for anti-doping purposes.

5.4 The dignity of every individual must be respected. All forms of harassment are prohibited. In particular (but without limitation):

5.4.1 Any person or entity (including, without limitation, any other player, official or *National Cricket Federation*) that provides information to the *Designated Medical Officer* for consideration under this *Policy* is under a strict obligation:

(a) to ensure that the information is accurate and complete; and

(b) not to provide any information in bad faith, to harass, stigmatise or otherwise injure an player, or for any other improper purpose.

5.4.2 No stigmatisation or improper discrimination on grounds of gender identity will be tolerated. In particular (but without limitation), witch-hunts or whispering campaigns against players simply on the basis that their appearance does not conform to gender stereotypes are unacceptable. Any such conduct will be considered a serious breach of this *Policy*.

5.5 Where the *Designated Medical Officer* or the *Expert Panel* determines that a male-to-female *Transgender* player who has previously been declared eligible to compete in the female category of competition in *International Matches* has failed to maintain her serum testosterone level at a concentration of less than 10 nmol/L, she may not compete in the female category of competition in *International Matches* until such time as she demonstrates to the satisfaction of the *Expert Panel* that she has maintained her serum testosterone below 10 nmol/L for a new continuous period of at least 12 months.

## 6. DISCIPLINARY PROCEEDINGS

### 6.1 Where:

- 6.1.1 a player competes in an *International Matches* in a category of competition for which he/she has not satisfied the eligibility conditions set out in this *Policy*;
- 6.1.2 a *Transgender* player who has been determined to be eligible to compete in the female category of competition in an International Event, and has not renounced that eligibility, fails to cooperate fully and in good faith with the efforts of the *Designated Medical Officer* to determine her continuing compliance with the *MTF Transgender Eligibility Conditions*;
- 6.1.3 a coach, trainer, agent or other person or entity has been complicit in a breach of or non-compliance with this *Policy* by a player;
- 6.1.4 a person or entity breaches Article 5.4; and/or
- 6.1.5 there has been any other breach of or non-compliance with this *Policy*;

the *ICC* may take disciplinary action against such person/entity for a breach of this *Policy* in accordance with the following procedure.

### 6.2 In such disciplinary proceedings, a player may not challenge the validity of this *Policy* or of any decision made under this *Policy*. Instead such challenge may only be brought by way of challenge or appeal in accordance with Article 9.

### 6.3 Where the *ICC* determines that an offence under Article 6.1 has been committed, the player shall be sent written notice of the following (the "Notice of Charge"):

- 6.3.1 That the player or other person or entity has a case to answer for a breach of this *Policy*;
- 6.3.2 The specific offence that the player or other person or entity is alleged to have committed;
- 6.3.3 Details of the alleged acts and/or omissions relied upon in support of the charge; and
- 6.3.4 The matters related to responding to a *Notice of Charge* specified at Article 6.4.

### 6.4 Responding to a *Notice of Charge*

- 6.4.1 The *Notice of Charge* shall also specify that, if the player or other person or entity (as applicable) wishes to exercise its/his/her right to a hearing before a *Judicial Commissioner*, it/he/she must submit a written request for such a hearing so that it is received by the *ICC's General Counsel* as soon as possible, but in any event within fourteen (14) days of the receipt by player of the *Notice of Charge*. The request must also state how the player or other person or entity responds to the charge(s) and must explain (in summary form) the basis for such response.
- 6.4.2 If the player or other person or entity fails to file a written request for a hearing before a *Judicial Commissioner* by the deadline specified in Article 6.4.1, then it/he/she shall be deemed to have: (a) waived its/his/her entitlement to a hearing; and (b) admitted that it/he/she has committed the offence(s) under this *Policy* specified in the *Notice of Charge*.
- 6.4.3 In such circumstances, a hearing before the *Judicial Commissioner* shall not be required. Instead, the *ICC's General Counsel* shall promptly issue a public decision

confirming the offence(s) under this *Policy* specified in the *Notice of Charge* and the imposition of an applicable sanction from within the range specified in the *Notice of Charge*.

- 6.4.4 Where the player or other person or entity does request a hearing in accordance with Article 6.4.1, the matter shall proceed to a hearing in accordance with Article 7.

## **ARTICLE 7 THE DISCIPLINARY PROCEDURE**

### **7.1 Hearings under this *Policy***

- 7.1.1 Where the *ICC* alleges that a player or other person or entity has committed an offence under this *Policy*, and the player denies the allegation, and/or disputes the sanctions to be imposed for such offence under this *Policy*, then the matter shall be referred to the *Judicial Commissioner* (who shall not be from the same country as that represented by the player or other person or entity) who shall hear the case sitting alone.
- 7.1.2 The *Judicial Commissioner* shall convene a preliminary hearing with the *ICC* and its legal representatives, together with the player or other person or entity and its/his/her legal representatives (if any). The preliminary hearing should take place as soon as possible by telephone conference call unless the *Judicial Commissioner* determines otherwise.
- 7.1.3 The purpose of the preliminary hearing shall be to allow the *Judicial Commissioner* to address any issues that need to be resolved prior to the hearing date. In particular (but without limitation), the *Judicial Commissioner* shall:
- 7.1.3.1** determine the date(s) upon which the full hearing shall be held. Save in exceptional circumstances or where the parties otherwise agree, the full hearing should take place no longer than thirty (30) days after the receipt by the player or other person or entity of the *Notice of Charge*;
- 7.1.3.2** establish dates reasonably in advance of the date of the full hearing by which:
- (a) the *ICC* shall submit an opening brief with argument on all issues that the *ICC* wishes to raise at the hearing and a list of the witnesses that the *ICC* intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of the exhibits that the *ICC* intends to introduce at the hearing;
- (b) the player or other person or entity shall submit an answering brief, addressing the *ICC*'s arguments and setting out argument on the issues that it/he/she wishes to raise at the hearing, as well as a list of the witnesses that it/he/she intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of the exhibits that he/she intends to introduce at the hearing; and
- (c) the *ICC* may (at its discretion) submit a reply brief, responding to the answer brief of the player and listing any rebuttal witnesses that the *ICC* intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of any other exhibits that the *ICC* intends to introduce at the hearing; and

- 7.1.3.3** make such order as the *Judicial Commissioner* shall deem appropriate in relation to the production of relevant documents and/or other materials between the parties.
- 7.1.4 Subject to the discretion of the *Judicial Commissioner* to order otherwise for good cause shown by either party, or unless otherwise agreed between the parties, hearings before the *Judicial Commissioner* shall: (a) take place at the ICC's headquarters in Dubai, United Arab Emirates; and (b) be conducted on a confidential basis.
- 7.1.5 Each of the *ICC* and the player or other person or entity has the right to be present and to be heard at the hearing to be represented at the hearing by legal counsel of its/his/her own choosing. Where there is compelling justification for the non-attendance by any party or representative at the hearing, then such party or representative shall be given the opportunity to participate in the hearing by telephone or video conference (if available).
- 7.1.6 Without prejudice to Article 7.2.2.2, the player or other person or entity may choose not to appear in person at the hearing, but instead provide a written submission for consideration by the *Judicial Commissioner*, in which case the *Judicial Commissioner* shall consider the submission in its deliberations. However, the non-attendance of the player or other person or entity (or his/her representative) at the hearing, after proper notice of the hearing has been provided, without compelling justification, shall not prevent the *Judicial Commissioner* from proceeding with the hearing in his/her absence, whether or not any written submissions are made on his/her behalf.
- 7.1.7 The procedure followed at the hearing shall be at the discretion of the *Judicial Commissioner*, provided that the hearing is conducted in a manner which offers the player a fair and reasonable opportunity to present evidence (including the right to call and to question witnesses by telephone or video-conference where necessary), address the *Judicial Commissioner* and present its/his/her case.
- 7.1.8 Save where the *Judicial Commissioner* orders otherwise for good cause shown by either party, the hearing shall be in English, and certified English translations shall be submitted of any non-English documents put before the *Judicial Commissioner*. The cost of the translation shall be borne by the party offering the document(s). If required by the *Judicial Commissioner*, the *ICC* shall make arrangements to have the hearing recorded or transcribed (save for the private deliberations of the *Judicial Commissioner*). If requested by the player or other person or entity, the *ICC* shall also arrange for an interpreter to attend the hearing. The costs of transcription and interpretation shall be paid by the *ICC*, subject to any costs-shifting order that the *Judicial Commissioner* may make further to Article 7.3.3.

## **7.2 Standard of Proof and Evidence**

- 7.2.1 The burden of proof shall be on the *ICC* and the standard of proof in all cases brought under this *Policy* shall be whether the *Judicial Commissioner* is comfortably satisfied, bearing in mind the seriousness of the allegation that is being made, that the alleged offence has been committed. This standard of proof in all cases shall be determined on a sliding scale from, at a minimum, a mere balance of probability (for the least serious offences) up to proof beyond a reasonable doubt (for the most serious offences).
- 7.2.2 The *Judicial Commissioner* shall not be bound by judicial rules governing the admissibility of evidence. Instead, facts relating to an offence under this *Policy* may be established by any reliable means, including admissions. The following rules of proof shall be applicable at the hearing:
- 7.2.2.1 The *Judicial Commissioner* shall have discretion to accept any facts established by a decision of a court or professional disciplinary tribunal of

competent jurisdiction which is not the subject of a pending appeal as irrebuttable evidence against the player to whom the decision pertained of those facts, unless the player establishes that the decision violated principles of natural justice.

7.2.2.2 The *Judicial Commissioner* may draw an inference adverse to the player who is asserted to have committed an offence under this *Policy* based on his/her refusal, without compelling justification, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the *Judicial Commissioner*) and to answer any relevant questions.

### 7.3 **Decisions of the *Judicial Commissioner***

7.3.1 The *Judicial Commissioner* shall announce his/her decision in writing, with reasons, as soon as possible after the conclusion of the hearing. That written decision will set out and explain: (a) with reasons, the *Judicial Commissioner's* findings as to whether any offence(s) under this *Policy* has/have been committed and what sanctions, if any, are to be imposed; and (b) the rights of appeal described in Article 9. Any such written decision will be provided to the player as soon as reasonably practicable.

7.3.2 The *Judicial Commissioner* shall have discretion to announce the substance of his/her decision to the parties prior to the issue of the written reasoned decision referred to in Article 7.3.1 where it deems appropriate. For the avoidance of doubt, however: (a) the *Judicial Commissioner* shall still be required to issue a written, reasoned decision in accordance with Article 7.3.1; and (b) the time to appeal pursuant to Article 9 shall not run until receipt of that written, reasoned decision.

7.3.3 The *Judicial Commissioner* has the power to make a costs order against any party to the hearing in respect of the costs of convening and of staging the hearing and/or in respect of the costs (legal, expert, travel, accommodation or otherwise) incurred by the parties in relation to the proceedings if it considers that such party has acted spuriously, frivolously or otherwise in bad faith. If it does not exercise that power, the *ICC* shall pay the costs of convening and of staging the hearing, and each party shall bear its own costs (legal, expert, travel, accommodation or otherwise).

7.3.4 Subject only to the rights of appeal under Article 9, the *Judicial Commissioner's* decision shall be the full, final and complete disposition of the matter and will be binding on all parties.

## **ARTICLE 8 SANCTIONS**

8.1 Where the *Judicial Commissioner* determines that an offence under this *Policy* has been committed, he/she shall be entitled to impose upon the player (as applicable) any one or more of the following sanctions that he/she deems appropriate, having regard to all of the circumstances of the case:

8.1.1 a caution, reprimand and/or warning as to future conduct;

8.1.2 the disqualification of individual results obtained by the player in *International Matches*, with all resulting consequences, including forfeiture of any medals, ranking points, prize money, or other rewards awarded to the player based on those results;

8.1.3 a specified period of ineligibility to participate in *International Matches*; and/or

8.1.4 if the breach involves more than two members of a national representative team of a *National Cricket Federation*, or if there are multiple breaches involving such a team, appropriate sanctions on the team and/or the *National Cricket Federation* (e.g.,

disqualification of team results; imposition of a period of future ineligibility to participate in *International Matches*).

- 8.2 Having determined that an offence under this *Policy* has been committed, prior to determining the applicable sanction(s) that are to be applied under Article 8.1, the *Judicial Commissioner* will first determine the relative seriousness of the offence, including identifying all relevant factors that he/she deems to either aggravate or mitigate the nature of the offence, including (without limitation) whether or not: (a) the player or other person or entity has previously been found guilty of any similar offence under the *Policy* or any predecessor regulations or policy; and/or (b) the player participated in an *International Match* or *ICC Event* taking place after receipt by the player of the *Notice of Charge* issued pursuant to Article 6.3.

## 9. DISPUTE RESOLUTION

- 9.1 The validity of this *Policy* may only be challenged by way of ordinary proceedings filed before the CAS and/or as part of an appeal made pursuant to Article 9.2.
- 9.2 The following decisions (and only the following decisions) made under this *Policy* may be appealed to the CAS, in accordance with this Article 9:
- 9.2.1 a decision by the *Designated Medical Officer* to suspend the player provisionally from competition pursuant to Article 5.2 may be appealed by the player, in which case the *ICC* will be the respondent to the appeal;
- 9.2.2 a decision that the player may not compete in the category of competition in *International Matches* that is consistent with his/her gender identity may be appealed by the player, in which case the *ICC* will be the respondent to the appeal; and
- 9.2.3 a decision that the player may compete in the category of competition in *International Matches* that is consistent with his/her gender identity may be appealed by the *ICC*, in which case the player will be the respondent to the appeal.
- 9.3 Any such challenge or appeal will be conducted in the English language and will be governed by English law. The CAS will hear and determine the challenge/appeal definitively in accordance with the CAS Code of Sports-Related Arbitration. Pending that determination, the *Policy* under challenge and/or the decision under appeal (as applicable) will remain in full force and effect unless the CAS orders otherwise.

## 10. CONFIDENTIALITY

- 10.1 All cases arising under this *Policy*, and in particular all player information provided to the *ICC* under this *Policy*, and all results of examinations and assessments conducted under this *Policy*, will be dealt with in strict confidence at all times. All medical information and data relating to a player will be treated as sensitive personal information and the *Designated Medical Officer* will ensure at all times that it is processed as such in accordance with applicable data protection and privacy laws. Such information will not be used for any purpose not contemplated in this *Policy*, and will not be disclosed to any third party save (a) as is strictly necessary for the effective application and enforcement of this *Policy*; or (b) as is required by law.
- 10.2 The *ICC* will not comment publicly on the specific facts of a pending case (as opposed to general descriptions of the process and science involved) except in response to public comments attributed to the player or the player's representatives.
- 10.3 Each member of the *Expert Panel* must sign an appropriate conflict of interest declaration and confidentiality undertaking in relation to his/her work as a member of the panel.

## **11. COSTS**

- 11.1 Unless otherwise agreed by the *ICC* in writing, the costs of any medical assessment, examination, treatment, monitoring, reporting, and any other costs involved in complying with the *Policy* will be borne by the relevant player. The standing costs of the *Expert Panel* will be borne by the *ICC*.

## **12. RECOGNITION OF DECISIONS**

- 12.1 Any hearing results or other final adjudications under the *Policy* shall be recognised and respected by the *ICC* and its *National Cricket Federations* automatically upon receipt of notice of the same, without the need for any further formality. Each of the *ICC* and its *National Cricket Federations* shall take all steps legally available to it to enforce and give effect to such decisions.
- 12.2 It shall be a condition of membership of the *ICC* that all *National Cricket Federations* shall comply with the *Policy*.
- 12.3 Where a *Transgender* player from another sport wishes to participate in the sport of cricket, the *ICC* may recognise and give effect to the eligibility decision of the international federation of the other sport with respect to that player, provided that it is consistent with the principles set out in the *IOC's Transgender Guidelines* and in this *Policy*.

## **13. AMENDMENT AND INTERPRETATION OF THE POLICY**

- 13.1 This *Policy* will be subject to periodic review to take account of any scientific or medical developments, and may be amended from time to time by the Board of the *ICC*, with such amendments coming into effect on the date specified by the *ICC*.
- 13.2 The headings used for the various Articles of the *Policy* are for the purpose of guidance only and shall not be deemed to be part of the substance of the *Policy* or to inform or affect in any way the language of the provisions to which they refer.
- 13.3 The *Policy* shall come into full force and effect on 20 February 2017 (the “**Effective Date**”). They will apply both to cases arising prior to that date and to cases arising after that date.
- 13.4 If any Article or provision of this *Policy* is held invalid, unenforceable or illegal for any reason, the *Policy* shall remain otherwise in full force apart from such Article or provision which shall be deemed deleted insofar as it is invalid, unenforceable or illegal.
- 13.5 The *Policy* is governed by and shall be construed in accordance with English law. Strictly without prejudice to the arbitration provisions of Articles 7 and 9 of the *Policy*, disputes relating to the *Policy* shall be subject to the exclusive jurisdiction of the *ICC Dispute Resolution Committee*.

## APPENDIX 1 - DEFINITIONS

**Affiliate Member** means any *National Cricket Federation* with affiliate member status of the *ICC*.

**Associate Member** means any *National Cricket Federation* with associate member status of the *ICC*.

**CAS** means the Court of Arbitration for Sport in Lausanne, Switzerland.

**Designated Medical Officer** means a person with appropriate knowledge and expertise, who is appointed from time to time by the *ICC* to act on its behalf in matters arising under this *Policy*.

**Expert Panel** means a panel with appropriate knowledge and expertise, appointed from time to time by the *ICC* to perform the functions set out in this *Policy*.

**Full Member** means any *National Cricket Federation* with full member status of the *ICC*.

**ICC** means the International Cricket Council or its designee.

**ICC Code of Conduct Commission** means the official committee of the *ICC* established, amongst other things, to enquire into conduct which is prejudicial to the to the interests of the game of cricket. Each member of the *ICC Code of Conduct Commission* shall be independent of the *ICC*, which may provide reasonable compensation and reimbursement of expenses to such members.

**ICC Dispute Resolution Committee** means the Committee of the *ICC* currently known as the Dispute Resolution Committee.

**ICC Events** means each of the following: (a) the ICC Cricket World Cup; (b) the ICC World Twenty20; (c) the ICC Champions Trophy; (d) the ICC World Cricket League Championship and Divisions 2-6 (inclusive), together with any regional qualifying events thereto; (e) the ICC Women's World Cup; (f) the ICC Women's Championship; (g) the ICC Under 19 Cricket World Cup; (h) the ICC World Cup Qualifying Tournament; (i) the ICC Women's World Cup Qualifying Tournament, together with any regional qualifying events thereto; (j) the ICC World Twenty20 Qualifying Tournament; (k) the ICC Under 19 Cricket World Cup Qualifying Tournament, together with any regional qualifying events thereto; (l) the ICC Intercontinental Cup; and (m) any other event organised or sanctioned by the *ICC* from time to time to which the *ICC* deems it appropriate that the *Policy* should apply.

**ICC's General Counsel** means the person appointed by the *ICC* from time to time to act as the *ICC's* General Counsel (or his/her designee).

**International Match** means each of the following (in men's and women's cricket): (a) any *Test Match*, *One Day International Match* or *Twenty20 International Match*; (b) any *Match* played as part of an *ICC Event*; (c) any *International Tour Match*; or (d) any other *Match* organised or sanctioned by the *ICC* from time to time to which the *ICC* deems it appropriate that the *Policy* should apply.

**International Tour Match** means any *Match* played between a representative team of a *Full Member* (or *Associate Member* with *Test* and/or *ODI* or *T20I Status*) and any domestic, guest or invitational team.

**IOC** means the International Olympic Committee.

**Judicial Commissioner** means the independent person appointed by the *ICC* from the *ICC Code of Conduct Commission*, to perform the functions assigned to the *Judicial Commissioner* under the *Policy*.

**Match** means a cricket match of any format and duration in length played between representative teams (male or female) of two *National Cricket Federations* affiliated to the *ICC*.

**MTF Transgender Eligibility Conditions** has the meaning given to that term in Article 3.2.

**National Cricket Federation** means a national or regional entity which is a member of or is recognised by the *ICC* as the entity governing the sport of cricket in a country (or collective group of countries associated for cricket purposes).

**Notice of Charge** has the meaning given to that term in Article 6.3.

**One Day International Match** has the meaning given to that term in Section 33 of the ICC Classification of Official Cricket.

**Policy** means this Gender Recognition Policy, as amended from time to time.

**Test Match** has the meaning given to that term in Section 33 of the ICC Classification of Official Cricket.

**Twenty20 International Match** has the meaning given to that term in Section 33 of the ICC Classification of Official Cricket.

**Transgender** has the meaning given to that term in Article 1.1.