

Ms Joan McAlpine MSP
Convener
Culture, Tourism, Europe and External Affairs Committee
Scottish Parliament
Holyrood
Edinburgh EH99 1SP

Dear Convener,

We wish to make committee members aware of our concerns regarding the Census Order which we understand your committee must approve early in 2020. We are a new group of lesbian, gay and bisexual men and women, including a founder member of Stonewall and former employees and supporters of that organisation. Many of us are veterans of the campaigns against discriminatory laws and policies such as the unequal age of consent, Section 28 (2A) and the campaign in favour of equal marriage. We come from all walks of life including law, medicine, academia, the arts, sciences and media. What we have in common is that we are same-sex attracted.

Our aims are:

1. To advance the interests of lesbians, bisexuals and gay men at a time when they are under threat from concerted attempts to introduce confusion between biological sex and the notion of gender.
2. To amplify the voices of lesbians and highlight the additional discrimination they experience as women who are same-sex attracted in a male-dominated society.
3. To protect children and young people from being taught unscientific gender doctrines, especially the idea they may have been born in the wrong body.
4. To promote respectful freedom of speech and informed dialogue.

We have followed the committee's work on the Census with great interest and would like the committee to consider our views with regards to the Census question on Sexual Orientation and the Sex Question itself.

Sexual Orientation Question:

We welcome the question on sexual orientation in the 2021 Census and also welcome the question's voluntary status. We were pleased with the committee's Stage One report supporting this voluntary question.

However, we were concerned to read the letter of 25th October 2019 from National Records of Scotland to the committee that said the sexual orientation question would include a box saying "other sexual orientations". As same-sex attracted people we have concerns that an authoritative government document would suggest that other sexual orientations exist beyond attraction to the opposite sex, same sex or both sexes. Sexual Orientation is a protected characteristic in the Equality Act 2010 and is clearly defined in the latter. We strongly support the convener's letter of 24 September 2019 to the National Records of Scotland, which used the definition of sexual orientation in the Equality Act 2010.

Indeed, those who argued for the inclusion of a sexual orientation question in the Census for the first time in 2021, including the major LGBT organisations, did so on the basis that it was a protected characteristic, which means there is a public-sector equality duty to measure it. Including a suggestion that other sexual orientations exist beyond same and opposite sex attracted undermines this characteristic.

This is further compounded by the list of 21 predictive text options which can be prompted by a response to the "other sexual orientation" question. These include: Androphilic · Androsexual · Asexual · Bicurious · Bisexual · Demiromantic · Demisexual · Fluid · Gay · Gynephilic · Gynesexual · Homosexual · Heterosexual · Lesbian · Pansexual · Polysexual · Queer · Questioning · Skoliosexual · Straight · Unsure. Some of these describe a sexual orientation, i.e. lesbian and gay or straight, but will be recorded under Other. This undermines the statistical validity of the entire question.

However, most describe personality types or sexual preferences that could apply to individuals regardless of their sexual orientation. Demisexual or androphilic, for example, could apply to people who are male, female, heterosexual or homosexual. Therefore, answering the questions with one of these terms will offer no meaningful data on sexual orientation. It also gives the misleading impression that sexual orientation is some sort of sexual preference, thus potentially fuelling misconceptions about lesbian, gay and bisexual people. Press coverage has already ridiculed these choices and with good reason. We have no more idea what polysexual means in practice than the rest of the general public. We are deeply concerned, as people who have fought for lesbian and gay identity to be taken seriously, that these categories undermine the entire point of asking the Orientation question. Across the world people are jailed, executed or subject to mental and physical abuse for being same-sex attracted. To our knowledge, that is not true of the so-called polysexual, demi-romantic or 'unsure'. We would strongly urge you not to include the term "other sexual orientation" in the question and certainly not to offer predictive texting. We note that no list of options will be proffered by the ONS for the England and Wales Census.

Sex Question:

We would also like to take this opportunity to state publicly that we were pleased the committee report recommended keeping the sex question a binary male/female one and note that the government followed that advice. We strongly support the justification for this as stated by the Office of National Statistics, that sex is an important protected characteristic. Measuring 'sex' helps us to define and understand the law in many areas, not least in defining sexual orientation and gender reassignment.

In recent years we have seen official bodies blur the protected characteristic of sex with the less precise term "gender", which is not a protected characteristic in law. As same-sex attracted people, we regard any redefinition of "sex" as "gender" as problematic, since while people cannot change their sex they can and do change their gender identity. It's this confusion that means same-sex attracted people are often told they should consider people of the opposite sex as potential partners. This is an increasing problem for lesbians, who are subject to pressure to consider as potential sexual partners male-bodied transwomen (i.e. heterosexual males who identify as women and remain attracted to women). Lesbians who do not wish to consider such people as partners are told that they are "transphobic". This is an outrage and a dangerously regressive trend to which we are utterly opposed.

Blurring the distinction between sex and gender will also have profoundly negative effects for all biological women, including lesbians, that range from sport to single-sex wards in hospitals. We stand in solidarity with women and reject all attempts by organisations that claim to represent the LGBT community to confuse the public with notions of "gender identity".

The Equality Act 2010 acknowledges that there is a difference between birth sex and gender reassignment by making these separate protected characteristics. We believe it is vital that this distinction is maintained in the Census as our largest data-gathering exercise.

We are therefore concerned that the Scottish Government and NRS propose to define the sex question as a matter of self declaration and intend to advise respondents to answer the question according to how they identify, even if they do not have a Gender Recognition Certificate changing their birth sex. We believe this is moving ahead of the law which does not yet allow the self declaration of legal sex, and as it stands insists on medical assessment and consideration by an expert panel.

We profoundly disagree with this stated intention. We note that there is a separate voluntary question on transgender identity. This means that there is no need whatsoever to confuse matters by adding advice on self identification. We agree with Professor Susan McVie, who made this point in oral evidence to the committee on 13 December 2018 and in a follow up letter on 11 June 2018. We also support the points made in the 11 September 2019 letter to the committee from Professor Nick Bailey

and other social scientists who pointed out that a self-identified sex question will make it more difficult to monitor discrimination and undermines the accuracy of the statistics collected.

We note that since the heyday of the Scottish Enlightenment, in 1801, Scotland has conducted a national census. This is a proud national tradition and was driven in part by Scotland's eminent role in the development of the mathematical science of statistics. We ask that this tradition not be sacrificed or undermined by hasty decisions rooted in strange notions that are at odds with public opinion or driven by pressure groups with a narrow and suspect agenda.

Yours sincerely

Kate Harris & Bev Jackson
LGB Alliance

