

11 September 2019

Dear CTEEA Chair/Committee Member

CTEEA Committee scrutiny of proposed changes to Census sex question and guidance

We write to the Committee as a group of social science researchers who are concerned with the proposed changes to the Census question on sex. We are regular users of Census data and reports, as well as data and reports from a range of household surveys which are methodologically reliant on the Census. We are concerned that the proposed changes may reduce the ability of the Census and these other sources to distinguish the situation of those who are male and female, and hence to capture sex-based discrimination and disadvantage.

1. ***We believe it is important that the Census is able to provide statistics on the lives of trans and non-binary people***, to measure the size of these groups and to identify the scale of disadvantage and discrimination they may face in education, employment, health and other areas of their lives. As the Government Equalities Office has highlighted, we lack any official statistics on this group at present.^[1] The growing visibility and acceptance of trans and non-binary people is a key change in society which the Census needs to begin to capture. Better statistics would provide the evidence basis for better policy, support the targeting of specialist services, and enable monitoring of progress over time. The proposed question on trans identity from the draft guidance^[2] would do this effectively.
2. ***We welcome the decision to retain a binary question on sex, but we believe that the best way to capture this is to ask about legally-recognised sex, rather than self-identified***, as proposed in Version 2 of the draft guidance. With a self-identification approach, ***our ability to monitor sex-based discrimination and disadvantage would be reduced***, and to a degree which we cannot assess since the trans identity question is voluntary. For those with a Gender Recognition Certificate under the *Gender Recognition Act 2004*, sex would of course be their current (new) legal status. While not identical to the four-question approach to measuring gender identity recommended by the Equalities and Human Rights Commission^[3], it follows it closely in principle by asking sex first and identity second. Given all the constraints of space for the Census, this seems a reasonable compromise.
3. ***The evaluation of any change to the Census sex question guidance needs to take into account the impact on our ability to measure sex-based discrimination and disadvantage***. The evaluation should not be limited to issues of the public acceptability of any new question or guidance, or impacts on response rates.

^[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBT-factsheet.pdf

^[2] https://scotlandscensus.gov.uk/documents/census2021/Question_Guidance.pdf

^[3] https://www.equalityhumanrights.com/sites/default/files/rr75_final.pdf

4. ***The Census has a unique importance in the statistical system.*** It is the only source providing full coverage of the population on such a wide range of aspects of social life and therefore it is uniquely well-placed to provide information on smaller population groups. At the same time, it is the foundation on which many other statistics about our society are built. When we conduct sample surveys such as the *Scottish Household Survey*, the *Scottish Health Survey*, or the *Scottish Crime & Justice Survey*, we know that some groups are more likely to respond than others. We therefore correct or 'weight' those surveys so that they give a more representative picture by ensuring that they match Census-based estimates of the population age-sex structure. Changes to the Census question on sex therefore have implications for many other statistical sources.

5. In 2011, for the first time, there was on-line guidance available which stated that trans people could select the option for how they identify, irrespective of the details on their birth certificate.^[4] The Equality Impact Assessment for the 2011 Census^[5] contains no discussion of this change, however, and there was no consultation on this advice that we are aware of. It cannot be seen as a precedent for what is being proposed now.

In putting forward these views to the Committee, we are mindful that some trans and non-binary people may regard it as unpleasant, intrusive or upsetting to be asked about their legal sex where that is not the same as their lived identity. We would respectfully point out that there are legitimate reasons for asking for this information: we hope that the clear separation of legally-recognised sex and trans identity will enable the Census to provide robust data on inequalities in relation to both.

Yours sincerely (in alphabetical order)

Professor Nick Bailey – University of Glasgow
Dr Jo Ferrie – University of Glasgow
Professor Suzanne Fitzpatrick – Heriot-Watt University
Professor Cristina Iannelli – University of Edinburgh
Professor Sarah Johnsen – Heriot-Watt University
Professor Susan McVie – University of Edinburgh
Professor Morag Treanor – Heriot-Watt University
Dr Beth Watts – Heriot-Watt University

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBT-factsheet.pdf

2 https://scotlandscensus.gov.uk/documents/census2021/Question_Guidance.pdf

3 https://www.equalityhumanrights.com/sites/default/files/rr75_final.pdf

4 [SPICe Briefing, Census \(Amendment\) \(Scotland\) Bill, SB 18-81, p. 19](#)

5 <https://www.nrscotland.gov.uk/files/about-us/2011-census-equality-impact-assessment.pdf>

^[4] [SPICe Briefing, Census \(Amendment\) \(Scotland\) Bill, SB 18-81, p. 19](#)

^[5] <https://www.nrscotland.gov.uk/files/about-us/2011-census-equality-impact-assessment.pdf>

