CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE

AGENDA

1st Meeting, 2020 (Session 5)

Thursday 9 January 2020

The Committee will meet at 9.15 am in the Robert Burns Room (CR1).

1. **National Records of Scotland – Census Order:** The Committee will take evidence from—
   
   Pete Whitehouse, Director of Statistical Services, National Records of Scotland;
   
   Scott Matheson, Senior Principal Legal Officer, Scottish Government;
   
   Scott McEwen, Head of Policy and Legislation, Scotland’s Census 2021, and Jill Morton, Senior Business Lead, Questions and Collection Instruments, National Records of Scotland.

2. **Scottish Government Reports:** The Committee will consider a bi-annual report from the Scottish Government in relation to a range of EU issues.

3. **Consideration of evidence heard (in private):** The Committee will consider the evidence heard earlier in the meeting.

Stephen Herbert
Clerk to the Culture, Tourism, Europe and External Affairs Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 0131 348 5234
Email: stephen.herbert@parliament.scot
The papers for this meeting are as follows—

**Agenda item 1**
Note by the Clerk

**Agenda item 2**
Note by the Clerk 2
Culture, Tourism, Europe and External Affairs Committee

1st Meeting, 2020 (Session 5) Thursday 9 January

National Records of Scotland – Census Order

Note by the Clerk

Purpose

1. The Committee will take evidence from National Records of Scotland (NRS) officials with regard to the forthcoming Census Order at this meeting. The purpose of the session is for NRS to provide an update on the further work it has undertaken since it last gave evidence to the Committee on 12 September 2019. This session also provides the Committee with the opportunity to provide feedback to the NRS on whether it is content with the proposals included in the draft Census Order before a finalised version is laid in the Scottish Parliament later this month.

Evidence Session

2. The evidence session forms part of a process of informal scrutiny of the draft Census Order and will be the last evidence session with NRS prior to the Census Order being laid in Parliament. The Census Order is expected to be laid in Parliament during January 2020 and will be formally considered by the Committee once introduced.

3. At this meeting, the Committee will take evidence from the following officials from NRS and the Scottish Government’s Legal Directorate:
   - Peter Whitehouse, Director of Statistical Services
   - Scott McEwen, Head of Policy and Legislation
   - Jill Morton, Senior Business Lead - Questions and Collection Instruments, and
   - Scott Matheson, Senior Principal Legal Officer

Supporting information from the NRS and correspondence

4. The NRS has provided a “Sex Question Recommendation Report” dated December 2019 and a Scot Cen Report on “Testing the Guidance for the Sex Question” dated 19 December 2019 to support this evidence session. These reports are provided in Annexe A to this paper and are also available online. The NRS ‘Sex Question Recommendation Report’ reaches the following conclusion (para.2.6, p.7)—

   “Following consideration of representations from stakeholders across Scotland and the UK, including further independent research, NRS continue to recommend a binary sex question with self-identification guidance”.

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5. The Committee has also had the following correspondence with NRS since the evidence session on 12 September 2019:

- Letter from the Committee to the NRS dated 18 September 2019
- Letter from the Committee to the NRS dated 24 September 2019
- Letter from the NRS to the Committee dated 30 September 2019
- Letter from the NRS to the Committee dated 25 October 2019
- Letter from the NRS to the Committee dated 18 December 2019

6. The NRS' letter of 18 December 2019, provided at Annexe B to this paper, highlights a number of areas where the draft proposals for the Census Order have been modified since the last evidence session with the Committee. A copy of the most recent version of the draft Census Order that incorporates the changes highlighted in the letter was not available at the time of writing.

7. The letter of 18 December also highlights matters on which the NRS is seeking feedback from the Committee, including:

“...whether the Committee recommends any changes to the italic text of the draft Order, so that consideration can be given to incorporating those recommendations in the draft Census Order when it is to be laid. This is to avoid the need to delay the Order's progress at a later stage if it must be withdrawn and laid again to take into account any proposed modifications.”

8. A copy of the draft Census Order, as at September 2019, is provided in Annexe C.

Correspondence from stakeholders

9. The Committee has received the following correspondence regarding the draft proposals for the Census Order since it last took evidence from NRS on 12 September 2019:

- Letter from Dr Kevin Guyan on behalf of individual researchers, academics, practitioners and data users dated 20 September 2019
- Letter from forwomen.scot dated 27 September 2019
- Letter from LGBTI organisations dated 1 October 2019
- Letter from the Office for Statistics Regulation dated 4 October 2019
- Letter from Murray Blackburn Mackenzie dated 7 October 2019
- Letter from LGB Alliance dated 26 November 2019
- Letter from Stonewall Scotland dated 10 December 2019
- Letter from Prof. Alice Sullivan on behalf of individual quantitative social scientists, dated 18 December 2019

10. Further information about the Committee’s consideration of the draft proposals for a Census Order is available on the Committee’s website.
Scotland’s Census 2021

Sex Question Recommendation Report

December 2019
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1. **Introduction**

Scotland’s next census will be held in 2021 subject to the approval of the Scottish Parliament. The census is the official count of every person and household in the country and the only questionnaire of its kind to ask everyone the same questions at the same time. Scotland has relied for more than 200 years on the information the census provides and it remains the best way to gather vital information which government, councils, the NHS and a range of users in the public, private and third sectors use to plan a range of public services, to improve the lives of those living and working in Scotland.

Census methodology and questions have evolved over time since the first census in 1801. In 2011, respondents were able to complete the questionnaire online for the first time and online guidance was available to assist respondents how to answer if required. The 2021 census is being designed to be ‘digital first’ and this will be the preferred route for the majority of respondents although paper questionnaires will still be available.

Sex is a key demographic variable and since 1801 the census has sought to collect data about the number of males and females resident in Scotland. This report provides the background information and evidence from the question development process that supports the proposed sex question and guidance for Scotland’s Census 2021.
2. Executive Summary

2.1 Background

The census is the official count of every person and household in Scotland, and is the only questionnaire of its kind to ask everyone the same questions at the same time. Completion of the census is compulsory, although some questions are voluntary. In 2021 the proposal is that questions on transgender status and history; sexual orientation; and religion, religious denomination or body will be voluntary.

The proposed question on sex in Scotland’s Census 2021, is a mandatory question. It is a key demographic variable and since 1801 the census has sought to gather information on the number of males and females resident in Scotland.

Scotland’s Census is a self-completion survey which relies on respondents understanding the question and answering honestly and accurately within this context. Work to support people across Scotland to complete the census includes consideration of question design, guidance material and the functionality of other customer services support.

2.2 Question Development

All questions included in Scotland’s Census are subject to testing and evaluation which includes the following aspects:

- Strength of user need
- Suitability of alternative sources
- Acceptability, clarity and data quality
- Comparability
- Operational consideration.

For the sex question, the long history of its inclusion in the census, topic consultation in 2015, evaluation of the success of collection in the 2011 census, and user satisfaction survey in 2015 confirmed that sex should be included as a mandatory question in the 2021 Census.

Scotland’s Census 2021 is designed to be ‘Digital First’ with an expectation that the majority of respondents will choose to complete online. The mandatory status of the sex question requires that it is answered by respondents online or via paper, however the functionality of the online form means that all respondents responding online must complete the question to progress further through the census.

2.3 Guidance

The sex question was not accompanied by guidance until 2011, when guidance was made available online. The guidance was developed by the Office for National Statistics and subsequently used in Scotland’s Census.
The 2011 online guidance for the sex question, supports a self-identification position. The self-completion nature of the survey, combined with there being no previous guidance can be seen as having enabled respondents to reach their own conclusions on how to complete the sex question i.e. self-identification.

The 2011 online guidance and proposed 2021 self-identification guidance therefore confirms and clarifies the continuation of the self-identification position.

2.4 Testing

Building on the evaluation of the 2011 Census, and the conclusion that sex should be a mandatory question in the 2021 Census, work progressed during 2017 and 2018 to further explore sex, gender identity, trans status and sexual orientation. Conclusions were presented by NRS in the Sex and Gender Identity Topic Report (September 2018).

In August 2018, question development and testing brought NRS to the conclusion that a non-binary sex question with self-identification guidance would be suitable. However, in August 2019 and following a recommendation from the Scottish Parliament’s Culture, Tourism, Europe and External Affairs (CTEEA) Committee the Cabinet Secretary for Culture, Tourism and External Affairs proposed that the Census 2021 would instead continue with a binary sex question with self-identification guidance.

Following further discussions and correspondence between the CTEEA Committee and NRS, specifically on the nature and impact of guidance associated with the sex question, NRS commissioned ScotCen Social Research to carry out two within-subject surveys on:

- General population – adults aged 16 and over living in Scotland
- Adults aged 16 and over and self-identifying as trans / non-binary and living in Scotland.

The key findings from ScotCen’s report are in Section 4 of this report, the Executive Summary is provided at Annex A, and a link is provided to the full ScotCen report in Annex B.

Specific points from the general population study include:

- Only 0.5% of online participants accessed the accompanying guidance before answering the question ‘what is your sex?’
- There was no impact on non-response rates due to participants being pointed towards the legal sex or self-identification guidance.
- For both the legal and self-identification sex guidance just over two thirds of participants reported that it was acceptable for use in the census (68% and 69% respectively). Just under 25% of participants expressed ‘neither acceptable or unacceptable’ and 5% of participants responded in both cases that the guidance was unacceptable.
Almost all (95%) reported that the impact on their census behaviour would be the same for both versions of the guidance.

Specific points from the trans or non-binary population study include:

- Around 25% of trans and non-binary participants accessed guidance when answering the question ‘what is your sex?’
- Those participants describing their trans status as non-binary were significantly more likely to access guidance.
- In 60% of responses the participants answer to the sex question when self-identification guidance was used was different to the answer given when legal sex guidance was used.
- Close to two thirds of participants viewed the legal guidance as less acceptable than the self-identification sex guidance for use in the census. Just over 21% felt that self-identification guidance was not acceptable compared to 77% who felt that legal sex guidance was not acceptable.
- 69% of participants reported that they would answer the sex question if self-identification sex guidance was used, whilst only 23% reported that they would answer the sex question if legal sex guidance was used.

2.5 User needs and comparability over time and with the rest of the UK.

Comparability of census data over time and across the rest of the UK are important factors that influence question design. As currently proposed, the censuses in Northern Ireland, Wales and England, and Scotland will use a binary sex question alongside self-identification guidance in 2021.

In addition the Census 2011 guidance in England and Wales, and Scotland used self-identification guidance, and it is NRS’s view that self-identification is in practice the most accurate description of how previous sex questions in the census – in the absence of guidance - were answered.

However, stakeholder views are not consistent or uniform. Some stakeholders and data users are clear that sex must be defined in terms of biology and that biological sex is a protected characteristic under the Equality Act. Others are clear that sex is not defined in the Census Act 1920, and that public bodies are not required to collect information on legal sex and can enable employees and service users to self-identify their sex.

Expressed views of some stakeholders is that comparability over time would be undermined by guidance on self-identification, whilst others take the view that self-identification is in fact the consistent position and guidance is required to provide clarity to data users.

2.6 Conclusion

The initial recommendation in 2018 by National Records of Scotland was for a non-binary sex question with self-identification guidance. Following further consideration
with a wide range of stakeholders and additional engagement with the Scottish Parliament’s CTEEA Committee, NRS brought forward the recommendation of a binary sex question with self-identification guidance.

Following consideration of representations from stakeholders across Scotland and the UK, including further independent research, NRS continue to recommend a binary sex question with self-identification guidance. The key strands underpinning this recommendation are:

- The census is a self-completion form which has therefore relied on respondents considering the question, any guidance (including none) or other information before answering.
- Most people – as confirmed by the ScotCen General Population study – will not consider guidance prior to answering the sex question. The basis on which they answer is therefore not explicitly defined and therefore NRS take the position that self-identification captures the reality of how people complete this census question.
- Consistency over time and across the UK is enabled through the use of self-identification guidance.
- It is important to data users to have clarity through the availability of guidance on the basis for completion of the sex question.
- The ScotCen General Population study and the recent NRS census rehearsal confirmed that most people don’t read the guidance on the sex question and that neither legal or self-identification guidance would change behaviour regarding participation with the census.
- In the ScotCen trans or non-binary research it was reported that 3 times as many people would be willing to answer a sex question with self-identification guidance than with legal sex guidance.
- A binary sex question with self-identification guidance therefore supports participation for all people with the census and clarifies to data providers and data users the basis of the question.
2.7 Proposed sex question and online guidance for Scotland’s Census 2021

**What is your sex?**

- [ ] Female
- [ ] Male

The proposed sex question is mandatory and should be answered by all respondents.

**Proposed online guidance**

How do I answer this question?

If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).

If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?

If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

Why is this question asked?

The sex question provides vital information for organisations on national and local population statistics, and for long-term analysis, as it has been asked since 1801. This question is also used for equality monitoring.
3. **Background**

3.1 **Aims of the census**

The census is the official count of every person and household in the country and the only questionnaire of its kind to ask everyone the same questions at the same time.

Scotland has relied for more than 200 years on the information the census provides and it remains the best way to gather vital information which government, councils, the NHS and a range of users in the public, private and third sectors use to plan a range of public services, to improve the lives of those living and working in Scotland.

As a producer of official statistics, National Records of Scotland (NRS) is responsible for the planning, conduct and dissemination of outputs from Scotland’s Census 2021. The strategic aims for Scotland’s Census 2021 are to provide complete, accurate and accessible population statistics which meet user requirements; to build public confidence and encourage participation in the census; to protect confidential personal census information; and to provide value for money whilst building on the successes and lessons learned from previous censuses.

The entire census operation will be subject to assessment and monitoring by the Office for Statistics Regulation (OSR) to retain our National Statistics Accreditation, awarded to us for the last census in 2011. This accreditation process confirmed that the 2011 census adhered to the Code of Practice for Statistics by providing public value, producing high quality data and being produced by people and an organisation that were worthy of trust.

The whole of the Scotland’s Census 2021 programme will be assessed by OSR. This includes the initial planning stages that started in 2014, through to the production of the last standard outputs sometime in 2024. The assessment is split into three phases during which Scotland’s Census 2021 must demonstrate how it is being trustworthy, of high quality and of value to users.

3.2 **Question development**

Designing a questionnaire for a national census is a complicated process. The key aspects of the census are that it counts everyone in Scotland, it has to be credible, people have to have confidence in it and needs to be consistent to other comparators. It must ensure all citizens are represented and reflect with accuracy how they live in Scottish society. The questions should enable all people to respond and engage with the census regardless of their age or background in order to maximise participation and response rates. The census is a self-completion survey and it is important that respondents are able to answer all questions without the aid of an interviewer to provide support. Questions are tested to ensure that they can be easily answered by respondents. In addition the inclusion of questions should have no significant detriment to the census as a whole particularly in the level of response so that the data gathered is of good quality to meet users’ requirements.
Topics can be asked in varying degrees of detail depending on the required data, and questions can be asked in different ways which can often lead to very different responses. Furthermore, questions asked earlier in a questionnaire may influence how people respond to later questions and people may be influenced by answering similar questions in previous censuses or other surveys. For all of these reasons, it is essential that the development of the questions, questionnaires and the associated guidance for the census follows a robust analytical process that is widely tested to ensure that it delivers high quality data outputs that meet a wide range of user needs. The evidence for the question development process is gathered from a wide range of sources. There is the knowledge gained from evaluating questions in previous censuses, surveys and the census rehearsal, learning from census offices in the rest of the UK and internationally, data user requirements, stakeholder feedback and question testing results and all of this evidence contributes to the decision on whether a question should be included, the question wording and format.

Questions and their response options are evaluated against five main themes:

**Strength of user need**
Data collected by the census must meet a user need for equality monitoring, policy development, resource allocation and/or service planning and delivery.

**Suitability of alternative sources**
Data collected by the census must meet a user need that cannot be met elsewhere.

**Acceptability, clarity and data quality**
Questions asked in the census must be acceptable to the majority of the public, clear and be designed with minimal respondent burden in order to obtain good data quality that meets user needs.

**Comparability**
Data collected by the census should be comparable over time where possible, and harmonised across the UK where reasonable.

**Operational considerations**
Census questions must be considered as part of the census as a whole, where effective digital and paper design, space and financial constraints must be considered.

### 3.3 Sex question

Sex is a key demographic variable and since 1801 the census has sought to collect data about the number of males and females resident in Scotland. As the data collection methodology for the census has evolved, so have the questions. For the first time in 2011, respondents were able to complete the questionnaire online and there was online guidance available for all questions to assist respondents how to answer if required. The online guidance for the sex question was developed by the Office for National Statistics (ONS) for the 2011 Census in England and Wales, and introduced to the census in Scotland for the first time in 2011.
2011 Sex question

3 What is your sex?

- **Tick one option**
  - Male
  - Female

2011 Sex question guidance - online only

**How to answer**
Tick one box only

**Why is this question asked?**
This question provides important basic information about the population and is used extensively along with other data (for example, age and marital status) to produce statistics at national, regional and local level and to allocate public money to local authorities, health authorities and other community projects. By combining sex with age, the census provides a basis for measuring changes in society and calculating rates of morbidity, mortality, fertility, marriage and divorce.

**Help with answering**
No guidance provided

**More questions?**
I am transgender or transsexual. Which option should I select? If you are transgender or transsexual, please select the option for the sex that you identify yourself as. You can select either ‘male’ or ‘female’, whichever you believe is correct, irrespective of the details recorded on your birth certificate. You do not need to have a Gender Recognition Certificate.

If you are answering for someone who is transgender or transsexual then where possible you should ask them how they want to be identified. If they are away, you should select the sex you think they would wish to be identified as. You can select either ‘male’ or ‘female’, irrespective of the details recorded on their birth certificate. You do not need to know if they have a Gender Recognition Certificate.

The 2021 census is being designed to be ‘digital first’ and this will be the preferred route for the majority of respondents (80%). As in 2011, online guidance will be available to assist respondents how to answer if required. The sex question is mandatory and online respondents must answer the sex question in order to progress to later questions. It is therefore vital that the sex question is acceptable and understood by all respondents in order to maximise response rates which is a key factor for delivering a fundamental objective of the census, namely collecting good quality data.

Respondents will also be able to complete the questionnaire on paper and there will be telephone capture and call centre support available for those who require support.
These alternative methods of response need to be considered in the design of the sex question and its associated guidance.

3.4 Sex question development for 2021

Fig 3.1 below shows the sex question development process for the 2021 census.

The starting point for question development work for the sex question was the question that had been asked in Scotland’s Census 2011.

The NRS initial view for the Topic Consultation in October 2015 was that the 2021 census should continue to include the sex question and collect data for this variable. This view was informed by evaluation of the success of the 2011 topics and questions (including evidence from research and previous censuses), user requirements from the Beyond 2011 consultation carried out in 2013 and feedback from the Scotland’s Census 2011 User Satisfaction Survey in 2015.

NRS invited views on Scotland’s Census 2021 – Topic Consultation between 8 October 2015 and 15 January 2016. The public consultation was a key step towards understanding what information users would need from the census in 2021, and helped to build strong cases to justify the inclusion of topics. Following the consultation, NRS proposed to continue to collect information on sex in 2021.

Figure 3.1: Sex question development for Scotland’s Census 2021
## Scotland’s Census 2021 – Sex Question Development January 2015 to September 2018

### Consultation and Engagement

- **Oct 2015 – Jan 2016**: Topic Consultation
  - Well established user need for key demographic variables sex
  - NRS propose to continue to collect information on sex in 2021

- **Jan 2017**: Stakeholder Meeting
  - Respondent need for a non-binary response

### Testing

- **June – Aug 2017**: UK Gender Identity Quantitative Testing
  - Inclusions of an ‘Other, write-in’ response option did not significantly change the level of item non-response in comparison to the binary sex question.
  - When the gender identity question set was included the level of non-response significantly increased compared to both the binary sex question alone and the non-binary sex question alone.

- **July – Oct 2017**: Cognitive Testing
  - There was a different understanding of the term ‘sex’ between respondents due to prior conception and other questions asked.
  - Issues with binary sex question – male/female not enough
  - Concerns about using a question on gender identity in combination with a binary question on sex.

- **Sept 2017 – March 2018**: Quantitative Testing
  - Around 97% of respondents provided a valid response to the non-binary sex question.
  - Most invalid responses to the non-binary sex question were item non-response (5% compared with <1% of multi-ticks)

- **Sept 2018**: Cognitive Testing
  - Strong support for non-binary sex question however a small number of respondents noted that it should be binary.
  - Respondents preferred the question stem ‘What is your sex?’
  - There should be guidance but not in the question stem.

### Decision

- **Hold stakeholder meeting to understand the user need for gender identity data**

### Question

- **2011 Binary Sex question**
  - Binary sex question
  - Binary sex + gender identity question
  - Non-binary sex question

- **Non-binary sex question**
  - Non-binary sex question + trans status question

- **Non-binary sex question**
  - Non-binary sex question + trans status question

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**September 2018**

**Plans for Scotland’s Census 2021 Published**

**Sex and Gender Identity Topic Report**
Scotland’s Census 2021 – Sex Question Development September 2018 – December 2019

Census Amendment Scotland Bill

- Sept 2018 Census Amendment Bill laid before parliament
- Oct – Dec 2019 Evidence from Stage 1 Census Amendment Scotland Bill
- Jan 2019
  - Stage 1 Committee Report Recommendation
  - Binary sex question
  - Consider Stage 1 evidence
  - Wider stakeholder engagement

Engagement with CTEEA Committee

- 13th June 2019 - NRS officials meet with CTEEA Committee (informal session)
- August 2019 – Letter to clarify NRS position that the proposed sex question in the 2021 Census will be a binary (female/male) sex question and the basis of response will continue self-identification as in 2011.
- 12th September 2019 – NRS officials meet with CTEEA Committee (formal session)
- 18th September 2019 – Demonstration of online collection instrument to CTEEA Committee
- December 2019 – NRS publish Sex Question Recommendation Report

Testing of guidance for the sex question
ScotCen Social Research

Correspondence from stakeholders
Following the Topic Consultation NRS worked closely with stakeholders through follow-up events and meetings to gather more detailed information about data requirements to ensure user needs were understood. The wording of questions which were subject to change or new (including the sex question) were then subject to a programme of testing including public acceptability testing, cognitive testing, and quantitative testing as appropriate to the individual questions. The results of this testing and the question development for the sex question were published alongside the Plans for Scotland’s Census in the Sex and Gender Identity Topic Report in September 2018.

In Autumn 2018, as a result of the question development described in the Sex and Gender Identity Topic Report, NRS were proposing that the 2021 Census would ask a non-binary question sex question with similar guidance to 2011 followed by a newly developed trans status question in order to collect data about the sex of Scotland’s population in addition to the location and size of the trans population. A non-binary sex question had been suggested in the topic consultation and further consultation with some stakeholders confirmed that the 2011 question may have excluded those people who did not identify in a binary way as they were not represented by the binary ‘male/female’ classification.

The proposal for a non-binary sex and trans status combination of questions was considered by NRS and concluded that the approach:

- could be answered by both the trans and non-binary populations and was acceptable in testing;
- could be answered by the general population and was acceptable in testing;
- produced outputs consistent with 2011;
- produced outputs comparable with the rest of the UK;
- produced outputs that met user need.

In October 2018, the Census (Amendment) (Scotland) Bill was introduced to amend the Census Act 1920 to enable particulars about transgender status or history and sexual orientation to be gathered voluntarily. During the legislative process, the proposed sex question came under scrutiny and while there was support for the proposed sex question, some concerns were also raised. In February 2019, the Culture, Tourism, Europe and External Affairs (CTEEA) Committee published their Stage 1 Report on the Bill and recommended that:

- the mandatory sex question should remain binary in order to maximise response rates and longitudinal consistency with previous censuses;
- there is a pro-active information campaign to support the approach adopted which must involve all interested parties who have expressed views on this issue;
- future consultation on this topic, by NRS and the Scottish Government, reaches out to the widest possible constituency and carefully considers all the evidence gathered by this Committee.
Since February 2019, in line with the CTEEA Committee’s recommendations, NRS has considered the evidence from Stage 1 of the Census (Amendment) (Scotland) Bill and carried out further stakeholder engagement.

In August 2019, Fiona Hyslop, Cabinet Secretary for Culture, Tourism and External Affairs, wrote to Joan McAlpine MSP, the Convenor of the CTEAA Committee, to clarify the National Records of Scotland’s proposal for the sex question for the Census in 2021:

> After careful consideration, reflecting on the Committee’s recommendation, stakeholder evidence during Stage 1 of the Census (Amendment) (Scotland) Bill, and the approach being taken in censuses for the rest of the UK, National Records of Scotland now propose to continue with a binary sex question in Scotland’s 2021 Census. The current proposal would also be to continue with the self-identification basis of response. (2019: 9)

In the second half of 2019, NRS commissioned further testing of the guidance associated with the binary sex question. The testing was carried out by ScotCen Social Research with the aim of understanding the impact of different guidance on question response, data quality, question acceptability and census completion.

The following chapters of this report describes the evidence from the sex question development process that supports NRS’s decision to propose a binary sex question with a self-identified basis of response for Scotland’s Census 2021.
4. Question testing

It is essential that the development of the questions, questionnaires and the associated guidance for the census follows a robust analytical process that is widely tested to ensure that it delivers high quality data outputs that meet a wide range of user needs.

Both binary and non-binary sex questions have been tested as part of the question set for sex, gender identity, trans status and sexual orientation. Throughout 2017 and 2018 a range of testing methodologies were used across thousands of households in Scotland to fully understand different aspects of asking questions of this nature. The results of this testing were published in the Sex and Gender Identity Topic Report which was published in September 2018.

In the latter half of 2019, NRS commissioned further testing of the guidance associated with the binary sex question. The testing was carried out by ScotCen Social Research with the aim of understanding the impact of two different versions of the sex question guidance which were developed in conjunction with a broad range of stakeholders.

The Executive Summary of the testing report is provided at Annex A, and a link is provided to the full ScotCen report in Annex B.

The aims of the testing were to:

- understand the impact of different guidance for the sex question on question response, data quality, question acceptability and census completion;
- understand if the impact is different for the two populations being tested i.e. the general population and the trans and non-binary population;
- examine the interaction between the sex question and trans status and sexual orientation questions when different guidance is provided.

In order to understand the impact on different populations there were two separate surveys:

- general population - adults aged 16 and over living in Scotland;
- trans and non-binary population - adults aged 16 and over self-identifying as trans or non-binary and living in Scotland.

The surveys were conducted in parallel and the design and content of both were the same but other aspects of the methodology differed e.g. sampling methodology.
## Key findings from 2019 sex question and guidance testing

<table>
<thead>
<tr>
<th>How do people answer the sex question when first asked?</th>
<th>General population</th>
<th>Trans and Non-binary population</th>
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<tbody>
<tr>
<td>96% of participants answered the sex question when first asked and 4% chose not to answer it. Of those that responded, 53% reported being female and 47% male.</td>
<td>When first asked the question ‘what is your sex?’, 47% of trans or non-binary participants responded ‘female’, 45% responded ‘male’ and 8% chose not to respond. All of those who did not answer the sex question when first asked, described their trans status as ‘non-binary’ and the binary nature of the response options was the key reason for non-response.</td>
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### How people use guidance

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<th>How people use guidance</th>
<th>General population</th>
<th>Trans and Non-binary population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Around one in ten (11%) people reported reading the guidance before answering the sex question. Background data collected for online participants indicated, however, that only 15% of online participants that reported reading the guidance actually clicked on the ‘help’ button to access it (0.5% of all online participants). There was similar evidence of over-reporting among those who took part on paper. Non-response to the sex question when first asked did not differ significantly by guidance type.</td>
<td>When asked, one in three (33%) trans or non-binary participants reported accessing guidance when answering the question. Background data collected on online participants indicated that a quarter of those who claimed to access guidance did not actually do so. Thus, overall, 25% (n=19) of trans or non-binary participants genuinely accessed guidance before answering the question ‘what is your sex?’ Those describing their trans status as ‘non-binary’ were significantly more likely than those who described it in another way to access guidance before answering the sex question (37% and 15%, respectively). Of the 25% (n=19) of trans or non-binary people who accessed guidance when first asked to respond to the ‘what is your sex?’ question, non-response to the question did not differ significantly by guidance type.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How people answer the sex question when asked to consider different versions of the guidance</th>
<th>General population</th>
<th>Trans and Non-binary population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-response to the sex question did not vary significantly according to guidance type (1% for self-identification and 2% for legal sex guidance). Those in the general population who reported they were trans or</td>
<td>When presented with the self-identification sex guidance, 23% (n=16) of trans or non-binary participants reported they would not answer the sex question.</td>
<td></td>
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</tbody>
</table>
had a trans history were more likely than others to avoid answering the sex question, irrespective of which version of the guidance was used (18% said they would not answer if self-identification sex guidance was used, compared with 1% of people who did not identify as trans or non-binary.)

The equivalent figures for legal sex guidance were 59% and 1%, respectively.

| Acceptability of different versions of the guidance | Two-thirds (69%) of participants reported that the self-identification sex guidance was acceptable for use in the census. This was not significantly different from the 68% that found the legal sex guidance acceptable.
Nine in every ten (91%) people gave the same acceptability response to both versions of the guidance. |
|---|---|
| Impact on census completion | For both versions of the guidance, nine in ten people (91% for self-identification and 90% of legal) said they would ‘answer the question ‘what is your sex?’.
For the self-identification sex guidance, 2% said they would ‘skip the sex question’ in the census if the guidance was used and 1% said they would ‘not complete the census at all’. The likely impact of the legal sex guidance was the same.

The vast majority (95%) reported that the impact on their census behaviour would be the same for both versions of the guidance. | Of the 75 participants, 52 (69%) reported that they would answer the sex question in the census if self-identification sex guidance were used. Fourteen would skip the sex question and just 4 would not take part in the census at all if the guidance were used.

Forty percent (n=30) indicated that legal sex guidance would have a more negative impact on census behaviour than self-identification sex guidance and 3% (n=2) said the opposite. |
From the testing it can be seen that very few people in the general population access or read the guidance before answering the sex question. This is in agreement with evidence from the 2019 census rehearsal where there were 52 recorded views of the on-page guidance for the sex question. By way of comparison, views of on-page guidance in the rehearsal ranged from 0 to 790 views for the Scots language question, with an average number of views across the question set of 96. For respondents completing the questionnaire on paper, there were only 2 recorded views of the additional guidance that was available on the census rehearsal website.

When the general population do read the guidance, there is no difference in the item non-response, acceptability and impact on census completion between the self-identified and legal sex question guidance.

For the trans or non-binary population however, 25% do access the sex question guidance with the self-identified guidance was much more acceptable compared to the legal sex guidance. Half of trans or non-binary participants reported that they would not answer the ‘what is your sex?’ question if it was accompanied with guidance which asked them to answer according to their legal sex. This was significantly higher than the non-response rate if self-identification guidance were to be used. It was also found that the legal sex guidance would have a more negative impact on census completion: only 24% said they would answer the sex question, 30% said that they skip the question and 30% said they would not complete the census.

The testing results support the NRS proposal of asking a binary sex question with associated self-identified guidance as the guidance has no impact on how the majority of people in Scotland would answer the question. For the trans and non-binary population, the self-identified guidance has a lower non-response, is more acceptable and has less impact on census completion than the legal sex version of the guidance.
5. Consultation and engagement

Since October 2015, NRS has engaged with a wide variety of stakeholders around the sex question through the public topic consultation, public events, meetings and correspondence. Consultation and engagement are essential to fully understand the range of data needs and how census can deliver good quality outputs that meet the range of data users need. The census is unique as a data collection, and as such, maintaining or improving the quality of the data, and providing comparability across time, or across the wider UK is important and users have identified this as a key need.

The consultation process can be seen in the question development diagram (Fig 3.1)

5.1 Stakeholder engagement

The NRS initial view for the Topic Consultation in October 2015 was that the 2021 census should continue to include the sex question and collect data for this variable. This view was informed by evaluation of the success of the 2011 topics and questions (including evidence from research and previous censuses), user requirements from the Beyond 2011 consultation carried out in 2013 and feedback from the Scotland’s Census 2011 User Satisfaction Survey in 2015.

NRS invited views on Scotland’s Census 2021 – Topic Consultation between 8 October 2015 and 15 January 2016. The public consultation was a key step towards understanding what information users will need from the census in 2021, and helped to build strong cases to justify the inclusion of topics.

There were 47 responses received through the topic consultation on the subject of basic demographics. A summary of these responses can be found in the Topic Consultation Report. In this report, NRS acknowledged that there is a well-established user need for the key demographic variable sex. Along with age, the sex variable is a vital input to population estimates and household projections which are used by central and local government to inform resource allocation, target investment, and carry out service planning and delivery. Sex is a protected characteristic as set out in the Equality Act 2010 and the data are widely used to inform equality impact assessments and allow organisations to fulfil their Public Sector Equality Duty (PSED) under the Act. They are also essential for analysis and research conducted by a wide range of users, including public bodies and third and private sector organisations. Following the consultation NRS proposed to continue to collect information on sex in 2021.

Following the Topic Consultation NRS worked closely with stakeholders through follow-up events and meetings to gather more detailed information about data requirements to ensure user needs were understood. In November and December 2018, NRS held three public events in Edinburgh, Glasgow and Aberdeen in order to share and discuss the proposed questions for Scotland’s Census 2021 including the proposed non-binary sex question.
During Stage 1 of the Census (Amendment) (Scotland) Bill, it became apparent that there were stakeholders who had not previously engaged directly with NRS and since January 2019 NRS has endeavoured to meet with these stakeholders in Scotland to hear their views. Since January 2019, NRS has engaged with a wide variety of stakeholders around the sex question through public events, meetings and correspondence. These include equality groups, women’s groups, local authorities, Scottish Government, and ONS and NISRA.

Annex C provides a list of the meetings that NRS has held during 2019.

The next sections provide a summary of the evidence that NRS has collected during the consultation and engagement process.

5.2 Definition of sex

Some of the evidence from Stage 1 of the Census (Amendment) (Scotland) Bill and stakeholder engagement since January 2019 has raised concern over the definition of sex. Some stakeholders have the view that sex must be defined in terms of biology and that this in line with the statutory definition of sex:

Sex should be defined straightforwardly, as it is in the Equality Act 2010 - biological and legal sex (Anonymous A1. 2018: 1)

They express concerns that the proposed guidance for the sex question in 2021 allowing trans respondents to tick a response that is different from that on their birth certificate does not align with their interpretation of the definition of sex.

Other stakeholders however have a different view and do not believe that sex must be defined in terms of biology in a legal context:

Since there is no single definition of ‘sex’ for all purposes, in practice, legally ‘sex’ has meant different things, depending on the context in which the term is used.

This means that the Scottish Government is free to interpret and apply the category of ‘sex’ (or indeed ‘gender’) in any given context, in a manner that is appropriate to that context, without having to define ‘sex’, and without having to abide by any previous definition or application of the term ‘sex’. (Cowan, 2018: 4)

The term ‘sex’ is not defined in the Census Act 1920 nor is it defined in the Census Order. There is in fact no single statutory definition of sex. Although sex is a protected characteristic under the Equality Act 2010, the Act does not define sex. It simply states that a man is a male of any age and a woman is a female of any age and how male and female are to be interpreted is not stated.

5.3 Uses of outputs
The strength of user need and the use of outputs is one of the key considerations in question inclusion and design in the census. It was clear from the topic consultation and stakeholder engagement that there is a well-established user need for the key demographic variable sex and the uses of outputs is now examined in more detail.

5.3.1 The topic consultation showed that sex variable data from the census is a vital input to population estimates and household projections. These are used by central and local government to inform resource allocation, target investment, and carry out service planning and delivery. For example the City of Edinburgh Council said:

\textit{Knowledge of the age and gender makeup of the local population is essential in service delivery planning. Such information is a basic requirement for all service areas in the council.} (2015: 3)

NRS consulted with the Population and Migration Statistics (PAMS) group during 2019 who did not raise any concerns with the proposed binary sex question for 2021 and the proposed guidance.

There has been a lot of discussion around resource allocation and the planning of health services during evidence gathering for the sex question.

There were concerns that a sex question that allowed trans people to self-identify would cause issues with health screening that applied only to males and females. For example, in their evidence at Stage 1 of the Census (Amendment) (Scotland) Bill, For Women Scotland said:

\textit{Knowing how many male and female citizens there are enables public authorities to properly plan and deliver public services. For instance, there are a number of sex-specific health screening programmes offered by the NHS. Cervical and breast screening are offered to women to check for early signs of cancer. Abdominal aortic aneurysm screening is offered to men during the year they turn 65.} (2018: 8)

However, in his evidence to the CTEEA Committee on the 13th December 2018, Gerry McCartney, NHS Health Scotland said:

\textit{We would not use the census to identify people for screening or other such purposes; we would use the existing health record data sets such as the community health index data sets and the clinical records associated with those to identify individuals who needed particular services. However, the census is a key data source for resource allocation and planning at a population level. It is important to recognise the difference between those two data sets.} (2018: 12)

In relation to healthcare planning, Louise Maclellan (NHS) who submitted evidence at Stage 1 of the Census (Amendment) (Scotland) Bill also said:
Allowing trans people to record their sex in accordance with their lived identity on medical records and diversity monitoring forms in health rather than their biological or GRC sex enables better healthcare planning and improved patient experience. (2018: 11)

There was also concern that there should be consistency between census sex data and NHS health data. Professor Jackie Cassell from the Brighton and Sussex Medical School whilst providing evidence to the CTEEA Committee on the 13th December 2018 said:

*With the growing use of administrative data sets—a couple of censuses away, the census will look very different and we will draw on national health service data and all sorts of data—it is important for the credibility of the census as a data resource that gives information at a low level on small populations that there is consistency between the census data on sex and other data sets. (2018:2)*

Evidence provided from Louise Maclennan (NHS) confirms that the approach taken in the census for the sex question in 2011 and also proposed for 2021 aligns with how the NHS records sex data in the NHS CHI database:

*The current census guidance states that trans people should answer the sex question in accordance with the sex that they identify themselves as (rather than the biological or legal sex) which is fully consistent with the way NHS Scotland allows trans people to answer questions asking them their sex and is in keeping with how the NHS CHI number database records people’s sex. If the census ceases to allow trans people to self-identify their sex in the census this may impact on trans people and/or on the ability to compare census data with NHS patient data. (2018:11)*

NRS have also consulted NHS ISD whose main use of census data is population estimates by age and sex which are used for planning, modelling profiling and resource allocation purposes. They confirmed that they are content with the proposed sex question and guidance for the 2021 census as it ensures consistency with previous census data.

5.3.2 Equality monitoring

Sex is a protected characteristic in the Equality Act 2010. The Act defines a man as a male of any age and a woman as a female of any age. The Equality Act 2010 places a duty on all public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations (the Public Sector Equality Duty or PSED). A wide range of public authorities which are themselves subject to the PSED have indicated a need for data from the census which will support them in fulfilling their own duties under the PSED.

12 responses in the topic consultation, the majority of which were local authorities, said that they used sex data from the census for equality monitoring:
This topic is fundamental to characterising area populations, of great importance for equality monitoring, and is used for cross tabulation with most, if not all, other topics. (South Lanarkshire Council, 2015: 15)

Evidence from Stage 1 of the Census (Amendment) (Scotland) Bill indicated that some of those providing evidence to the Committee thought that in order to fulfil duties under the Equality Act 2010, the sex question asked in the census should ask for a person’s biological sex and further consultation with some women’s groups in 2019 confirmed that this was their view:

**Biological sex is a protected characteristic under the Equality Act 2010.** (Murray, 2018: 13)

Other Stage 1 evidence however disagreed with these claims and supported the NRS proposal that a sex question asked on a self-identified basis would meet the user need of those using the data for equality monitoring purposes:

**Although sex is a protected characteristic under the Equality Act 2010, the Act does not define sex. Section 212 (1) simply says that a man is a male of any age and a woman is a female of any age. How male and female are to be interpreted is not stated.**

The Act treats sex as inclusive of all those who are recorded as that sex on their birth certificate, ie both those who are ‘biologically’ that sex, and those who have been designated that sex under the gender recognition process. It also protects those who are perceived to be a certain ‘sex’ even if they are not. (Cowan, 2018: 4)

**Employers and service providers who include sex in equality monitoring statistics generally support trans people to respond with their lived sex, not their legal (current birth certificate) sex. A lived sex question in the census will therefore provide a more consistent baseline statistic for employers’ and service providers’ equality monitoring of sex.** (Equality Network, 2018: 6)

A recent paper from the Equality and Human Rights Commission (EHRC) has clarified the position by stating:

**Many public bodies use the terms ‘sex’ and ‘gender’ interchangeably. The language used by a body does not dictate whether the PSED requirements have been met. Public bodies are not required to restrict the information they collect to legal sex and can enable employees and service users to self-identify their sex.**

**The vital question that public bodies need to address is what they will be using the information they are collecting for and whether allowing respondents to self-identify their sex will affect that. The number of trans people is not big enough to skew data that is collected on sex and it is therefore deemed**
generally unnecessary, from a data collection viewpoint, to merely focus on legal sex.

Public bodies often compare their data to information collected through the census, which (currently) allows respondents to self-identify their sex. The comparison would therefore be more accurate if public bodies use the same approach. (2019: 5)

The EHRC also provide the following information regarding human rights considerations:

There are important human rights considerations that need to be considered when asking employees or service users to state their sex, especially in regard to people’s right to privacy under Article 8 of the ECHR and the Human Rights Act 1998. Forcing trans employees or service users to disclose their sex as assigned at birth would be a potential violation of their human rights, particularly their right to privacy and dignity under Article 8. In addition, forcing a trans person without a Gender Recognition Certificate (GRC) to disclose their legal sex would result in that person being ‘outed’ as a trans person. It is also a criminal offence under the Gender Recognition Act 2004 for a person who has acquired the information in an official capacity, to disclose information relating to another person’s application for a GRC or their gender prior to grant of the GRC. In some instances, forcing people to ‘out’ themselves will also breach the Equality Act 2010. (2019: 5)

NRS recognises the critical importance of the Equality Act 2010 and that it is the cornerstone of UK-wide equalities legislation. The Equality Act does not however, as a matter of law, restrict the questions which can be asked in the census to questions which are framed in terms of the protected characteristics described in that Act.

5.3.3 Analysis and research

The topic consultation provided evidence that information on the sex variable in the census was essential for analysis and research conducted by a wide range of users, including public bodies and third and private sector organisations. For example, the UK Data Service said:

The UK Data Service represents a very diverse group of users who use the data to identify a range of different small groups, including specific age ranges, ethnic minorities and groups defined by socio-economic traits such as workers or the self-employed. (2015: 16)

It is clear that opinion on the most appropriate approach to gathering data on sex is divided. In September, and more recently, NRS has heard from Scottish and UK academics that a self-identified approach to collecting sex data would produce inaccurate data. Their view is this approach is no longer a reasonable and accurate count of sex and it is leading to data on biological sex being lost which would have an impact on resource distribution in the health service, research in areas of social
inequality and sex-based socialisation processes in childhood, analysis of care for aging population and sex based biases in the criminal justice system.

NRS has also received correspondence from researchers, academics, practitioners and data users working in universities, higher education agencies and other organisations across Scotland and the UK supporting the approach that NRS took in 2011 and propose to continue in 2021. Their view is that a departure from the proposed binary sex and self-identification approach poses a greater threat to data quality, particularly in the case of longitudinal studies and that data collected by NRS harmonises with the data collected by the Office for National Statistics (who carry out the census in England and Wales) and the Northern Ireland Statistics and Research Agency.

NRS acknowledges that some data users would want the sex question to be asked on a biological or legal sex basis however the information users require from the sex question has a multitude of uses and whilst the majority of users are content with the proposed approach for 2021 NRS recognise that there are other views.

5.4 Respondent need

In order to produce good quality data which meets user needs, the census is designed to maximise response to the census overall, and to maximise response to individual questions. It is essential that questions are acceptable, understandable and can be answered by all members of the population in Scotland.

There has been a sex question in the census since 1801 and no guidance was provided for this question until 2011. As the census is self-completion, to that extent the question has always been a self-identified one and it can be assumed that without explicit guidance, people answered the question in the way that they felt best reflected their sex.

As testing has shown, for most people their self-identified sex equates to their biological and legal sex and they do not require or access guidance to answer the sex question. The guidance in 2011 was specifically to support the trans population and allowed those with or without a gender recognition certificate to ‘select either ‘male’ or ‘female’, whichever you believe is correct, irrespective of the details recorded on your birth certificate’. Engagement with LGBT equality groups and other groups such as Engender has confirmed that for a binary question, the self-identified approach taken in 2011 would be the preferred approach in 2021 and a sex question that only allowed trans people who hold a GRC to self-identify as male or female would be less acceptable. The recent testing supported this view as it demonstrated that the legal sex guidance would have a negative impact on census completion for 40% of trans or non-binary respondents compared to just 3% for the self-identified guidance.

Evidence from trans individuals at Stage 1 of the Census (Amendment) (Scotland) Bill confirmed that they would be content to answer the sex question with their ‘lived sex’ and answer the subsequent trans status question affirmatively. There were also
concerns raised around response rates and that a change in approach would be a backward step in trans equality practices in Scotland if the question was no longer self-identified:

It is a government’s responsibility to make sure all its citizens are represented under the census…the possible negativities of requiring the compulsory sex question to try to force trans people to answer in a way that does not reflect how they live in society would most likely mean that trans people just don't take part. (Lawrence, 2018: 10)

A move to force trans people to disclose either their biological sex characteristics at birth, or their legal sex, indicates a shift back to a viewpoint that either biological sex at birth is the “more important” characteristic, or to the view that only a small number of Gender Recognition Certificate holders are entitled to dignity and respect of their lived sex. (STA, 2018: 14)

Whilst trans men and women with GRCs have both enhanced privacy rights and legal recognition of their lived sex, due to Equality Act protections it is now incredibly unusual for public bodies, services or employers to treat GRC holders and non-GRC holders differently. (STA, 2018: 14)

Whilst evidence from testing and engagement supports the proposed approach of a binary sex question asked on a self-identified basis, NRS acknowledges that there are a small number of respondents for whom the respondent need is not met. In recent testing the binary nature of the response options was the key reason why some trans or non-binary participants chose not to answer the sex question. NRS are aware that some non-binary respondents do not feel that they are able to respond to a binary female/male question honestly and this may have an impact on census response for this group of respondents.
6. Outputs

One of the fundamental aims of the census in 2021 is to generate good quality outputs that meet the needs of the wide range of users served by the census. As the testing has demonstrated, guidance based on a legal sex approach would lead to a higher non-response rate for the sex question, and for census completion rates, which would have an impact on the data quality.

Irrespective of the guidance, NRS cannot ensure biological or legal sex data would be collected as respondents answer without verification of responses and may ignore the guidance if they consider it unacceptable. Respondents may also choose not to answer on paper and in 2011 there was a 0.8% non-response rate for the sex question.

The final dataset contains noise from a variety of sources (statistical imputation and estimation and statistical disclosure control methods) and NRS do not believe that the data quality of the sex variable will be affected by guidance of a self-identified basis.

Evidence from the topic consultation and engagement showed that the information that users require about the sex question has a multitude of uses and it will often be combined with data from other variables. From engagement with stakeholders it is clear that a single question would not address all needs and a trans status question is proposed for inclusion in the census for the first time in 2021 and will provide data on the size, age and location of the trans population in Scotland.

How NRS expect people to answer based on alternative versions of the guidance

<table>
<thead>
<tr>
<th></th>
<th>Self-identified guidance</th>
<th>Legal sex guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sex</td>
<td>Trans status</td>
</tr>
<tr>
<td>Cisgender man</td>
<td>Male</td>
<td>No</td>
</tr>
<tr>
<td>Cisgender woman</td>
<td>Female</td>
<td>No</td>
</tr>
<tr>
<td>Trans man with GRC</td>
<td>Male</td>
<td>Yes</td>
</tr>
<tr>
<td>Transwoman with GRC</td>
<td>Female</td>
<td>Yes</td>
</tr>
<tr>
<td>Transman without GRC</td>
<td>Male</td>
<td>Yes</td>
</tr>
<tr>
<td>Transwoman without GRC</td>
<td>Female</td>
<td>Yes</td>
</tr>
<tr>
<td>Non-binary</td>
<td>Male/Female/Non-response</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The table shows that the two versions of the guidance produce a difference in the responses for the trans population. Self-identified guidance for the sex question would allow trans people who have and do not have a GRC to answer consistently. The legal sex guidance, in contrast, would produce inconsistencies in how people who have and do not have a GRC respond. When processing the data NRS will not
be aware of which members of the trans population have a GRC and in order to
analyse the combined data for the sex question and the trans status question, it is
important that the trans population answer these questions in a consistent manner
and the self-identified guidance allows them to do this.

6.1 Comparability and consistency over time

The outputs must also look to provide longitudinal consistency with previous
censuses and comparability where possible with data produced by other UK census
offices.

As in previous years, there will be separate censuses conducted by the Office for
National Statistics (ONS) in England and Wales, and the Northern Ireland Statistics
and Research Agency (NISRA) in Northern Ireland. The three census offices have
worked together to develop a set of questions that, wherever possible and
necessary, will deliver harmonised outputs across the UK.

Continuing with the same approach for the sex question in Scotland as in 2011
would maintain the consistency of the Scottish data over time and also allow for
harmonisation across the UK. Such comparability over time, and with the UK, is one
of the key concerns of data users to allow population changes to be seen both in a
historical context and in relation to other countries.

There is no evidence to suggest that the addition of the guidance in 2011 introduced
any discontinuity in the data and ONS are currently proposing to take the same
approach as 2011 for the 2021 Census in England and Wales.

6.2 EU Regulations and their interaction with Scotland’s Census.

The agreed understanding by National Records of Scotland and the Office for
National Statistics (ONS) - who provide the EU with data on behalf of the UK - is that
member states use a variety of sources to gather the relevant statistics. This is
envisaged by Article 4 of Regulation (EC) 763/2008. The EU legislation on the 2021
population and censuses explanatory notes state:

EU legislation on population and housing censuses is ‘output-oriented’. The
authority and responsibility to develop appropriate census methods and
technology remain with the Member States. EU legislation aims to provide
census data that are comparable between the EU Member States. To
achieve this, the data have to follow a European programme of statistical
data and metadata. (2019: 7)

The ONS, in consultation with National Records of Scotland and the Northern Ireland
Statistics and Research Agency, will agree how best to present the UK statistics and
how any differences in methodology will be described or handled so as to help users
when interpreting the outputs. There is no requirement on the individual nations to
constrain definitions and methodology to exact duplication of approach. However, in
presenting the statistics to the EU, ONS will set out in a ‘quality assurance’ section any points relevant to interpretation or use.

This approach allows member states across the EU to comply with EU requirements whilst respecting different statistical structures within the member states. In the case of the sex question, National Records of Scotland are currently proposing to ask the same question as the rest of the UK—binary and self-identification, and on the same basis. ONS will bring these data together to provide the UK output required by Eurostat.

7. Conclusion

National Records of Scotland acknowledges that this is a sensitive topic that has attracted, and continues to attract, strong and varying opposing views. Having fully considered the results of testing, approaches taken across the UK, and the feedback from the discussions with stakeholders and peers, the recommendation from the National Records of Scotland’s Government Statistical Services statistician group continues to be that a binary sex question asked on a self-identification basis provides the best balance in meeting the diverse range of user needs across the full census dataset.

Our aim for the census is to deliver a set of questions and associated guidance that enables all of Scotland to access, understand and complete the census.
Annex A – Testing guidance for the sex question – ScotCen Social Research
December 2019

Executive Summary

Background

- Scotland’s Census 2021 will include the question ‘what is your sex?’ with two response options ‘female’ and ‘male’. A decision on the guidance to accompany the question is still to be made. Two versions of the guidance were tested: one advised people to respond according to their self-identified sex, the other according to their legal sex.

- To explore views on both versions of the guidance, National Records Scotland (NRS) commissioned a survey of a random sample of the general population and a separate survey of an opt-in sample of trans or non-binary adults.

- Participants were first asked to respond to the sex question with guidance available if they chose to access it. Results from this question provide the closest measure there is to likely behaviour at the census. In both surveys, half the sample were given access, where required, to self-identification sex guidance and half to legal sex guidance.

- All participants were then shown each version of the guidance in turn and asked how they would answer the ‘what is your sex?’ question based on it. To combat the potential impact of response to the second question from exposure to guidance for the first question, a random half of participants were given the self-identification sex guidance first and then the legal sex guidance. The reverse was true for the remaining half of participants.

General population survey

- 2208 participants completed the questionnaire. Participants had the option of taking part either online or on paper. 52% took part online and 48% completed the questionnaire on paper.

Understanding how the general population answer the sex question

- 96% of participants answered the sex question when first asked and 4% chose not to answer it. Of those that responded, 53% reported being female and 47% male.

- There was no relationship between non-response to the sex question and age of participant.

Understanding how the general population use guidance

- When first answering the sex question, as will be the case in the census, participants were not shown guidance but could access it if they chose to.

- Around one in ten (11%) people reported reading the guidance before answering the sex question. Background data collected for online participants
indicated, however, that only 15% of online participants that reported reading the guidance actually clicked on the ‘help’ button to access it (0.5% of all online participants). There was similar evidence of over-reporting among those who took part on paper. Consequently, the proportion of the general population that actually accessed guidance when answering the ‘what is your sex?’ question (at first asking) is likely to have been significantly lower than 11%.

Understanding how people answer the sex question (when first asked) based on different versions of the guidance

- Non-response to the sex question when first asked did not differ significantly by guidance type. That is, participants who reported reading the self-identification sex guidance before answering ‘what is your sex?’ (when first asked) were no more or less likely to not answer the question than those who reported reading the legal sex guidance (6% and 9%, respectively).

Understanding how people answer the sex question when asked to consider different versions of the guidance

- After being asked the sex question in a way that replicated the census as closely as was feasible, everyone was then presented with a version of the guidance to read and asked how they would answer the ‘what is your sex?’ question having read the guidance. Once they had done this, they were shown alternative guidance and asked to answer the sex question again using this. The order guidance was presented to participants was randomised.

- Non-response to the sex question did not vary significantly according to guidance type (1% for self-identification and 2% for legal sex guidance). That is, the version of the guidance consulted did not relate to likelihood to respond to the sex question in this scenario.

- Those in the general population who reported they were trans or had a trans history were more likely than others to avoid answering the sex question, irrespective of which version of the guidance was used (18% said they would not answer if self-identification sex guidance was used, compared with 1% of non-trans people.) The equivalent figures for legal sex guidance were 59% compared with 1%, respectively.

Acceptability of the different versions of guidance

- Participants were asked how acceptable each version of the guidance was for inclusion in the census with answer options ranging from very acceptable to not at all acceptable.

- Two-thirds (69%) reported that the self-identification sex guidance was acceptable for use in the census. This was not significantly different from the 68% that found the legal sex guidance acceptable.

- Nine in every ten (91%) people gave the same acceptability response to both versions of the guidance. Two percent described the self-identification sex guidance as more acceptable for the census than the legal sex guidance. The
same proportion (2%) which was similar to the 4% that reported the opposite – that the legal sex guidance was more acceptable.

- Based on their response to sex when first asked, males were significantly more likely than females to describe the self-identification sex guidance as unacceptable (7% and 4%, respectively). Views on the acceptability of the legal sex guidance did not significantly differ by response to sex when first asked (7% and 5%, respectively), that is males were no more or less likely than females to find the legal sex guidance unacceptable.

- Five percent found self-identification sex guidance not acceptable or not at all acceptable for use in the census. The equivalent figure for legal sex guidance was also 5%.

- Those who described a version of the guidance as unacceptable were asked to explain, in their own words, why they felt this was the case.

**Reasons why some people find the self-identification sex guidance unacceptable**

- Upon reading the self-identification sex guidance, a common theme among those that found it unacceptable was that sex is binary and determined at birth and that consequently there should be a legal basis to any response to the sex question. For some whom had objections, the self-identification sex guidance was viewed as ‘encouraging’ the notion that sex is a personal choice.

- The presence of the term ‘non-binary’ prompted others to declare the guidance unacceptable as they viewed the term as clearly relating to gender and not sex. Some viewed the guidance as confusing and risked potentially overcomplicating the question, especially for older people. Although it is worth noting that any guidance that accompanies the sex question in the census will need to be actively sought out and testing showed that, when given the opportunity to access the guidance, the majority of people choose not to.

**Reasons why some people find the legal sex guidance unacceptable**

- A common theme among those who found the legal sex guidance unacceptable was that there should be no need for a guidance, since they viewed sex as determined at birth and known to all. Therefore, for some, all the information given in the guidance are simply unnecessary and confusing. The guidance was described as a waste of resources and ‘encouraging’ young people that they can have a choice over their own sex. While these views were expressed in response to the legal sex guidance it was apparent that these thoughts extended to the self-identification sex guidance as well.

- Another reason why the legal sex guidance was deemed unacceptable, was the fact that it deprives individuals of their right to self-definition. Some people felt that there should be a third choice of ‘other’. In addition, there was a view that people should be allowed to declare a sex that is different to their birth sex without having obtained a gender recognition certificate (GRC).
A person’s legal sex was considered, by some, to be too personal to be asked to share on the census. This was not unique to the legal sex guidance and was mentioned as an objection to self-identification sex guidance also.

In some cases, confusion over the language used in the guidance was mentioned. The inclusion of the term 'non-binary' was particularly confusing for some. For others, the feedback given pointed to general confusion and mis-understanding of the terms sex, gender and sexual orientation.

Likely impact of the different versions of the guidance on census behaviour

To get a measure of the impact the guidance might have on behaviour at the census people were asked, for both versions of the guidance, to choose what they would do if the census included the particular guidance with the ‘what is your sex?’ question.

For both versions of the guidance, nine in ten people (91% for self-identification and 90% of legal) said they would ‘answer the question ‘what is your sex?’.

For the self-identification sex guidance, 2% said they would ‘skip the sex question’ in the census if the guidance was used and 1% said they would ‘not complete the census at all’. The likely impact of the legal sex guidance was the same - 2% would skip the sex question if the legal sex guidance were used and 1% would not take part in the census at all.

The vast majority (95%) reported that the impact on their census behaviour would be the same for both version of the guidance. For 2%, the impact was greater for one guidance type than the other and for a similarly small group of people (2%) it wasn’t clear what the impact would be.

Trans or non-binary survey

The survey of trans or non-binary adults living in Scotland was an opt-in online survey with recruitment across a large and diverse range of charities, support groups and medical settings. Seventy-five people completed the survey.

Since participants were not selected at random, the findings relate only to those who took part and inferences to the wider trans or non-binary population in Scotland cannot be made. Different approaches to sampling mean that comparisons between the general population survey findings and the trans or non-binary findings cannot, and should not, be made.

Understanding how trans or non-binary people answer the sex question

When first asked the question ‘what is your sex?’, 47% (n=35) of trans or non-binary participants responded ‘female’, 45% (n=34) responded ‘male’ and 8% (n=6) chose not to respond.

Those who chose not to answer the sex question when first asked were asked to explain, in their own words, why they didn’t provide an answer. An objection
to the binary nature of the response options proved to be a common theme among non-responders.

- All of those who did not answer the sex question when first asked it described their trans status as ‘non-binary’.

**Understanding how trans or non-binary people use the guidance**

- When first asked the sex question guidance was available, but participants had to click on a ‘help’ button to access it. When asked, one in three (33%) trans or non-binary participants reported accessing guidance when answering the question.

- However, background data collected on online participants indicated that a quarter of those who claimed to access guidance did not actually do so. Thus, overall, 25% (n=19) of trans or non-binary participants genuinely accessed guidance before answering the question ‘what is your sex?’.

- Those describing their trans status as ‘non-binary’ were significantly more likely than those who described it in another way to access guidance before answering the sex question (37%, n=13 and 15%, n=6, respectively).

**Understanding how trans or non-binary people answer the sex question (when first asked) based on different versions of the guidance**

- Of the 25% (n=19) of trans or non-binary people who accessed guidance when first asked to respond to the ‘what is your sex?’ question, Non-response to the question did not differ significantly by guidance type.

- Over half (58%, n=11) of those that genuinely accessed guidance before answering the sex question reported that the guidance prompted them to change their answer.

- Those who read the self-identification sex guidance were no more or less likely than those who read the legal sex guidance to report changing their minds about how to answer (55%, n=6 and 63%, n=5 people, respectively).

- Three of the 6 people who reported changing their mind after reading the self-identification sex guidance text had initially planned not to answer the question but chose to respond having read the guidance. The same was true of those reporting that reading the legal sex guidance changed their mind (3 of the 5 did not plan to answer prior to reading the guidance but went on to provide a valid response).

**Understanding how trans or non-binary people answer the sex question when asked to consider different versions of the guidance**

- After answering the initial sex question – which was presented in a manner replicating how it might appear in the census – trans or non-binary participants were then presented with each version of the guidance to read, in turn, and asked how they would answer the ‘what is your sex?’ question having read the guidance.
• When presented with the self-identification sex guidance, 23% (n=16) of trans or non-binary participants reported they would not answer the sex question. Around half (49%, n=35) said they would not answer the sex question if the legal sex guidance was used.

• How trans or non-binary people responded to the sex question when each version of the guidance was considered was compared to see if, and how, answers changed in line with guidance. For 60% (n=41) the response given to the sex question when self-identification sex guidance was considered did not match the response given when legal sex guidance was considered.

• Twenty-six of the 32 trans or non-binary people reporting that they would not answer the sex question if legal sex guidance were used, provided a valid answer to the question when the self-identification sex guidance was considered.

• Many of those reporting that they wouldn’t answer the sex question described their trans status as non-binary and, when asked to describe in their own words why they would not answer, pointed to the binary nature of the response options as the reason for their decision. This was raised as an issue for both versions of the guidance but was more pronounced for the legal sex guidance.

Acceptability of the different versions of guidance

• Participants were asked how acceptable each version of the guidance was for use in the census.

• Sixteen of the 75 trans or non-binary participants (21%) described the self-identification sex guidance as either not acceptable or not at all acceptable. When asked how acceptable the legal sex guidance was for inclusion in the census, 58 participants (77%) viewed it as unacceptable.

• While a third (n=28) of trans or non-binary participants viewed both versions of the guidance as equally acceptable, close to two thirds (n=46) viewed the legal sex guidance as less acceptable than the self-identification sex guidance for use in the census. Only one of the 75 participants described the self-identification sex guidance as the least acceptable of the two versions.

Reasons why some trans or non-binary people find the self-identification sex guidance unacceptable

• When asked to explain, in their own words, why the self-identification sex guidance was not acceptable, the most widely held view related to the restrictive nature of the binary response options to the question rather than any specific issues with the guidance itself.

• Other objections to the self-identification sex guidance touched on broader implications relating to the role of census in defining society and societal views. Some questioned the accuracy of the data that would be gathered from non-binary people and it was also noted that the guidance didn’t give
everyone in the population visibility, again a reference to non-binary people having to answer a binary question.

- While some viewed the self-identification sex guidance as unacceptable, they made it clear that they deemed it more acceptable than the legal sex guidance.

- Highlighting that views across trans or non-binary people aren’t always consistent, it was mentioned that the self-identification sex guidance confuses sex and gender which were considered to be separate by those who cited this issue.

**Reasons why some trans or non-binary people find the legal sex guidance unacceptable**

- Many trans or non-binary people who found the legal sex guidance unacceptable provided an extensive narrative on why they felt this way, often offering multiple reasons for their views. Common themes were:

  - **Binary nature of the sex question** – those describing themselves as non-binary described the binary nature of the question as restrictive. That the guidance, and the subsequent question on trans status, acknowledged that a person could be non-binary but did not allow this to be expressed at the sex question was noted as particularly frustrating.

  - **Issues with the legal sex guidance specifically** – Many disagreed with the guidance requirement to hold a gender recognition certificate (GRC) in order to respond according to their lived sex. The process of obtaining a GRC was described as bureaucratic and off-putting for those eligible to apply. It was noted that the insistence on holding a GRC meant that the guidance could, in effect, create a two-tier system among trans people – those with and those without a GRC.

  - **Data quality implications of using legal sex guidance** – A view reported was that using ‘legal sex guidance would result in data that was inconsistent with 2011 census data when trans or non-binary people could answer according to self-identified sex. Some participants indicated that they would answer the question according to self-identified sex even if the ‘legal sex guidance were to be used. A knock-on implication of this on data quality noted by participants was that some would then choose not to answer the subsequent trans status question since when used in combination with their response to the sex question, they might be thought to be lying and it could allow their sex at birth to be determined.

  - **Emotional implications the legal sex guidance on trans people** – several participants associated the requirements of the ‘legal sex guidance with feelings of distress and rejection and there was a sense that using this guidance could have negative consequences on the mental wellbeing of trans people.

  - **Societal implications of using legal sex guidance** – some trans or non-binary people perceived the implications of using ‘legal sex guidance as going beyond the personal. Their view was that if legal sex guidance was to be used,
then, this would be viewed as the ‘government’ presenting its position on the acceptance and recognition of trans identities and potentially, as a result, shaping wider public perceptions to negative effect.

**Likely impact of the different versions of the guidance on census behaviour**

- For each version of the guidance, trans or non-binary participants were asked what they would do in the census if the guidance was included.

- Of the 75 participants, 52 (69%) reported that they would answer the sex question in the census if self-identification sex guidance were used. Fourteen would skip the sex question and just 4 would not take part in the census at all if the guidance were used.

- Likely impact on census behaviour appeared to more negative for the legal sex guidance with 17 (23%) of the 75 participants reporting they would answer the question, 23 stating that they would skip the question and a further 23 stating that they would not complete the census at all.

- Forty percent (n=30) indicated that the impact of guidance on their likely census behaviour would be the same for both versions. Forty percent (n=30) indicated that legal sex guidance would have a more negative impact on census behaviour than self-identification sex guidance and 3% (n=2) said the opposite.

ScotCen - Testing guidance for the sex question
Annex C – Evaluation of rehearsal data for the sex question

Sex question:

- An estimated 1% of all people who responded online did not answer the sex question, comparable to response rates in the 2011 Census (the majority, 93%, of whom dropped out before or on the sex question).
- An estimated 0.2% of all people who took part online in the rehearsal dropped out of the questionnaire on the sex question. It is not possible to determine why these people dropped out of the questionnaire.
- Frequency of responses as a proportion of total (valid) responses:

<table>
<thead>
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<th>Percentage of responses</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
<tr>
<td>Male</td>
<td>49%</td>
</tr>
<tr>
<td>Female</td>
<td>51%</td>
</tr>
</tbody>
</table>

- There were 52 recorded views of the on-page guidance for the sex question. Views of on-page guidance ranged from 0 to 790 views (for the Scots language question), with an average number of views of 96.
- There were only 2 recorded views of the additional guidance that was available on the census rehearsal website.
- Information about whether someone viewed guidance is only available for around 89% of people who took part and reflects how many people clicked on the link to view the guidance. It is not possible to know how much, if any, of the guidance these people read.
Annex D - Stakeholder meetings and events in 2019

<table>
<thead>
<tr>
<th>Date</th>
<th>Organization/Event Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 January 2019</td>
<td>MBM Policy, Scottish Women, For Women Scotland</td>
</tr>
<tr>
<td>24 January 2019</td>
<td>DSD Families</td>
</tr>
<tr>
<td>28 January 2019</td>
<td>Engender</td>
</tr>
<tr>
<td>28 March 2019</td>
<td>Equality Network/Scottish Trans Alliance (STA), LGBT Youth</td>
</tr>
<tr>
<td></td>
<td>Scotland, Stonewall Scotland</td>
</tr>
<tr>
<td>24 April 2019</td>
<td>For Women Scotland</td>
</tr>
<tr>
<td>1 May 2019</td>
<td>Population and Migration Statistics (PAMS)</td>
</tr>
<tr>
<td>30 May 2019</td>
<td>MBM Policy</td>
</tr>
<tr>
<td>30 May 2019</td>
<td>STA</td>
</tr>
<tr>
<td>3 June 2019</td>
<td>DSD Families</td>
</tr>
<tr>
<td>14 August 2019</td>
<td>Stakeholder event – question and legislation update and</td>
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<td>guidance for testing</td>
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<tr>
<td>16 August 2019</td>
<td>Stakeholder event – question and legislation update and</td>
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<tr>
<td></td>
<td>guidance for testing</td>
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<tr>
<td>7 October 2019</td>
<td>Academics from Edinburgh University and Glasgow University</td>
</tr>
<tr>
<td>19 November 2019</td>
<td>Population and Migration Statistics (PAMS)</td>
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Annex E – Links

Beyond 2011 consultation

Scotland’s Census 2011 User Satisfaction Survey

Census Act 1920

Census (Amendment) (Scotland) Bill

NRS Sex and Gender Identity Topic Report Sept 2018

Plans for Scotland’s Census 2021

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EU legislation on the 2021 population and housing censuses EXPLANATORY NOTES 2019 edition

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https://www.parliament.scot/S5_European/General%20Documents/CTEEA_CensusBill_LawrenceLeeze_CTEEA_S5_18_CB_42.pdf

https://www.parliament.scot/S5_European/General%20Documents/CTEEA_CensusBill_MacLennanLouise_CTEEA_S5_18_CB_37.pdf


https://www.parliament.scot/S5_European/Inquiries/CTEEA_CensusBill_DrMurrayKath_CTEEA_S5_18_CB_19.pdf


South Lanarkshire Council (2015), Topic Consultation response 2015

UK Data Service (2015), Topic Consultation response 2015
Testing guidance for the sex question

Scotland’s Census 2021

ScotCen
Social Research that works for society

Author: ScotCen
Date: 19/12/2019
Prepared for: National Records of Scotland
At **ScotCen Social Research** we believe that social research has the power to make life better. By really understanding the complexity of people’s lives and what they think about the issues that affect them, we give the public a powerful and influential role in shaping decisions and services that can make a difference to everyone. And as an independent, not for profit organisation we’re able to put all our time and energy into delivering social research that works for society.
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Executive summary

Background

- Scotland’s Census 2021 will include the question ‘what is your sex?’ with two response options ‘female’ and ‘male’. A decision on the guidance to accompany the question is still to be made. Two versions of the guidance were tested: one advised people to respond according to their self-identified sex, the other according to their legal sex.
- To explore views on both versions of the guidance, National Records Scotland (NRS) commissioned a survey of a random sample of the general population and a separate survey of an opt-in sample of trans or non-binary adults.
- Participants were first asked to respond to the sex question with guidance available if they chose to access it. Results from this question provide the closest measure there is to likely behaviour at the census. In both surveys, half the sample were given access, where required, to self-identification sex guidance and half to legal sex guidance.
- All participants were then shown each version of the guidance in turn and asked how they would answer the ‘what is your sex?’ question based on it. To combat the potential impact of response to the second question from exposure to guidance for the first question, a random half of participants were given the self-identification sex guidance first and then the legal sex guidance. The reverse was true for the remaining half of participants.

General population survey

- 2208 participants completed the questionnaire. Participants had the option of taking part either online or on paper. 52% took part online and 48% completed the questionnaire on paper.

Understanding how the general population answer the sex question

- 96% of participants answered the sex question when first asked and 4% chose not to answer it. Of those that responded, 53% reported being female and 47% male.
- There was no relationship between non-response to the sex question and age of participant.

Understanding how the general population use guidance

- When first answering the sex question, as will be the case in the census, participants were not shown guidance but could access it if they chose to.
- Around one in ten (11%) people reported reading the guidance before answering the sex question. Background data collected for online participants indicated, however, that only 15% of online participants that reported reading the guidance actually clicked on the ‘help’ button to access it (0.5% of all online participants). There was similar evidence of over-reporting among those who took part on paper. Consequently, the proportion of the general population that actually accessed guidance when answering the ‘what is your sex?’ question (at first asking) is likely to have been significantly lower than 11%.
Understanding how people answer the sex question (when first asked) based on different versions of the guidance

- Non-response to the sex question when first asked did not differ significantly by guidance type. That is, participants who reported reading the self-identification sex guidance before answering ‘what is your sex?’ (when first asked) were no more or less likely to not answer the question than those who reported reading the legal sex guidance (6% and 9%, respectively).

Understanding how people answer the sex question when asked to consider different versions of the guidance

- After being asked the sex question in a way that replicated the census as closely as was feasible, everyone was then presented with a version of the guidance to read and asked how they would answer the ‘what is your sex?’ question having read the guidance. Once they had done this, they were shown alternative guidance and asked to answer the sex question again using this. The order guidance was presented to participants was randomised.
- Non-response to the sex question did not vary significantly according to guidance type (1% for self-identification and 2% for legal sex guidance). That is, the version of the guidance consulted did not relate to likelihood to respond to the sex question in this scenario.
- Those in the general population who reported they were trans or had a trans history were more likely than others to avoid answering the sex question, irrespective of which version of the guidance was used (18% said they would not answer if self-identification sex guidance was used, compared with 1% of non-trans people.) The equivalent figures for legal sex guidance were 59% compared with 1%, respectively.

Acceptability of the different versions of guidance

- Participants were asked how acceptable each version of the guidance was for inclusion in the census with answer options ranging from very acceptable to not at all acceptable.
- Two-thirds (69%) reported that the self-identification sex guidance was acceptable for use in the census. This was not significantly different from the 68% that found the legal sex guidance acceptable.
- Nine in every ten (91%) people gave the same acceptability response to both versions of the guidance. Two percent described the self-identification sex guidance as more acceptable for the census than the legal sex guidance. The same proportion (2%) which was similar to the 4% that reported the opposite – that the legal sex guidance was more acceptable.
- Based on their response to sex when first asked, males were significantly more likely than females to describe the self-identification sex guidance as unacceptable (7% and 4%, respectively). Views on the acceptability of the legal sex guidance did not significantly differ by response to sex when first asked (7% and 5%, respectively), that is males were no more or less likely than females to find the legal sex guidance unacceptable.
- Five percent found self-identification sex guidance not acceptable or not at all acceptable for use in the census. The equivalent figure for legal sex guidance was also 5%.
- Those who described a version of the guidance as unacceptable were asked to explain, in their own words, why they felt this was the case.
Reasons why some people find the self-identification sex guidance unacceptable

- Upon reading the self-identification sex guidance, a common theme among those that found it unacceptable was that sex is binary and determined at birth and that consequently there should be a legal basis to any response to the sex question. For some whom had objections, the self-identification sex guidance was viewed as ‘encouraging’ the notion that sex is a personal choice.

- The presence of the term ‘non-binary’ prompted others to declare the guidance unacceptable as they viewed the term as clearly relating to gender and not sex. Some viewed the guidance as confusing and risked potentially overcomplicating the question, especially for older people. Although it is worth noting that any guidance that accompanies the sex question in the census will need to be actively sought out and testing showed that, when given the opportunity to access the guidance, the majority of people choose not to.

Reasons why some people find the legal sex guidance unacceptable

- A common theme among those who found the legal sex guidance unacceptable was that there should be no need for a guidance, since they viewed sex as determined at birth and known to all. Therefore, for some, all the information given in the guidance are simply unnecessary and confusing. The guidance was described as a waste of resources and ‘encouraging’ young people that they can have a choice over their own sex. While these views were expressed in response to the legal sex guidance it was apparent that these thoughts extended to the self-identification sex guidance as well.

- Another reason why the legal sex guidance was deemed unacceptable, was the fact that it deprives individuals of their right to self-definition. Some people felt that there should be a third choice of ‘other’. In addition, there was a view that people should be allowed to declare a sex that is different to their birth sex without having obtained a gender recognition certificate (GRC).

- A person’s legal sex was considered, by some, to be too personal to be asked to share on the census. This was not unique to the legal sex guidance and was mentioned as an objection to self-identification sex guidance also.

- In some cases, confusion over the language used in the guidance was mentioned. The inclusion of the term ‘non-binary’ was particularly confusing for some. For others, the feedback given pointed to general confusion and misunderstanding of the terms sex, gender and sexual orientation.

Likely impact of the different versions of the guidance on census behaviour

- To get a measure of the impact the guidance might have on behaviour at the census people were asked, for both versions of the guidance, to choose what they would do if the census included the particular guidance with the ‘what is your sex?’ question.

- For both versions of the guidance, nine in ten people (91% for self-identification and 90% of legal) said they would ‘answer the question ‘what is your sex?’.

- For the self-identification sex guidance, 2% said they would ‘skip the sex question’ in the census if the guidance was used and 1% said they would ‘not complete the census at all’. The likely impact of the legal sex guidance was the same - 2% would skip the sex question if the legal sex guidance were used and 1% would not take part in the census at all.
• The vast majority (95%) reported that the impact on their census behaviour would be the same for both version of the guidance. For 2%, the impact was greater for one guidance type than the other and for a similarly small group of people (2%) it wasn’t clear what the impact would be.

Trans or non-binary survey
• The survey of trans or non-binary adults living in Scotland was an opt-in online survey with recruitment across a large and diverse range of charities, support groups and medical settings. Seventy-five people completed the survey.
• Since participants were not selected at random, the findings relate only to those who took part and inferences to the wider trans or non-binary population in Scotland cannot be made. Different approaches to sampling mean that comparisons between the general population survey findings and the trans or non-binary findings cannot, and should not, be made.

Understanding how trans or non-binary people answer the sex question
• When first asked the question ‘what is your sex?’, 47% (n=35) of trans or non-binary participants responded ‘female’, 45% (n=34) responded ‘male’ and 8% (n=6) chose not to respond.
• Those who chose not to answer the sex question when first asked were asked to explain, in their own words, why they didn’t provide an answer. An objection to the binary nature of the response options proved to be a common theme among non-responders.
• All of those who did not answer the sex question when first asked it described their trans status as ‘non-binary’.

Understanding how trans or non-binary people use the guidance
• When first asked the sex question guidance was available, but participants had to click on a ‘help’ button to access it. When asked, one in three (33%) trans or non-binary participants reported accessing guidance when answering the question.
• However, background data collected on online participants indicated that a quarter of those who claimed to access guidance did not actually do so. Thus, overall, 25% (n=19) of trans or non-binary participants genuinely accessed guidance before answering the question ‘what is your sex?’.
• Those describing their trans status as ‘non-binary’ were significantly more likely than those who described it in another way to access guidance before answering the sex question (37%, n=13 and 15%, n=6, respectively).

Understanding how trans or non-binary people answer the sex question (when first asked) based on different versions of the guidance
• Of the 25% (n=19) of trans or non-binary people who accessed guidance when first asked to respond to the ‘what is your sex?’ question, Non-response to the question did not differ significantly by guidance type.
• Over half (58%, n=11) of those that genuinely accessed guidance before answering the sex question reported that the guidance prompted them to change their answer.
• Those who read the self-identification sex guidance were no more or less likely than those who read the legal sex guidance to report changing their minds about how to answer (55%, n=6 and 63%, n=5 people, respectively).
• Three of the 6 people who reported changing their mind after reading the self-identification sex guidance text had initially planned not to answer the question but chose to respond having read the guidance. The same was true of those reporting that reading the legal sex guidance changed their mind (3 of the 5 did not plan to answer prior to reading the guidance but went on to provide a valid response).

Understanding how trans or non-binary people answer the sex question when asked to consider different versions of the guidance

• After answering the initial sex question – which was presented in a manner replicating how it might appear in the census - , trans or non-binary participants were then presented with each version of the guidance to read, in turn, and asked how they would answer the ‘what is your sex?’ question having read the guidance.

• When presented with the self-identification sex guidance, 23% (n=16) of trans or non-binary participants reported they would not answer the sex question. Around half (49%, n=35) said they would not answer the sex question if the legal sex guidance was used.

• How trans or non-binary people responded to the sex question when each version of the guidance was considered was compared to see if, and how, answers changed in line with guidance. For 60% (n=41) the response given to the sex question when self-identification sex guidance was considered did not match the response given when legal sex guidance was considered.

• Twenty-six of the 32 trans or non-binary people reporting that they would not answer the sex question if legal sex guidance were used, provided a valid answer to the question when the self-identification sex guidance was considered.

• Many of those reporting that they wouldn’t answer the sex question described their trans status as non-binary and, when asked to describe in their own words why they would not answer, pointed to the binary nature of the response options as the reason for their decision. This was raised as an issue for both versions of the guidance but was more pronounced for the legal sex guidance.

Acceptability of the different versions of guidance

• Participants were asked how acceptable each version of the guidance was for use in the census.

• Sixteen of the 75 trans or non-binary participants (21%) described the self-identification sex guidance as either not acceptable or not at all acceptable. When asked how acceptable the legal sex guidance was for inclusion in the census, 58 participants (77%) viewed it as unacceptable.

• While a third (n=28) of trans or non-binary participants viewed both versions of the guidance as equally acceptable, close to two thirds (n=46) viewed the legal sex guidance as less acceptable than the self-identification sex guidance for use in the census. Only one of the 75 participants described the self-identification sex guidance as the least acceptable of the two versions.

Reasons why some trans or non-binary people find the self-identification sex guidance unacceptable

• When asked to explain, in their own words, why the self-identification sex guidance was not acceptable, the most widely held view related to the restrictive nature of the binary response options to the question rather than any specific issues with the guidance itself.
• Other objections to the self-identification sex guidance touched on broader implications relating to the role of census in defining society and societal views. Some questioned the accuracy of the data that would be gathered from non-binary people and it was also noted that the guidance didn’t give everyone in the population visibility, again a reference to non-binary people having to answer a binary question.

• While some viewed the self-identification sex guidance as unacceptable, they made it clear that they deemed it more acceptable than the legal sex guidance.

• Highlighting that views across trans or non-binary people aren’t always consistent, it was mentioned that the self-identification sex guidance confuses sex and gender which were considered to be separate by those who cited this issue.

Reasons why some trans or non-binary people find the legal sex guidance unacceptable

• Many trans or non-binary people who found the legal sex guidance unacceptable provided an extensive narrative on why they felt this way, often offering multiple reasons for their views. Common themes were:

• Binary nature of the sex question – those describing themselves as non-binary described the binary nature of the question as restrictive. That the guidance, and the subsequent question on trans status, acknowledged that a person could be non-binary but did not allow this to be expressed at the sex question was noted as particularly frustrating.

• Issues with the legal sex guidance specifically – Many disagreed with the guidance requirement to hold a gender recognition certificate (GRC) in order to respond according to their lived sex. The process of obtaining a GRC was described as bureaucratic and off-putting for those eligible to apply. It was noted that the insistence on holding a GRC meant that the guidance could, in effect, create a two-tier system among trans people – those with and those without a GRC.

• Data quality implications of using legal sex guidance – A view reported was that using ‘legal sex guidance would result in data that was inconsistent with 2011 census data when trans or non-binary people could answer according to self-identified sex. Some participants indicated that they would answer the question according to self-identified sex even if the ‘legal sex guidance were to be used. A knock-on implication of this on data quality noted by participants was that some would then choose not to answer the subsequent trans status question since when used in combination with their response to the sex question, they might be thought to be lying and it could allow their sex at birth to be determined.

• Emotional implications the legal sex guidance on trans people – several participants associated the requirements of the ‘legal sex guidance with feelings of distress and rejection and there was a sense that using this guidance could have negative consequences on the mental wellbeing of trans people.

• Societal implications of using legal sex guidance – some trans or non-binary people perceived the implications of using ‘legal sex guidance as going beyond the personal. Their view was that if legal sex guidance was to be used, then, this would be viewed as the ‘government’ presenting its position on the acceptance and recognition of trans identities and potentially, as a result, shaping wider public perceptions to negative effect.
Likely impact of the different versions of the guidance on census behaviour

- For each version of the guidance, trans or non-binary participants were asked what they would do in the census if the guidance was included.

- Of the 75 participants, 52 (69%) reported that they would answer the sex question in the census if self-identification sex guidance were used. Fourteen would skip the sex question and just 4 would not take part in the census at all if the guidance were used.

- Likely impact on census behaviour appeared to more negative for the legal sex guidance with 17 (23%) of the 75 participants reporting they would answer the question, 23 stating that they would skip the question and a further 23 stating that they would not complete the census at all.

- Forty percent (n=30) indicated that the impact of guidance on their likely census behaviour would be the same for both versions. Forty percent (n=30) indicated that legal sex guidance would have a more negative impact on census behaviour than self-identification sex guidance and 3% (n=2) said the opposite.
1 Introduction

1.1 Background

Conducted every 10 years, Scotland’s Census is the official estimate of every person and household in Scotland. A question asking people to report what sex they are has been included in Scotland’s census since 1801. On the 2011 census, guidance on how to record sex advised transgender people that they could respond to the binary question on a self-identification basis.\(^1\)

The decision on what guidance should accompany the sex question (‘what is your sex?’) in the 2021 census in Scotland is still to be made. Two versions were included in testing, one version notes that transgender people can give an answer that is different from what is on their birth certificate and states that a gender recognition certificate (GRC) is not required. The alternative version states that the answer given should match a person’s birth certificate and that those who have a GRC may record their legal sex. Both versions of the guidance can be found in Appendix A.

To explore the potential impact of the two versions of the guidance to accompany the sex question, National Records of Scotland (NRS) commissioned ScotCen Social Research (ScotCen) to carry out two separate within-subject\(^2\) surveys with the below groups:

- General population - adults aged 16 and over living in Scotland
- Adults aged 16 and over self-identifying as trans or non-binary and living in Scotland

NRS’s objectives were to understand the impact of the two different guidance sets for the sex question on the question responses, data quality, guidance acceptability and census completion on these two groups.

To meet the objectives of the study both surveys were designed to address the following research questions, separately for the general population and the trans or non-binary population:

**Understand response to the sex question**

- What proportion answered the sex question?
- What proportion answered the sex question with/without consulting guidance?
- What proportion declined to answer the sex question because of the version of guidance they have read?

\(^1\) For the 2011 census guidance was available online.
\(^2\) A within-subject design is a type of experimental design whereby each participant is exposed to all the conditions of interest, which in the context of this research meant that every participant was shown both versions of the question guidance and asked how they would answer the sex question based on them. The alternative, a between-subject design, would be when different groups saw different versions of the guidance. For full details of the study design see Section 2.2.1 below.
• How would people answer the sex question based on an alternative version of the guidance?

Understand non-response as a measure of data quality

• What was the non-response rate to the sex question?
• What reasons, if any did people give for not answering the sex question?
• Was there a relationship between use of guidance and non-response to the sex question?
• How did non-responders choose to answer the question when asked to consider alternative guidance?

Understand views on the acceptability of guidance

• What proportion found each version of the guidance acceptable?
• What were the reasons, if any, people gave for finding guidance unacceptable?
• Was there a relationship between non-response to the sex question and views on acceptability of guidance used?

Understand impact of guidance on census completion

• What proportion said they would answer the sex question in the census if the guidance was used?
• What was the relationship between non-response to the sex question and likelihood of census completion?

1.2 This report

Both surveys were carried out in Autumn 2019. In total, 2208 participants took part in the survey of the general population. Of these, 52% completed the survey online and 48% filled it out on paper. The survey of trans or non-binary adults was available only online and was completed by 75 people.3

Findings from both the general population survey and the trans or non-binary survey are included in this report. Methodological differences in the way the two samples were recruited mean that survey findings for the general population survey and the trans or non-binary survey are presented separately as they are not directly comparable.

A detailed methodology for both surveys can be found in Section 2. Copies of the questionnaires used for the surveys can be found in the Appendix A, along with both versions of the guidance in full (Appendix B).

1.3 Terminology

ScotCen recognises that there are different, and sometimes conflicting, views towards some of the concepts and terms discussed in the report. As an independent research institute with considerable expertise in survey methodology including questionnaire

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3 These figures refer to the final number of participants included in analysis. Some responses were removed at the data processing stage. See Section 2.7 for further details on data processing.
design and testing, ScotCen does not take a position on the ‘correct’ terminology to be used in the sex question or guidance, the census or any other survey vehicle used in the production of National Statistics. The terms ‘trans or non-binary’, ‘self-identification sex guidance’ and ‘legal sex guidance’ were agreed with NRS, at the outset of the research, as suitable for use in this study.
2 Methodology

2.1 Introduction

The findings presented in this report are drawn from two separate surveys with the following groups:

- General population - adults aged 16 and over living in Scotland
- Trans or non-binary population - adults aged 16 and over self-identifying as trans or non-binary and living in Scotland.

Conducted in parallel, the design and content of both surveys were very similar but other aspects of the methodology differed. Most notably, the sampling methodology adopted for each of the surveys means that comparisons between general population survey findings and trans or non-binary findings cannot, and should not, be made. It is for this reason that findings for these populations are presented separately throughout this report. This chapter outlines the methods employed for both surveys highlighting similarities and differences between the two, where they occurred.

The study protocols and participant materials were approved by the National Centre for Social Research’s internal ethics committee.

2.2 Study design

As noted in the introduction to the report, NRS commissioned this research to explore two sets of guidance for the question ‘What is your sex?’ with the populations of interest. Specifically, the surveys were designed to assess the impact, if any, of the different guidance on: question response, data quality, guidance acceptability, how trans status and sexual orientation questions were answered, and census completion overall. In addition the research sought to determine these for the general population and the trans or non-binary population separately.

The NRS research requirement for this testing was to be addressed via:

- a within-subjects survey of households in Scotland, which were to be randomly selected to ensure the whole of Scotland was represented geographically, and
- a within-subjects survey of the trans or non-binary population, using the same questionnaire as the general population survey and being carried out concurrently.

2.2.1 Within-subject design

When trying to understand and assess the impact of different conditions on a population, in this context those conditions being different types of guidance to the sex question, different research design options are available. For both the general population survey and the trans or non-binary survey, a within-subject design was

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4 The exact wording of each version of the guidance is included in Appendix A.
required. Unlike a between-subjects design where each participant is exposed only to a single condition, in a within-subjects design every participant is exposed to all the conditions of interest. For this study, that meant that each participant was exposed to both sets of guidance and asked how they would answer the question ‘what is your sex?’ accordingly.

There are several advantages of using a within-subject design. For example, using this approach allows exploration of how the same person responds to different guidance and analysis of whether the response varies according to participants’ characteristics. In comparison a between-subject design, within-subjects design is also relatively efficient and cost-effective in terms of the number of participants required to generate reliable and useful data. A further advantage is that within-study designs can potentially better control for random variance. The individual differences between groups’ characteristics in a between-subject design have the potential to become confounding variables – that is, individual differences between groups, rather than the question variants, may explain observed differences.

A potential disadvantage of within-subject design is participant attrition. There is increased likelihood of a participant dropping out of a questionnaire before having been exposed to all the conditions of interest - hence not allowing any comparisons to be made. To counter this, a very short questionnaire was designed, including only the minimum questions required to address the research questions.

A further limiting factor of within-subject design is the potential bias that can result from being exposed to more than one condition successively. In the context of this research this refers to the potential order effects of asking the same question, with different types of guidance, consecutively.

To minimise the impact of people being influenced by one version of the guidance when subsequently answering the sex question based on the alternative version, the version first presented was randomly assigned using a split sample design. For both surveys, participant serials were randomly assigned to a questionnaire version at the sampling stage. Questionnaire version determined the order in which a participant would be presented with the two versions of the sex question guidance. For each sample, roughly half of the participants were presented with the self-identification sex guidance first and asked how they would answer the sex question based on it. These people were then shown the legal sex guidance and asked again how they would respond to the same sex question. For the remaining half of the sample the opposite was the case – legal sex guidance was introduced first and then the self-identification sex guidance. Note that when first asked the sex question, in an approach designed to mimic the census, the guidance was only made available where a participant actively accessed it.

The table below (Table 2:1) outlines how the study design worked, in practice, for both populations of interest. It also includes a brief description of each set of guidance and a description of how these are referred to throughout this report.

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5 https://methods.sagepub.com/reference/the-sage-encyclopedia-of-communication-research-methods/i15648.xml
### Table 2.2: Summary of versions of guidance included in testing

<table>
<thead>
<tr>
<th>NRS guidance type</th>
<th>Summary description of guidance</th>
<th>Description in reporting</th>
<th>Version of questionnaire administered</th>
<th>Order guidance presented in questionnaire</th>
<th>% samples assigned to version</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guidance A</td>
<td>Answer can be different from birth certificate. GRC not required</td>
<td>Self-identification sex guidance</td>
<td>Version A</td>
<td>A, B</td>
<td>50%</td>
</tr>
<tr>
<td>Guidance B</td>
<td>Answer must be same as birth certificate or recognised legal sex (as per GRC)</td>
<td>Legal sex guidance</td>
<td>Version B</td>
<td>B, A</td>
<td>50%</td>
</tr>
</tbody>
</table>

### 2.3 Sampling

Different approaches to sampling were used for the general population survey and the trans or non-binary survey. A consequence of these different approaches is that findings from the surveys cannot, and should not, be compared with each other. Sampling approaches are discussed, separately, below.

#### 2.3.1 General population survey sampling

The survey was designed to yield a representative sample of adults aged 16 or over, living in Scotland. The sample frame was the Postcode Address File (PAF), a list of postal delivery points compiled by the Post Office. The survey required an issued sample of 6,500 unclustered PAF addresses. The sample was filtered to exclude non-residential addresses, where possible. For each issued address, up to four participants aged 16 or over were invited to take part.

All PAF addresses (expanded by the Multiple Occupancy Indicator (MOI) were stratified by the: (a) Scottish Government’s 6-fold urban-rural classification of the address’s datazone and (b) 6-fold regional classification. This stratification resulted in 36 strata. Within each of these 36 strata, addresses were sorted by the SIMD of the datazone and postcode. Addresses were then selected systematically from across the sorted list. This allowed analysis by urban – rural geography and level of deprivation.

To allocate addresses to questionnaire version type, all addresses from this sorted list were first grouped into pairs. Within each pair, one address was randomly allocated to receive version A of the questionnaire and the other address version B. This ensured a representative distribution of version type by urban/rural status, region and level of deprivation. Each person in a participating household received the same version of the questionnaire. Assuming a person level response rate of an average of 25%, the

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6 See Appendix A for each version of the guidance in full
7 GRC denotes gender recognition certificate
8 Information on the number of adults living in the household was collected at the start of the survey to aid weighting.
sample was designed to detect a three percentage point difference in the response rates to version A versus version B with 80% power.

### 2.3.2 Trans or non-binary survey sampling

NRS defined the additional group of interest as adults (aged 16+) self-identifying as trans or non-binary and living in Scotland. A non-probability approach to sampling was used for this population. Non-probability sampling is used when a reliable sample frame of the population of interest does not exist, as was the case here\(^9\). This approach is also commonly used when surveying relatively small populations.

One limitation of non-probability sampling is that a population member’s chance of selection is unknown. Consequently generalisations are limited to survey participants and inferences about the wider population from which they were drawn, should not be made. Hence, the findings section of this report relates to trans or non-binary participants and not the entire adult trans or non-binary population living in Scotland.

There are different types of non-probability approaches. Here a combination of convenience and snowball sampling was used to recruit a sample of trans or non-binary adults living in Scotland; as follows:

- Desk-based scoping exercise to identify a list of national and local charities, organisations, gender identity clinics and groups likely to have contact with trans or non-binary adults living in Scotland. In total, 55 potential ‘advertisers’ were identified.
- Information email sent to the list of potential advertisers informing them of the forthcoming Scotland’s Census 2021 testing with trans or non-binary adults (16+). Details on the precise nature of the testing and exact questions to be tested were not provided.
- Interested bodies in a position to promote the survey were asked to contact ScotCen and confirm that they would adhere to our criteria (see below) for promoting the survey.
- Recruitment poster and fieldwork dates sent to bodies who agreed to promote the survey in line with outlined criteria. The poster signposted participants to contact ScotCen to find out how to access the survey and did not include information on the topic or exact questions included in the questionnaire.
- Potential participants contacted ScotCen to receive a survey weblink and unique log-in id.

A limiting factor of the opt-in survey approach adopted is that it was impossible to rule out any ineligible person from participating. To mitigate against this the following steps were taken:

- Bodies expressing an interest in advertising the survey were asked to agree to limiting promotion of the survey through what might be considered as more private channels of communication before being sent the recruitment details e.g. offices or other physical locations used, mailing lists, support groups, newsletters and private social media groups or forums.

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\(^9\) [https://www.aapor.org/Education-Resources/Reports/Non-Probability-Sampling.aspx#INTRODUCTION%20TO%20NON-PROBABILITY%20SAMPLING](https://www.aapor.org/Education-Resources/Reports/Non-Probability-Sampling.aspx#INTRODUCTION%20TO%20NON-PROBABILITY%20SAMPLING)
Anyone who wished to participate had to phone or email ScotCen to receive a log-in and web link as opposed to simply typing in a web link or ‘clicking through’ to access the survey.

Screening questions were included at the beginning of the survey asking participants to confirm if they were over sixteen or not and which country they lived in. Anyone who recorded being under 16 and/or living out with Scotland was informed that they were not eligible to participate in the survey and their log-in details were deactivated so they could not return to the questionnaire.

At the end of the questionnaire participants were asked to record how they heard about the survey. The table below (Table 2:3) summarises the various means by which trans or non-binary participants reported having heard about the survey. Almost half said they heard about the survey through a friend or other personal contact. A third mentioned the name of one of the study’s recruiting bodies. Eight different organisations were mentioned at least once, with some more than others.

<table>
<thead>
<tr>
<th>How trans or non-binary participant reported hearing about the survey</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal contact</td>
<td>47</td>
</tr>
<tr>
<td>Mentioned name of one of the charities, group health settings</td>
<td>32</td>
</tr>
<tr>
<td>ScotCen contacted about assistance with recruitment</td>
<td></td>
</tr>
<tr>
<td>Social media</td>
<td>6</td>
</tr>
<tr>
<td>Combination of sources mentioned</td>
<td>10</td>
</tr>
<tr>
<td>Not answered/Can’t remember</td>
<td>5</td>
</tr>
</tbody>
</table>

2.4 The questionnaire

2.4.1 Questionnaire content

The surveys were purposefully brief asking the minimum number of questions required to address the research aims. In addition to the sex question, participants on both surveys were also asked the currently proposed version of the trans status and sexual orientation census questions in Scotland. A series of questions designed to collect feedback on the acceptability of the guidance to the sex questions and likely impact on census completion were also included. Both the general population and the trans or non-binary surveys asked participant age to aid analysis, and the general population survey also included some additional questions on household composition to aid with survey weighting. The trans or non-binary survey included two screening questions on which country people are currently living in and whether they are aged 16 or over. Anyone who did not live in Scotland or reported being under the age of 16 was screened out and could not complete the questionnaire. Questionnaires are included in Appendix B.
2.4.2 Survey mode

General population survey

In line with the approach to be used in the 2021 census in Scotland, participants were given the option of completing the questionnaire either online or on paper. Online access codes were included in all participant mailings. Paper copies of the questionnaire were included with the second mailing and they were also available on request throughout the fieldwork period.

There were two versions of both the online and the paper questionnaires. Table 2:5 shows the variants and the order in which guidance to the sex question was presented for each.

<table>
<thead>
<tr>
<th>Online version type</th>
<th>Paper version type</th>
<th>Order guidance presented in questionnaire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Version A</td>
<td>Version A</td>
<td>Self-identification sex guidance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal sex guidance</td>
</tr>
<tr>
<td>Version B</td>
<td>Version B</td>
<td>Legal sex guidance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Self-identification sex guidance</td>
</tr>
</tbody>
</table>

The content of the online and paper questionnaires was identical with the following exceptions:

- Both online, and on paper, a participant could choose not to answer a question if they wished, even those likely to be mandatory question at the next census. In the online questionnaire only, if a participant did not answer the first asked question ‘what is your sex?’ there was a follow up question asking why they chose not to answer. That was to allow information to be collected on some of the reasons why a person might not answer the question. It wasn’t compulsory to provide an answer to this follow-up question. This was included in both the general population and the trans or non-binary surveys.

- Availability of guidance – as is likely to be the case at the next census, on the paper version of the questionnaires, guidance on how to complete individual questions was not displayed alongside the questions. Instead, on the front cover, under a section headed ‘Guidance on answering the questions, a weblink to the online guidance was provided. The weblink led participants to either version a or version b of the sex question guidance. In the online version of the questionnaire the sex, trans status and sexual orientation questions all had a ‘help’ button on screen below the question and answer text. If a participant pressed the help button then one of the two versions of the NRS’ guidance was displayed on screen.

- When taking part online, the only way to access guidance when answering the sex question for the first time was via the ‘help’ button. As noted above, on paper, the front cover of the questionnaire advised participants to visit an online guidance web page for advice on answering questions. Guidance was, however, also printed later in the questionnaire since this was the only means by which paper participants’ views on both sets of guidance could be collected. Consequently, it is possible that some people taking part on paper inadvertently saw guidance when answering the sex question for the first time and/or saw the second version of the guidance prior
to answering questions about the first. The likelihood of the latter was minimised by presenting both versions on separate pages and requiring that the participant turn overleaf before being able to view the second version.

Trans or non-binary survey

The trans or non-binary survey was an online only survey. Given the opt-in sample recruitment method and the potentially sensitive nature of the survey content, the decision was taken to not request the personal details that would be required to distribute questionnaires on paper.

As with the general population survey, there were two versions of the online questionnaire reflecting the order in which the two different sets of guidance were presented along with the sex question. Participants were randomly assigned a version at the point at which they were issued their log in details.

2.5 Fieldwork

2.5.1 General population survey

Fieldwork for the general population survey was commenced on the 18th September 2019 and ended on the 14th October 2019. During this period sampled addresses received up to three mailings at approximately weekly intervals. Mailings were as follows:

<table>
<thead>
<tr>
<th>Mailout type</th>
<th>Mailout date</th>
<th>Mailout description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invitation letter</td>
<td>18/09/19</td>
<td>Included survey web link and 4 unique access codes. Details on how to request paper copy also provided.</td>
</tr>
<tr>
<td>Reminder 1</td>
<td>25/09/19</td>
<td>Included 2 paper copies of the questionnaire plus weblink and 4 unique access codes.</td>
</tr>
<tr>
<td>Reminder 2</td>
<td>02/10/19</td>
<td>Included survey web link and 4 unique access codes. Details on how to request paper copy also provided.</td>
</tr>
</tbody>
</table>

2.5.2 Trans or non-binary survey

Fieldwork for the trans or non-binary survey was carried out concurrently with the general population survey (18/10/19 - 14/10/19). The recruitment poster noted the fieldwork start and end dates and recruiting bodies were asked to promote the survey during this period. As this was an opt-in survey no reminder strategy was employed.

2.6 Response

2.6.1 General population survey

From the 6500 addresses which were sampled, 2208 participants completed the survey. A total of 2355 returns were received, but 147 returns were excluded from analysis for the following reasons:
• Unproductive interview – 120 online participants answered too few questions to conduct analysis. There were typically people who either dropped out immediately after entering the questionnaire or who scrolled through it without answering any/most questions.

• Duplicates - 27 cases were removed as data suggested that they had completed the questionnaire more than once. or where a respondent had completed the survey more than once, typically across modes.

The remainder of this section will focus on the valid 2208 completed responses.

All participants were asked the number of people that lived in their household (HH), and of these, how many were dependent children. From this, we were able to calculate the number of adults (16+ years) in each household where at least one respondent completed the survey. Note that participants were advised to include those aged 16-18 years and in full time education in the total dependent children in the HH, and thus the calculated total adults is likely to be slightly under-reported. Using this measure, the mean number of adults per responding HH was 1.9. Up to four adults in a household could take part.

For 1631 households at least one questionnaire was completed survey; 1098 (67%) returned 1 complete response, 494 (30%) returned 2 completed questionnaires, 30 (2%) returned 3 completed questionnaires, and finally 8 (<1%) returned 4 completed questionnaires (the maximum number allowed).

While efforts were made to avoid sampling non-residential addresses, it can be assumed, based on previous studies using very similar sampling frameworks, that around 8% of sampled addresses were non-residential, and therefore not eligible to take part in the study. It can therefore be assumed that the total number of eligible households was 5980 out of 6500. 1631 participating households therefore equated to a household level response of 27%.

Based on 2018 Scottish household estimates an average of 2.15 adults per household can be used to estimate the number of adults in sampled addresses. This is broadly in line with the aforementioned, likely underreported, mean of 1.9 adults per HH who completed at least 1 survey. It was therefore estimated that 12,857 adults aged 16+ lived in the 5980 eligible sampled addresses. This means the overall person level response rate was 17.2%.

---

10 The sampling frame used was the publicly available PAF file, including houses of multiple occupations, but excluding known communal establishments and non-residential addresses. Invalid addresses include any address which is not a private residential address.

Table 2:5  Address and person-level response rates

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of sampled addresses</td>
<td>6500</td>
</tr>
<tr>
<td>No. of eligible addresses (assuming 8% ineligibility)</td>
<td>5980</td>
</tr>
<tr>
<td>No. of addresses with at least one questionnaire completed</td>
<td>1631</td>
</tr>
<tr>
<td>Address level response rate</td>
<td>27%</td>
</tr>
<tr>
<td>No. of sampled participants (assuming mean 2.15 per HH)</td>
<td>12,857</td>
</tr>
<tr>
<td>Person level response rate</td>
<td>17%</td>
</tr>
</tbody>
</table>

Response by mode
Response to the general population survey was split fairly evenly across online and paper; with 52% taking part online and 48% on paper.

Table 2:6  Response by mode

<table>
<thead>
<tr>
<th>Mode of response</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Online</td>
<td>1152</td>
<td>52</td>
</tr>
<tr>
<td>Paper</td>
<td>1056</td>
<td>48</td>
</tr>
<tr>
<td>Total</td>
<td>2208</td>
<td>100</td>
</tr>
</tbody>
</table>

There was a clear linear association between age and mode of response, with likelihood of taking part on paper increasing in line with increased age, and the likelihood of taking part online decreasing with age.

Table 2:7  Response to age, by survey mode

<table>
<thead>
<tr>
<th>What is your age?</th>
<th>Survey mode</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Online</td>
<td>Paper</td>
</tr>
<tr>
<td>16 – 24 years</td>
<td>72</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>78</td>
<td>22</td>
</tr>
<tr>
<td>25 – 34 years</td>
<td>146</td>
<td>51</td>
</tr>
<tr>
<td></td>
<td>74</td>
<td>26</td>
</tr>
<tr>
<td>35 -44 years</td>
<td>183</td>
<td>82</td>
</tr>
<tr>
<td></td>
<td>69</td>
<td>31</td>
</tr>
<tr>
<td>45 – 54 years</td>
<td>227</td>
<td>158</td>
</tr>
<tr>
<td></td>
<td>59</td>
<td>41</td>
</tr>
<tr>
<td>55 -64 years</td>
<td>258</td>
<td>221</td>
</tr>
<tr>
<td></td>
<td>54</td>
<td>46</td>
</tr>
<tr>
<td>65 – 74 years</td>
<td>204</td>
<td>311</td>
</tr>
<tr>
<td></td>
<td>40</td>
<td>60</td>
</tr>
<tr>
<td>75+ years</td>
<td>62</td>
<td>207</td>
</tr>
<tr>
<td></td>
<td>23</td>
<td>77</td>
</tr>
<tr>
<td>Total</td>
<td>1152</td>
<td>1050</td>
</tr>
</tbody>
</table>
At least one completed online questionnaire was received from 919 sampled addresses, representing an address level online response rate of 15% (based on eligibility criteria set out above). A total of 1152 participants completed the survey online, meaning the person level online response rate was 9%.

764 addresses returned at least one paper questionnaire, therefore giving an address level paper response rate of 13%. A total of 1056 participants completed the survey on paper, and so the person level paper response rate was 8%.

### Table 2:8 Address and person-level response, by mode

<table>
<thead>
<tr>
<th></th>
<th>Online</th>
<th>Paper</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of sampled addresses</td>
<td>6500</td>
<td>6500</td>
</tr>
<tr>
<td>No. of eligible addresses (assuming 8% ineligibility)</td>
<td>5980</td>
<td>5980</td>
</tr>
<tr>
<td>No. of addresses with at least one questionnaire completed</td>
<td>919</td>
<td>764</td>
</tr>
<tr>
<td>Address response rate</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>No. of sampled participants (assuming mean 2.15 per HH)</td>
<td>12,857</td>
<td>12,857</td>
</tr>
<tr>
<td>Person level response rate</td>
<td>9%</td>
<td>8%</td>
</tr>
</tbody>
</table>

### Response by key demographics

More than half (53%) of the participants who completed the survey answered Female when first asked ‘What is your sex?’. A little more than two in five participants (43%) answered Male, and a small proportion (4%) gave no response to this question. Further details on mode and sex of participant are discussed in Section 3.1.

### Table 2:9 Response to sex when first asked

<table>
<thead>
<tr>
<th>What is your sex?</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-response</td>
<td>3.6</td>
</tr>
<tr>
<td>Female</td>
<td>53.4</td>
</tr>
<tr>
<td>Male</td>
<td>42.9</td>
</tr>
<tr>
<td>Multi-tick</td>
<td>0.1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

* 5 respondents refused to provide their age, and 1 respondent ticked 2 response boxes so answer was invalid. All of these 6 respondents completed the survey on paper.
Just over half of participants (57%) were aged 55 years or older. There were therefore fewer younger adults in the sample of completed participants; around one quarter (25%) were aged 44 years or younger, and 4% were aged 16-24 years.

### Table 2:10  Age group of participants

<table>
<thead>
<tr>
<th>What is your age?</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 -24 years</td>
<td>4</td>
</tr>
<tr>
<td>25 -34 years</td>
<td>9</td>
</tr>
<tr>
<td>35 -44 years</td>
<td>12</td>
</tr>
<tr>
<td>45 – 54 years</td>
<td>17</td>
</tr>
<tr>
<td>55 – 64 years</td>
<td>22</td>
</tr>
<tr>
<td>65 - 74 years</td>
<td>23</td>
</tr>
<tr>
<td>75+ years</td>
<td>12</td>
</tr>
<tr>
<td>Non-response</td>
<td>0</td>
</tr>
<tr>
<td>Multi-ticks</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

### 2.6.2 Trans or non-binary survey

A total of 82 people contacted ScotCen to request access details to complete the trans or non-binary survey, and of these 80 accessed the survey. The survey was then completed by 75 eligible participants. Three people did not meet the eligibility criteria either because they did not report living in Scotland or recorded their age as under 16. One person completed too few questions to be included in analysis. One person was removed as the data they provided suggested they were not trans or non-binary.

Three quarters (75%, n = 56) of those who completed trans or non-binary survey were aged 44 years or younger. Only a small proportion (7%, n = 5) were aged 55 years or older.

### Table 2:11  Trans or non-binary survey : Age group of participants

<table>
<thead>
<tr>
<th>Age</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 – 24 years</td>
<td>23</td>
</tr>
<tr>
<td>25 – 34 years</td>
<td>29</td>
</tr>
<tr>
<td>35 – 44 years</td>
<td>23</td>
</tr>
<tr>
<td>45 – 54 years</td>
<td>19</td>
</tr>
<tr>
<td>55 – 64 years</td>
<td>5</td>
</tr>
<tr>
<td>65 – 74 years</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>
2.7 Data processing

2.7.1 Editing

Online
It is normal practice in computer assisted web interviewing (CAWI) programs to specify numerical range checks, logic checks for unfeasible responses and hard checks to prevent a participant from moving past a question without answering. Since this study was interested in respondent behaviour, including non-response to questions no such checks were added and no questions were mandatory. If a participant tried to proceed past a question without answering, then an error message was displayed but this could be suppressed by the participant and they could proceed past any question without answering it.

Paper
Paper data were reviewed for errors. If a participant ticked more than one box at a single code question then this was coded as ‘multi-tick’ on the dataset. If a participant followed routing instructions incorrectly then instead of being set to missing in the data this was coded as a ‘routing error’. If no response to a question was provided, but it should have been, then this was coded as 'non-response.'

2.7.2 Coding
Post-interviewing coding was carried out by researchers at ScotCen on the trans status question. In the trans or non-binary survey, to aid with analysis of the survey questions specifically, the descriptions given at the trans status question were used to classify people as either trans or non-binary. The trans group consisted of people who described themselves as trans but did not mention non-binary in their response. The non-binary group was made up of those who just described their trans status as non-binary or as trans and non-binary.

All write-in responses were reviewed and coded in methods commonly used in qualitative analysis.\(^{12}\)

2.7.3 Quality assurance
Quality checks carried out on the data included a check for evidence of duplication, that is, where more than one questionnaire was completed by the same person. Basic information collected on the individual and their household were reviewed along with survey responses and where there was evidence of duplication one case (the latest received by ScotCen) was removed from the data.\(^ {13}\)

\(^{12}\) See Section 2.9.2 on analysis of text responses for further information on coding of text answers

\(^{13}\) See Section 2.6 for further details on cases removed at the data processing stage after data quality checks were carried out.
Online cases were there was evidence of flat-lining - moving through the questionnaire without answering any of the questions - were recorded as partial interviews and removed from analysis.

Paper questionnaires were reviewed for evidence of tampering, that is, the recording of information out with the spaces provided.

2.8 Weighting

2.8.1 General population survey weighting

Overview
The achieved sample was weighted to adjust for:

- Differences in address/household response rates;
- Differences in individual response rates.\(^{14}\)

Differences in address/household response rates
No household selection took place at each sampled address on the basis that only a small proportion of addresses include multiple households and it is difficult to operationalise this selection without an interviewer.

Multi-household addresses are identified in the sampling frame (Postcode Address File – PAF) using the Multiple Occupancy Indicator (MOI) which has a value of one for single-household addresses and a value of greater than one for multiple-household addresses. The sampling frame was expanded by the MOI at the sampling stage (i.e. addresses with a MOI greater than one were included in the sampling frame as many times as indicated by the MOI), therefore all households had an equal chance of selection\(^{15}\).

The weights adjusted for differences in address/household response rates were calculated in two steps:

*Step 1: address/household participation*

The aim of the address/household participation weights is to reduce bias caused by systematic differences between the addresses/households that participated (i.e. for which at least one questionnaire was received) and those that did not.

The probability of an address/household to respond was estimated via a logistic regression model with whether or not the address/household participated as the outcome measure and the following address-level characteristics as independent variables: Index of Multiple Deprivation (IMD) quintile and region.\(^{16}\) From this model, the predicted propensity to participate was estimated for each address/household. The

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\(^{14}\) See Section 2 for analysis of response rates.

\(^{15}\) At addresses with an MOI>1, the household member who opened the survey invitation letter would self-select their own household (rather than selecting one household at random).

\(^{16}\) Measures of urban/rural status were considered for the model but did not significantly household response and therefore were not included.
weights for address/household participation (wt1) were calculated as the reciprocal of these propensities for the 1,630 responding addresses/households.

The model for address/household participation is shown in Table 2:12

**Step 2: expected number of completed surveys**

This stage of the weighting aims to reduce bias caused by systematic differences in the number of completed surveys returned by responding households.

The expected number of completed surveys at responding addresses was estimated via a (stepwise) logistic regression model (weighted by wt1) with whether or not the responding household returned one or more than one questionnaires\(^{17}\) as the outcome measure and the same independent variables\(^{18}\) from step 1 plus: a 2 fold urban/rural indicator, number of adults in the household, mode of data collection (i.e. Online or postal\(^{19}\)) and whether the address received a second reminder. All interactions with the urban/rural indicator were also considered. The final model included the following variables which were identified as significant in predicting the number of completed surveys returned: SIMD quintile, number of adults in household, and mode of data collection. From this model, the expected number of completed surveys was estimated as one plus the model-predicted probability. The weight (wt2) was calculated as the inverse of this expected number.

The model for the expected number of completed surveys is shown in Table 2:13

**Differences in individual response rates**

The composite weight for address/household level participation (wt3) was calculated as the product of the weights from the previous stages (wt3 = wt1 x wt2).

The final stage of the weighting aims to reduce any residual non-response bias at the individual level using calibration (post-stratification). Calibration weighting adjusts the weights so that characteristics of the weighted achieved sample match population estimates.

The composite (household-level) weight from the previous stages (wt3) was calibrated so that the weighted achieved sample (weighted by the final weight) matched 2018 mid-year NRS Scottish population estimates of household residents by age and gender and NUTS region (see Table 2:14). The sex variable used in the calibration was the response to the first sex question asked. Four percent of participants preferred not to answer this question. As response to the sex question is a key outcome of the survey, those who refused to answer did not have sex imputed for calibration purposes. Rather, population estimates of sex were scaled to include a missing/refused category before calibration.

---
\(^{17}\) The number of responding households returning 3 or 4 questionnaires was too small to be included as separate categories in a regression model.

\(^{18}\) Because of small sample sizes (a) households north of the Caledonian Canal were grouped together with those in the “rest of Scotland” region, and (b) a households in IMD quintiles 1 and 2 were grouped together.

\(^{19}\) Households that responded using a mixture of web and paper; these were grouped together with the web completions for the purpose of the model (they could not be modelled separately as they have returned more than one completed surveys).
The final weight (final_wt) was scaled so that the weighting and unweighted sample sizes are the same (2,208 cases).

Frequencies of sex when first asked in Section 3.1 are unweighted as this variable was used in weighting.

Table 2:12  Logistic regression model for address/household participation

<table>
<thead>
<tr>
<th>Variable</th>
<th>Odds</th>
<th>p</th>
<th>CI</th>
</tr>
</thead>
<tbody>
<tr>
<td>IMD quintile</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st (lowest)</td>
<td>1.00</td>
<td>&lt;0.001</td>
<td></td>
</tr>
<tr>
<td>2nd</td>
<td>1.64</td>
<td>&lt;0.001</td>
<td>(1.34, 2.00)</td>
</tr>
<tr>
<td>3rd</td>
<td>1.84</td>
<td>&lt;0.001</td>
<td>(1.51, 2.24)</td>
</tr>
<tr>
<td>4th</td>
<td>2.31</td>
<td>&lt;0.001</td>
<td>(1.90, 2.81)</td>
</tr>
<tr>
<td>5th (highest)</td>
<td>3.29</td>
<td>&lt;0.001</td>
<td>(2.71, 3.99)</td>
</tr>
<tr>
<td>Region</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Glasgow and Lanarkshire</td>
<td>1.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ayrshire, Dumfries &amp; Galloway, Borders</td>
<td>0.98</td>
<td>0.833</td>
<td>(0.80, 1.20)</td>
</tr>
<tr>
<td>Lothian and Central</td>
<td>1.18</td>
<td>0.050</td>
<td>(1.00, 1.38)</td>
</tr>
<tr>
<td>Fife, Dundee and Grampian</td>
<td>0.97</td>
<td>0.765</td>
<td>(0.83, 1.15)</td>
</tr>
<tr>
<td>Rest of Scotland (south of the Caledonian Canal)</td>
<td>1.18</td>
<td>0.096</td>
<td>(0.97, 1.44)</td>
</tr>
<tr>
<td>North of the Caledonian Canal</td>
<td>1.21</td>
<td>0.199</td>
<td>(0.90, 1.63)</td>
</tr>
<tr>
<td>Intercept</td>
<td>0.17</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 2:13  Logistic regression model for expected number of completed surveys in responding households

<table>
<thead>
<tr>
<th>Variable</th>
<th>Odds</th>
<th>p</th>
<th>CI</th>
</tr>
</thead>
<tbody>
<tr>
<td>IMD quintile</td>
<td></td>
<td>0.085</td>
<td></td>
</tr>
<tr>
<td>1st or 2nd (lowest)</td>
<td>1.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd</td>
<td>0.88</td>
<td>0.402</td>
<td>(0.65, 1.19)</td>
</tr>
<tr>
<td>4th</td>
<td>1.28</td>
<td>0.130</td>
<td>(0.93, 1.76)</td>
</tr>
<tr>
<td>5th (highest)</td>
<td>1.06</td>
<td>0.709</td>
<td>(0.78, 1.45)</td>
</tr>
<tr>
<td>Number of adults</td>
<td></td>
<td>&lt;0.001</td>
<td>(0.32, 0.62)</td>
</tr>
<tr>
<td>1 or 2</td>
<td>0.45</td>
<td>&lt;0.001</td>
<td>(0.32, 0.62)</td>
</tr>
<tr>
<td>3+</td>
<td>1.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mode of survey</td>
<td></td>
<td>&lt;0.001</td>
<td>(1.53, 0.62)</td>
</tr>
<tr>
<td>Online (or mixed)</td>
<td>1.89</td>
<td>&lt;0.001</td>
<td></td>
</tr>
<tr>
<td>Paper only</td>
<td>1.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intercept</td>
<td>0.72</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Table 2:14</td>
<td>Calibration weighting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Sex (when first asked)</strong></td>
<td>Unweighted</td>
<td>Before calibration</td>
<td>After calibration</td>
</tr>
<tr>
<td></td>
<td>n</td>
<td>%</td>
<td>n</td>
</tr>
<tr>
<td>Female</td>
<td>1179</td>
<td>53</td>
<td>1189</td>
</tr>
<tr>
<td>Male</td>
<td>947</td>
<td>43</td>
<td>933</td>
</tr>
<tr>
<td>Non-response</td>
<td>82</td>
<td>4</td>
<td>85</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2:15</th>
<th>Calibration weighting (age)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age group</strong></td>
<td>Unweighted</td>
</tr>
<tr>
<td></td>
<td>n</td>
</tr>
<tr>
<td>16 – 24 years</td>
<td>92</td>
</tr>
<tr>
<td>25 – 34 years</td>
<td>197</td>
</tr>
<tr>
<td>35 – 44 years</td>
<td>265</td>
</tr>
<tr>
<td>45 – 54 years</td>
<td>385</td>
</tr>
<tr>
<td>55 – 64 years</td>
<td>479</td>
</tr>
<tr>
<td>65 – 74 years</td>
<td>521</td>
</tr>
<tr>
<td>75+ years</td>
<td>269</td>
</tr>
</tbody>
</table>
Table 2:16  Calibration weighting (area)

<table>
<thead>
<tr>
<th>NUTS region</th>
<th>Unweighted</th>
<th>Before calibration</th>
<th>After calibration</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n</td>
<td>%</td>
<td>n</td>
<td>%</td>
</tr>
<tr>
<td>UKM5: North Eastern Scotland</td>
<td>227</td>
<td>10</td>
<td>208</td>
<td>9</td>
</tr>
<tr>
<td>UKM6: Highlands and Islands</td>
<td>219</td>
<td>10</td>
<td>194</td>
<td>9</td>
</tr>
<tr>
<td>UKM7: Eastern Scotland</td>
<td>829</td>
<td>38</td>
<td>767</td>
<td>35</td>
</tr>
<tr>
<td>UKM8: West Central Scotland</td>
<td>547</td>
<td>25</td>
<td>610</td>
<td>28</td>
</tr>
<tr>
<td>UKM9: Southern Scotland</td>
<td>386</td>
<td>17</td>
<td>429</td>
<td>19</td>
</tr>
</tbody>
</table>

2.8.2 Trans or non-binary survey

The lack of an available sample frame from which to draw a random list of potential participants was not available for the trans or non-binary adult population in Scotland. Consequently, non-probability sampling methods were used. The trans or non-binary survey was opt-in and not enough information is known about the wider trans or non-binary adult population to apply weighting to this data.

2.9 Analysis methods

2.9.1 Statistical testing

General population survey

In common with other surveys, the general population survey collected information from a sample of the population. The sample was designed to represent the whole population as accurately as possible within practical constraints, such as time and cost. Consequently, statistics based on the survey are estimates, rather than precise figures, and are subject to a margin of error, also known as a 95% confidence interval ($p<0.05$). For example, the survey estimate might be 42% with a 95% confidence interval of 40% to 46%. A different sample might have given a different estimate, but we expect that the true value of the statistic in the population would be within the range given by the 95% confidence interval in 95 cases out of 100.

Where differences are commented on in Section 3 of this report ‘Findings: general population survey’, these reflect the same degree of certainty that these differences are

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See Section 2.3 for further details on trans or non-binary survey sampling.
real, and not just within the margins of sampling error. These differences can be described as statistically significant. The terms significant and associated are only used to describe findings that are when a finding is statistically significant. Statistical testing was carried out via logistic regression.

Trans or non-binary survey

In this report, we used significance testing to assess differences between groups, and highlight those where the p value was < 0.05. However, since probability sampling was not used, differences between groups surveys are not indicative of real changes in the wider trans or non-binary adult populations in Scotland. A single sample t-test was used to test if non-response to sex when self-identification sex guidance was considered was significantly different from non-response when legal sex guidance was considered (p=0.002). Analysis includes descriptive statistics and all other statistical testing was carried out via logistic regression.

In Section 3 and Section 4, percentages do not always total 100 due to rounding. Where table bases do not add up to the overall total this is because some participants did not answer some, or all, of the questions included in the table.

2.9.2 Analysis of text responses

For both the general population sample and the trans or non-binary sample there were several points in the questionnaire where a participant had the option to respond to a question using their own words. A significant amount of data were generated this way and a robust and systematic approach to analysis was required.

A thematic approach to analysis was used and analysis involved a number of stages. First, all open responses were read by two members of the research team to allow them to familiarise themselves with the data and begin to identify key themes emerging from the data. A draft analytical framework was then drawn up by and agreed by the research team. Data from each open response was then coded using the analytical framework, so that all the data on a particular theme could be identified. Additional themes were added where necessary. Being able to carry out this detailed thematic analysis both between and within cases provided depth and richness in the interpretation of qualitative research data.

Findings from this thematic analysis are included in this report.
3 Findings: General population survey

Key findings

- 2208 participants completed the general population questionnaire. Participants had the option of taking part either online or completing a paper questionnaire. 52% took part online and 48% completed the questionnaire on paper.

Understanding how the general population answer the sex question

- 96% of participants answered the sex question when first asked and 4% chose not to answer it. Of those that responded, 53% reported being female and 47% male.
- There was no relationship between non-response to the sex question and age of participant.

Understanding how the general population use guidance

- When first answering the sex question, as will be the case in the census, participants were not shown guidance but could access it if they chose to.
- Around one in ten (11%) people reported reading the guidance before answering the sex question. Background data collected for online participants indicated, however, that only 15% of online participants that reported reading the guidance actually clicked on the ‘help’ button to access it (0.5% of all online participants). There was similar evidence of over-reporting among those who took part on paper. Consequently, the proportion of the general population that actually accessed guidance when answering the ‘what is your sex?’ question (at first asking) is likely to have been significantly lower than 11%.

Understanding how people answer the sex question (when first asked) based on different versions of the guidance

- Non-response to the sex question when first asked did not differ significantly by guidance type. That is, participants who reported reading the self-identification sex guidance before answering ‘what is your sex?’ (when first asked) were no more or less likely to not answer the question than those who reported reading the legal sex guidance (6% and 9%, respectively).

Understanding how people answer the sex question when asked to consider different versions of the guidance

- After being asked the sex question in a way that replicated the census as closely as was feasible, everyone was then presented with a version of the guidance to read and asked how they would answer the ‘what is your sex?’ question having read the guidance. Once they had done this, they were shown alternative guidance and asked to answer the sex question again using this. The order guidance was presented to participants was randomised.
- Non-response to the sex question did not vary significantly according to guidance type (1% for self-identification and 2% for legal sex guidance). That is, the version of the guidance consulted did not relate to likelihood to respond to the sex question in this scenario.
- Those in the general population who reported they were trans or had a trans history were more likely than others to avoid answering the sex question, irrespective of which version of the guidance was used (18% said they would not answer if self-identification sex guidance was used, compared with 1% of non-
Acceptability of the different versions of guidance

- Participants were asked how acceptable each version of the guidance was for inclusion in the census with answer options ranging from very acceptable to not at all acceptable.

- Two-thirds (69%) reported that the self-identification sex guidance was acceptable for use in the census. This was not significantly different from the 68% that found the legal sex guidance acceptable.

- Nine in every ten (91%) people gave the same acceptability response to both versions of the guidance. Five percent described the self-identification sex guidance as more acceptable for the census than the legal sex guidance, which was similar to the 4% that reported the opposite – that the legal sex guidance was more acceptable.

- Based on their response to sex when first asked, males were significantly more likely than females to describe the self-identification sex guidance as unacceptable (7% and 4%, respectively). Views on the acceptability of the legal sex guidance did not significantly differ by response to sex when first asked (7% and 5%, respectively), that is males were no more or less likely than females to find the legal sex guidance unacceptable.

- Those who found a version of the guidance unacceptable (8%) were asked to explain, in their own words, why they felt this was the case.

Reasons why some people find the self-identification sex guidance unacceptable

- Upon reading the self-identification sex guidance, a common theme among those that found it unacceptable was that sex is binary and determined at birth and that consequently there should be a legal basis to any response to the sex question. For some whom had objections, the self-identification sex guidance was viewed as ‘encouraging’ the notion that sex is a personal choice.

- The presence of the term ‘non-binary’ prompted others to declare the guidance unacceptable as they viewed the term as clearly relating to gender and not sex. Some viewed the guidance as confusing and risked potentially overcomplicating the question, especially for older people. Although it is worth noting that any guidance that accompanies the sex question in the census will need to be actively sought out and testing showed that, when given the opportunity to access the guidance, the majority of people choose not to.

Reasons why some people find the legal sex guidance unacceptable

- A common theme among those who found the legal sex guidance unacceptable was that there should be no need for a guidance, since they viewed sex as determined at birth and known to all. Therefore, for some, all the information given in the guidance are simply unnecessary and confusing. The guidance was described as a waste of resources and ‘encouraging’ young people that they can have a choice over their own sex. While these views were expressed in response to the legal sex guidance it was apparent that these thoughts extended to the self-identification sex guidance as well.

- Another reason why the legal sex guidance was deemed unacceptable, was the fact that it deprives individuals of their right to self-definition. Some people felt that there should be a third choice of ‘other’. In addition, there was a view that people should be allowed to declare a sex that is different to their birth sex without having obtained a gender recognition certificate (GRC).
A person’s legal sex was considered, by some, to be too personal to be asked to share on the census. This was not unique to the legal sex guidance and was mentioned as an objection to self-identification sex guidance also.

In some cases, confusion over the language used in the guidance was mentioned. The inclusion of the term ‘non-binary’ was particularly confusing for some. For others, the feedback given pointed to general confusion and misunderstanding of the terms sex, gender and sexual orientation.

**Likely impact of the different versions of the guidance on census behaviour**

- To get a measure of the impact the guidance might have on behaviour when completing the census people were asked, for both versions of the guidance, to choose what they would do if the census included the particular guidance with the ‘what is your sex?’ question.
- For both versions of the guidance, nine in ten people (91% for self-identification and 90% of legal) said they would answer the question ‘what is your sex?’.
- For the self-identification sex guidance, 2% said they would ‘skip the sex question’ in the census if the guidance was used and 1% said they would ‘not complete the census at all’. The likely impact of the legal sex guidance was the same - 2% would skip the sex question if the legal sex guidance were used and 1% would not take part in the census at all.
- The vast majority (95%) reported that the impact on their census behaviour would be the same for both version of the guidance. For 2%, the impact was greater for one guidance type than the other and for a similarly small group of people (2%) it wasn’t clear what the impact would be.

### 3.1 How people answer the sex question when first asked

After providing some information about themselves and their household, participants were asked the sex question (‘what is your sex?’) at question 5 of the questionnaire (see Appendix B). This section seeks to understand how participants in the general population sample answered the sex question when it was first presented to them.

When answering ‘what is your sex?’, each participant had access to guidance to aid them. This was in line with the planned approach for the sex question in the next census. The exact version of the guidance a participant had access to was pre-assigned at random during sampling, with half able to access the self-identification sex guidance and half, the legal sex guidance. Guidance for this initial iteration of the sex question was online for all participants, irrespective of whether they took part online or on paper. Reading the guidance before answering the sex question was not mandatory.

#### 3.1.1 Response to the ‘what is your sex?’ question

Ninety-six percent of participants answered the question ‘what is your sex?’. Just over half (53%) of those who responded when asked the sex question answered female and...
47% answered male (Table 3.1). The balance of females to males was not as even as in Scotland’s 2018 mid-year population estimate\(^{22}\) or in the 2011 census (both 48% male and 52% female, aged 16+). It was, however, in line with other voluntary random probability sample surveys which regularly show that females are more likely than men to participate in surveys of this kind.\(^{23}\)

Four percent did not provide an answer to the sex question when they were first asked it. This is notably higher than the non-response rate in the 2011 census when 0.8% of the Scottish population did not provide an answer to this question. Since both the survey, and the sex question itself, were completed on a voluntary basis, a higher level of non-response might be expected.

<table>
<thead>
<tr>
<th>Table 3:1 Response to sex question when first asked</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>53</td>
</tr>
<tr>
<td>Male</td>
<td>43</td>
</tr>
<tr>
<td>Multi-tick</td>
<td>0</td>
</tr>
<tr>
<td>Non-response</td>
<td>4</td>
</tr>
<tr>
<td>Unweighted Bases</td>
<td>2208</td>
</tr>
</tbody>
</table>

3.1.2 What is known about people who chose not to answer the sex question when first asked

Mode of completion

There was a significant association between response to the sex question (when first asked) and mode of completion (Table 3:2). While online participants were equally likely to report being female and male, those taking part on paper were significantly more likely to report being female (49% female, compared with 42% male).

In addition, non-response was significantly higher on paper than it was for online participants (9%, compared with 0% online).\(^{24}\) The difference between non-response in the paper questionnaire and the lack of non-response among online participants is likely to be, in part, explained by the design of the online questionnaire. When an online


\(^{23}\) The combined sample of the 2016 and 2017 Scottish Core question data (total participants = 38,513, including the combined samples of the Scottish Crime and Justice Survey, the Scottish Health Survey, and the Scottish Household Survey) was made up of 55% females, and 45% males.

\(^{24}\) There were several online participants who did not answer the sex question, but these people did not answer the majority questions on the survey. Unlike at the census, testing purposefully allowed people to proceed past questions without answering them so non-response could be explored. It was clear that some people activated the survey then scrolled through the questions without answering any. These were classified as partially complete questionnaires and were removed at the data processing stage. The equivalent respondent type on paper is most likely to be someone who received the questionnaire, scanned it and then chose not to complete or return in.
participant attempted to move past a question without answering it an error message was displayed. While all questions were voluntary in testing – i.e. the error message could be ignored by the participant and they could still choose not to respond – it will have drawn a participant’s attention to potentially missing a question in error, in a way that was not the case for paper participants. In addition, on paper the question appeared on the bottom corner of a page increasing the likelihood of it being overlooked.

### Table 3:2  
Response to sex question when first asked, by survey mode

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Online (%)</th>
<th>Paper (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>50</td>
<td>49</td>
<td>50</td>
</tr>
<tr>
<td>Male</td>
<td>50</td>
<td>42</td>
<td>46</td>
</tr>
<tr>
<td>Multi-tick</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Non-response</td>
<td>-</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td><strong>Unweighted Bases</strong></td>
<td>1152</td>
<td>1056</td>
<td>2208</td>
</tr>
<tr>
<td><strong>Weighted Bases</strong></td>
<td>1298</td>
<td>910</td>
<td>2208</td>
</tr>
</tbody>
</table>

### Age of participant

Response to the sex question (when first asked) by age is presented in Table 3.3. While the data suggest that non-response was higher among older adults, when restricted to paper participants only, there was no significant association between non-response to the sex question and age.

### Table 3:3  
Response to sex question when first asked, by age

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>16 - 44 years (%)</th>
<th>45 - 64 years (%)</th>
<th>65+ years (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>55</td>
<td>48</td>
<td>43</td>
<td>50</td>
</tr>
<tr>
<td>Male</td>
<td>43</td>
<td>48</td>
<td>50</td>
<td>46</td>
</tr>
<tr>
<td>Non-response</td>
<td>2</td>
<td>3</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td><strong>Unweighted Bases</strong></td>
<td>554</td>
<td>864</td>
<td>781</td>
<td>2205</td>
</tr>
<tr>
<td><strong>Weighted Bases</strong></td>
<td>973</td>
<td>734</td>
<td>494</td>
<td>2205</td>
</tr>
</tbody>
</table>

25 There were no online participants that chose not to answer sex when first asked.
Table 3:4  Response to sex question when first asked, by age (paper participants only)

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>16 - 44 years</th>
<th>45 - 64 years</th>
<th>65+ years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total %</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-response</td>
<td>17</td>
<td>25</td>
<td>37</td>
</tr>
<tr>
<td>Responded</td>
<td>242</td>
<td>288</td>
<td>295</td>
</tr>
<tr>
<td>Unweighted Bases</td>
<td>153</td>
<td>379</td>
<td>518</td>
</tr>
<tr>
<td>Weighted Bases</td>
<td>259</td>
<td>313</td>
<td>332</td>
</tr>
</tbody>
</table>

Trans status of participant
After the ‘what is your sex?’ question, participants were asked the trans status question that will be included in the 2021 Census. In total, 0.6% participants reported being trans or having a trans history. Non-response to the sex question (when first asked) was not significantly associated with a person’s trans status (Table: 3.5).

Table 3:5  Response to sex question when first asked, by trans status

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Trans</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No (%)</td>
<td>Yes (%)</td>
</tr>
<tr>
<td>Female</td>
<td>50</td>
<td>68</td>
</tr>
<tr>
<td>Male</td>
<td>47</td>
<td>23</td>
</tr>
<tr>
<td>Multi-tick</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Non-response</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2140</td>
<td>13</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2137</td>
<td>25</td>
</tr>
</tbody>
</table>

Use of guidance
As noted earlier, when first asked the ‘what is your sex?’ question, participants had the option of accessing guidance to help them answer it. Among the 4% who chose not to answer, the majority (81%) had not read the guidance before deciding not to answer, indicating that guidance did not, overall, explain non-response. On the contrary, when these people were presented with guidance later in the questionnaire and asked the question again, most (95%) chose to answer on that occasion.

One in five (19%) non-responders reported reading the guidance before deciding not to answer the sex question. There was not, however, any significant relationship between the type of guidance read and non-response. While a small number of non-responders stated that reading guidance before answering the sex question had changed their mind and prompted them to not answer the question, this appeared at odds with their

26 See Appendix B for exact question wording of the trans status question.
later claims that the guidance was acceptable for use in the census and was likely to have minimal impact upon their likely census behavior.²⁷

Data quality of paper questionnaires

All non-responders to the sex question took part on paper. On the paper questionnaire the ‘what is your sex?’ question appeared in the bottom corner of a page and, hence, may simply have been missed by some participants. Missing questions, incorrectly following instructions and answering questions that should not be answered are all common errors that can be made on paper questionnaires, particularly if a person is not accustomed to them. Eight in ten of those who did not answer the sex question on paper made mistakes later in the questionnaire, incorrectly following instructions and answering questions they should not have answered. It is feasible, therefore, that some of the non-responders to the sex question are people who were prone to making questionnaire errors. Sixty-eight percent of those who did not correctly follow instructions were age 65 years or older. Given the question was in the bottom left-hand corner of a page in the paper questionnaire it is not inconceivable that some mistakenly moved past the question. This is also corroborated by the stark disparity in the rate of non-response among paper and online participants.

3.2 Do people use the guidance?

3.2.1 Accessing the guidance

As mentioned in Section 3.1, when answering the ‘what is your sex?’ question at the beginning of the questionnaire, guidance on how to answer the question could be consulted. The version of the guidance a person was directed to was randomised at the sampling stage to minimize the potential order effects of being exposed to both versions of the guidance in succession – a feature of the within-subject study design.²⁸

In practice, this meant that if guidance was sought around half of people were directed to the self-identification sex guidance and around half to the legal sex guidance. The means of accessing the guidance was different for participants who took part on paper and online. To replicate the planned approach for Scotland’s Census 2021, online participants were able to view the guidance by clicking a ‘help’ button on screen at the sex question. For paper participants, the front of the questionnaire included a weblink to guidance on answering questions in the survey which, when visited, displayed the relevant version of the guidance in full. Again, this was aligned as closely as possible to our understanding of how those completing the census on paper will access guidance on completing any question on the census form.

²⁷ In the questionnaire, after all participants had been asked to read guidance, they were asked two questions designed to collect views towards the guidance. The first question asked how acceptable it was for the guidance to be included with the sex question in the census with answer options ranging from ‘very acceptable’ to ‘not at all acceptable’. The second question asked participants what they thought they would do in the census if the sex question included this guidance. Full question text can be found in Appendix B. Analysis of these questions is in Section 3.5 and 3.6.
²⁸ Further details on the study design can be found in Section 2.2.1.
For the paper questionnaire, the guidance was purposefully not included on the same page as the sex question, when first asked, and both sets of guidance were presented on separate pages, with one presented overleaf from the other version. Nevertheless, the chance of a paper participant viewing the later guidance when first answering the sex question cannot be eliminated. Consequently, all analysis based on sex when first asked is presented separately by mode to reflect the fact that while guidance was truly hidden for online participants, the same was not true for those completing the questionnaire on paper.

For online participants, the number of times the help button, which displayed the guidance, was clicked on by a participant was recorded. The number of unique visits to the online guidance for those taking part on paper was also recorded.

### 3.2.2 Whether the general population read the optional guidance when first asked the sex question

After answering the sex question and the trans status and sexual orientation questions to be included in the next census, participants were asked if they read the guidance prior to answering the ‘what is your sex?’ question. Most people (87%) reported that they did not read the accompanying guidance before answering the sex question when first asked (see Table 3.6). Eleven percent reported reading the guidance before answering, while 2% did not indicate whether they had read the guidance or not.

<table>
<thead>
<tr>
<th>Guidance read before answering sex question</th>
<th>Survey mode</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Online (%)</td>
<td>Paper (%)</td>
</tr>
<tr>
<td>Yes</td>
<td>6</td>
<td>19</td>
</tr>
<tr>
<td>No</td>
<td>94</td>
<td>76</td>
</tr>
<tr>
<td>Non-response</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td><strong>Unweighted bases</strong></td>
<td><strong>1152</strong></td>
<td><strong>1056</strong></td>
</tr>
<tr>
<td><strong>Weighted bases</strong></td>
<td><strong>1298</strong></td>
<td><strong>910</strong></td>
</tr>
</tbody>
</table>

Those who completed the questionnaire on paper were significantly more likely than online participants to report having read the guidance before answering the sex question (19% and 6%, respectively). This difference can be explained, in part, by the fact that online participants had to actively seek out and click the help button to view guidance, whereas paper participants could have visited the web page containing guidance or noticed that the guidance was printed later in the questionnaire.

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29 To measure how paper participants would answer the sex question according to both versions of the guidance it was necessary to include the guidance in the paper questionnaire. Guidance was not included on the same page as the first sex question asked. In addition, one version was presented overleaf from other. Nevertheless, it is possible that some paper participants saw guidance when answering the sex question for the first time. For this reason, response to sex when first asked (Table 3:1) is broken down by mode of completion.
Non-response to the question on whether the guidance had been read before answering the sex question was also significantly higher among those participating on paper. As discussed above, lower non-response rates among online participants might be explained by the fact that they were presented with an error message if they attempted to move past any question without answering it. For those who didn’t answer a question, in error, this acted as a prompt to respond. It was not possible to replicate this on paper so the likelihood of missing a question in error on paper was increased.

3.2.3 Who reported reading the guidance

Table 3.7 indicates that, irrespective of age group, those that took part on paper were significantly more likely than online participants to report reading the guidance before answering the sex question. For example, 14% of participants aged 16-44, who completed the paper questionnaire reported reading the guidance compared with 7% of those in the same age group who took part online. Similarly, for those aged 65+, 26% of paper questionnaire participants reported consulting the guidance compared with 7% of online participants. Non-response to the question on whether the guidance was consulted was high (9%) among paper participants in the 65 and over age group.

<table>
<thead>
<tr>
<th>Age</th>
<th>Did you read the guidance before answering the sex question?</th>
<th>Survey mode</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Online (%)</td>
<td>Paper (%)</td>
</tr>
<tr>
<td>16-44 years</td>
<td>Yes</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>93</td>
<td>85</td>
</tr>
<tr>
<td></td>
<td>Non-response</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>45-64 years</td>
<td>Yes</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>96</td>
<td>81</td>
</tr>
<tr>
<td></td>
<td>Non-response</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>65+ years</td>
<td>Yes</td>
<td>7</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>93</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>Non-response</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>16-44 years</td>
<td>Unweighted bases</td>
<td>401</td>
<td>153</td>
</tr>
<tr>
<td>45-64 years</td>
<td>Unweighted bases</td>
<td>485</td>
<td>379</td>
</tr>
<tr>
<td>65+ years</td>
<td>Unweighted bases</td>
<td>266</td>
<td>518</td>
</tr>
<tr>
<td>Total</td>
<td>Unweighted bases</td>
<td>1152</td>
<td>1056</td>
</tr>
<tr>
<td>16-44 years</td>
<td>Weighted bases</td>
<td>715</td>
<td>258</td>
</tr>
<tr>
<td>45-64 years</td>
<td>Weighted bases</td>
<td>421</td>
<td>313</td>
</tr>
<tr>
<td>65+ years</td>
<td>Weighted bases</td>
<td>162</td>
<td>335</td>
</tr>
<tr>
<td>Total</td>
<td>Weighted bases</td>
<td>1298</td>
<td>910</td>
</tr>
</tbody>
</table>

Likelihood of reporting to have read the guidance was explored by trans status but no statistically significant relationship was found to exist. Similarly, there was no significant relationship between likelihood of reporting to have read the guidance and response to the sex question when it was first asked.
3.2.4 Whether those who reported reading the guidance actually read it

In addition to asking people if they read the guidance before answering the sex question, for online participants it was also possible to record if they actually clicked on the help button to access the guidance prior to answering. In the discussion that follows it has been assumed that, in accessing the guidance, a person also read and engaged with it but this cannot be fully established.

Just 15% of online participants who claimed that they had read the sex question guidance prior to answering actually clicked the ‘help’ button on screen which then displayed the guidance. This means that the remainder, while claiming to read the guidance, didn’t actually do so. Too few people actually read the guidance that it was not possible to identify any meaningful trends about the type of people most likely to have done so.

On the front of the paper questionnaire some text and a weblink signposted participants to the guidance online. Among paper participants, a total of 21 visits were made to the online guidance landing page, and from there 13 visits were made to the guidance for the sex question. If each of these 13 visits were by different participants, this means that just 6% of paper participants, who claimed to have read the guidance actually visited the guidance web page. While similar in proportion to the figure for online participants we cannot conclude that paper participants were just as likely to over-report given that guidance was printed later in the questionnaire. Some paper participants may have read ahead in the questionnaire and seen the guidance, reported reading the guidance but did not visit the guidance web page.

3.3 Understanding how people answer the sex question (when first asked) based on different versions of the guidance

3.3.1 Response to sex question (when first asked), by version of guidance

The first presentation of the question ‘What is your sex?’ is the closest the study could come to replicating census conditions. As discussed above, 4% of people chose not to answer the sex question when first asked. Non-response did not significantly vary by the type of guidance a participant could access. Given the question wording and response categories were identical in both versions of the questionnaire, and guidance had to be actively sought out by participants when the question was first presented to them, this is perhaps not unexpected.

3.3.2 Response to sex (when first asked) among those who reported reading the guidance

What is of greater interest is whether response to the sex question, when first asked, varied by guidance type among those who sought out and read the guidance accompanying the question before answering. In Section 3.2, it was noted that 11%
reported seeking out and reading the guidance before answering the sex question, with paper participants more likely to report having done so than those taking part online. Objective data indicated that this was an over-estimate.

Non-response to the sex question did not significantly vary by version of guidance reportedly read (Table 3.8). Six percent of those who reported reading the self-identification sex guidance before answering the sex question did not answer the sex question. The equivalent figure among those who reported reading the legal sex guidance was 9%.

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Guidance reported reading</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Self-identification sex (%)</td>
</tr>
<tr>
<td>Female</td>
<td>59</td>
</tr>
<tr>
<td>Male</td>
<td>36</td>
</tr>
<tr>
<td>Non-response</td>
<td>6</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>136</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>141</td>
</tr>
</tbody>
</table>

While it was possible to identify online participants who genuinely did click on the ‘help’ button and read the guidance before answering the sex question, so few actually did so that nothing meaningful can be said about how non-response differed by version for this group.

A third of those ‘reporting’ to have read the guidance before answering the sex question indicated that the guidance read changed how they decided to answer the question. The likelihood of reporting that the guidance changed a planned response did not significantly vary by guidance type.

Those reporting that reading the guidance changed how they answered the sex question were asked how they had planned to answer before reading the guidance. Just one in ten of these people actually went on to give an answer here that differed from their response to the sex question, indicating that either this latter question was answered incorrectly or the guidance did not, in fact, change their mind.

3.4 How people answer the sex question when asked to consider different versions of the guidance

In addition to answering the ‘what is your sex?’ question with optional access to the guidance, all participants were later presented with one of the two versions of guidance in full, asked to read it, and then asked how they would answer the sex question using
this guidance. Again, which version of guidance a participant was presented with first was decided, at random, at the sampling stage with approximately 50% presented with self-identification sex guidance first, followed by legal sex and the reverse for the remaining half of the sample. Once the set of questions were answered, the alternative guidance and associated questions were asked.

Asking everyone to consider each set of guidance, in turn, allowed comparisons of responding behavior by guidance type to be made. It was also possible to identify those participants that changed their response to the question in line with the guidance and to record how these responses changed.

In this scenario, whether people answered the sex question or not, did not differ significantly by the type of guidance they were asked to consider. Ninety-nine percent answered the question after having been presented with the self-identification sex guidance and 98% when legal sex guidance was considered (Table 3.9).

<table>
<thead>
<tr>
<th>Table 3:9</th>
<th>Response to sex question with self-identification sex guidance and legal sex guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Response to sex question</td>
<td>Self-identification sex guidance (%)</td>
</tr>
<tr>
<td>Female</td>
<td>51</td>
</tr>
<tr>
<td>Male</td>
<td>49</td>
</tr>
<tr>
<td>I would not answer</td>
<td>1</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2130</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2126</td>
</tr>
</tbody>
</table>

Irrespective of the version of guidance respondents were asked to consider, those reporting that they were trans or had a trans history were significantly more likely than others to report that they would choose not to answer the ‘what is your sex?’ question based on the guidance (Table 3.10). This was significant for both versions of the guidance. Eighteen percent of trans or non-binary participants said they would not answer the sex question if self-identification sex guidance was used, compared with 1% of non-trans people. The equivalent figures for legal sex guidance were 59% and 1%, respectively.

Neither age of participant or mode of completion were associated with response behaviour for either type of guidance.
Table 3:10  Response to Self-identification sex guidance and legal sex guidance

<table>
<thead>
<tr>
<th>Response to sex question with self-identification guidance</th>
<th>Do you consider yourself to be trans, or have a trans history?</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No (%)</td>
<td>Yes (%)</td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>51</td>
<td>61</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>48</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>I would not answer</td>
<td>1</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2068</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2060</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Response to sex question with ‘legal sex guidance</th>
<th>No (%)</th>
<th>Yes (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>52</td>
<td>25</td>
</tr>
<tr>
<td>Male</td>
<td>48</td>
<td>15</td>
</tr>
<tr>
<td>I would not answer</td>
<td>1</td>
<td>59</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2072</td>
<td>12</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2065</td>
<td>23</td>
</tr>
</tbody>
</table>

Since all participants were asked to review both versions of the guidance and answer the sex question accordingly, it was possible to examine if, and how, a person’s response changed. The vast majority (99%) were consistent in their responses with just 1% changing answer in response to the different guidance (Table 3.1).

Table 3:11  Did different guidance mean different response to sex question

<table>
<thead>
<tr>
<th>Changed response to sex question based on guidance</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changed answer</td>
<td>1</td>
</tr>
<tr>
<td>Didn’t change answer</td>
<td>99</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2066</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2055</td>
</tr>
</tbody>
</table>

Ninety-nine percent of participants that described their sex as female according to the self-identification sex guidance gave the same response based on the legal sex guidance. The corresponding figure for males was <95.5% (Table 3.12). Those reporting that they would not answer the sex question based on one version of the guidance, were significantly more likely than others to report that they not answer the question based on the alternative version either, suggesting that the differing content of the guidance was not behind their decision not to respond.
Table 3:12  Sex question response, by guidance

<table>
<thead>
<tr>
<th>Response to sex question with self-identification guidance</th>
<th>Response to sex question with legal sex guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Female (%)</td>
</tr>
<tr>
<td>Female</td>
<td>99</td>
</tr>
<tr>
<td>Male</td>
<td>1</td>
</tr>
<tr>
<td>I would not answer</td>
<td>0</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>1137</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>1048</td>
</tr>
</tbody>
</table>

While consistency of responses did not vary significantly by age of participant or mode of completion, trans people, or those with a trans history, were significantly more likely than others to provide a different response to the sex question depending on guidance version (Table 3.13).

Table 3:13  Did people answer the sex question the same or differently using both versions of the guidance

<table>
<thead>
<tr>
<th>Answered sex question same or differently for both versions of guidance</th>
<th>Do you consider yourself to be trans, or have a trans history?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No (%)</td>
<td>Yes (%)</td>
</tr>
<tr>
<td>Answered sex question differently</td>
<td>8</td>
<td>47</td>
</tr>
<tr>
<td>Answered sex question the same</td>
<td>92</td>
<td>53</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2140</td>
<td>13</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2137</td>
<td>25</td>
</tr>
</tbody>
</table>

To assess views on the acceptability of both guidance types for use in the census, participants were asked how acceptable they thought each version was. Those describing either one or both sets of guidance as ‘not acceptable’ or ‘not at all acceptable’ were significantly more likely to provide inconsistent responses to the sex question (Table 3.14).

Table 3:14  Did people answer the sex question the same or differently using both versions of the guidance, by acceptability of guidance

<table>
<thead>
<tr>
<th>Answered sex question same or differently for both versions of guidance</th>
<th>Acceptability of guidance</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Both versions of guidance acceptable (%)</td>
<td>1 or both versions of guidance unacceptable (%)</td>
<td></td>
</tr>
<tr>
<td>Answered sex question differently</td>
<td>8</td>
<td>19</td>
<td></td>
</tr>
<tr>
<td>Answered sex question the same</td>
<td>92</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2037</td>
<td>171</td>
<td></td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2040</td>
<td>168</td>
<td></td>
</tr>
</tbody>
</table>

See Section 3.5 for further details on the acceptability questions.
3.5 Acceptability of guidance types

To assess the acceptability of both sets of guidance, participants were asked, how acceptable they thought each version was for use in the census. Each acceptability question was asked immediately after a participant had been shown the guidance and asked how they would answer the sex question based on it. Importantly, this was before being shown the alternative guidance and being asked for their views about it. As noted in earlier sections, the order a participant was presented with the guidance was randomised for both paper and online participants.

When answering acceptability questions about the first set of guidance they were presented with, online participants could not see or access the alternative guidance. On paper versions of the questionnaire, it was possible to randomise the order in which the guidance they was presented but it was not possible to keep alternate guidance truly hidden. Presenting guidance on separate pages, and overleaf from each other, minimised the likelihood of a person seeing, and being influenced by, the second guidance when responding to the first. However, the likelihood of this occurring could not be eliminated completely.

When asked about the acceptability of including self-identification sex guidance in the census, a little over two-thirds (69%) considered it acceptable, a further 24% viewed it as neither acceptable nor unacceptable and 5% described it as either not acceptable or not at all acceptable (Table 3.15). Views on the acceptability of the self-identification sex guidance and the legal sex guidance were very similar, in that 68% also found it acceptable for use in the census and 5% described it as unacceptable.

<table>
<thead>
<tr>
<th>How acceptable is it for this guidance to be used in the census?</th>
<th>Self-identification sex guidance (%)</th>
<th>Legal sex guidance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very acceptable</td>
<td>29</td>
<td>27</td>
</tr>
<tr>
<td>Acceptable</td>
<td>40</td>
<td>41</td>
</tr>
<tr>
<td>Neither acceptable nor unacceptable</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Not acceptable</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Not at all acceptable</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Non-response</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Very acceptable / acceptable</strong></td>
<td><strong>69</strong></td>
<td><strong>68</strong></td>
</tr>
<tr>
<td><strong>Not acceptable / not at all acceptable</strong></td>
<td><strong>5</strong></td>
<td><strong>5</strong></td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2208</td>
<td>2208</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2208</td>
<td>2208</td>
</tr>
</tbody>
</table>

Views on the acceptability of each version of the guidance were explored by response to sex, when first asked. Men were significantly more likely than women to think that the self-identification guidance was unacceptable for use in the census; 7% of men...
thought the self-identification sex guidance was not acceptable or not at all acceptable for use in the census, compared with 4% of women (Table 3.16). There was no difference in acceptability by sex (when first answered) for the legal sex guidance. Neither mode of completion or trans status were significantly associated with acceptability levels for either version of the guidance.

### Table 3:16 Acceptability of self-identification sex guidance by response to sex when first asked

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Female (%)</th>
<th>Male (%)</th>
<th>Non-response (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>70</td>
<td>66</td>
<td>76</td>
<td>69</td>
</tr>
<tr>
<td>Neither acceptable not unacceptable</td>
<td>24</td>
<td>24</td>
<td>21</td>
<td>24</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>4</td>
<td>7</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Non-response</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>1179</td>
<td>947</td>
<td>79</td>
<td>2205</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>1100</td>
<td>1023</td>
<td>82</td>
<td>2205</td>
</tr>
</tbody>
</table>

### Table 3:17 Acceptability of legal sex guidance by response to sex when first asked

<table>
<thead>
<tr>
<th>Response to Sex question when first asked</th>
<th>Female (%)</th>
<th>Male (%)</th>
<th>Non-response (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptable</td>
<td>69</td>
<td>68</td>
<td>65</td>
<td>68</td>
</tr>
<tr>
<td>Neither acceptable not unacceptable</td>
<td>25</td>
<td>24</td>
<td>23</td>
<td>24</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>5</td>
<td>6</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Non-response</td>
<td>2</td>
<td>2</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>1178</td>
<td>947</td>
<td>79</td>
<td>2204</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>1099</td>
<td>1023</td>
<td>82</td>
<td>2204</td>
</tr>
</tbody>
</table>

It was possible to determine the proportion of participants who either found both sets of guidance unacceptable or found one set more acceptable than the other.\(^{31}\) Of those

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\(^{31}\) Those who found one, but not both, sets of guidance as ‘neither acceptable or unacceptable’ were excluded from this analysis since it was decided that not all participants are likely to have interpreted this category in the same way. Some will treat this as a natural mid-point on an acceptability scale but others may have used this as a proxy for don’t know or not sure thus making it difficult to assess if they found it more or less acceptable than the alternative guidance.
who gave a valid response to their acceptability of both sets of guidance, the overwhelming majority (95%) answered the acceptability question in the same way for found both versions of the guidance (Table 3.18). Two-thirds (64%) found both sets acceptable for use in the census. Three percent deemed both sets of guidance unacceptable for the census. One percent found the self-identification sex guidance acceptable but the legal sex guidance unacceptable, and 2% also reported the opposite. Too few participants deemed one set of guidance less acceptable for the census than the other to say anything meaningful about the type of person who felt this way.

The likelihood of finding both sets of guidance unacceptable, was not related to either age of participant or mode of completion. When looked at it combination, men were, however, significantly more likely than woman to find both sets of guidance unacceptable.

### Table 3:18  Response to acceptability question for both guidance types

<table>
<thead>
<tr>
<th>Acceptability of both versions of guidance</th>
<th>Response to sex question when first asked</th>
<th>Female (%)</th>
<th>Male (%)</th>
<th>Non-response (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Found both versions acceptable</td>
<td></td>
<td>65</td>
<td>62</td>
<td>63</td>
<td>64</td>
</tr>
<tr>
<td>Found both versions unacceptable</td>
<td></td>
<td>2</td>
<td>4</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Found self-identification guidance</td>
<td></td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>acceptable and legal sex guidance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>unacceptable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Found legal sex guidance acceptable and</td>
<td></td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>self-identification unacceptable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Found both self-identification guidance</td>
<td></td>
<td>21</td>
<td>20</td>
<td>16</td>
<td>21</td>
</tr>
<tr>
<td>legal sex guidance neither acceptable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>nor unacceptable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unclear interpretation*</td>
<td></td>
<td>6</td>
<td>8</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>Non-response to one or both acceptability</td>
<td></td>
<td>2</td>
<td>3</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>questions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unweighted bases</td>
<td></td>
<td>1179</td>
<td>947</td>
<td>79</td>
<td>2208</td>
</tr>
<tr>
<td>Weighted bases</td>
<td></td>
<td>1100</td>
<td>1023</td>
<td>82</td>
<td>2208</td>
</tr>
</tbody>
</table>

*Where one response to acceptability of one guidance was ‘neither acceptable nor unacceptable’

### 3.5.1  Why some people find guidance unacceptable

Participants who reported that the guidance was unacceptable for use in the census were asked to give, in their own words, their reasons why. A range of different reasons for why the guidance was unacceptable were given. Reasons given were not always specific to the version of the guidance a participant had just read. Some centered around whether any form of guidance for the sex question should be used at all, and many touched on both the self-identification and legal sex guidance at the same time.
Self-identification sex guidance

A key reason for participants finding the self-identification sex guidance unacceptable was the belief that, relative to other matters, too much emphasis and government focus (both financial and temporal) was allocated to the matter. The guidance was also described as a waste of resources.

“Absolute nonsense! To think my income tax is spent on this…makes my blood boil. Let’s worry about education, NHS, homeless….” (35-44 years, male)

The presence of the term ‘non-binary’ prompted others to declare the self-identification sex guidance unacceptable as they viewed the term as clearly relating to gender and not sex. And others felt that ‘non-binary’ is a choice, and therefore was different to the other options in the sex question. It was also noted that the guidance could encourage people, and vulnerable people and children in particular, to question their identity.

“I think the census should record true sex at birth/legal sex recording intersex as an option would be acceptable. Non-binary refers to gender not sex and is not appropriate in a question about sex.” (55-64 years, male)

“Non-binary is not an actual position, just a choice, like a religion. People will answer however they choose and as there’s no way of checking there’s no point in worrying about it. How much money has been wasted in this exercise?” (45-54 years, female)

“Again too much encouragement for people (usually vulnerable people and young children) to believe they are unsure etc Minority with genuine problems-fine. Dangerous to present as mainstream.” (55-64 years)

There were participants who viewed the guidance as confusing and risked potentially overcomplicating the question, especially for older people. Another view was that sex is personal and therefore a private matter for people. Disclosing one’s legal sex was considered too personal to be shared on the Census.

“I think the census should record true sex at birth/legal sex recording intersex as an option would be acceptable. Non-binary refers to gender not sex and is not appropriate in a question about sex.” (55-64 years, male)

One objection mentioned in relation to both sets of guidance, but perhaps of more relevance to the self-identification sex guidance was around the notion that the guidance was viewed as ‘encouraging’ the notion that sex is a personal choice.

“It seeks to encourage self-declaration.” (65-74 years, male)

Legal sex guidance

When asked about their views on the acceptability of the legal sex guidance a common theme was that people thought there was no need for guidance, of any kind, on the matter. There was a widely held view that sex is determined at birth and is known to all without the need for consulting any guidance. Consequently, the additional details given in any guidance were felt to be unnecessary, confusing and overly complicated.

“You are born male or female simple.” (45-54 years, male)

“Information on birth certificate is all that is required for a census.” (75+, female)
There were participants specifically mentioned that they felt that sex is binary, and therefore either it was only necessary to ask for sex as stated on the birth certificate or that they were against a third option being mentioned in the ‘legal sex guidance. Although there was also a view that asking people separately about gender realignment would be acceptable.

“Sex is a biological fact, not a social construct. Gender is a social construct and therefore alterable.” (65-74 years, male)

“People are either male or female by birth and I accept that this is a legitimate question for planning facilities. Allowing other orientations is pandering to politically correct claptrap.” (65-74 years, male)

However, there was also a view that there should be a third option at the sex question and that it should be ‘Other’.

“The question should be a/male  b/female  c/other.” (55-64 years, female)

Another criticism against the legal sex guidance, was the lack of information the census would then collect on ‘gender identity issues’ and the subsequent lack of visibility of those who do not identify as their birth sex. Having birth sex as the only type of data collected was deemed incomplete as it would not provide a true representation of the Scottish population.

“We might want to know what the population’s sex at birth is but this would not really give us a true insight into the wide spread gender identity issues (crises) we are facing in this country at this time.” (25-34 years, female)

For some, the legal sex guidance was found to be problematic due to privacy concerns. Disclosing one’s legal sex was considered too personal to be shared on the Census.

“Invasion of privacy.” (55-64 years, male)

Other views expressed on the acceptability of guidance

There were participants who clearly expressed their preference for the self-identification sex guidance over the legal sex guidance. Others felt the legal sex guidance was unacceptable because it deprived people of their right to self-definition of their sex. It was also felt, by some, that participants should be allowed to declare a sex that is different to their birth sex without necessarily having obtained a GRC.

“There have always been shades of grey. The census should recognise this.” (45-54 years, male)

"If you have a GRC you MAY record...." Why an option if using this legalistic def of sex? Previous guidance gives broader scope for personal definition (65-74 years, female)

Some participants provided comments which were not relevant to the question being asked. From such comments, it became evident that there was a confusion over terms such as sexual orientation and gender. There was also confusion over the language used in the guidance. The mention of ‘non-binary’ as a term was particularly confusing for some.
“I am sick and tired of hearing about sexual orientation. I don't care about it and stop trying to pigeon hole people into a status.” (45-54 years, female)

While those who felt the guidance was acceptable were not required to provide a reason for this, a number of those who took part on paper did use the space provided to offer their views on the guidance. These responses centred around pointing out that consensus on this issue would be difficult to achieve, the complexity of sex determination, the complexity and confusing-nature of the questionnaire’s content including some of the terminology used and the fact that guidance may not necessarily be followed by all participants regardless of its inclusion in the census.

“I don’t understand all the terms - 'non-binary'. I think there is too much info in guidance - makes completing census off-putting.” (45-54 years, female)

3.6 Impact of guidance types

3.6.1 Likely impact of guidance on census completion

To assess the likely impact each version of the guidance might have on a census behaviour, each participant was asked what they would do if the census included the guidance with the question ‘what is your sex?’. Answer options were:

- I would answer the question ‘What is your sex?’
- I would skip the question ‘What is your sex?’ but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do

Asking people to predict their own behaviour can be problematic and it has been suggested that people have a tendency to under-estimate the role of situational and environmental factors in determining how they will behave in the future. In this context, when asking people if they thought their behaviour at the census was likely to be influenced or affected by a version of the guidance, they were being asked to put this at the forefront of their minds. When the time comes to consider actual census participation, people will have multiple competing demands vying for their attention, and the attention given to the guidance, and consequently, its potential impact is likely to be less pronounced than is recorded here. That said, in combination with other findings, including reported non-response rates to the sex question, these questions on likely future action help give some sense of the potential impact the guidance might have on sex question response and census completion, even if ultimately the guidance is given less consideration, by some, than is implied here.

Nine in ten participants (91%) reported that they would answer the sex question in the census if it was accompanied by the self-identifi cation sex guidance, the same proportion said the same with regards the legal sex guidance (90%) (Table 3.19). Having read the self-identifi cation sex guidance, 2% thought they would ‘skip the

question ‘What is your sex?’ but answer other census questions. This was not significantly different from the 3% who said the same about the legal sex guidance. Just 1% reported that if the census included the self-identification sex guidance they would not take part in the census at all. This was the same for the legal sex guidance.

### Table 3:19 Likely impact of guidance on census completion

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance with the question ‘What is your sex?’</th>
<th>Self-identification sex guidance (%)</th>
<th>Legal sex guidance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>91</td>
<td>90</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Non-response to question on likely impact</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Unweighted base</td>
<td>2208</td>
<td>2208</td>
</tr>
<tr>
<td>Weighted base</td>
<td>2208</td>
<td>2208</td>
</tr>
</tbody>
</table>

Likely impact on census behaviour was associated with trans status. Despite only a small number of people answering that they were trans, or had a trans history, those who did were significantly more likely than others to report that they would not complete the census at all, having read either version of the guidance. Half (50%) of those who considered themselves to be trans said they would ‘skip the question ‘what is your sex?’ having read the legal sex guidance, significantly more than those who were not trans (2%) (Table 3.20). However, the equivalent figures for the self-identification sex guidance were 9% and 2%, respectively, which was not a significant difference (Table 3.21).

### Table 3:20 Impact of the legal sex question guidance on census completion, by trans status

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance (legal) with the question ‘What is your sex?’</th>
<th>Do you consider yourself to be trans, or have a trans history</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No (%)</td>
<td>Yes (%)</td>
</tr>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>94</td>
<td>39</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>2</td>
<td>50</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2081</td>
<td>12</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2085</td>
<td>23</td>
</tr>
</tbody>
</table>
Table 3:21  Likely impact of self-identification guidance on census completion, by trans status

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance (self-identification) with the question ‘What is your sex?’</th>
<th>Do you consider yourself to be trans, or have a trans history</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No (%)</td>
<td>Yes (%)</td>
</tr>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>95</td>
<td>81</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td><strong>Unweighted bases</strong></td>
<td>2080</td>
<td>13</td>
</tr>
<tr>
<td><strong>Weighted bases</strong></td>
<td>2083</td>
<td>25</td>
</tr>
</tbody>
</table>

Table 3.22 indicates that those who found the self-identification sex guidance unacceptable for use in the census were significantly more likely than others to report that they would either skip the sex question, or not complete the census at all if this guidance was used. The same was true for the legal sex guidance (Table 3.23).

Views on the likely impact of either version of the guidance on census behaviour were not related either to age of the participant or whether they completed the questionnaire online or on paper.

Table 3:22  Impact of self-identification sex guidance by acceptability of self-identification guidance

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance (self-identification) with the question ‘What is your sex?’</th>
<th>Acceptability of self-identification sex guidance</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acceptable (%)</td>
<td>Neither acceptable nor unacceptable (%)</td>
</tr>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>98</td>
<td>90</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Unweighted bases</strong></td>
<td>1473</td>
<td>533</td>
</tr>
<tr>
<td><strong>Weighted bases</strong></td>
<td>1504</td>
<td>523</td>
</tr>
</tbody>
</table>
### Table 3.23 Impact of legal sex guidance by acceptability of legal sex guidance

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance (legal) with the question ‘What is your sex?’</th>
<th>Acceptability of legal sex guidance</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acceptable (%)</td>
<td>Neither acceptable nor unacceptable (%)</td>
</tr>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>97</td>
<td>89</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>2</td>
<td>6</td>
</tr>
</tbody>
</table>

**Unweighted bases**: 1471  
**Weighted bases**: 1500

### 3.6.2 How likely impact on census completion differ by guidance type

For most people (95%), the likely impact of the two versions of the guidance on census completion was the same, that is, they reported that they would behave the same way at the census, irrespective of the version of the guidance included with the sex question (Table 3.24). One percent reported that the self-identification sex guidance would have a greater negative impact on census completion than the legal sex guidance, and 2% said the opposite.

### Table 3.24 Difference in impact on census completion of legal sex and self-identification sex question guidance

<table>
<thead>
<tr>
<th>Impact of difference sex question guidance on census completion</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Same response to impact question for both versions</td>
<td>95</td>
</tr>
<tr>
<td>**Impact not clear</td>
<td>2</td>
</tr>
<tr>
<td>***Self-identification guidance greater potential negative impact on census completion than legal sex guidance</td>
<td>1</td>
</tr>
<tr>
<td>****Legal sex guidance greater potential negative impact on census completion than ‘self-identification’ guidance</td>
<td>2</td>
</tr>
</tbody>
</table>

**Unweighted bases**: 2104  
**Weighted bases**: 2104

* Reported impact of each guidance was the same  
** Answered ‘I’m not sure’ to at least one of the two impact questions  
*** Would answer sex question with legal sex guidance, but would skip sex question with ‘self-identification sex’ guidance, or would skip sex question with legal sex guidance, but would not complete census at all if sex question included ‘self-identification sex’ guidance  
**** Would answer sex question with ‘self-identification sex’ guidance, but would skip sex question with legal sex guidance, or would skip sex question with ‘self-identification sex’ guidance, but would not complete census at all if sex question included legal sex guidance
While impact across the board appeared to be minimal, there was a significant association between trans status and likely impact on census completion. Two in five (40%) trans people or those with a trans history said that the legal sex question guidance would have a more negative impact on their completion of the census compared with the self-identification sex guidance, compared with just 1% among others (Table 3.25).

<table>
<thead>
<tr>
<th>Impact of difference sex question guidance on census completion</th>
<th>Do you consider yourself to be trans, or have a trans history?</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>* Same response to impact question for both versions</td>
<td>96</td>
<td>60</td>
</tr>
<tr>
<td>**Impact not clear</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>***‘Self-identification’ guidance greater potential negative impact on census completion than legal sex guidance</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>****‘legal sex guidance greater potential negative impact on census completion than ‘self-identification’ guidance</td>
<td>1</td>
<td>40</td>
</tr>
<tr>
<td>Unweighted bases</td>
<td>2036</td>
<td>12</td>
</tr>
<tr>
<td>Weighted bases</td>
<td>2045</td>
<td>23</td>
</tr>
</tbody>
</table>

* Reported impact of each guidance was the same
** Answered ‘I’m not sure’ to one question on impact
*** Would answer sex question with legal sex guidance, but would skip sex question with ‘self-identification’ guidance, or would skip sex question with legal sex guidance, but would not complete census at all if sex question included ‘self-identification’ guidance
**** Would answer sex question with ‘self-identification’ guidance, but would skip sex question with legal sex guidance, or would skip sex question with ‘self-identification’ guidance, but would not complete census at all if sex question included legal sex guidance

Neither age or mode of completion were related to the likelihood of a person stating that one version of the guidance would have a greater impact than the other.
4 Findings: Trans or non-binary survey

Key findings

- The survey of trans or non-binary adults living in Scotland was an opt-in online survey with recruitment across a large and diverse range of charities, support groups and medical settings. Seventy-five people completed the survey.
- Since participants were not selected at random, the findings relate only to those who took part and inferences to the wider trans or non-binary population in Scotland cannot be made. Different approaches to sampling mean that comparisons between the general population survey findings and the trans or non-binary findings cannot, and should not, be made.

Understanding how trans or non-binary people answer the sex question

- When first asked the question ‘what is your sex?’, 47% (n=35) of trans or non-binary participants responded ‘female’, 45% (n=34) responded ‘male’ and 8% (n=6) chose not to respond.
- Those who chose not to answer the sex question when first asked were asked to explain, in their own words, why they didn’t provide an answer. An objection to the binary nature of the response options proved to be a common theme among non-responders.
- All of those who did not answer the sex question when first asked it described their trans status as ‘non-binary’.

Understanding how trans or non-binary people use the guidance

- When first asked the sex question guidance was available, but participants had to click on a ‘help’ button to access it. When asked, one in three (33%) trans or non-binary participants reported accessing guidance when answering the question.
- However, background data collected on online participants indicated that a quarter of those who claimed to access guidance did not actually do so. Thus, overall, 25% (n=19) of trans or non-binary participants genuinely accessed guidance before answering the question ‘what is your sex?’.
- Those describing their trans status as ‘non-binary’ were significantly more likely than those who described it in another way to access guidance before answering the sex question (37%, n=13 and 15%, n=6, respectively).

Understanding how trans or non-binary people answer the sex question (when first asked) based on different versions of the guidance

- Of the 25% (n=19) of trans or non-binary people who accessed guidance when first asked to respond to the ‘what is your sex?’ question, non-response to the question did not differ significantly by guidance type.
- Over half (58%, n=11) of those that genuinely accessed guidance before answering the sex question reported that the guidance prompted them to change their answer.
- Those who read the self-identification sex guidance were no more or less likely than those who read the ‘legal sex guidance to report changing their minds about how to answer (55%, n=6 and 63%, n=5 people, respectively).
Three of the 6 people who reported changing their mind after reading the self-identification text had initially planned not to answer the question but chose to respond having read the guidance. The same was true of those reporting that reading the ‘legal sex guidance changed their mind (3 of the 5 did not plan to answer prior to reading the guidance but went on to provide a valid response).

Understanding how trans or non-binary people answer the sex question when asked to consider different versions of the guidance

After answering the initial sex question – which was presented in a manner replicating how it might appear in the census - trans or non-binary participants were then presented with each version of the guidance to read, in turn, and asked how they would answer the ‘what is your sex?’ question having read the guidance.

When presented with the self-identification sex guidance, 23% (n=16) of trans or non-binary participants reported they would not answer the sex question. Around half (49%, n=35) said they would not answer the sex question if the ‘legal sex guidance was used.

How trans or non-binary people responded to the sex question when each version of the guidance was considered was compared to see if, and how, answers changed in line with guidance. For 60% (n=41) the response given to the sex question when self-identification sex guidance was considered did not match the response given when legal sex guidance was considered.

Twenty-six of the 32 trans or non-binary people reporting that they would not answer the sex question if legal sex guidance were used, provided a valid answer to the question when the self-identification sex guidance was considered.

Many of those reporting that they wouldn’t answer the sex question described their trans status as non-binary and, when asked to describe in their own words why they would not answer, pointed to the binary nature of the response options as the reason for their decision. This was raised as an issue for both versions of the guidance but was more pronounced for the legal sex guidance.

Acceptability of the different versions of guidance

Participants were asked how acceptable each version of the guidance was for use in the census.

Sixteen of the 75 trans or non-binary participants (21%) described the self-identification sex guidance as either not acceptable or not at all acceptable. When asked how acceptable the ‘legal sex guidance was for inclusion in the census, 58 participants (77%) viewed it as unacceptable.

While a third (n=28) of non-binary participants viewed both versions of the guidance as equally acceptable, close to two thirds (n=46) viewed the ‘legal sex guidance as less acceptable than the self-identification sex guidance for use in the census. Only one of the 75 participants described the self-identification sex guidance as the least acceptable of the two versions.

Reasons why some trans or non-binary people find the self-identification sex guidance unacceptable

When asked to explain, in their own words, why the self-identification sex guidance was not acceptable, the most widely held view related to the restrictive nature of the binary response options to the question rather than any specific issues with the guidance itself.
Other objections to the self-identification sex guidance touched on broader implications relating to the role of census in defining society and societal views. Some questioned the accuracy of the data that would be gathered from non-binary people and it was also noted that the guidance didn’t give everyone in the population visibility, again a reference to non-binary people having to answer a binary question.

While some viewed the self-identification sex guidance as unacceptable, they made it clear that they deemed it more acceptable than the ‘legal sex guidance.

Highlighting that views across trans or non-binary people aren’t always consistent, it was mentioned that the self-identification sex guidance confuses sex and gender which were considered to be separate by those who cited this issue.

Reasons why some trans or non-binary people find the legal sex guidance unacceptable

Many trans or non-binary people who found the legal sex guidance unacceptable provided an extensive narrative on why they felt this way, often offering multiple reasons for their views. Common themes were:

Binary nature of the sex question – those describing themselves as non-binary described the binary nature of the question as restrictive. That the guidance, and the subsequent question on trans status, acknowledged that a person could be non-binary but did not allow this to be expressed at the sex question was noted as particularly frustrating.

Issues with the legal sex guidance specifically – many disagreed with the guidance requirement to hold a gender recognition certificate (GRC) in order to respond according to their lived sex. The process of obtaining a GRC was described as bureaucratic and off-putting for those eligible to apply. It was noted that the insistence on holding a GRC meant that the guidance could, in effect, create a two-tier system among trans people – those with and those without a GRC.

Data quality implications of using legal sex guidance – a view reported was that using ‘legal sex guidance would result in data that was inconsistent with 2011 census data when trans or non-binary people could answer according to self-identified sex. Some participants indicated that they would answer the question according to self-identified sex even if the ‘legal sex guidance were to be used. A knock-on implication of this on data quality noted by participants was that some would then choose not to answer the subsequent trans status question since when used in combination with their response to the sex question, they might be thought to be lying and it could allow their sex at birth to be determined.

Emotional implications the legal sex guidance on trans people – several participants associated the requirements of the ‘legal sex guidance with feelings of distress and rejection and there was a sense that using this guidance could have negative consequences on the mental wellbeing of trans people.

Societal implications of using legal sex guidance – some trans or non-binary people perceived the implications of using legal sex guidance as going beyond the personal. Their view was that if ‘legal sex guidance was to be used, then, this would be viewed as the ‘government’ presenting its position on the acceptance and recognition of trans identities and potentially, as a result, shaping wider public perceptions to negative effect.
Likely impact of the different versions of the guidance on census behaviour

- For each version of the guidance, trans or non-binary participants were asked what they would do in the census if the guidance was included.

- Of the 75 participants, 52 (69%) reported that they would answer the sex question in the census if self-identification sex guidance were used. Fourteen would skip the sex question and just 4 would not take part in the census at all if the guidance were used.

- Likely impact on census behaviour appeared to more negative for the 'legal sex guidance with 17 (23%) of the 75 participants reporting they would answer the question, 23 stating that they would skip the question and a further 23 stating that they would not complete the census at all.

- Forty percent (n=31) indicated that the impact of guidance on their likely census behaviour would be the same for both versions. Forty percent (n=30) indicated that 'legal sex guidance would have a more negative impact on census behaviour than self-identification sex guidance and 3% (n=2) said the opposite.
4.1 Background

The survey of trans or non-binary adults in Scotland was online only. Potential participants were recruited via an extensive range of voluntary, social media and medical settings. At the beginning of the questionnaire screening questions were included to establish that potential participants lived in Scotland and were aged 16 or over. Aside from these eligibility questions; the content and structure of the trans or non-binary questionnaire was identical to the online version of the general population questionnaire (see Appendix B).

All participants were asked the ‘what is your sex?’ question in a way that replicated how it will appear in the census as closely as was feasible, that is, with guidance available for review if required. All participants were then shown both versions of the guidance in full and asked how they would answer the sex question based on these. Follow-up questions designed to assess their views the guidance were also included. The order a participant viewed the guidance in was randomised, with half presented with self-identification sex guidance first and then legal sex guidance and half the legal sex guidance first followed by self-identification sex guidance.

Due to the different methodologies employed to recruit participants findings from the trans or non-binary survey cannot, and should not, be compared. Since probability sampling was not used to recruit participants to the trans or non-binary survey no inferences to the wider trans or non-binary population in Scotland can be made. Any differences described refer to differences observed between survey participants only.

Data from 75 participants were used in the analysis that followed.

4.2 How trans or non-binary people answer the sex question

4.2.1 Trans or non-binary response to the sex question

When first asked the question ‘what is your sex?’ 35 (47%) participants to the trans or non-binary survey answered female, 34 (45%) male and six (8%) did not provide an answer to the question (Table 4:1).

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>35</td>
<td>47</td>
</tr>
<tr>
<td>Male</td>
<td>34</td>
<td>45</td>
</tr>
<tr>
<td>Non-response</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>75</td>
<td>100</td>
</tr>
</tbody>
</table>

---

33 See Section 2.3.2 for further details on the recruitment of the trans or non-binary sample.
34 See Section 2.2 for further details on the study design.
35 See Section 2.7 for further details on data processing and cleaning.
4.2.2 What is known about trans or non-binary people who chose not to answer the sex question when first asked?

The likelihood of responding to the sex question when first asked did not vary significantly by age of participant. There was, however, a significant association between a participant’s trans status and their responding behaviour (Table 4:2). Immediately after the sex question, all participants were asked the trans status question planned for inclusion in the 2021 census. Everyone answered yes to the trans status question and based on the write in descriptions supplied, it was possible to identify those who described themselves as non-binary and those who did not. All six participants who chose not to answer the sex question when first shown it described their trans status as non-binary.

<table>
<thead>
<tr>
<th>Response to sex question when first asked</th>
<th>Trans</th>
<th>Non-binary</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>19</td>
<td>16</td>
<td>35</td>
</tr>
<tr>
<td>%</td>
<td>48</td>
<td>46</td>
<td>47</td>
</tr>
<tr>
<td>Male</td>
<td>21</td>
<td>13</td>
<td>34</td>
</tr>
<tr>
<td>%</td>
<td>53</td>
<td>37</td>
<td>45</td>
</tr>
<tr>
<td>Non-response</td>
<td>0</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>%</td>
<td>0</td>
<td>17</td>
<td>8</td>
</tr>
<tr>
<td>Base</td>
<td>40</td>
<td>35</td>
<td>75</td>
</tr>
</tbody>
</table>

4.2.3 Reasons why some trans or non-binary people did not answer the sex question.

When first presented with the sex question 6 (8%) trans or non-binary survey participants chose not to answer. These people were asked to explain, in their own words, the reason why they decided not to respond to the question. A common reason given for not answering the sex question was the limiting nature of the binary response options.

“I am non-binary and this question does not give an option for this therefore I cannot answer it accurately. My sex is non-binary and would like to remind you that sex and gender identity distinction has no legal basis. Not having a third option for this question excludes me and other non-binary people and really triggers my social dysphoria around not being seen and recognised as an equal member of society. I experience daily transphobia and questions like this significantly contribute to an environment and culture that excludes and marginalises non-binary people.” (35-44 Years, non-binary)

36 The non-binary category includes those who described themselves only as non-binary as well as those who described themselves as trans non-binary.
Another reason given for not answering the ‘what is your sex?’ question was the legal sex guidance. It was argued that insisting on a gender recognition certificate (GRC) to differentiate among trans people means that some will have to answer with their birth sex and others with their self-identified sex. This was perceived as not allowing an accurate representation of the trans population.

“I cannot see any situation other than describing to a medical professional, where I would need to disclose the gender at which I was assigned at birth. The presence or absence of a GRC should not be relevant and asking a question like ‘What is your sex’ to monitor equality and statistic[s] on the population suggests that trans people are not recognised at all in these statistics.” (25-34 years, non-binary)

### 4.3 How trans or non-binary people use the guidance

#### 4.3.1 Accessing the guidance

The trans or non-binary survey was online only. In line with the general population survey and the planned approach for the next census, a ‘help’ button was displayed on screen alongside the ‘what is your sex?’ question text and available response options. When clicked on, the ‘help’ button displayed a version of the guidance. The exact version of the guidance displayed was randomised, with half of participants able to access the self-identification sex guidance and half the legal sex guidance.37

#### 4.3.2 Whether trans or non-binary people read the optional guidance when first asked the sex question

Once participants had answered the sex question, trans status question and a question on sexual orientation they were then asked if they read the guidance before answering the sex question. (Table 4:3). A third (n=25) of trans or non-binary participants reported that they pressed the ‘help’ button to access guidance before they answered the sex question.

<table>
<thead>
<tr>
<th>Did you read the guidance before answering the sex question?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>25</td>
<td>33</td>
</tr>
<tr>
<td>No</td>
<td>50</td>
<td>67</td>
</tr>
<tr>
<td><strong>Base</strong></td>
<td><strong>75</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

37 See Section 2.2 and Section 3.2.1 for further details on the study design and further details on how participants could access guidance.
4.3.3 Those who reported reading the guidance

Likelihood of accessing guidance to the sex question was not significantly associated with age. There was, however, a relationship between consultation of the guidance and trans status, with those describing themselves as non-binary significantly more likely than others to report that they read the guidance before answering ‘what is your sex?’ (Table 4:4).

<table>
<thead>
<tr>
<th>Did you read the guidance before answering the sex question?</th>
<th>Trans</th>
<th>Non-binary</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes Count</td>
<td>7</td>
<td>18</td>
<td>25</td>
</tr>
<tr>
<td>%</td>
<td>28</td>
<td>72</td>
<td>100</td>
</tr>
<tr>
<td>No Count</td>
<td>33</td>
<td>17</td>
<td>50</td>
</tr>
<tr>
<td>%</td>
<td>66</td>
<td>34</td>
<td>100</td>
</tr>
<tr>
<td>Bases Count</td>
<td>40</td>
<td>35</td>
<td>75</td>
</tr>
<tr>
<td>%</td>
<td>53</td>
<td>47</td>
<td>100</td>
</tr>
</tbody>
</table>

There was no association between likelihood of reporting to have read the guidance and non-response to the sex question when it was first asked.

4.3.4 Whether those who reported reading the guidance actually read it

Background data collected for the online survey allowed an objective assessment of whether guidance to the sex question was accessed or not. It should be noted that while it was possible to say with certainty who clicked the ‘help’ button to access guidance, this does not necessarily equate with having read it once it was accessed.

While one in three trans or non-binary participants reported reading the guidance, administrative data collected online indicated that 76% (n=19) of those that reported accessing the sex question guidance actually did. This equates to a quarter of all trans or non-binary participants accessing guidance before answering the ‘what is your sex?’ question.

In line with participants subjective account, the likelihood of genuinely accessing guidance before answering the sex question was significantly associated with a person’s trans status (Table 4:5). Those describing their trans status as non-binary, were significantly more likely than those who described it another way, to have accessed the guidance in advance (37%, compared with 15% (n = 13 and n=6, respectively)).

38 The non-binary category includes those who described themselves only as non-binary as well as those who described themselves as trans non-binary.
Table 4.5: Actually accessed guidance before answering sex question, by trans status\(^{39}\)

<table>
<thead>
<tr>
<th>Actually accessed guidance in advance of answering sex question (when first asked)</th>
<th>Trans</th>
<th>Non-binary</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Read guidance Count</td>
<td>6</td>
<td>13</td>
<td>19</td>
</tr>
<tr>
<td>%</td>
<td>15</td>
<td>37</td>
<td>25</td>
</tr>
<tr>
<td>Did not read guidance Count</td>
<td>34</td>
<td>22</td>
<td>56</td>
</tr>
<tr>
<td>%</td>
<td>85</td>
<td>63</td>
<td>75</td>
</tr>
<tr>
<td>Bases Count</td>
<td>40</td>
<td>35</td>
<td>75</td>
</tr>
<tr>
<td>%</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

4.4 Understanding how trans or non-binary people answer the sex question (when first asked) based on different versions of the guidance

4.4.1 Response to sex question (when first asked) by version of guidance available

As discussed in Section 4.1, 8% (n=6) of trans or non-binary participants chose not to answer the sex question when first asked. Non-response to the sex question did not vary significantly by the version of the guidance a person could access when answering the question. Since the question text and available response options were identical, irrespective of what version of the guidance was available, and a participant had to actively seek out guidance, no notable difference here was not expected.

4.4.2 Response to sex question (when first asked), among those who reported reading the guidance

It is possible to explore if and how response behaviour to the sex question when first asked varied among those who genuinely accessed the guidance before responding. In section 4.2.2, it was noted that one in four trans/non-binary participants accessed the guidance when asked to answer the sex question for the first time. As also noted earlier, the version of the guidance a participant was presented with was decided at random during the sampling stage.

All those who decided to access the guidance, and whom were presented with the self-identification version (n=11), proceeded to provide an answer to the sex question (Table 4.6). Among those who accessed the legal sex version of the guidance (n=8), one person chose not to answer the sex question after accessing the guidance. When asked why they chose not to answer it they reported:

\(^{39}\) The non-binary category includes those who described themselves as non-binary only and those who described themselves as trans non-binary.
“My sex is non-binary” (25 – 34 years, Non-binary)

Table 4:2 Response to sex question when first asked among those who accessed guidance, by version of guidance accessed

<table>
<thead>
<tr>
<th>Response to sex question when first asked among those who accessed guidance</th>
<th>Self-identification sex guidance (n)</th>
<th>Legal sex guidance (n)</th>
<th>Total (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>6</td>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>Male</td>
<td>5</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Non-response</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Bases</td>
<td>11</td>
<td>8</td>
<td>19</td>
</tr>
</tbody>
</table>

All trans or non-binary participants reporting that they had read the guidance before answering the sex question were asked if the guidance had changed their mind, and if so, how? Of the 19 trans or non-binary participants that genuinely accessed question guidance before answering the sex question, over half (n=11, 58%) reported that reading it had changed their answer to the question (Table 4:3). The likelihood of reporting that guidance changed a planned response to the sex question was not associated with the version of the guidance consulted.

Table 4:7 Did reading guidance change planned response to ‘what is your sex?’ ‘question’?

<table>
<thead>
<tr>
<th>Did planned response change after reading guidance?</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changed planned response</td>
<td>11</td>
</tr>
<tr>
<td>Did not change planned response</td>
<td>8</td>
</tr>
<tr>
<td>Base</td>
<td>19</td>
</tr>
</tbody>
</table>

Participants that accessed guidance and reported that it changed how they planned to respond were asked how they had planned to answer the sex question prior to reading the guidance and changing their mind. Half (n=3) of those reporting that the self-identification sex guidance changed their planned response said they were originally planning not to answer the sex question but decided to respond having read the guidance (Table 4:8). Three out of the five participants reporting that the legal sex guidance changed their mind, had also planned not to answer the sex question prior to reading the guidance, but then chose to respond.
### Table 4.8

<table>
<thead>
<tr>
<th>Response to sex when first asked</th>
<th>Self-identification sex guidance</th>
<th>Legal sex guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>How were you going to answer the sex question (when first asked)?</td>
<td>How were you going to answer the sex question (when first asked)?</td>
</tr>
<tr>
<td>Female (n)</td>
<td>Male (n)</td>
<td>I was not going to answer (n)</td>
</tr>
<tr>
<td>Female</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Male</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

### 4.5 How trans or non-binary people answered the sex question when asked to consider different versions of the guidance

Up until this point the focus has been on how trans or non-binary participants responded to the sex question when asked in a manner that replicated the census as closely as was feasible. It was noted that three quarters of trans or non-binary participants did *not* access the guidance when answering the sex question. Therefore, to determine how all trans or non-binary participants would answer the ‘what is your sex?’ question according to both versions of the guidance, everyone was shown each in turn, and asked how they would respond. As mentioned throughout, the sample was split evenly so that half of participants were shown the self-identification sex guidance first, and the remaining half saw the ‘legal sex guidance first. Once a participant had indicated how they would respond, two questions on the acceptability of the guidance and its likely impact on behaviour at the census were asked. Everyone was then presented with the alternative guidance, asked how they would respond to the sex question based on it and then asked the same two questions designed to evaluate views towards it.40

Asking everyone the sex question twice, considering both versions of the guidance, allowed for comparisons of response to the sex question and of overall views towards the guidance.41 Around half (47%, n= 35) of all trans or non-binary participants reported that they would not answer the sex question if it was accompanied with the legal sex guidance (Table 4:9). This was significantly higher than the proportion (21%, n = 16) that said that the same of the self-identification sex guidance.42

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40 See Appendix B for questionnaire content
41 Those who reported reading the guidance when first answering the sex question, but didn’t access it according to background data collected, are excluded from the analysis in this section as they did not actually see the guidance at the point at which response to the sex question was made. This meant comparisons on response based on guidance could not be made.
42 P=0.002. See analysis in Section 2 for further details on statistical testing.
Table 4:9  Using this guidance, how would you answer the question ‘what is your sex?’

<table>
<thead>
<tr>
<th></th>
<th>Self-identification sex guidance</th>
<th>Legal sex guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>%</td>
</tr>
<tr>
<td>Female</td>
<td>23</td>
<td>31</td>
</tr>
<tr>
<td>Male</td>
<td>32</td>
<td>43</td>
</tr>
<tr>
<td>I would not answer</td>
<td>16</td>
<td>21</td>
</tr>
<tr>
<td>Bases</td>
<td>71</td>
<td></td>
</tr>
</tbody>
</table>

Since everyone was asked to answer the sex question twice, according to both guidance types, it was possible to examine if, and how, a person’s response changed between the two versions. For six in ten trans or non-binary participants (61%, n = 42) response to the sex question varied depending on the type of guidance considered.

Table 4:10  Whether gave same/different response to sex question based on different versions of the guidance

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Same response to both sex question</td>
<td>27</td>
<td>39</td>
</tr>
<tr>
<td>Different response to sex question</td>
<td>42</td>
<td>61</td>
</tr>
<tr>
<td>Base</td>
<td>69</td>
<td>100</td>
</tr>
</tbody>
</table>

Eleven participants who considered their self-identified sex to be female also responded female when asked to consider the legal sex guidance. Ten participants responded male irrespective of guidance type while six reported they would not answer the sex question if either version of the guidance was used. Among those reporting that the response they gave would vary depending on guidance type, of note were the 26 people who would not answer the sex question if legal sex guidance were used but would answer it they could respond with their self-identified sex. Conversely, seven participants that answered the sex question when asked to consider the ‘legal sex guidance, said they would not answer when asked to consider the self-identification sex guidance (Table 4:11).
Table 4:11  Response to sex question when asked to consider self-identification sex guidance by response to sex question when asked to consider legal sex guidance

<table>
<thead>
<tr>
<th>Response to sex based on self-identification sex guidance</th>
<th>Response to sex based on legal sex guidance</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Female</td>
<td>Count</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>55</td>
</tr>
<tr>
<td>Male</td>
<td>Count</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>30</td>
</tr>
<tr>
<td>I would not answer</td>
<td>Count</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>Count</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>100</td>
</tr>
</tbody>
</table>

Those who reported that they would not answer the sex question when a specific set of guidance was used were asked to explain why, in their own words, this was the case. Several of the reasons given by people who said they would not answer the sex question if ‘legal sex guidance was used included reference to personal identity and lived experience.

“I have an interim GRC that is in process to a full GRC, there’s also no way I’d answer that as my birth gender as that is not my gender, and I’d be offended/upset at anyone./any questionnaire trying to insist it was just because I didn’t have a full GRC yet.” (45 – 54 years, Trans woman)

“I do not wish to answer a question that is based purely on my assigned sex status at birth. That is not who I am.” (45 – 54 years, Trans man)

For several, who said they would not answer the sex question if self-identification guidance was used, the option to self-identify as male or female did not help them as they were non-binary. Although some expressed a preference for it over the legal sex guidance.

“I do not understand why as i non-binary person it is vital for me to provide information on my sex which matches my official documents, if this is not case for binary transgender people, who are permitted to self-select their sex regardless of what is on their official documents, when both groups are essentially in the same position with regards to this question.” (16 – 24 years, non-binary)

“I would still feel distressed but not as severely [as for legal sex guidance], because it feels that at least there is a recognition that this is a complex issue, and it would cheer me a little that at least my binary trans friends were being properly respected even if I were not. I would still feel ashamed and sad, but I
would try to bear with it because I want to contribute as best I can.” (45 – 54 years, non-binary)

Some participants reported that they wouldn’t answer the sex question if either set of guidance was used. Again, a common theme among was the lack of an available option for non-binary people.

“Neither describes how I would define my sex.” (25 – 34 years, non-binary)

4.6 Acceptability of guidance types

After being presented with a version of the guidance and asked how they would answer the sex question accordingly, participants were asked how acceptable the guidance was for use in the census. This question was asked before a participant was presented with the alternative guidance and associated set of questions (Table 4:12).

When asked about the acceptability of using self-identification sex guidance with the sex question for the census, 2 in every 3 participants (67%, n = 50) reported that they found the guidance either acceptable or very acceptable. Sixteen (21%) trans or non-binary participants reported they would find it ‘not acceptable’ or ‘not at all’ acceptable for the census to include included self-identification sex guidance.

Three in four trans or non-binary participants (77%, n = 58) reported that they found the legal sex question guidance unacceptable, that is, they described it as not acceptable or not at all acceptable for use in the census. Ten participants described the legal sex guidance as acceptable for use in the census, significantly lower than acceptability levels for the self-identification sex guidance.

<table>
<thead>
<tr>
<th>Table 4:12</th>
<th>How acceptable is it for self-identification sex guidance to be used in the census?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Self-identification</strong></td>
</tr>
<tr>
<td></td>
<td>Frequency</td>
</tr>
<tr>
<td>Very acceptable</td>
<td>26</td>
</tr>
<tr>
<td>Acceptable</td>
<td>24</td>
</tr>
<tr>
<td>Neither acceptable nor unacceptable</td>
<td>9</td>
</tr>
<tr>
<td>Not acceptable</td>
<td>9</td>
</tr>
<tr>
<td>Not at all acceptable</td>
<td>7</td>
</tr>
<tr>
<td>Acceptable/Very acceptable</td>
<td>50</td>
</tr>
<tr>
<td>Not acceptable/not all acceptable</td>
<td>16</td>
</tr>
<tr>
<td><strong>Bases</strong></td>
<td>75</td>
</tr>
</tbody>
</table>

It was possible to examine responses to acceptability of self-identification sex guidance by responses based on acceptability of the legal sex guidance. Ten (13%) trans or non-binary participants describe both sets of guidance as acceptable for use in the census (Table 4:13). One in five (n = 15) reported that both sets of guidance were
unacceptable. Forty-six participants (61%) viewed the self-identification sex guidance as more acceptable than the ‘legal sex guidance for inclusion in the census, while just one participant felt the legal sex guidance was the more acceptable of the two.

| Table 4:13 Difference in acceptability of guidance |
|-----------------------------------|---------|-------|
| Both versions acceptable         | 10      | 13    |
| Both versions unacceptable       | 15      | 20    |
| Both versions neither acceptable or unacceptable | 3 | 4 |
| Self-identification guidance more acceptable than legal sex guidance | 46 | 61 |
| Legal sex guidance more acceptable than self-identification guidance | 1 | 1 |
| **Bases**                        | 75      | 100   |

4.6.1 Reasons given for finding the self-identification sex guidance unacceptable

If a participant described a version of the guidance as either not acceptable or not at all acceptable for use in the census then they were asked to describe in their own words why they felt this was the case. In total, sixteen participants said that they found the self-identified sex guidance unacceptable. Most objections came from participants who described their trans status as ‘non-binary,’ although not everyone who reported their trans status as non-binary found the guidance unacceptable. Of all 33 non-binary participants, 12 objected to the self-identification sex guidance and 22 objected to the legal sex guidance. Seventeen participants provided some information on why they thought the self-identification sex guidance was not acceptable. When asked to explain, in their own words, why this was the case the most pronounced objection given related to the binary nature of the response options on offer rather than any specific objection to the guidance itself.

“*It doesn't identify that not everyone fits neatly within the boxes male and female.*” (16 – 24 years, non-binary)

“*Sex and gender are on a bimodal spectrum rather than a strict binary*” (45 – 54 years, non-binary)

For some who found the self-identification sex guidance unacceptable, the lack of a third response option had significant personal and emotional implications. The binary sex question was described as invalid and some felt that forcing non-binary people to ‘misgender’ themselves was distressing.

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Unacceptable is defined as not acceptable and not at all acceptable combined.
Other objections to the self-identification sex guidance touched on broader societal implications relating to the role of census in defining society, the accuracy of the data gathered and the visibility of everyone in the population.

“…to not let people be respected for who they are, isn’t a good point to define a community or society by excluding them.” (25 – 34 years, non-binary)

“This mental distress provoked is not in the name of greater good or in the name of providing necessary data… it is unnecessary as the information it solicits is meaningless and unusable.” (16 – 24 years, non-binary)

One view expressed was that the self-identification sex guidance confuses gender and sex which were considered to be separate by the person who expressed the view. Some felt that whilst the guidance recognised the existence of non-binary identities, the question did not provide an appropriate response for those with such identities. This objection was expressed by trans participants who described themselves as non-binary as well as those who did not.

“I would also argue that to segregate “non-binary” answers to some separate “trans status” category is incredibly dismissive and I would like to emphatically request that you consider us valid human beings. If anything, separate sex and gender, not cis and trans.” (35 – 44 years, non-binary)

“It conflates a person’s gender identity with the gender assignment given them at birth and forces them into choosing a binary position. Non-binary and intersex people exist and the guidance is helping the census erase them.” (45 - 54 years, trans woman)

Finally, some who found the self-identification sex guidance unacceptable clearly expressed a preference for it over the alternative legal sex guidance and/or recognised its relevance to trans people who did not object to binary response options.

“I do however believe that the guidance in relation to trans men and trans women is great!” (25 – 34 years, trans woman)

### 4.6.2 Reasons given for finding the legal sex guidance unacceptable

In total, 58 (77%) trans or non-binary people said that they found the legal sex guidance either ‘not acceptable’ or ‘not at all acceptable’. When asked to explain, in their own words, why they did not think it acceptable to have the legal sex guidance with the sex question in the census, just one of those objecting to the guidance chose not to provide a reason why.

Many of those objecting to the legal sex guidance offered an extensive narrative of their concerns on the acceptability of the guidance for use in the census and often included multiple reasons why they objected. Common themes, discussed in turn below, were:

- The binary nature of the sex question
- Issues with the legal sex guidance specifically
• Data quality implications of using legal sex guidance
• Emotional implications of the legal sex guidance on trans people
• Societal implications of using legal sex guidance

Binary nature of the sex question
For those who described their trans status as non-binary, the objections to the ‘legal sex guidance were in a similar vein to those they expressed about the self-identification sex guidance. The binary nature of the response options to the sex question was a key reason non-binary people described the legal sex guidance as unacceptable for use in the census. This view was also held by some trans people who did not describe their status as non-binary. A binary question than acknowledges the existence of non-binary identities in the guidance was particularly frustrating for some participants.

“It's nonsensical, patronising and confusing to require me to answer a binary question about sex followed by a question that allows me to identify as non-binary. Being non binary means I am not make or female regardless of what is on my birth certificate. It is intrusive, insensitive and disrespectful to ask what is on my birth certificate given that it is not relevant to my sex and gender now.” (35 – 44 years, Non-binary)

Issues with the legal sex guidance specifically
With regards the actual guidance itself, the main criticism centred around the use of the ‘legal’ definition of sex. While it was acknowledged that the guidance was in line with the current legal definition and the laws around GRCs, the fact it was compliant with the current legal definition did not mean that this was the most appropriate way to have people report their sex.

“It’s invasive and irrelevant. The sole reason I didn't click "not at all acceptable" is because it does correlate with the current law around GRCs.” (16 – 24 years, Trans man)

Several reasons why the legal definition of sex was not viewed as fit for purpose were offered. First, the requirement to have a gender recognition certificate (GRC) to be able to record a sex different to the one on the birth certificate was a source of frustration for some. The process to obtain a GRC was described as heavily bureaucratic and consequently off-putting for many who were eligible to apply. Acknowledging the proposed changes to GRC administration, several participants mentioned that they would not put themselves through a process perceived to be lengthy and involved when the legislation may be subject to change soon. GRC not being applicable to all in its current form was also mentioned as a barrier to applying. Consequently, for some, using a GRC to determine someone’s sex was described as assessing trans people based on their willingness to go through an outdated process rather reflecting the stage of their transition.

“It assumes trans people are able or willing to get a GRC. Until the GRC legislation changes, the process of changing your legal sex is complex and bureaucratic.” (35 – 44 years, Trans man)
“It also in my opinion creates a 2 tier system among trans people - those with a GRC and those without - therefore reinforcing the authority of the gender recognition panel that assesses the validity of a trans person based on outdated criteria. Examples of which being a psychiatric assessment, how many surgeries you have had, what you look like in a photo, all for the sum of a £140 fee with no right to appeal a rejection.” (25 – 34 years, trans woman)

Some who objected to the legal sex guidance questioned the need to collect legal sex data. For most participants, the sex assigned to them at birth was their legal sex. Only for few their legal sex was the sex in which they lived and accessed services. Several respondents reported that all services they needed, both from the voluntary and public sector, were provided to them based on their self-identified sex; without requiring a GRC.

“Furthermore, I don’t fully understand what the purpose of requiring the documentation of a transgender individual’s legal or birth sex would achieve. As a transgender woman I have had dealings with many charities and local health services. All of which provided help and support tiered to me as a woman, based on a system of gender self-declaration. When I suffered trauma after being sexually assaulted in a bar on a night out, I was referred to Rape Crisis Scotland who provided support and care to me as a woman. When I was referred to an Eating Clinic to tackle my issues with Anorexia and Binge-eating Disorder, I was provided support and care as a woman. When I was referred to Autism Scotland to assess learning difficulties, I was provided support and care as a woman. Not once was I required to provide a Gender Recognition Certificate to acquire the support I needed.” (25 – 34 years, trans woman)

Data quality implications of using legal sex guidance

Data collected on the basis of legal sex was also perceived to be of poor quality in that it would not support consistent responses. Some trans participants would have to answer based on their birth sex, as they have not obtained a GRC, whereas, others would answer based on their lived sex – having obtained a GRC. Some noted that there would be difficulties with how the data would be used in particular because of the differing medical needs for those who had been through transition and those who had not. For example, one view mentioned by several participants was that counting trans men without a GRC as female would be meaningless given they could have had various surgeries or other procedures but not applied for a GRC.

“Furthermore, due to the nature of the therapies and procedures I have undertaken during my transition, I am more likely to require screenings for issues that, the majority of the time, affect women. These being breast cancer screenings and osteoporosis risk assessments due to my, what is medically considered, feminine levels of Oestradiol and Androgens. Therefore, it is to my, and NHS Scotland’s benefit, that I am consistently recorded as female, to ensure that the necessary treatments and screenings are appropriately funded and accessible in my area. This also being true for the charities I mentioned earlier, who provided vital support in my times of desperation.” (25 – 34 years, trans woman)
Some participants also noted that the data collected using this guidance would be incomparable to that from the previous census, in that it would force trans people without a GRC to report their birth sex rather than their self-identified sex.

“…this would make the next set of data incompatible with that of previous censuses that allowed trans people to answer as their lived sex.” (35 – 44 years, Non-binary)

Several participants mentioned that if the census included the legal sex guidance, they would ignore it and answer the sex question based on self-identified sex. Some of these people also indicated that they would refuse to answer the subsequent question on trans status, as it would reveal that they had lied when answering the sex question and consequently allow sex at birth to be determined.

“As a trans people who suffers from gender dysphoria, it would be incredibly distressing for me to essentially identify or "out" myself on official documents as I do not possess a Gender Recognition Certificate. This therefore would result in me either identifying myself as my lived sex of female, regardless of the guidance's request for legal sex or sex assigned at birth; or not answering at all.” (25 – 34 years, trans woman)

For some, permitting trans people to answer the sex question according to self-identified sex was perceived as more beneficial for the census, allowing for a more accurate representation of the Scottish trans population.

“It would also, in my opinion, hugely benefit the wider transgender community to have the guidance ask for lived sex, as it could potentially increase the chance of transgender people willing to identify themselves as such and therefore would help accurately determine just how many transgender people live Scotland.” (25 – 34 years, trans woman)

Emotional implications of the legal sex guidance on trans people

Several participants indicated that the legal sex guidance would potentially have significant emotional impact on trans people. The legal sex guidance was associated with feelings of distress and rejection. One view was that using such guidance would create a sense amongst the trans population that they were “second class citizens” and that their identities would not be properly recognised, each perceived to have potentially negative consequences for the mental wellbeing of trans people.

“I work with a lot of trans young people (both under and over 16) and vulnerable trans people who are unable to monitor and reduce the negative effects that this guidance would induce. By requiring them to answer as the sex on their birth certificate they know that in the eyes of the state, and therefore wider society, they are and will always be the sex they were assigned at birth. This will have significant impact on their mental health and I am concerned at the damage which could occur as a result.” (25 – 34 years, Trans man)

“Answering the question like that made me feel physically sick. I felt betrayed because I had not expected it here. I have made huge efforts to contribute to my country and this makes me feel that my country is rejecting me; that I am
being treated like a second class citizen. I also feel that I am being forced to lie, which is repellant to me.” (45 – 54 years, Non-binary)

**Societal implications of using legal sex guidance**

In several instances, the decision around which sex guidance should be used in the census was perceived to have wider societal implications. It was felt that by deciding between legal and self-identification sex guidance, the government would make clear its stance on the acceptance and recognition of trans identities, as well as potentially shape public perceptions on the matter. One view was that having to ‘misgender’ oneself in responding to the census was similar to behaviours which in other spheres of life would be deemed discriminative and unlawful. In a similar vein, it was noted that a decision to adopt legal sex guidance could be perceived as providing a justification of anti-trans ideology and potentially provoking resentment of the trans population.

“It forces trans people who have fought to overcome huge obstacles to become their true selves to go back to a place which hurts them and where they don’t belong. It automatically mis-genders them and if someone did that on the street it would be a hate crime, if an employer did this we would be going to HR or higher. It totally invalidates trans identities but also refuses to see they exist. And it feels extremely discriminatory, like I previously mentioned- if someone was found to have filled it in falsely or not at all over this I know there can be a fine, this would essentially be a fine for being trans and unable to put your trans gender on a form as it doesn’t have an option for that and they refused to buckle and go back to birth gender. That is not a good place to be, we have spent years being celebrated as being world leading for not making trans people feel like that, so we should see, accept and recognise trans identities which the first question did and would also actually maybe give an idea of trans population. For me personally I answered the last census as male so no way I am answering differently this time.” (25 – 34 years, Trans man)

The perception that the legal sex guidance reinforced the prioritisation of sex over gender as a principal characteristic was also noted by participants.

“It asks those of us who do not have the luxury of having a GRC (non-binary people, people who have issues gaining a GRC linked to citizenship issues, those under the age of 18, people who cannot afford to do so, people who refuse to engage with an outmoded process, etc.), and thus have our birth certificate reissued, to lie about the sex we live our daily lives, and access services, as. It is both distressing and inaccurate. Moreover, it is an intentional attempt to cement ‘sex’ as only what is recorded on a birth certificate, and make that concrete, separated off from gender which is not used in most legislation. It is an ideological shift that does not serve a legitimate data collection purpose.” (35 – 44 years, Non-binary)

**4.7 Likely impact of guidance types on census behaviour**

In addition to being asked how acceptable each version of guidance was for use in the census, trans or non-binary participants were also asked what they would do if the
census were to include the guidance with the sex question. Response options ranged from answering the ‘what is your sex?’ question, skipping the sex question but answering the other questions in the census, or not taking part in the census at all because of the guidance. Participants also had the option to say they were not sure what they would do.\textsuperscript{44}

4.7.1 Likely impact of self-identification sex guidance on census completion

Seven in ten (69%, n = 52) trans or non-binary participants reported that if the census included the self-identification sex guidance with the sex question they would proceed and answer the question (Table 4:14). Around two in ten (19%, n = 14) reported that they would skip the sex question but answer other questions on the census, while the remainder either said they would not answer the census at all (5%, n = 4) or were not sure what they would do (5%, n = 4).

| Table 4:14 What would you do if the census included self-identification sex guidance with the sex question? |
|-------------------------------------------------|-----------------|-----|
| Non-response                                     | Frequency       | %   |
| I would answer the question ‘What is your sex?’  | 52              | 69  |
| I would skip the question ‘What is your sex?’ but answer the other questions in the census | 14              | 19  |
| I would not complete the census at all because of this | 4               | 5   |
| I’m not sure what I would do                     | 4               | 5   |
| \textit{Bases}                                   | 75              | 100 |

Those who found the self-identification sex guidance unacceptable were more likely than others to report that they would skip the sex question in the census (50%, n = 8) or not complete the census at all (25%, n = 4) if the guidance were used. Conversely, the majority (90%, n = 45) of those who found the guidance acceptable reported that they would answer the sex question in the census if it was accompanied by this guidance.

4.7.2 Likely impact of legal sex guidance on census completion

When asked what they would do if legal sex guidance was used in the census, around a third (31%, n = 23) reported that they would skip the sex question if the guidance were used (Table 4:4). The same number said they would skip the census entirely if asked to answer the sex question according to their legal sex. Just seventeen trans or

\textsuperscript{44} See Section 3.6 for further background on asking people about future behaviours.
non-binary participants thought they would answer ‘what is your sex?’ in the census if asked to consider the legal sex guidance.

Table 4:15  What would you do if the census included legal sex guidance with the sex question?

<table>
<thead>
<tr>
<th>What would you do if the census included legal sex guidance with the sex question?</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>17</td>
<td>23</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>23</td>
<td>31</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>23</td>
<td>31</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Non-response</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Bases</td>
<td>75</td>
<td>100</td>
</tr>
</tbody>
</table>

Among those who deemed the legal sex guidance unacceptable for use in the census, 33% (n = 19) said that they would skip the sex question at the census and 40% (n = 23) thought they would not complete the census at all if the guidance was included with the sex question (Table 4:16). Twelve percent (n=7) of those who found the ‘legal sex guidance to be unacceptable for use in the census thought they would answer the sex question at the census.
Table 4:16  Response to “What would you do if the census included legal sex guidance with the question ‘What is your sex?’” by acceptability of Guidance

<table>
<thead>
<tr>
<th>What would you do if the census included this guidance with the question ‘What is your sex?’</th>
<th>Acceptability of legal sex guidance</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acceptable</td>
<td>Neither acceptable or unacceptable</td>
</tr>
<tr>
<td>I would answer the question ‘What is your sex?’</td>
<td>Count</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>80</td>
</tr>
<tr>
<td>I would skip the question ‘What is your sex?’ but answer the other questions in the census</td>
<td>Count</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>0</td>
</tr>
<tr>
<td>I would not complete the census at all because of this</td>
<td>Count</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>0</td>
</tr>
<tr>
<td>I’m not sure what I would do</td>
<td>Count</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>

4.7.3 How did likely impact on census completion differ by guidance type

For thirty participants (40%) behaviour at the census did not vary by guidance type. (Table 4:5). The same proportion (40%, n=30) indicated that the legal sex guidance would have a greater negative impact on census behaviour than the self-identification sex guidance. These people would either skip the sex question or not take part in the census at all if legal sex guidance were included with the sex question, whereas, they would answer the question if self-identification sex guidance were to be used. Just two participants described the self-identification sex guidance as likely to have a greater impact on census behaviour than the legal sex guidance. Twelve participants (16%) did not know what they would do if one of the sets of guidance (self-identification sex or legal) were included, and hence the impact was unclear.
<table>
<thead>
<tr>
<th>Table 4:17 Difference in impact of guidance</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not answered one or both impact questions</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Same response at both impact questions</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>Impact not clear</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Legal sex guidance had greater negative impact than self-identification sex guidance</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>Self-identification sex guidance had greater negative impact than legal sex guidance</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>75</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.8 Additional views trans or non-binary participants provided on the guidance

As noted earlier in the report, trans or non-binary participants often offered a broad and extensive narrative when asked to answer questions in their own words. As a result, the data collected revealed additional findings, that did not necessarily fall under any of the topics touched on thus far but, nevertheless, may be considered relevant. As such, they are reported here as additional findings.

Feedback on the term 'birth sex'

One of the common themes identified earlier was a dislike of the notion of ‘birth sex’. As their birth sex was considered no longer relevant to them, participants expressed a significant unease with its use. However, some participants offered potential solutions to the issue.

One view was that a question on gender combined with a question on trans status would provide far more meaningful data than either version of the guidance. People would be allowed to self-identify and would therefore be more inclined to volunteer their trans history. Subsequently, a cross-reference of the two responses would enable the separation of trans and non-trans people without the associated negative impact of asking birth sex.

“I am not female. I am non-binary. I do not see how it is relevant. You can monitor equality through using gender only and additional questions about trans history/status/being a different gender to the one assigned at birth. It feels incredibly painful and uncomfortable to have to answer as female as that is not what I am, but what so many people view me as (incorrectly).” (25-34 years, non-binary)

“All other documentation I have says my sex is male, including my medical records. Why is the sex i was assigned at birth relevant when I have disclosed a trans status?” (16-24 years, trans man)
Some suggested alternative to ‘what is your sex?’

Some non-binary participants recognised the relevance of asking about birth sex. However, given the emotional impact of terms such as ‘birth sex’ and ‘GRC’ can have on some trans or non-binary people, they suggested the question might usefully be rephrased. According to some participants, being asked the sex assigned to them at birth was a completely different question to ‘what is your sex?’. Subsequently, although ‘male’ is not an accurate term for non-binary people, assigned male at birth (AMAB) was characterised as an acceptable term.

“I understand you need to know certain information to plan for appropriate NHS resources etc., but changing the way the census works to force people to misidentify themselves is a backward step, and there are better ways to get this information. I’m happy to identify as AMAB non-binary, but not as male.” (35 – 44 years, non-binary)

“I would probably order the paper form so I could write in “AMAB Non-binary” (assigned male at birth), but I would feel a lot better about answering it after reading the guidance.” (35-44 years, non-binary)

A suggestion to avoid confusion and misuse of ‘sex’ and ‘gender’ as terms, another suggestion was to replace the ‘what is your sex?’ question with ‘how would you describe yourself’. This way there would be no references to confusing terms and people will be able to self-identify.

Personally I think rather than a sex or gender question there should be a "how would you describe yourself " question with man, woman and other (with space to specify) options. This removes the problem of different interpretations of the terms sex and gender and would still be useful for equalities monitoring. (16 – 24 years, non-binary)

Data quality implications for legal sex guidance

Referring to the legal sex guidance, some participants mentioned that if forced to answer the sex question in the census, based on the legal sex guidance, they will actively choose to record their self-identified sex irrespective of what the guidance says. In addition, some of these people would then not answer the trans status question either. These data quality implications did not apply to the self-identification sex guidance.

“What this guidance does do is make sure that I do not answer the question about my trans status. The result is that for statistical purposes you cannot differentiate me from someone who was born with a cervix. This guidance corrupts data that could easily be extracted by simply allowing me to answer female as that is how I live my life and then comparing that with my answer to the trans question which clearly tells you that I was not born with a cervix.” (55 – 64 years, trans woman)

“…If however, they can answer the sex question with their true gender, then there is more chance that trans people will actually answer this voluntary
question. It all depends on how the sex question is worded and what the options are!" (55-65 years, trans status not described)

Concerns about the implications of lack of anonymity

Another point raised was around the named responses on census. Some reported that the census is not anonymous, and a cross-reference of sex and forename would be enough to identify them, people mentioned that some trans participants would be unwilling to disclose such information.

“This guidance can also force trans people to out themselves anyway, because their forenames may clearly be at odds with their birth sex, thus flagging up their trans status no matter the voluntary trans question afterwards. So this guidance directly contradicts the census' attempts to foster equality.” (45-54 years, trans woman)

“Also, asking binary trans people who are not out (whether they've transitioned or not) to disclose this is... not good as long as census data is not anonymous.” (35-44 years, non-binary)

Feedback on the trans status question

Another issue identified was that under the current trans status question, two different notions were conflated. The current trans status question was characterised as an attempt to separate cis and trans binary population. Addressing non-binary participants under the same question, despite the fundamental differences in the binary nature of their existence, was seen as 'incredibly dismissive'. Others suggested having the sex and trans question appear together so that participants can see how they relate to each other.

“Also, not all non-binary people consider themselves to be trans, and some would therefore be forced to misidentify themselves either as cisgender (then limited to the previous question's binary), or as trans to get the option to identify themselves as non-binary.” (35 – 44 years, non-binary)

“I would also argue that to segregate “non-binary” answers to some separate “trans status” category is incredibly dismissive and I would like to emphatically request that you consider us valid human beings. If anything, separate sex and gender, not cis and trans." (35-44 years, non-binary)

“It treats non-binary people as if our identity isn't real, by telling us we can't answer truthfully, and then saying "oh but it's okay, you get another go at the optional question". Considering most of the population won't answer that one (or will be confused by it), it makes me feel that I'm not being taken seriously. If nothing else, putting these questions together on the same page would make it much easier to judge how they relate to each other.” (35 – 44 years, non-binary)
Appendix A. Guidance

Scotland’s Census 2021

Questions and draft guidance for testing

September 2019

Sex question – version 1

How do I answer this question?

If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).

If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?

If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

Why is this question asked?

The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.
Sex question – version 2

What is your sex?

☐ Female  ☐ Male

How do I answer this question?

The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?

If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?

The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.
Appendix B.  Questionnaires

Contents

1. General population survey – Paper – Version A
2. General population survey – Paper – Version B
3. General population survey – Online – Version A
4. General population survey – Online – Version B
5. Trans or non-binary survey – Online only – Version A
6. Trans or non-binary survey – Online only – Version B
1. General population survey – Paper – Version A

Help shape the next census

National Records of Scotland is responsible for carrying out the 10-yearly census of population and housing in Scotland. It is vital for the planning and funding of services in your community.

Planning for the next census, which will take place in 2021, is already underway. We need to make sure that we get the right information for everyone in Scotland. By filling out this survey you will be helping us to ask the right questions.

ScotCen is carrying out a short survey on our behalf to test some questions that may be included in the next census. By taking part in this survey you will help shape the next census.

Further information about the survey and our privacy notice are available at www.scotcen.org.uk/census

All the answers you provide will be entirely confidential.

How to fill in this questionnaire

This survey takes around 5 minutes to complete. Please answer all questions, unless the instructions ask you to skip a question. For most questions you will be asked to tick the box next to the statement which best applies to you.

Please:
• make sure you are aged 16 or over
• you are answering on your own behalf
• tick your answers within the box like this: ☑
• print your answers, in English, within the boxes like this: SMITH
• use capital letters — one per box
• correct any mistakes like this: E or SMITH

If you prefer, you can complete this survey online at surveys.natcen.ac.uk/census

You will be asked to enter the unique access code that can be found on the letter that came with this survey.

Guidance on answering the questions

For some of the questions there is guidance available online on how to answer them at www.scotcen.org.uk/censushelp

Please return the survey using the pre-paid envelope provided, or to:
Naticen Social Research
101-135 Kings Road
Brentwood
Essex
CM14 4LX

If you have any questions please call the survey helpline FREEPHONE 0800 652 0261. The helpline is open Monday to Friday — 9am to 5pm, or email scotscen@ecotcen.org.uk
Questions

1. How many people usually live in your household?
   - Please include yourself and all other adults and children

2. Of these, how many are dependent children?
   - Please include all people who are:
     - aged 0–15
     - aged 16–18 and in full-time education

3. Which of the following best describes your household?
   - Tick one box only
     - Single person household
     - Single parent household with children
     - Couple household without children
     - Couple household with children
     - Other — without children
     - Other — with children

4. What is your age?
   - Tick one box only
     - 18–24 years
     - 25–34 years
     - 35–44 years
     - 45–54 years
     - 55–64 years
     - 65–74 years
     - 75+ years

5. What is your sex?
   - Tick one box only
     - Female
     - Male

6. Do you consider yourself to be trans, or have a trans history?
   - This question is voluntary
   - Answer only if you are aged 15 or over
   - Trans is a term used to describe people whose gender is not the same as the sex they were registered at birth
   - Tick one box only

7. Which of the following best describes your sexual orientation?
   - Tick one box only
     - Straight / Heterosexual
     - Gay or Lesbian
     - Bisexual
     - Other sexual orientation, please write in:

8. Did you read the online guidance before answering the question 'What is your sex'?
   - Yes → go to 9
   - No → go to 11

9. Did reading the guidance change how you decided to answer the question 'What is your sex'?
   - Yes → go to 10
   - No → go to 11

10. How were you going to answer the question 'What is your sex?' before you read the online guidance?
    - Female → go to 11
    - Male → go to 11
    - I was not going to answer it. Please tell us why in the box below.
Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

What is your sex?
• Female
• Male

How do I answer this question?
If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).

If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

Using this guidance, how would you answer the question ‘What is your sex’?

☐ Female  go to 13
☐ Male  go to 13
☐ I would not answer it. Please tell us why in the box below:

How acceptable is it for this guidance to be used in census?

☐ Very acceptable  go to 14
☐ Acceptable  go to 14
☐ Neither acceptable nor unacceptable  go to 14
☐ Not acceptable. Please tell us why in the box below:
☐ Not at all acceptable. Please tell us why in the box below:

What would you do if the census included this guidance with the question ‘What is your sex’?

☐ I would answer the question ‘What is your sex’
☐ I would skip the question ‘What is your sex?’ but answer other questions in the census
☐ I would not complete the census at all because of this
☐ I’m not sure what I would do
15 Here is some different guidance on how to answer the question ‘What is your sex?’.
Please read it then answer the questions below.

What is your sex?
- Female
- Male

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

16 Using this guidance, how would you answer the question ‘What is your sex’?
- Female → go to 17
- Male → go to 17
- I would not answer it. Please tell us why in the box below:

17 How acceptable is it for this guidance to be used in census?
- Very acceptable → go to 18
- Acceptable → go to 18
- Neither acceptable nor unacceptable → go to 18
- Not acceptable. Please tell us why in the box below:

18 What would you do if the census included this guidance with the question ‘What is your sex’?
- I would answer the question ‘What is your sex’?
- I would skip the question ‘What is your sex’? but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/censussupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
2. General population survey – Paper – Version B
### Questions

1. **How many people usually live in your household?**
   - Please include yourself and all other adults and children.

2. **Of those, how many are dependent children?**
   - Please include all people who are:
     - aged 0–15
     - aged 16–18 and in full-time education

3. **Which of the following best describes your household?**
   - Single person household
   - Single parent household with children
   - Couple household without children
   - Couple household with children
   - Other — without children
   - Other — with children

4. **What is your age?**
   - Tick one box only
     - 16–24 years
     - 25–34 years
     - 35–44 years
     - 45–54 years
     - 55–64 years
     - 65–74 years
     - 75+ years

5. **What is your sex?**
   - Female
   - Male

6. **Do you consider yourself to be trans, or have a trans history?**
   - This question is voluntary
   - Answer only if you are aged 16 or over
   - Trans is a term used to describe people whose gender is not the same as the sex they were registered at birth
   - Tick one box only
     - No
     - Yes, please describe your trans status (for example, non-binary, trans man, trans woman):

7. **Which of the following best describes your sexual orientation?**
   - This question is voluntary
   - Answer only if you are aged 16 or over
   - Tick one box only
     - Straight / Heterosexual
     - Gay or Lesbian
     - Bisexual
     - Other sexual orientation, please write in:

8. **Did you read the online guidance before answering the question ‘What is your sex’?**
   - Yes → go to 9
   - No → go to 10

9. **Did reading the guidance change how you decided to answer the question ‘What is your sex’?**
   - Yes → go to 10
   - No → go to 11

10. **How were you going to answer the question ‘What is your sex?’ before you read the online guidance?**
    - Female → go to 11
    - Male → go to 11
    - I was not going to answer it. Please tell us why in the box below:

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ScotCen Social Research | Testing guidance for the sex question
Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

What is your sex?
- Female
- Male

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long-term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

Using this guidance, how would you answer the question ‘What is your sex’?
- Female ➡ go to 13
- Male ➡ go to 13
- I would not answer it. Please tell us why in the box below:

How acceptable is it for this guidance to be used in census?
- Very acceptable ➡ go to 14
- Acceptable ➡ go to 14
- Neither acceptable nor unacceptable ➡ go to 14
- Not acceptable. Please tell us why in the box below:
- Not at all acceptable. Please tell us why in the box below:

What would you do if the census included this guidance with the question ‘What is your sex’?
- I would answer the question ‘What is your sex?’
- I would skip the question ‘What is your sex?’ but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do
Here is some different guidance on how to answer the question ‘What is your sex?’.
Please read it then answer the questions below.

**What is your sex?**
- Female
- Male

**How do I answer this question?**
If you are transgender, the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).
If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

**I am answering for someone else. How do I answer?**
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

**Why is this question asked?**
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

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15 Using this guidance, how would you answer the question ‘What is your sex’?
- Female  ➔ go to 17
- Male  ➔ go to 17
- I would not answer it. Please tell us why in the box below:

---

17 How acceptable is it for this guidance to be used in census?
- Very acceptable  ➔ go to 18
- Acceptable  ➔ go to 18
- Neither acceptable nor unacceptable  ➔ go to 18
- Not acceptable. Please tell us why in the box below:

---

18 What would you do if the census included this guidance with the question ‘What is your sex’?
- I would answer the question ‘What is your sex’?
- I would skip the question ‘What is your sex’ but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do

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Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/censussupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
3. General population survey – Online – Version A

Questions

1. How many people usually live in your household?
   • Please include yourself and all other adults and children
   • □

2. Of these, how many are dependent children?
   • Please include all people who are:
      • aged 0–16
      • aged 16–18 and in full-time education
   • □

3. Which of the following best describes your household?
   • Tick one box only
   □ Single person household
   □ Single parent household with children
   □ Couple household without children
   □ Couple household with children Other —
      □ without children
      □ Other — with children

4. What is your age?
   • Tick one box only
      □ 16–24 years
      □ 25–34 years
      □ 35–44 years
      □ 45–54 years
      □ 55–64 years
      □ 65–74 years
      □ 75+ years

5. What is your sex?
   □ Female   □ Male

If you gave no answer to “What is your sex? You chose not to answer the question ‘What is your sex?’ Please tell us why:

6. Do you consider yourself to be trans, or have a trans history?
   • □ This question is voluntary
   • □ Answer only if you are aged 16 or over
   • Trans is a term used to describe people whose gender is not the same as the sex they were registered at birth
   • □ Tick one box only
   □ No
   □ Yes, please describe your trans status (for example, non-binary, trans man, trans woman):

7. Which of the following best describes your sexual orientation?
   • □ This question is voluntary
   • □ Answer only if you are aged 16 or over
   • □ Tick one box only
   □ Straight / Heterosexual
   □ Gay or Lesbian
   □ Bisexual
   □ Other sexual orientation, please write in:

8. Did you press the ‘Help’ button and read the guidance before answering the question ‘What is your age’?
   • Yes go to 9
   □ No go to 11

9. Did reading the guidance change how you decided to answer the question ‘What is your sex’?
   • Yes go to 10
   □ No go to 11

10. How were you going to answer the question ‘What is your sex’ before you read the online guidance?
    Female go to 11
    Male go to 11
    I was not going to answer it. Please tell us why in the box below:
11 Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

**What is your sex?**
- Female
- Male

**How do I answer this question?**
If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC). If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

If you are answering for someone else, How do I answer?
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

**Why is this question asked?**
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

12 Using this guidance, how would you answer the question ‘What is your sex’?
- Female go to 13
- Male go to 13

I would not answer it. Please tell us why in the box below.

13 How acceptable is it for this guidance to be used in census?
- Very acceptable go to 14
- Acceptable go to 14
- Neither acceptable nor unacceptable go to 14
- Not acceptable. Please tell us why in the box below:

Not at all acceptable. Please tell us why in the box below:

14 What would you do if the census included this guidance with the question ‘What is your sex’?
- I would answer the question “What is your sex?”
- I would skip the question “What is your sex?” but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do
15 Here is some different guidance on how to answer the question ‘What is your sex?’.
Please read it then answer the questions below.

What is your sex?
• Female
• Male

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

16 Using this guidance, how would you answer the question ‘What is your sex’?
   Female  go to 17
   Male    go to 17
   I would not answer it. Please tell us why in the box below:

17 How acceptable is it for this guidance to be used in census?
   Very acceptable  go to 18
   Acceptable      go to 18
   Neither acceptable nor unacceptable  go to 18
   Not acceptable. Please tell us why in the box below:
   Not at all acceptable. Please tell us why in the box below:

18 What would you do if the census included this guidance with the question ‘What is your sex’?
   I would answer the question ‘What is your sex’?
   I would skip the question ‘What is your sex’ but answer other questions in the census
   I would not complete the census at all because of this
   I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/censussupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
4. General population survey – Online – Version B

Please answer the following questions:

1. How many people usually live in your household?
   - Please include yourself and all other adults and children
   - [ ]

2. Of these, how many are dependent children?
   - Please include all people who are:
     - aged 0–15
     - aged 16–18 and in full-time education
   - [ ]

3. Which of the following best describes your household?
   - Tick one box only
   - [ ] Single person household
   - [ ] Single parent household with children
   - [ ] Couple household without children
   - [ ] Couple household with children Other —
     - [ ] without children
     - [ ] Other — with children

4. What is your age?
   - Tick one box only
   - [ ] 16–24 years
   - [ ] 25–34 years
   - [ ] 35–44 years
   - [ ] 45–54 years
   - [ ] 55–64 years
   - [ ] 65–74 years
   - [ ] 75+ years

5. What is your sex?
   - [ ] Female
   - [ ] Male
   - If gave no answer to "What is your sex? You chose not to answer the question "What is your sex?" Please tell us why:

6. Do you consider yourself to be trans, or have a trans history?
   - This question is voluntary
   - [ ] Answer only if you are aged 15 or over
   - [ ] Trans is a term used to describe people whose gender is not the same as the sex they were registered at birth
   - [ ] Tick one box only
   - [ ] No
   - [ ] Yes, please describe your trans status (for example, non-binary, trans man, trans woman):

7. Which of the following best describes your sexual orientation?
   - Tick one box only
   - [ ] This question is voluntary
   - [ ] Answer only if you are aged 16 or over
   - [ ] Straight / Heterosexual
   - [ ] Gay or Lesbian
   - [ ] Bisexual
   - [ ] Other sexual orientation, please write:

8. Did you press the ‘Help’ button and read the guidance before answering the question "What is your sex?"
   - Yes go to 9
   - No go to 11

9. Did reading the guidance change how you decided to answer the question "What is your sex?"
   - Yes go to 10
   - No go to 11

10. How were you going to answer the question "What is your sex?" before you read the online guidance?
    - Female go to 11
    - Male go to 11
    - I was not going to answer it. Please tell us why in the box below:
11 Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

What is your sex?
- Female
- Male

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

12 Using this guidance, how would you answer the question ‘What is your sex’?
   - Female  go to 13
   - Male  go to 13
   I would not answer it. Please tell us why in the box below:

13 How acceptable is it for this guidance to be used in census?
   - Very acceptable  go to 14
   - Acceptable  go to 14
   - Neither acceptable nor unacceptable  go to 14
   - Not acceptable. Please tell us why in the box below:
   - Not at all acceptable. Please tell us why in the box below:

14 What would you do if the census included this guidance with the question ‘What is your sex’?
   - I would answer the question ‘What is your sex?’
   - I would skip the question ‘What is your sex?’ but answer other questions in the census
   - I would not complete the census at all because of this
   - I’m not sure what I would do
15 Here is some different guidance on how to answer the question ‘What is your sex?’.
    Please read it then answer the questions below.

What is your sex?
• Female
• Male

How do I answer this question?
If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).
If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1881. This question is also used for equality monitoring.

16 Using this guidance, how would you answer the question ‘What is your sex’?
    Female   go to 17
    Male     go to 17
    I would not answer it. Please tell us why in the box below:

17 How acceptable is it for this guidance to be used in census?
    Very acceptable    go to 18
    Acceptable         go to 18
    Neither acceptable nor unacceptable    go to 18
    Not acceptable. Please tell us why in the box below:
    Not at all acceptable. Please tell us why in the box below:

18 What would you do if the census included this guidance with the question ‘What is your sex’?
    I would answer the question ‘What is your sex?’
    I would skip the question ‘What is your sex?’ but answer other questions in the census
    I would not complete the census at all because of this
    I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/census/support if you would like some support or wish to discuss any of the topics that have come up in the survey.
5. Trans or non-binary survey – Online only – Version A

Questions:

1. Where in the United Kingdom do you currently live?
   - [ ] Scotland
   - [ ] England
   - [ ] Wales
   - [ ] Northern Ireland

   If answer is not Scotland:
   Thank you for your interest but unfortunately you are not eligible to take part in the survey.

2. Are you aged 16 or over?
   - [ ] Yes
   - [ ] No

   If answer is not Yes:
   Thank you for your interest but unfortunately you are not eligible to take part in the survey.

3. What is your age?
   Tick one box only
   - [ ] 16–24 years
   - [ ] 25–34 years
   - [ ] 35–44 years
   - [ ] 45–54 years
   - [ ] 55–64 years
   - [ ] 65–74 years
   - [ ] 75+ years

4. What is your sex?
   - [ ] Female
   - [ ] Male

   If no answer to “What is your sex: You chose not to answer the question ‘What is your sex?’ Please tell us why:

5. Do you consider yourself to be trans, or have a trans history?
   - [ ] Yes
   - [ ] No

   If answer is not Yes:
   Thank you for your interest but unfortunately you are not eligible to take part in the survey.

6. Which of the following best describes your sexual orientation?
   - [ ] Straight / Heterosexual
   - [ ] Gay or Lesbian
   - [ ] Bisexual
   - [ ] Other sexual orientation, please write in:

7. Did you press the ‘Help’ button and read the guidance before answering the question ‘What is your sex?’
   - [ ] Yes
   - [ ] No

8. Did reading the guidance change how you decided to answer the question ‘What is your sex?’
   - [ ] Yes
   - [ ] No

9. How were you going to answer the question ‘What is your sex?’ before you read the online guidance?
   - [ ] Female
   - [ ] Male

   I was not going to answer it. Please tell us why in the box below:
10 Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

<table>
<thead>
<tr>
<th>What is your sex?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
</tr>
<tr>
<td>Male</td>
</tr>
</tbody>
</table>

**How do I answer this question?**
If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).

If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

**I am answering for someone else. How do I answer?**
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. You don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

**Why is this question asked?**
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

11 Using this guidance, how would you answer the question ‘What is your sex’?

- [ ] Female go to 12
- [ ] Male go to 12

- I would not answer it. Please tell us why in the box below.

12 How acceptable is it for this guidance to be used in census?

- [ ] Very acceptable go to 13
- [ ] Acceptable go to 13
- [ ] Neither acceptable nor unacceptable go to 13
- [ ] Not acceptable. Please tell us why in the box below:

- Not at all acceptable. Please tell us why in the box below:

13 What would you do if the census included this guidance with the question ‘What is your sex’?

- [ ] I would answer the question ‘What is your sex?’
- [ ] I would skip the question ‘What is your sex?’ but answer other questions in the census
- [ ] I would not complete the census at all because of this

- I’m not sure what I would do
14 Here is some different guidance on how to answer the question ‘What is your sex?’.
Please read it then answer the questions below

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you're answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

15 Using this guidance, how would you answer the question ‘What is your sex’?

☐ Female go to 16
☐ Male go to 16

I would not answer it. Please tell us why in the box below:

16 How acceptable is it for this guidance to be used in census?

☐ Very acceptable go to 17
☐ Acceptable go to 17
☐ Neither acceptable nor unacceptable go to 17
☐ Not acceptable. Please tell us why in the box below:
☐ Not at all acceptable. Please tell us why in the box below:

17 What would you do if the census included this guidance with the question ‘What is your sex’?

☐ I would answer the question ‘What is your sex’?
☐ I would skip the question ‘What is your sex’ but answer other questions in the census
☐ I would not complete the census at all because of this
☐ I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/censussupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
Here is some different guidance on how to answer the question ‘What is your sex?’.
Please read it then answer the questions below.

**What is your sex?**
- Female
- Male

**How do I answer this question?**
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

**I am answering for someone else. How do I answer?**
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

**Why is this question asked?**
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

**Using this guidance, how would you answer the question ‘What is your sex’?**
- [ ] Female — go to 16
- [ ] Male — go to 16

I would not answer it. Please tell us why in the box below.

**How acceptable is it for this guidance to be used in census?**
- [ ] Very acceptable — go to 17
- [ ] Acceptable — go to 17
- [ ] Neither acceptable nor unacceptable — go to 17
- [ ] Not acceptable. Please tell us why in the box below.
- [ ] Not at all acceptable. Please tell us why in the box below.

**What would you do if the census included this guidance with the question ‘What is your sex’?**
- [ ] I would answer the question ‘What is your sex’?
- [ ] I would skip the question ‘What is your sex’ but answer other questions in the census
- [ ] I would not complete the census at all because of this
- [ ] I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.
Some useful support organisations are listed at www.scotcen.org.uk/censussupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
6. Trans or non-binary survey – Online only – Version B

Questions

1. Where in the United Kingdom do you currently live?
   - Scotland
   - England
   - Wales
   - Northern Ireland

   If answer is not Scotland:
   Thank you for your interest but unfortunately you are not eligible to take part in the survey.

2. Are you aged 16 or over?
   - Yes
   - No

   If answer is not Yes:
   Thank you for your interest but unfortunately you are not eligible to take part in the survey.

3. What is your age?
   Tick one box only
   - 10–24 years
   - 25–34 years
   - 35–44 years
   - 45–54 years
   - 55–64 years
   - 65–74 years
   - 75+ years

4. What is your sex?
   - Female
   - Male

   If no answer to “What is your sex:
   You chose not to answer the question ‘What is your sex?’ Please tell us why:

5. Do you consider yourself to be trans, or have a trans history?
   - This question is voluntary
   - Answer only if you are aged 16 or over
   - Trans is a term used to describe people whose gender is not the same as the sex they were registered at birth
   - Tick one box only
   - No

   Yes, please describe your trans status (for example, non-binary, trans man, trans woman):

6. Which of the following best describes your sexual orientation?
   - Straight / Heterosexual
   - Gay or Lesbian
   - Bisexual
   - Other sexual orientation, please write in:

7. Did you press the ‘Help’ button and read the guidance before answering the question ‘What is your sex’?
   - Yes go to 8
   - No go to 10

8. Did reading the guidance change how you decided to answer the question ‘What is your sex’?
   - Yes go to 9
   - No go to 10

9. How were you going to answer the question ‘What is your sex’ before you read the online guidance?
   - Female go to 10
   - Male go to 10

   I was not going to answer it. Please tell us why in the box below:
10 Here is guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

How do I answer this question?
The answer you provide should be the same as your birth certificate. If you have a Gender Recognition Certificate (GRC) you may record your recognised legal sex.

The next question is a question about trans status and history. You can respond as non-binary in this question.

I am answering for someone else. How do I answer?
If you’re answering for someone else, where possible you should ask them how they would answer. If they’re away, select the answer you think they would choose.

Why is this question asked?
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1901. This question is also used for equality monitoring.

11 Using this guidance, how would you answer the question ‘What is your sex’?
☐ Female go to 12
☐ Male go to 12
I would not answer it. Please tell us why in the box below:

12 How acceptable is it for this guidance to be used in census?
☐ Very acceptable go to 13
☐ Acceptable go to 13
☐ Neither acceptable nor unacceptable go to 13
☐ Not acceptable. Please tell us why in the box below:
☐ Not at all acceptable. Please tell us why in the box below:

13 What would you do if the census included this guidance with the question ‘What is your sex’?
☐ I would answer the question ‘What is your sex’?
☐ I would skip the question ‘What is your sex’ but answer other questions in the census
☐ I would not complete the census at all because of this

I’m not sure what I would do
14 Here is some different guidance on how to answer the question ‘What is your sex?’. Please read it then answer the questions below.

**What is your sex?**
- Female
- Male

**How do I answer this question?**
If you are transgender the answer you give can be different from what is on your birth certificate. You don’t need a Gender Recognition Certificate (GRC).

If you are non-binary or you are not sure how to answer, you could use the sex registered on your official documents, such as your passport or driving licence. The next question is a question about trans status and history. You can respond as non-binary in this question.

**I am answering for someone else. How do I answer?**
If you’re answering for someone else, where possible you should ask them how they want to answer. If they’re away, select the answer you think they would choose. We don’t need to know or ask whether they have a Gender Recognition Certificate (GRC).

**Why is this question asked?**
The sex question provides vital information for organisations on national and local population statistics, and for long term analysis, as it has been asked since 1801. This question is also used for equality monitoring.

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15 Using this guidance, how would you answer the question ‘What is your sex’?
- Female  go to 16
- Male  go to 16

I would not answer it. Please tell us why in the box below:

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16 How acceptable is it for this guidance to be used in census?
- Very acceptable  go to 17
- Acceptable  go to 17
- Neither acceptable nor unacceptable  go to 17
- Not acceptable. Please tell us why in the box below:
- Not at all acceptable. Please tell us why in the box below:

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17 What would you do if the census included this guidance with the question ‘What is your sex’?
- I would answer the question ‘What is your sex’?
- I would skip the question ‘What is your sex?’ but answer other questions in the census
- I would not complete the census at all because of this
- I’m not sure what I would do

Thank you for taking part. Your answers will help shape Scotland’s Census 2021.

Some useful support organisations are listed at www.scotcen.org.uk/censusupport if you would like some support or wish to discuss any of the topics that have come up in the survey.
Dear Convener,

I am writing to update you on progress with the Census Order. This follows on from the draft Order NRS shared with you on 5 September in advance of the Culture, Tourism, Europe and External Affairs Committee’s meeting on 12 September at which officials from NRS and SGLD gave evidence.

As you are aware, we are currently in a period of informal scrutiny of the draft Census Order with the Committee, which was designed to help alleviate some of the problems that happened with the laying of the 2011 Census Order. This is an unusual process for these legislative matters, which has involved the Committee early in the process as active participants as the first engagement would usually be when the Order is formally laid in draft. This new approach came from a recommendation of the previous lead committee to seriously consider the process, such as including a pre-legislative scrutiny element for the lead committee. I hope this new period of informal scrutiny will support the successful passage of the formal draft Order through Parliament early next year.

As you are aware, the Scottish Parliament is able to agree modifications to specific provisions in the draft Census Order. These are the provisions which would be made in reliance on paragraph 6 of the schedule to the 1920 Census Act and can be seen in the italics text of the draft Census Order shared in September. I would welcome early confirmation of whether the Committee recommends any changes to the italic text of the draft Order, so that consideration can be given to incorporating those recommendations in the draft Census Order when it is to be laid. This is to avoid the need to delay the Order’s progress at a later stage if it must be withdrawn and laid again to take into account any proposed modifications.

The NRS letter of 5 September made reference to some additional but relatively minor changes to policy and operations that may need to be reflected in the formal draft Order. I am pleased to say that policy development has been completed and the main changes are shown below. These will be reflected in the Draft Order when it is laid.

- NRS are proposing a question in the Communal Establishment Managers questionnaire on the breakdown of the age profile and sex of residents in Communal Establishments. This will replace the question about which groups the establishment caters for.

- Additional clarity will be provided on which individuals are to be counted and where they are to be enumerated for Scotland’s Census 2021.
• NRS have now confirmed all the age limitations for questions in the census questionnaire.

• Further clarity will be provided on where returns are to be made for dwellings and where they are to be made for Communal Establishments.

• Those responsible for providing a return for those prisoners who are incapable of providing a return themselves are to have additional flexibility to make arrangements for those returns.

• For unoccupied dwellings, the owner will be responsible for completing the household questionnaire.

My letter of 25 October responded to the points in your letters of 18 and 24 September, which followed the evidence session on 12 September and the demonstration of the Online Collection Instrument that you received on 18 September. I would welcome any feedback on these matters.

The current sex question testing, which NRS commissioned ScotCen Social Research to carry out, is progressing well. I will share the results of that work with the Committee as soon as possible. I understand a session has been set with the Committee for 9 January 2020 to consider this work and other Census matters pertinent to the Census Order.

Please note that engagement with stakeholders continues to take place. You may be interested to note that NRS met with Professor Nick Bailey and Dr Jo Ferrie (University of Glasgow), and Professor Susan McVie (University of Edinburgh) on 7 October, and with representatives of Sikhs in Scotland on 25 October. Both of these meetings linked to matters contained within correspondence received by the Committee, which was helpful for us to receive, and both meetings were very constructive. With the agreement of all attendees, I have attached details of the meeting with Professor Bailey, Dr Ferrie and Professor McVie. We are awaiting confirmation from Sikhs in Scotland that they are content with the note of our meeting with them and for us to share with the Committee.

Please do continue to share any contacts or correspondence from individuals or groups that are interested in census matters. Whilst NRS has an extensive list of stakeholders, I very much welcome the opportunity to engage with more and to have them added to our network.

I am aware of your interest in the proposed questions with predictive text responses, which you highlighted in the Online Collection Instrument demonstration on 18 September and in further comments to the media on 30 October. To further inform discussions on this issue I would like to set out the proposed approach to predictive text for the Census in 2021.

NRS is looking at using three types of predictive type responses to help the efficient and effective collection, analysis and production of the evidence required by Census users. These are:

1. Factual question responses where there is a finite number of possibilities. In this case text responses are limited to the list and users must select one of the options from the list. Predictive text lists are drawn from international standard lists and conform to mygov and industry standards. NRS is currently considering:
2. Factual questions where there are a very large number of possible response options. In this case text responses are prompted by a predictive text, but are not limited to the predictive text list. Examples are standard industry and occupation codes, main language and health conditions. Where there are standard classification lists available, these are used as the basis of predictive text lists. Lists are also informed by responses in the 2011 census and where the questions are used in other data collections. NRS is currently considering the following within the ‘other’ write in box:

- Main language, if not English (545 suggestions)
- Long term health conditions (1159 suggestions)
- Main activity of employer or business (Industry) (8699 suggestions)
- Job title (9823 suggestions)

3. Questions about how people identify. For many questions with a text box there may not be standard classification lists used by statistical organisations. These questions, and the format of the response options, are designed to gather a wealth of detail in an efficient way, which enables everyone to respond, and minimises the space needed by the question and response options both on paper and online. Predictive text lists are based on classification indexes, 2011 responses, other research undertaken as part of census question development and through consultation with stakeholders. NRS is currently considering the following within the ‘other’ write in box:

- Sexual orientation (21 suggestions)
- Religion (Christian – 49 suggestions, Muslim – 2 suggestions, Other – 65 suggestions)
- National identity (274 suggestions)
- Ethnic group (241 suggestions)

Please note that the current proposed predictive text options are a work in progress; no lists have been finalised. They have been drawn from a range of sources, as appropriate, which includes previous censuses, other surveys, statistical desk based research and engagement with stakeholders. These are draft proposals and continue to go through a process of review, which includes evaluation of the recent Census rehearsal. As you can see from the above, there are a substantial number of options and suggestions being proposed. However, please let me know if you wish to see any in particular.

Given the interest highlighted by the Committee on matters related to ethnicity, I would also like to make you aware of the judicial review heard on 12 and 13 November related to the Census in England and Wales. The Sikh Federation launched a legal challenge to the UK Government’s proposal not to include the option of a Sikh tick box in the ethnic group question. The decision of the judicial review was announced last week and was in favour of the UK Government position. In summary, the claimant’s claim for judicial review was dismissed and permission to appeal was refused. The proposed approach in Scotland for ethnicity is the same as in England and Wales. Sikh respondents continue to be able to identify as Sikh within the religion question. Those who
do not identify as Sikh within the religion question, continue to be able to write in Sikh in the ethnic group question, as was the case in 2011.

Please contact me if you have any comments on this letter. I look forward to attending Committee on 9 January.

I trust you will find this letter helpful.

Yours sincerely

Peter Whitehouse

**Director of Statistical Services**
National Records of Scotland
Meeting with stakeholders: Census 2021 sex question on 7th October at 13:00 in 1/G/8 LWH

[Record of discussion as set down by NRS]

Attendees: Peter Whitehouse NRS
Jill Morton NRS
Anneli Lyon NRS
Professor Nick Bailey – University of Glasgow
Dr Jo Ferrie – University of Glasgow
Professor Susan McVie – University of Edinburgh
NRS Official – minute taker

Introductions were made round the table with an explanation that the purpose was to hear from stakeholders, Susan, Jo and Nick.

1. Susan, Jo and Nick felt that a self-identified sex question would produce inaccurate sex data. Their rationale for this was that

   • they considered that the current approach for responding on the sex question (self-identification), which in their view meant that respondents could answer as they wish is no longer a reasonable and accurate count of sex. [NRS consider the current approach of responding to the sex question balances the needs of all Census data users by enabling all people across Scotland to complete the Census].

   • they felt that the inaccuracy in the data from such self-identification guidance has a materially different impact on users ability to analyse the data than the impact of incomplete and missing census returns, disclosure control, item non response and other gaps in Census data that are subject to estimation and other statistical solutions. [NRS consider that Census outputs are subject to a range of estimation and item completion work]

   • whilst Stonewall estimate that 1% of the population are trans this is not evenly spread across age or location. Nick therefore felt that in some areas this could be as high as 3%. Nick concluded that if this was the case the impact on sex differentials for some age groups could be as high as 6%. [NRS agree that it is likely that the trans population is unlikely to be evenly spread across Scotland, but sees this as an important reason for ensuring that all people are able to fully engage with the Census]

   • the approach recommended by NRS was leading to data on biological sex being lost. [NRS believe that the current approach by NRS of self-identification provides the best opportunity to allow all people across Scotland to engage with the Census. The self-completion approach to the Census has always allowed respondents to answer questions as they so wish]

2. Susan, Jo and Nick raised the question as to whether a ‘biological’ sex question is unacceptable to the trans population? Susan, Jo and Nick expressed the view that many trans people say that they would answer a question on ‘biological’ sex, and that rather than it being
‘unacceptable’ there are a wide variety of views and it is more likely they find it ‘unpleasant’. [NRS’s view from testing of questions is that a biological sex question would stop some members of the trans population from completing the Census].

3. Susan, Jo and Nick spoke about the need for biological sex data. They spoke about

- Social analysis – inequality
- Resource distribution – health e.g. maternity services
- Analysis of care and ageing population in local authorities
- Sex based biases in criminal justice system

Susan, Jo and Nick agreed to send NRS examples of research/data linkage where the sex data must be biological/legal.

4. Susan, Jo and Nick discussed the impact of imperfections in the data.

- All acknowledged that there is a respondent need for a sex question as recommended by NRS, but Susan, Jo and Nick felt that this is an issue that if we cannot be accurate about what we are measuring then it can’t be used for the Equalities Act. [NRS: The Census collects information relevant to a number of the protected characteristics of the Equalities Act. NRS believe that the Census Outputs provide high quality evidence to help support authorities fulfil their duties under the Act].
- Susan, Jo and Nick felt that if the guidance is self-identified, then it is a gender identity question and gender identity is not a protected characteristic in the Equalities Act 2010. [NRS see the combination of a binary sex question and a trans question as the balanced approach for meeting the needs of respondents and users, and that the Equality Act 2010 does not, as a matter of law, restrict the questions which can be asked in the census to questions which are framed in terms of the protected characteristics described in the Act]
- The census has an obligation to produce data that allows people to carry out duties in accordance with the Equality Act [NRS agree. NRS is fully committed to the Act and wish to ensure Scotland’s Census 2021 is exemplar in this area.]

5. On the question of Guidance/No guidance, Susan, Jo and Nick made the following points/questions.

- How do non-binary people complete the self-identified sex question followed by the trans questions. There would be more clarity for the non-binary population if there was a biological sex question followed by the trans question. [NRS’s testing indicates that a self-identified sex question followed by a trans questions enables all people across Scotland to engage with the Census].
- Susan, Jo and Nick felt ‘legal basis’ is the best solution, but that if there is no guidance, then guidance will emerge which will lead to even less clarity. They felt that it is better to have certainty with guidance rather than no guidance. [NRS agree that guidance provides an important mechanism for supporting the collection of high quality data. NRS has appointed ScotCen to test alternative guidance. To date NRS’s testing indicates that a self-identified sex question followed by a trans questions enables all people across Scotland to engage with the Census]
NRS agreed to send the most recent version of the guidance.

6. UK Harmonisation was also discussed. The following points were made

- NRS confirmed that the proposed sex question for 2021 is binary and will be asked on a self-identified basis across the UK
- NRS noted that harmonisation is on outputs but not on all questions.

On behalf of

Pete Whitehouse
Director of Statistical Services
National Records of Scotland

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From: Nick Bailey  
Sent: 08 October 2019 10:12  
To: NRS Official; Jo Ferrie; Susan McVie  
Cc: NRS Official; Whitehouse P (Peter)  
Subject: RE: Census 2021: Invitation to meet  

*** and colleagues

Hi and thanks for meeting with us yesterday. We’ll get back to you on some of the points raised soon.

On the specific issues about the guidance for each question, I felt that this is done on a rather inconsistent basis at the moment. I doubt any change of wording here will make a difference to response rates directly but it could be something which you find it useful to point to when trying to get as broad a consensus as possible behind the final form of words for the guidance. For example:

- Q5 on Marital Status explains that this status is “protected by the Equality Act 2010” (a slightly unclear form of words?). This leaves it implicit that the question is asked for the purpose of monitoring equalities under the Act though the following examples of how SG and others will use the information is helpful.
- Q23 on Ethnicity explains that this “supports efforts to make sure people are treated fairly and promote a more equal society” but avoids mention of equalities monitoring or the 2010 Act although this is a protected characteristic.
- Q2 on Date of Birth just says “Answers to this question are used to calculate age.” But it doesn’t say anything about why you need age. It makes no mention of equalities monitoring or the Act although age is a protected characteristic, nor of service planning or resource allocation.
• Q3 on Sex states that the data will be used for ‘equality monitoring’ but doesn’t make explicit reference to the Equality Act 2010 nor does it note that sex is a protected characteristic. It makes general reference to information on the importance of sex for population statistics but doesn’t mention the role of sex in relation to service planning or resource allocation.

• Q4 on Trans Identity makes reference to planning and design of services, and equalities monitoring.

It would be clearer if the guidance stated clearly that one reason for asking each of the questions which are protected characteristics is, in part, the requirement for monitoring equalities under the Equality Act 2010. For the sex question, this would reinforce the justification for asking about legally-recognised sex. It would also be helpful to be clearer that sex and age play crucial roles in allocation of resources for major services, as well as planning specific services.

Hope this is helpful.

Regards

Nick

Follow-up comments from NRS (28th November 2019) – annotated to this document

• NRS acknowledges Nick’s point about consistency and will take this feedback into consideration as part of the guidance review

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From: MCVIE Susan
Sent: 27 November 2019 11:51
To: NRS Official; Nick Bailey; Joanna Ferrie
Cc: Whitehouse P (Peter); NRS Official; McEwen SG (Scott)
Subject: RE: Note of Meeting on 7th October 2019: Census 2021 sex question
Importance: High

Dear ***

Apologies for not getting back to you sooner. It has been difficult for us to discuss this together since the meeting, and as you know there is currently a period of industrial action taking place. That being the case, you should take the response below to be mine as I cannot speak for Nick and Jo on all of the points made.

Many thanks for giving us the opportunity to respond to the minute of our meeting. I would like to point out some points in the minute that I do not agree with, which I feel misrepresents what we said and which we discussed at the meeting but have been omitted from the minute.
1. Under point 1, I note that you refer to the ‘current approach’ rather than ‘the proposed approach’, which suggests that we are trying to change the status quo. I would argue that the current approach in all previous censuses (until 2011) was for the sex question to be answered according to biological sex and that this is our preferred option for the 2021 Census. In 2011, there was guidance (although it is not clear where this guidance came from or who made the decision to issue it) that people could answer the question using self-identification, but this guidance was not widely issued and for the most part it is widely understood that the prior assumption was for the question to be answered according to biological sex. I attended the meeting under the impression that we were there to discuss the ‘proposed approach’ from NRS and that the decision had not yet been made as to the final approach to be taken for the 2021 Census.

2. You have repeatedly justified your preference for self-identification by stating that it “enables all people across Scotland to complete the Census” or “to engage with the Census”. I am unclear what this means and do not believe that you put forward evidence at the meeting to support this. I am also unclear how our proposal to answer according to biological sex would stop people completing or engaging in the census.

3. You have not minuted the point made by Professor Bailey about the incoherence and inconsistency in the wording of the guidance in relation to equalities legislation. I would argue that the question and guidance (as currently drafted) introduces considerable ambiguity as to how to answer the question about sex. It advises how someone ‘could’ answer the question rather than how they ‘should’ answer it. This will introduce an additional degree of bias in the data (in that it might be answered by any individual according to sex or gender identity, so there is no telling which this variable will measure). This form of bias is very different from the issue of missing data and non-response you refer to in the minute. If it is your intention that people use ‘self-identification’, it would be extremely helpful to give a steer as to what this means.

4. You have not minuted the important point made by Dr Ferrie about the issue of sex-based socialisation processes in childhood which will impact on people throughout their life-course, regardless of their gender identity. Losing information about sex will mean that it will be impossible to study such processes in the future, which will close down an important area of sociological and cultural research.

5. I would argue that your contention that “the self-completion approach to the Census has always allowed respondents to answer questions as they so wish” does not address the material point that we made about the loss of valuable data on biological sex. Indeed, it misses the point that we are trying to preserve data on a fundamental human characteristic that has (in recent years) become conflated with another. This is precisely why clear and straightforward guidance is necessary.

6. You have omitted one of the key points which came out of the discussion that the emergence of trans identities is a very recent phenomenon which researchers and statisticians are having to catch up with. We need now to be able to study the behaviours of those born with a particular sex and those adopting a particular identity in a way we didn’t before. By losing the question on sex, there will be no way of studying sex-based discrimination of the trans or non-trans populations. Moreover, losing baseline information
on biological/legal sex in the current and future Censuses will become even more problematic in future if what we end up measuring using the ‘sex’ question becomes a moveable feast. There has been a tremendous expansion in the number and range of gender identities between the last Census and now. We have no way of knowing how population characteristics specified under gender identity may change and become further re-defined in the future (as it is inherently an ideological and sociological concept). Retaining a question on sex, which is a stable biological characteristic, will enable us to determine how these future gender-based transformations impact on society in a whole range of ways. Otherwise, the data collected under ‘sex’ will have limited value to users at the time of data collection, and no value in relation to past or future data.

7. On your bullet points under section 3, I would add “social analysis – inequality and discrimination against people on the basis of both sex and gender identity”. And I would add Dr Ferrie’s point (noted above) about socialisation processes in childhood that are heavily influenced by sex and which impact across the life-course.

We agreed to provide examples of research where it would be important to distinguish sex or important to be able to separate out legal/biological sex from identity. As discussed at the meeting, this would include research on a wide range of social phenomenon where there have long been marked sex differences. For example, not having clear information on sex would not allow us to be confident about the reasons for changes in certain sex-based offending or victimisation patterns (e.g. sexual crimes, domestic violence); we would not be able to be fully understand the reasons behind certain that sex-related changes in the labour market; we would not be able to evaluate the influence of sex-based socialisation processes on employment patterns or unpaid caring roles in society; and we would have far less clarity about the impact of sex on certain health conditions. There are likely to be many other examples of how sex-related information is important now, and will continue to be important in the future.

As stated at the meeting, my position is that measuring both sex and gender identity separately is the best and most reliable way to measure the dynamic nature of the population and how it is changing, both now and in the future. Self-identification without clear guidance is the worst of all worlds, as it ultimately does not provide a reliable or clear measure of either sex or gender identity.

You are welcome to share your minute of the meeting on the 7th of October with the CTEEA Committee, but I would appreciate it if you also shared my views.

Best wishes
Susan

Follow-up comments from NRS (28th November 2019) – annotated to this document

Point 1: NRS position is that as the census is self-completion, to that extent the question has always been a self-identified one and it can be assumed that without explicit guidance, people answered the question in the way that they felt best reflected their sex. For most people their self-identified sex equates to their biological and legal sex and they do not require guidance to answer this question.
The guidance provided in 2011 was specifically for the trans population and can be seen to confirm that self-id was the broad approach taken.

Point 2: The advice received from groups representing and advocating for trans population across Scotland, was that they would find it less acceptable to answer the question without self-id guidance. Testing of the sex question did not throw up any problems for other population groups Scotland.

Advice received by NRS set out that trans population would find it less acceptable because:
- Census should reflect how they live in society
- Forcing trans people to disclose their sex as registered at birth would be a potential violation of their human rights, particularly their right to privacy and dignity under Article 8 of the Human Rights Act
- It may cause humiliation and distress, people may not answer which would lead to less accurate data
- It would be a step back to the view that only GRC holders are entitled to dignity and respect of their lived sex and out of step with long established trans equality practices in Scotland.
- Trans people would be content to answer a self-identified sex question and then identify as trans in the trans status question

Importantly, cognitive and quantitative testing also showed that the general population are able to answer a binary sex question

Point 3: The response to the Equalities Act is contained in para 4 of the minute, and data in Para 1.

Point 4: Thank you for adding this. The point is linked to those made above.

Point 5: Agree that guidance is important. Point on biological sex is linked to those made above.

Point 6: These points are broadly covered through the discussion and the different in view about previous collections, the analysis of Census data, and the use of other data.

Second last para:

Whilst some stakeholders may prefer a gender identity question, questions are included in the census on the basis they are tested and demonstrate they meet the aims of the census. Findings for Scotland showed when the gender identity question set was included, the level of item non-response significantly increased compared to both the binary sex question alone and the non-binary sex question (with a ‘other’ write in option) alone. In order to produce good quality data which meets user needs, the census is designed to maximise response to the Census overall, and to maximise response to individual questions. As the gender identity question set results in greater item nonresponse (this was more likely to occur at the second step [gender identity question] than at the first step [binary sex question]), it does not meet these aims and was not taken for further development. The trans status question, combined with a sex question or on its own, produces better quality data on the size and location of the trans population, measured by item non-response, in Scotland and this was therefore taken forward for development. It also
directly gather the data users expressed a need for – the size and location of the trans population in Scotland.

From: Nick Bailey  
Sent: 27 November 2019 16:32  
To: MCVIE Susan; NRS Official; Jo Ferrie  
Cc: Whitehouse P (Peter); NRS Official; McEwen SG (Scott)  
Subject: RE: Note of Meeting on 7th October 2019: Census 2021 sex question  

My thanks to Susan for pulling these notes together. As she says, we haven’t had the chance to discuss these but I am in full agreement with the points she raises.  

As a minor clarification, on pt 3, Susan is referring to the general point I raised about inconsistent reference to equalities legislation across the guidance on a number of questions. As requested, I sent details of that after the meeting and you are welcome to include that material in your note. Susan then goes on to make a point about the guidance specifically in relation to the proposed guidance on the sex question.  

Like Susan, I am happy for you to make your note of the meeting available to the CTEEA committee but, given the number of points of concern we have raised, I would be grateful if it was clear that this is your account of the meeting and not something that I have agreed to.  

Regards  

Nick
Draft Order for informal scrutiny by the Scottish Parliament’s Culture, Tourism, Europe and External Affairs Committee.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

CENSUS

The Census (Scotland) Order 2020

Made - - - - 2020

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the [ ]

Present,

The Queen’s Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 1(1) and 8(1A)(b) of the Census Act 1920(a) and all other powers enabling Her Majesty to do so.

In accordance with section 1(2) of that Act(b) a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(c).

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Census (Scotland) Order 2020 and comes into force on the day after the day on which it is made.

(2) It extends to Scotland only.

Interpretation

2.—(1) In this Order—

“The Act” means the Census Act 1920,

“census day” means 21 March 2021,

(a) 1920 c.41. Section 8(1A) was inserted by the Census (Amendment) (Scotland) Act 2000 (asp 3), section 1(2), and substituted by the Census (Amendment) (Scotland) Act 2019 (asp 12), section 1(3).

(b) Section 1(2) has been modified by paragraphs 3 and 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(c) The powers in section 1(1) (to prescribe particulars with respect to the matters mentioned in paragraph 6 of the schedule and otherwise) and section 8(1A)(b) of the Census Act 1920 are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. This Order is subject to the affirmative procedure by virtue of section 33(3) of that Act.
“census night” means the night of 21 to 22 March 2021,
“dwelling” includes part of a dwelling and any caravan, houseboat, temporary building or other structure used as living accommodation,
“household” is to be construed in accordance with paragraph (4),
“householder” in relation to an address means a person who is usually resident at that address and either—
(a) owns or rents accommodation at that address, or
(b) is responsible for paying household bills and expenses there,
or both and includes a joint householder and an acting householder,
“usually resident” includes persons who—
(a) have a usual address in Scotland,
(b) in the case of Groups I and IV, are in full-time education and are residing at their term-time address,
(c) in the case of Groups II, III and VI, have resided or intend to reside in the premises or vessel for a total period of 6 months or more beginning on or before census day,
(d) in the case of Group V, are spending a period of 6 months or more in custody whether at the premises or elsewhere, and
(e) in the case of Group VII, have no usual address in Scotland, but are present at an address in Scotland on census night, and
“visitor” means any person who is present at an address in Scotland on census night, but who is not usually resident at that address.
(2) For the purposes of this Order, a person is in full-time education if that person is registered, admitted or otherwise enrolled as a full-time pupil or student at a school, college or other educational institution.
(3) In this Order—
(a) any reference to a numbered Group is a reference to the Group so numbered in schedule 1,
(b) any reference to a dwelling, premises, a vessel or a place in a numbered Group is a reference to a dwelling, premises, a vessel or a place specified in column (1) of that Group,
(c) any reference to a person in a numbered Group is a reference to a person specified in column (2) of that Group.
(4) For the purposes of this Order—
(a) in the case of a sheltered or retirement housing development (within the meaning of section 54(3) of the Title Conditions (Scotland) Act 2003(a)), a household is a person or a group of persons (whether related or not) living in one flat or unit within the development and having a usual address there,
(b) in the case of a dwelling which is mobile or of temporary construction, the household is the person or relevant group living in that dwelling at the place which is that person’s, or that group’s, usual place of residence,
(c) in the case of any other dwelling the household is the person or relevant group living in that dwelling and having a usual address at that dwelling.
(5) In paragraph (4), “relevant group” means a group of persons (whether or not related) who share cooking facilities and any one or more of the following—
(a) a living room,
(b) a sitting room,

(a) 2003 asp 9.
(c) a dining area.

**Date on which census is to be taken**

3. A census is to be taken for Scotland on 21 March 2021.

**Persons with respect to whom the returns are to be made**

4.—(1) For the purpose of the census, returns must be made in accordance with the provisions of this Order with respect to—
   (a) all persons who are usually resident in Scotland,
   (b) all persons in full-time education who do not fall within sub-paragraph (a), being persons who do not have a term-time address in Scotland, but who have a home address in Scotland, and
   (c) all visitors, who are alive at midnight at the end of census day.

(2) A return with respect to any person to whom paragraph (1) applies must be made in accordance with the provisions of this Order relating to the Group in which that person is included and any visitor.

**Persons by whom the returns are to be made**

5.—(1) Subject to paragraph (4), where a dwelling is occupied by a household consisting of one person in Group I, that person must make a return with respect to that person and every visitor at that dwelling.

(2) Subject to paragraph (4), where a dwelling is occupied by a household consisting of more than one person in Group I a return must be made with respect to every person in Group I and every visitor at that dwelling.

(3) Subject to paragraph (8), a return under paragraph (2) is to be made by—
   (a) the householder, or
   (b) if there is no householder or the householder is unable to make the return, the members of that household aged 16 years or over on census day.

(4) A return need not be made under paragraph (1) or (2) by, or with respect to, any member of a household who is absent from the dwelling on census day and does not return to the dwelling within a period of 6 months beginning on census day.

(5) Any person with respect to whom a return falls to be made in accordance with paragraph (2) may elect to make an individual return with respect to that person if the person is—
   (a) aged 16 years or over on census day,
   (b) capable of completing the form of return, and
   (c) not a visitor.

(6) A person (“A”) who has, in accordance with paragraph (5), elected to make an individual return—
   (a) may, but need not, notify the person making the return under paragraph (2) that A has so elected, and
   (b) must make the individual return.

(7) Subject to paragraph (8), where a dwelling in Group I is occupied only by one or more visitors, the visitors aged 16 years or over on census day must make a return with respect to every visitor.

(8) The obligation to make a return under paragraph (2) or (7) is satisfied if, as the case may be, any householder, member of the household mentioned in paragraph (3)(b), or visitor aged 16 years or over on census day makes such a return.
(9) In the case of any premises in Group II, III, IV or V, the manager, chief resident officer, director or governor, or other person for the time being in charge of the premises and in the case of any premises or vessel in Group VI the commanding officer or other person for the time being in charge of the premises or vessel, must make a return.

(10) Every person in Groups II, III, IV, V, VI and, subject to paragraph (11), Group VII must make an individual return, but where any such person is not aged 16 years or over or is, for any other reason, incapable of making a return and that person is—

(a) a person in Group II, then the manager or other person for the time being in charge of the hotel or guest house must make a return with respect to that person or arrange for the return to be made by a relative or other person accompanying that person,

(b) a person in Group III or IV, then the chief resident officer or other person for the time being in charge of the premises must make the return with respect to that person or arrange for it to be made by a relative or companion of that person,

(c) a person in Group V, then the return must be made with respect to that person by the director or governor or other person for the time being in charge of the premises,

(d) a person in Group VI, then the return must be made with respect to that person by the commanding officer or other person for the time being in charge of the premises or vessel,

(e) a person in Group VII, then the return may be made with respect to that person by any other person capable of doing so on his or her behalf.

(11) As regards a person in Group VII who is capable of making a return, the return referred to in paragraph (10) may be made by any other person authorised by that person to do so on that person’s behalf.

**Particulars to be stated in the returns**

6.—(1) Every return referred to in article 5(1), (2), (6)(b), (10) and (11) must state with respect to each person required to be included in that return the particulars specified in paragraphs 1 to 27 of schedule 2 except that—

(a) in the case of a visitor, the return which falls to be made in accordance with article 5(1) or (2) must instead state the particulars specified in paragraphs 3, 4, 5, 35 and 36 of schedule 2,

(b) in the case of a person who, in accordance with article 5(6)(a), gives notice of an election to make an individual return, the return which falls to be made in accordance with article 5(2) need state, with respect to that person, only the particulars specified in paragraphs 1 to 3 of schedule 2,

(c) in the case of a person in full-time education who has a term-time address which differs from the address to which the return which falls to be made in accordance with article 5(1) or (2) relates, that return need state, with respect to that person, only the particulars specified in paragraphs 1 to 10 of schedule 2, and

(d) in the case of any return referred to in article 5(6)(b), (10) or (11) the particulars specified in paragraphs 1 and 2 of schedule 2 need not be stated.

(2) Every return made in accordance with article 5(1) or (2) must state also the particulars specified in paragraphs 28 to 34 of schedule 2.

(3) Every return made in accordance with article 5(6)(b) and in respect of which a notification has been made under article 5(6)(a) must state also the particulars specified in paragraph 37 of schedule 2.

(4) Every return made in accordance with article 5(10) must state also the particulars specified in paragraph 38 of schedule 2.

(5) Every return referred to in article 5(7) need state only the particulars specified in paragraphs 3, 4, 5, 28, 29, 30, 33, 35 and 36 of schedule 2.

(6) Every return referred to in article 5(9) must state the particulars specified in schedule 3.
Disapplication of liability to penalty for refusing or neglecting to state particulars with respect to transgender status and history

7. The particulars specified in paragraph 6 of schedule 2 are prescribed for the purposes of section 8(1A) of the Act (disapplication of liability to penalty for refusing or neglecting to state certain particulars).

Name
Clerk of the Privy Council
### SCHEDULE 1

Articles 2(3), 4(2) and 5

**PERSONS WITH RESPECT TO WHOM AND BY WHOM RETURNS ARE TO BE MADE**

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Premises, vessel or other place</strong></td>
<td><strong>Persons</strong></td>
</tr>
</tbody>
</table>
| GROUP I  
Any dwelling occupied by a household. | Every person who—  
(a) is usually resident in the dwelling,  
(b) not being a person to whom paragraph (a) above refers, is in full-time education and has a home address in the dwelling. |
| GROUP II  
Any hotel or guest house. | Every person who is usually resident in the premises and who has not been included in any other return in the United Kingdom. |
| GROUP III  
Any hospital, nursing home, religious or charitable community or other residential establishment whatsoever, not being a dwelling or an establishment mentioned elsewhere in this schedule, and excluding any part of the premises which constitutes a dwelling or establishment so mentioned. | Every person who is usually resident in the premises and who has not been included in any other return in the United Kingdom. |
| GROUP IV  
Any residential school, college or other educational establishment. | Every person who is usually resident in the premises. |
| GROUP V  
Any civil prison or other place of detention. | Every person who is usually resident in the premises and who has not been included in any other return in the United Kingdom. |
| GROUP VI  
Any barracks, station or other premises under naval, military or air force discipline or any vessel under such discipline which is at port in Scotland at midnight at the end of census day | Every person who is usually resident on the vessel or in the premises and who has not been included in any other return in the United Kingdom. |
| GROUP VII  
Any other place not included in the above Groups. | Every person who has no usual address. |
SCHEDULE 2
PARTICULARS TO BE STATED IN RETURNS

1. The number of persons in Group I, the connection between those persons and the dwelling or
   the household and, for each such person, whether the person has made a notification in
   accordance with article 5(6)(a).

2. For any person in Group I (other than the first person mentioned in the return)—
   (a) where the person is the second, third, fourth or fifth person mentioned in the return, the
       person’s relationship to each of the persons mentioned previously in the return,
   (b) where the person is the sixth or subsequent person mentioned on the return, the person’s
       relationship to each of the two persons mentioned immediately before that person in the
       return and to the first person mentioned in the return.

3. First name and last name.

4. Sex.

5. Date of birth.

6. In respect of any person aged 16 years or over, whether the person is transgender or has a
   transgender history and, if so, a description of that person’s transgender status or history.

7. In respect of any person aged 16 years or over, as regards sexual orientation, whether—
   (a) straight / heterosexual,
   (b) gay or lesbian,
   (c) bisexual, or
   (d) another sexual orientation and if so which.

8. As regards marital or civil partnership status, whether—
   (a) never married and never in a civil partnership,
   (b) married,
   (c) in a civil partnership,
   (d) separated, but still legally married,
   (e) separated, but still legally in a civil partnership,
   (f) divorced,
   (g) formerly in a civil partnership which is now legally dissolved,
   (h) widowed, or
   (i) surviving partner from a civil partnership.

9. Whether a schoolchild or student in full-time education and, if so, whether living at the
   address to which the return relates during term time.

10. Country of birth and, if not born in the United Kingdom, month and year of most recent
    arrival to live in the United Kingdom.

11. Whether looking after, or giving any help or support to, family members, friends, neighbours
    or others because of either long-term physical or mental ill-health or disability, or because of
    problems related to old age and, if so, number of hours spent on this in a typical week excluding
    anything done as part of any paid employment.

12. In respect of any person whose usual residence on 21 March 2020 was not the same as on
    census day, the usual residence on 21 March 2020, if any.
13. The address of the person’s main place of work or study.

14. The usual mode of transport used for the longest part, by distance, of the usual journey to the person’s main place of work or study.

15. As regards the religion, religious denomination or body they belong to, whether—
   (a) none,
   (b) Church of Scotland,
   (c) Roman Catholic,
   (d) another Christian denomination or body and, if so, which,
   (e) Muslim and, if so, which such denomination or body,
   (f) Hindu,
   (g) Buddhist,
   (h) Sikh,
   (i) Jewish,
   (j) Pagan, or
   (k) another religion or body and, if so, which.

16. Whether the person holds (or has previously held and would, if applied for, be entitled again to hold) a passport issued by—
   (a) the Government of the United Kingdom, the Lieutenant-Governor of any of the Channel Islands or the Isle of Man, or the Government of any territory which is for the time being a British overseas territory the meaning given in section 50(1) of the British Nationality Act 1981(a),
   (b) the Government of Ireland,
   (c) the government of another country and, if so, which.

17. As regards national identity, whether—
   (a) Scottish,
   (b) English,
   (c) Northern Irish,
   (d) Welsh,
   (e) British, or
   (f) another national identity or identities and if so which.

18. As regards ethnic group, whether—
   (a) White and, if so, whether—
      (i) Scottish,
      (ii) Other British,
      (iii) Irish,
      (iv) Polish,
      (v) Gypsy / Traveller,
      (vi) Roma,
      (vii) Showman / Showwoman, or
      (viii) another white ethnic group and, if so, which,
   (b) Mixed or multiple ethnic groups and, if so, which,

(a) 1981 c.61. Section 50(1) was relevantly amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(a).
(c) Asian, Scottish Asian or British Asian and if so, whether—
   (i) Pakistani, Scottish Pakistani or British Pakistani,
   (ii) Indian, Scottish Indian or British Indian,
   (iii) Bangladeshi, Scottish Bangladeshi or British Bangladeshi,
   (iv) Chinese, Scottish Chinese or British Chinese, or
   (v) another Asian, Scottish Asian or British Asian ethnic group and, if so, which,

(d) African, Scottish African or British African and, if so, which such ethnic group,

(e) Caribbean or Black and, if so, which such ethnic group,

(f) another ethnic group and, if so, whether—
   (i) Arab, Scottish Arab or British Arab, or
   (ii) another ethnic group and if so which.

19. With respect to language—
   (a) how well the person can understand spoken English, speak English, read English and write English,
   (b) whether the person can understand spoken Scottish Gaelic, speak Scottish Gaelic, read Scottish Gaelic or write Scottish Gaelic,
   (c) whether the person can understand spoken Scots, speak Scots, read Scots and write Scots,
   (d) whether the person is able to use British Sign Language,
   (e) whether English is the person’s main language and if not, which language is.

20. Whether the person’s health is in general very good, good, fair, bad or very bad.

21. Whether, in respect of conditions which have lasted or are expected to last for at least 12 months, the person has one or more of the following—
   (a) deafness or partial hearing loss,
   (b) blindness or partial sight loss,
   (c) full or partial loss of voice or difficulty speaking,
   (d) a learning disability,
   (e) a learning difficulty,
   (f) a developmental disorder,
   (g) a physical disability,
   (h) a mental health condition,
   (i) a long-term illness, disease or condition which does not fall within subparagraphs (a) to (h),
   (j) another condition and, if so, which.

22. Whether the person has a health problem or disability which limits day-to-day activities and which has lasted, or is expected to last, at least 12 months and, if so, whether those activities are limited a little or a lot.

23. In respect of any person aged 16 years or over, the levels of academic and vocational qualifications obtained (including foreign qualifications).

24. In respect of any person aged 16 years or over, whether the person has previously served in the United Kingdom Armed Forces and if so whether that in the Regular Armed Forces or the Reserve Armed Forces.

25. In respect of any person aged 16 years or over, whether that person was at any time during the week preceding census day—
   (a) working as an employee,
(b) self-employed or freelance,
(c) temporarily away from work ill, on holiday or temporarily laid off,
(d) on maternity or paternity leave, or
(e) doing any other kind of paid work.

26. In respect of any person aged 16 years or over, who was not doing any work at any time during the week preceding census day,—

(a) whether that person was actively looking for any kind of paid work during the 4 weeks preceding census day,
(b) whether, if a job had been available during the week preceding census day, that person could have started it within 2 weeks,
(c) whether, during the week preceding census day, that person was waiting to start a job already accepted,
(d) whether, during the week preceding census day, that person was retired, was studying, was looking after home or family, was long-term sick or disabled or was not working due to another reason, and
(e) whether that person has ever worked and, if so, whether that was in the 12 months preceding census day.

27. In respect of any person who has ever worked and who is aged 16 years or over, for the main job that person was doing during the week preceding census day, or if not working during that week, for that person’s last main job—

(a) whether that person is or was an employee, self-employed or freelance without employees, or self-employed with employees,
(b) what is or was the main activity of that person’s organisation, business or freelance work,
(c) what is or was the full title of that person’s main job,
(d) what activities are or were undertaken by that person,
(e) whether that person supervises or oversees, or supervised and oversaw, any other employees,
(f) how many hours a week that person usually works or worked, and
(g) the name of the organisation or business that person worked for, or, as the case may be, that there was no such organisation.

28. Whether the living accommodation occupied by the household to which the return relates is a—

(a) whole house or bungalow and if so, whether—
   (i) detached,
   (ii) semi-detached, or
   (iii) terraced (including end terrace),
(b) flat, maisonette or apartment and if so, whether—
   (i) in a tenement or purpose built block of flats (including ‘4-in-a-block’),
   (ii) part of a converted or shared house (including bed sits), or
   (iii) in a commercial building, or
(c) caravan or other mobile or temporary structure.

29. Whether the accommodation occupied by the household to which the return relates is self-contained.

30. Number of bedrooms for use only by the household to which the return relates.

31. Whether the household to which the return relates—
(a) owns the accommodation with a loan secured over heritable property,
(b) owns the accommodation outright,
(c) owns the accommodation with shared equity,
(d) rents the accommodation,
(e) makes payments which are partly rent and partly in respect of a loan secured over heritable property, or
(f) lives in the accommodation rent-free.

32. Where the household rents the accommodation or lives in the accommodation rent-free, whether the landlord is—
   (a) a local authority, housing association or other registered social landlord,
   (b) a private landlord, or
   (c) a person or body not mentioned in subparagraph (a) or (b).

33. Whether the accommodation to which the return relates has central heating and if so whether—
   (a) mains gas,
   (b) other gas (including liquid petroleum gas and biogas),
   (c) electric (including storage heating),
   (d) oil,
   (e) solid fuel (other than wood),
   (f) wood or biomass (including logs, pellets and chippings),
   (g) another renewable energy source (including electric and air heat pump systems),
   (h) district or communal heat system, or
   (i) another type of central heating.

34. The number of cars and vans owned, or available for use, by one or more members of the household to which the return relates.

35. The number of visitors who are present at the address on census night, and whether they—
   (a) have a permanent or family home elsewhere in the United Kingdom,
   (b) usually live outside the United Kingdom and are staying in the United Kingdom for less than 6 months,
   (c) usually live somewhere else in the United Kingdom, or
   (d) are visiting as a holiday.

36. In the case of—
   (a) a visitor with a permanent or family home elsewhere in the United Kingdom, the address of that home,
   (b) a visitor who has no permanent or family home in the United Kingdom, but has such a home, or otherwise usually lives in, a country outside the United Kingdom, the name of that country.

37. The person’s number within the household as it appears in the return made in accordance with article 5(2).

38. Where the person is usually resident in a communal establishment whether that person is—
   (a) the owner of the establishment or is a member of staff of the owner who works at the establishment,
   (b) a family member or partner of a person mentioned in subparagraph (a), or
   (c) a resident not mentioned in subparagraph (a) or (b).
SCHEDULE 3 Article 6(6)

PARTICULARS TO BE STATED IN RETURNS – COMMUNAL ESTABLISHMENT GROUPS II, III, IV, V or VI

1. The number of persons usually resident at the establishment.

2. The number of visitors who are present at the establishment on census night.

3. Type of establishment which may include—
   (a) the nature of the establishment,
   (b) the category or categories of person which the establishment caters for, the physical or mental condition attributable to that category or those categories of person and the type of services which the establishment provides, and
   (c) the person or body who is responsible for the management of the establishment.
This Order is made under the Census Act 1920. It makes provision for a census to be held in Scotland under that Act.

Article 3 provides for the census to be taken on 21 March 2021.

Article 4 prescribes the persons with respect to whom census returns are to be made.

Article 5 prescribes the persons by whom returns are to be made. It does so by reference to Groups described in schedule 1 according to the premises, vessel or other place for which census returns are to be made.

Article 6 and schedules 2 and 3 prescribe the particulars which are to be stated in different types of census return.

Article 7 prescribes certain particulars (those relating to transgender status or history) for the purposes of section 8(1A) of the Census Act 1920. This disapplies some of the penalty provisions in the section 8 in relation to those particulars so that stating those particulars on a census return will be voluntary.
POLICY NOTE
THE CENSUS (SCOTLAND) ORDER 2020
SSI 2020/XXX

The above instrument was made in exercise of the powers conferred by section 1(1) and 8(1A)(b) of the Census Act 1920. The instrument is subject to the affirmative procedure.

| Purpose of the instrument: To authorise the Registrar General for Scotland to take a census on 21 March 2021, set out the information to be collected, who that information is to be about and who is responsible for submitting it. |

Policy Objectives

The Order allows for a census to be taken on 21 March 2021.

The key policy objectives of the Order are to set out:

1. the date on which the census is to be taken and authorise the Registrar General for Scotland to take it;

2. the people that information is to be collected for;

3. who must, and who can, make census returns within a household or communal establishment (such as hotels, hospitals etc);

4. the information that is to be collected for the census.

The information collected through the census is a tool utilised by public bodies and other organisations across Scotland to inform key financial and policy decisions on how services such as transport, housing, schools and hospitals are planned.

The census also helps paint an important picture of the characteristics of our population, helping us to understand the similarities and differences in the population’s characteristics locally and nationally, now and over time.

Legislation

The Census Act 1920 allows for a census to be taken no less than five years after the last census. The last census was held on 27 March 2011.

Once the Order is in force, Regulations will be made that will detail the arrangements necessary for conducting the census, like the appointment of the field force that help conduct the census and setting out the forms to be used.
Consultation

National Records of Scotland ran a Topic Consultation for the census between 8 October 2015 and 15 January 2016, which sought views from public bodies and organisations that use census data on the information they felt should be included in the next census, the results of which were published in August 2016.

National Records of Scotland continued to engage with a wide range of stakeholders across all topic areas in order to ensure that the data needs articulated during the consultation were well understood, and that the data being collected by the census would meet these needs.

In September 2018, National Records of Scotland published the Plans for the Scotland’s 2021 Census which outlined proposals for the questions to be asked in 2021. In addition, a number of detailed Topic Reports were published which described the programme of, and evidence from, question development, testing and engagement with key stakeholders. Follow-up events were then held from November 2018 to January 2019 with stakeholders, which allowed National Records of Scotland to update users on the proposal for each question and outputs development, and to seek feedback on these proposed questions and outputs from the questions discussed in the publication.

In addition to this, additional consultation has been undertaken through 2019 on the trans status or history, sex, sexual orientation, religion and ethnicity questions.

Impact Assessments

There are a total of eight impact assessments for Scotland’s Census 2021. They are

- **Equality** – an assessment of the Census with regard to the nine protected characteristics of the Equality Act 2010.
- **Data Protection** – an assessment of privacy risks and the use of data for the Census.
- **Business Regulatory** – an assessment of the impact of the Census on business.
- **Fairer Scotland Duty** – an assessment of any socio-economic disadvantage in the taking of the Census and responsibilities under the Fairer Scotland Duty.
- **Human Rights** – an assessment of the Census with regard to the European Convention of Human Rights.
- **Strategic Environmental Assessment** - an assessment of the Census with regard to responsibilities under the Environment Act.
- **Island Communities** - an assessment of the Census with regard to island communities and responsibilities under the Islands Act 2018.

Financial Effects

The overall budget for the 2021 Census, over the whole 10 years of development and operation (2015/16 to 2024/25), is currently £105 million with the majority of the spend occurring in the years 2018/19 to 2021/22.
The census is a central process funded directly by the Scottish Administration and carried out by National Records of Scotland.

National Records of Scotland
Census 2021 Programme
[date]
Culture, Tourism, Europe and External Affairs Committee

1st Meeting, 2020 (Session 5) Thursday 9 January

Scottish Government Reports

Note by the Clerk

Background

1. The Scottish Government produces bi-annual updates for the Committee’s consideration on a range of EU issues.

2. The Scottish Government has provided four bi-annual update reports for this bi-annual period. These cover the following policy areas:
   - 1+2 Languages Policy
   - Implementation of EU Legislation
   - Horizon 2020
   - European Social Fund and European Regional Development Fund

3. The update reports with a cover letter from the Minister for Europe, Migration and International Development are provided in Annexe A to this paper.

Recommendation

4. The Committee is invited to consider these reports and indicate whether it wishes to follow-up on any of the areas covered.

Stephen Herbert
Clerk
Culture, Tourism, Europe and External Affairs Committee
6 January 2020
In line with the Protocol with the Scottish Parliament and the Scottish Government, I am writing to inform you on the submission of the four Scottish Government’s biannual reports to the Committee.

The Scottish Government is committed to share information and provide progress updates on policies that the Committee scrutinises on an on-going basis through its different inquiries and work programme. I am therefore pleased to note our submission of the following reports for the Committee’s consideration:

1+2 Languages Policy
- Letter from John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills.

EU Obligations
- Letter and report from Ben Macpherson MSP, Minister for Europe, Migration and International Development.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
Horizon 2020


European Structural Funds

- Letter from Ivan McKee MSP, Minister for Trade, Investment and Innovation.

I trust you find this information helpful.

Best regards,

Ben Macpherson MSP  
Minister for Europe, Migration and International Development
December 2019

1+2 Languages Policy – Biannual Progress Update

I provided the Committee with an update on progress with our 1+2 languages policy in June. I am now pleased to provide the Committee with the third annual report from the Languages Strategic Implementation Group, which details its work over the last year.

The original Strategic Implementation Group was established in 2013 by the then Minister for Learning, Science and Scotland’s Languages. In 2016, the group agreed its overarching objectives for 2017-2021, with a focus on four key priorities to support the ambition for language learning in Scotland. The annual report provides evidence of how the group has supported progress of the 1+2 policy in 2019. There is some overlap with the information I provided to you in June and in subsequent clarification documents, but I felt it was helpful for you to see the full report.

In the June report, I provided you with preliminary results from the annual survey of Local Authorities and language learning in their schools under the 1+2 languages policy. This is carried out on behalf of the Association of Directors of Education Scotland, the Convention of Scottish Local Authorities, Education Scotland and the Scottish Government. A full analysis of the 2019 survey is being prepared.

I hope that you find this helpful, and would again like to thank the Culture, Tourism, Europe and External Affairs Committee for its support in relation to the implementation of the 1+2 languages policy.

JOHN SWINNEY

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
Introduction

1. This document is the third annual report of the Languages Strategic Implementation Group, the national group working to support the development of language learning in Scotland’s schools. This report sets out the key achievements and activities carried out by group members in 2019.

2. Language is central to our cultural heritage and national identity, and essential for supporting a diverse and inclusive society, promoting Scotland’s reputation as an open and welcoming country. We recognise the importance of Scotland’s rich diversity of languages, and the cultural, economic, historic and social benefits they bring. In schools we are encouraging young people to learn two additional languages to equip them with the skills needed to widen their achievements and opportunities, and to participate fully in the 21st century globalised world.

Implementation Plan and priorities

3. Actions to support the development of languages in Scotland include:
   - protecting and promoting the use of Gaelic language and Scots;
   - supporting British Sign Language; and
   - improving the learning of all languages in schools so that it becomes a normal, expected part of school education for all children from Primary one onwards by 2021.

4. This report focusses on the third priority, namely the 1+2 language policy. This sets an entitlement for all children to learn two additional languages, the first (L2) from P1 onwards and the second (L3) being introduced from P5 onwards until the end of the Broad General Education (end of S3).

5. An implementation plan has been developed to support delivery of this ambition. It sets out overarching objectives for 2017-2021, with a focus on four key priorities:

   - **Communication and Engagement:** This priority relates to the need to show that leadership is committed to building on the important role of language learning in schools. It sets out a clear narrative on the place of language learning in the curriculum and its contribution to improving literacy, numeracy, employability and health and wellbeing. Overall, it contributes to our vision for a Scottish education which delivers excellence through raising attainment and achieving equity.

   - **Collaboration:** This priority includes developing approaches together, sharing practical resources and strategic planning with the clear aim of driving effectiveness, efficiency and optimising the experience for all children and young people.

   - **Curriculum:** This priority builds effective curriculum models, inter-disciplinary learning and clear learner progression and pathways for language learning as these are essential to the success of our languages policy. We will ensure the promotion of effective practice and models for language learning, including supporting joint working between primary and secondary schools, on content, skills and approaches to learning and to enable effective transition, progression and continuity.
Professional Development: This priority relates to the need to invest in the training of the current and future teacher workforce to ensure the sustainability of the commitments to language learning in schools. Teachers require to have access to high quality professional development in languages pedagogy and to upgrade their language skills and knowledge both early on in their careers and as necessary at other points.

6. The key actions and achievements of the group in 2019 against the four priorities are detailed in the tables below.

Funding

7. The Scottish Government (SG) provided the following funding to support language learning in schools during the 2019-20 financial year:

- £3 million to local authorities (bringing the total provided since 2013 to £30.2 million) to assist with the implementation of the 1+2 policy;
- £1.313 million to the Scotland’s National Centre for Languages and the Confucius Institute for Scotland’s Schools to support teacher professional learning for primary and secondary teachers, and to support learning about Chinese language and culture;
- £195,000 to the British Council to enable them to administer the Modern Language Assistant Programme;
- £38,000 to the Scottish European Educational Trust (SEET) to support the development of 1+2 language learning through their Euroquiz and Our World projects; and
- £8.482 million to support Gaelic and Scots education.

8. SG is also actively considering the impact of the range of possible EU-Exit outcomes on language learning in schools in Scotland. In particular, we are investigating the impact of withdrawal of Erasmus+ funding on language learning in schools in Scotland (see Annex C).

1+2 Languages Survey 2019

9. In 2013-14, the Association of Directors of Education Scotland, the Convention of Scottish Local Authorities, Education Scotland and the Scottish Government agreed that Local Authorities would provide information on language learning in their schools under the 1+2 languages policy.

10. The results of the 2019 survey provide a more accurate picture of implementation than before. It indicates that about 88% of primary schools are now delivering the full entitlement to learning the first additional language (L2) from P1. The survey also indicates that about 70% of secondary schools are providing the full L2 entitlement from S1 until the end of S3. The full analysis of the results including numbers of languages offered is being prepared.

Strategic Implementation Group members

11. The group consists of 15 members:

Co-Chairs

- Association of Directors of Education Scotland (ADES)
- Education Scotland (ES)
Other members

- College Development Network Scotland (CDN)
- Convention of Scottish Local Authorities (COSLA)
- Educational Institute of Scotland (EIS)
- General Teaching Council Scotland (GTCS)
- Languages Network Group Scotland (LANGS)
- National Parent Forum of Scotland (NPFS)
- School Leaders Scotland (SLS)
- Scotland’s National Centre for Languages (SCILT)
- Scottish Association of Language Teaching (SALT)
- Scottish Council of Deans of Education (SCDE)
- Scottish Qualifications Authority (SQA)
- Scottish Government (SG)
- University Council of Modern Languages Scotland (UCMLS)
Key actions and achievements of the Strategic Implementation Group (SIG) against the areas of priority action

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>Communications and Engagement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Objective</strong></td>
<td>Clarity and consistency of understanding and expectation across schools, local authorities, further and higher education, employers, into wider society.</td>
</tr>
<tr>
<td><strong>Areas of Action 2017-21</strong></td>
<td></td>
</tr>
<tr>
<td>1. Deliver sustained, relevant messaging showing strong commitment, especially to reach leaders and decision makers.</td>
<td></td>
</tr>
<tr>
<td>2. Provide events and activities:</td>
<td></td>
</tr>
<tr>
<td>a) with wide-ranging cross-sectoral participation</td>
<td></td>
</tr>
<tr>
<td>b) for specific sectors</td>
<td></td>
</tr>
<tr>
<td>c) led by SIG members’ own organisations and by non-members</td>
<td></td>
</tr>
<tr>
<td>d) to promote languages opportunities in further education, higher education, and the workplace</td>
<td></td>
</tr>
</tbody>
</table>

**Activities**

**ADES**
- Wrote to all Directors of Education/Chief Education Officers highlighting the findings of the annual 1+2 survey, highlighting key successes and areas for further attention, and encouraging them to discuss with their local leads.

**GTCS**
- Continuing to publish articles in the Teaching Scotland magazine related to modern languages (including Gaelic) and practitioner enquiry.

**LANGS**
- A light touch pilot of ‘Scotland Loves Languages’ during February was successful, with enthusiastic participation from local authorities across the country. Use of #Scotlandloveslanguages worked well and is now widely adopted in tweets linked to languages.
- The group now has a new strapline ‘LANGS: working together to develop Scotland’s Languages Landscape’.
- Regular three full meetings held over the course of the year, in Glasgow, Edinburgh and Dundee. All meetings were well attended by colleagues from the full range of national bodies.

**SALT**
- The 2019 SALT Conference took place on 9 November and was attended by almost 200 delegates. This year’s conference was a full day, with a choice of workshops and round tables for primary and secondary.

**SCILT**
- The SCILT website has been redesigned and refreshed in light of feedback taken from a range of stakeholders.
- The “Making Languages your Business” toolkit for businesses has been launched and published on the SCILT website.
<table>
<thead>
<tr>
<th>Scottish Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Promotion of Gaelic and Scots languages during UNESCO Year of Indigenous Languages.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Desired Outcome / Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Provision of clear and consistent messaging regarding the 1+2 language policy within stakeholder networks and beyond to young people, schools, employers and wider public to encourage attitudinal change to language learning.</td>
</tr>
<tr>
<td>- Signalling continued commitment and strong leadership and need to ensure a quality and consistency of output within Associated School Groups and across all local authorities.</td>
</tr>
<tr>
<td>- Work with the employer community to provide key messages to young people and their teachers about the employability opportunities.</td>
</tr>
<tr>
<td>- SG working with partners to promote Gaelic and Scots, and the benefits that language can offer individuals and communities.</td>
</tr>
<tr>
<td>Priority Area</td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td><strong>Objective</strong></td>
</tr>
<tr>
<td><strong>Areas of Action 2017-21</strong></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
</tbody>
</table>

### Activities

**Education Scotland**
- Delivered the annual National Modern Languages Network for all local authority modern languages development / quality improvement officers.
- Delivered a series of workshops for teachers in 19 Local Authorities covering 1+2 policy, languages in the senior phase, BSL and EAL.
- Worked with the BSL expert advisory panel to plan a package of resources for BSL as an L3.
- Worked with every Regional Improvement Collaborative, Jan-Dec 2019.
- Provided input at the 4 day national Languages Leadership Programme.

**GTCS**
- The consultation of the Entry Memorandum was completed and now reads:
- In addressing the SG Languages Working Group report Language Learning in Scotland A 1+2 Approach (2012) and the STEM Education and Training Strategy, GTCS would encourage universities to expect at least one SQCF level 5 qualification in either a modern language and/or a science subject.
- Universities should make sure that an applicant’s educational background (including the content of their undergraduate degree) provides a good basis for becoming a primary teacher. They will therefore look for evidence that the applicant has studied at least two of the following areas (as well as English and Mathematics) – science, social studies, expressive arts, religious and moral education, technology and modern languages.

**SCILT**
- Professional Learning Partnerships being planned with local authorities and at least one Regional Improvement Collaborative.
- Two new family learning case studies published in collaboration with North Ayrshire and Fife Councils.
- The ‘Espacios Increíbles’ interdisciplinary project was completed, with five schools from three local authorities and the University of Strathclyde. The project will be rolled out nationally next year and used as a model for two similar projects: one between the University of Dundee and pan-Tayside schools; and the other with Celtic Football Club, University of Strathclyde and Glasgow City schools.
- A working group was established to develop a “toolkit” that schools can use to support their parental engagement and family learning with languages.
Partnership planned with Save the Children, and joint professional learning partnership offered as a pilot to Forth Valley and West Lothian Regional Improvement Collaborative.

21 school leavers are currently studying Mandarin at Tianjin Normal University for one year thanks to funding from Tianjin Municipal Education Commission. A further 22 have just been recruited for the 2020-21 session.

The British Sign Language (BSL) Advisory Group has now held two meetings. Discussions are underway about how best to support the profession so that BSL can be embedded as an L3 language within Scotland’s languages policy.

A series of events is underway for Advanced Higher candidates hosted in universities across the country.

Ongoing support given by SCILT link officer to Northern Alliance Regional Improvement Collaborative.

Scottish Government

Delivery of Gaelic Learners in Primary School (GLPS) conference to promote the CPD opportunities to teachers and other practitioners.

Working with the GLPS Consortium to consider how the training can be delivered to Early Years Workers.

Desired Outcome / Impact

Influence and persuade all stakeholders collaboration and planning.

Increased collaboration at local authority level via the Regional Improvement Collaboratives. Ensure clear understanding by secondary sector of a jointly agreed set of messages so that secondary practitioners are prepared for a new generation of better equipped language learners coming over their doors.

Working to encourage collaboration with parents to allow the schools to benefit from the languages spoken by parents and at home.

Working with partners to encourage collaborative work.

Commitment to encourage collaborative work between and within Higher Education and Further Education sector.

Commitment to funding of Gaelic and Scots language learning remains.
<table>
<thead>
<tr>
<th>Priority Area</th>
<th>Curriculum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objective</td>
<td>Clarity and consistency of understanding and expectation across schools, local authorities, further and higher education, employers, into wider society.</td>
</tr>
</tbody>
</table>
| Areas of Action 2017-21 | 4. Support, guidance and resources for practitioners at all levels, e.g.:  
  a) Guidance on approaches to L2 and L3 planning from early years through to upper secondary, including transitions recognising that there is no hierarchy of languages, and in L2, cohesion and progression must be paramount.  
  b) Tools to support high quality progression in all settings nationally, including re-evaluation of secondary approaches and innovative development.  
  c) Active support for effective use of native speakers in schools. |
| Activities | |
| Education Scotland | Published a suite of resources that provides support and advice on approaches to the planning and delivery of teaching and learning, which will promote development of the necessary knowledge, skills and understanding to progress from First to Second level and Third to Fourth curriculum levels across the four skills of listening, talking, reading and writing in modern languages.  
Provided two workshops at SALT Conference – one HMI-led on self-evaluation in languages, one led by the curricular team on the progress of the 1+2 policy.  
Published a suite of resources to support primary practitioners to plan for progression from Second to Third curriculum levels. |
| LANGS | March meeting: Keynote from Andrew Hancock, University of Edinburgh, giving a summary of research findings into English as an additional language (EAL) and complementary schools. Breakouts looked at Developing L3, Polish across Learning and central findings of review of international literature on successful implementation of 1+2 in schools. |
| SCILT | Developing the Young Workforce advice and guidance publish on SCILT website.  
Scottish Languages Employability Award launched.  
Plans being made for a partnership between SCILT and Scotdec to develop resources for Learning for Sustainability and languages suitable for 3rd/4th level and senior phase.  
Climate Ready Classrooms project planned and about to be piloted by six primary schools and their partner schools in Tianjin, China. This is a collaboration between CISS, e-Sgoil and Hanban. |
<p>| SQA | New course specifications for the revised Advanced Highers were published at the end of April 2019; further support documentation will be available between May and September 2019. |</p>
<table>
<thead>
<tr>
<th>Desired Outcome / Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Supporting teachers by: provision of good case studies with clear guidance and providing essential steps to establish clear design.</td>
</tr>
<tr>
<td>• Strong training offer to align 1+2 with the new ES guidance and encourage best learning and teaching.</td>
</tr>
<tr>
<td>• Attainment of Modern Languages SQA qualifications and awards (see Annex A).</td>
</tr>
<tr>
<td>• Working with partners and young people to identify the opportunities for growth in the subject choice through the medium of Gaelic.</td>
</tr>
<tr>
<td>Priority Area</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>Objective</td>
</tr>
<tr>
<td>Areas of Action</td>
</tr>
<tr>
<td>2017-21</td>
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<td></td>
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<tr>
<td></td>
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<tr>
<td>Activities</td>
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<tr>
<td>ADES</td>
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<td>GTCS</td>
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<td></td>
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<tr>
<td>SCDE Modern Languages Group</td>
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<td>SCILT</td>
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</tbody>
</table>
• Workshops are being delivered (mainly secondary sector). One workshop developed and delivered jointly with Education Scotland.
• Professional enquiry being supported with East Renfrewshire Council.
• Self-evaluation and planning cycle now in place to support SCILT’s professional learning offer.

**Desired Outcome / Impact**

- Exploring work required to equip, enable and empower practitioners to deliver high quality language learning in primary and secondary schools and to focus on developing transitions in modern languages and ensuring secondary practitioners are prepared for a new generation of better equipped language learners coming over their doors. See Annex B for secondary language teacher numbers.
- Supporting teachers to build their confidence and empowerment, especially in Primary schools where language teaching is delivered by the class teacher.
- Provision of leadership at a national, regional and Council level.
- Supporting practitioners.
- Supporting student teachers, teachers and teacher educators.
- Supporting LA, clusters and schools by ensuring practitioners are trained and equipped to teach in the 21st century.
- NFfL used beyond ITE, Academic Profile on GLOW, dissemination workshops with stakeholders and local authorities, further use of NFfL to enhance 1+2 L&T and pedagogical content knowledge.
SQA Qualifications

It is for schools to offer a curriculum and a choice of subjects in the senior phase that best meets the needs of their learners, in consultation with young people and parents. Each school and local authority should plan a curriculum that meets the needs of their young people and we expect them to work closely with their partners and parents to inform, shape and develop their approach. Schools should be providing clear advice on the qualifications necessary to support young people in the next steps of their learning journey.

Wherever possible schools should ensure that young people can choose their preferred subjects, however, timetabling, staffing and resourcing issues may mean that this is not always possible. Where a subject cannot be offered by the school, national guidelines encourage flexibility, enabling schools to consider alternative approaches that best meet learners’ needs and aspirations.

National Examination Results, August 2019

Modern Languages – entries – SCQF levels 3 to 7

<table>
<thead>
<tr>
<th>SCQF level</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>% change 2018-2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 3</td>
<td>678</td>
<td>832</td>
<td>953</td>
<td>14.5%</td>
</tr>
<tr>
<td>Level 4</td>
<td>5,341</td>
<td>4,827</td>
<td>4,643</td>
<td>-3.8%</td>
</tr>
<tr>
<td>Level 5</td>
<td>16,040</td>
<td>15,565</td>
<td>15,415</td>
<td>-1.0%</td>
</tr>
<tr>
<td>Level 6</td>
<td>8,183</td>
<td>7,974</td>
<td>7,805</td>
<td>-2.1%</td>
</tr>
<tr>
<td>Level 7</td>
<td>1,447</td>
<td>1,319</td>
<td>1,307</td>
<td>-0.9%</td>
</tr>
<tr>
<td>Total</td>
<td>31,689</td>
<td>30,517</td>
<td>30,123</td>
<td>-1.3%</td>
</tr>
</tbody>
</table>

Modern Languages – passes – SCQF levels 3 to 7

<table>
<thead>
<tr>
<th>SCQF level</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>% change 2018-2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 3</td>
<td>641</td>
<td>775</td>
<td>850</td>
<td>9.7%</td>
</tr>
<tr>
<td>Level 4</td>
<td>5,102</td>
<td>4,541</td>
<td>4,390</td>
<td>-3.3%</td>
</tr>
<tr>
<td>Level 5</td>
<td>14,324</td>
<td>13,727</td>
<td>13,270</td>
<td>-3.3%</td>
</tr>
<tr>
<td>Level 6</td>
<td>7,217</td>
<td>6,881</td>
<td>6,740</td>
<td>-2.0%</td>
</tr>
<tr>
<td>Level 7</td>
<td>1,141</td>
<td>1,102</td>
<td>1,056</td>
<td>-4.2%</td>
</tr>
<tr>
<td>Total</td>
<td>28,425</td>
<td>27,026</td>
<td>26,306</td>
<td>-2.7%</td>
</tr>
</tbody>
</table>

It is worth noting that the 2019 S5/S6 cohort – where the majority of Highers is taken – is smaller than in 2018:

- S5 pupil roll is 0.6% smaller
- S6 pupil roll is 1.9% smaller

The figures for modern languages need to be considered in that context.
Modern Language for Life and Work Award

Attainment in the Modern Languages for Life and Work Awards at SCQF Level 3 and 4 complements the national qualifications.

<table>
<thead>
<tr>
<th>Award (unknown level)</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>December data</td>
<td>493</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>December data</td>
<td>503</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>August data</td>
<td>..</td>
<td>383</td>
<td>720</td>
<td>815</td>
<td>1,340</td>
<td>1,221</td>
<td>981</td>
</tr>
<tr>
<td>December data</td>
<td>..</td>
<td>383</td>
<td>720</td>
<td>828</td>
<td>1,340</td>
<td>1,239</td>
<td></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>August data</td>
<td>..</td>
<td>750</td>
<td>1,444</td>
<td>1,620</td>
<td>1,603</td>
<td>1,686</td>
<td>1,680</td>
</tr>
<tr>
<td>December data</td>
<td>414</td>
<td>750</td>
<td>1,449</td>
<td>1,674</td>
<td>1,603</td>
<td>1,804</td>
<td></td>
</tr>
</tbody>
</table>

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<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>August data</td>
<td>493</td>
<td>1,133</td>
<td>2,164</td>
<td>2,435</td>
<td>2,943</td>
<td>2,907</td>
<td>2,661</td>
</tr>
<tr>
<td>December data</td>
<td>1,133</td>
<td>2,169</td>
<td>2,502</td>
<td>2,943</td>
<td>3,043</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Attainment data for awards shows the number of entries certificated between 30 June of a given year and 1 August of the preceding year and are subject to change when attainment across the complete academic year are available.
ANNEX B: DATA ON LANGUAGE TEACHER NUMBERS

The latest teacher census data is available at: https://www2.gov.scot/Topics/Statistics/Browse/School-Education/teachcenssuppdata.

Please note that, in primary schools, languages are taught by the class teacher and not by specialised teachers.

In secondary schools, the census shows that numbers of teachers of languages are as follows:

Secondary school teachers by main subject taught 2013-18*

<table>
<thead>
<tr>
<th>Subject</th>
<th>2013 Total</th>
<th>2014 Total</th>
<th>2015 Total</th>
<th>2016 Total</th>
<th>2017 Total</th>
<th>2018 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>French</td>
<td>826</td>
<td>780</td>
<td>744</td>
<td>716</td>
<td>722</td>
<td>688</td>
</tr>
<tr>
<td>German</td>
<td>136</td>
<td>128</td>
<td>118</td>
<td>106</td>
<td>100</td>
<td>90</td>
</tr>
<tr>
<td>Spanish</td>
<td>93</td>
<td>96</td>
<td>96</td>
<td>95</td>
<td>107</td>
<td>119</td>
</tr>
<tr>
<td>Gaelic</td>
<td>60</td>
<td>61</td>
<td>59</td>
<td>60</td>
<td>57</td>
<td>58</td>
</tr>
<tr>
<td>Italian</td>
<td>8</td>
<td>8</td>
<td>9</td>
<td>7</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>Community Languages</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Other Modern Languages</td>
<td>276</td>
<td>300</td>
<td>313</td>
<td>339</td>
<td>354</td>
<td>378</td>
</tr>
<tr>
<td>Classical Studies</td>
<td>11</td>
<td>9</td>
<td>10</td>
<td>8</td>
<td>7</td>
<td>7</td>
</tr>
</tbody>
</table>

*Excludes head teachers and depute head teachers

Totals may not sum to overall figure as information on characteristics are not known for all teachers.
The Scottish Government is actively considering the impact of the range of possible EU-Exit outcomes on language learning in schools in Scotland. We are investigating in particular the impact of withdrawal of Erasmus+ funding on language learning in schools in Scotland. This includes impact on trainee teachers being able to gain their residency requirements to become registered as language teachers, impact on teachers’ career long professional development, and ability to take part in overseas exchange visits and language assistant exchange programmes.

Scottish Government officials have raised these issues with the UK Government’s Department for Education in our frequent discussions around Erasmus+ and EU Exit. The Scottish Government’s preference is to continue full participation in Erasmus+ for its broad educational, cultural and economic benefits, for both Scottish students, volunteers and staff and for Europeans Nationals coming to learn or work in Scotland. We continue to make this case for continued participation to the UK Government, and to clarify its position around any proposed ‘UK-EU youth mobility domestic alternative’.
December 2019

Dear Joan,

IMPLEMENTATION OF EUROPEAN UNION LEGISLATION

Further to the principles of the agreement between the Scottish Government and the Scottish Parliament on intergovernmental relations and to further enable the Committee’s consideration of our implementation of European Union legislation, I am pleased to write to update you on the Scottish Government’s transposition of EU obligations.

The attached report has three parts:

- Part A lists new EU Directive obligations due for transposition by Scottish Statutory Instruments (SSIs) in the period from 17 June 2019 to 16 December 2019;

- Part B lists all EU obligations transposed or further implemented for devolved purposes by UK Government SIs (UKG SIs) in the period from 17 June 2019 to 16 December 2019 (which rely on section 57(1) of the Scotland Act 1998); and

- Part C lists new EU Directive obligations to be transposed in the next 6-month period from 17 December 2019 to 16 June 2019 (which may require some further provision by SSI or UKG SI to transpose the obligation for devolved purposes).

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
The Scottish Government takes our responsibilities as a member of the EU seriously and continues to fully meet the obligations that EU membership brings. I would like to again reiterate that the Scottish Government intends for Scotland to remain a committed and proactive EU partner irrespective of any outcome of the Brexit process.

We will continue to fully meet all our EU obligations both throughout this further Article 50 extension and as required by any transition period, should the UK leave the EU.

I trust the Committee will find this update helpful.

Best regards,

Ben

Ben Macpherson MSP
Minister for Europe, Migration and International Development
## PART A: New EU Directive obligations due for transposition by SSIs in the period from 17 June 2019 to 16 December 2019

<table>
<thead>
<tr>
<th>EU Legislation</th>
<th>Transposition Deadline</th>
<th>Transposing SSI</th>
<th>Purpose of SSI</th>
<th>Lead SG Minister</th>
<th>In force / due in force</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive (EU) 2018/350 amending Directive 2001/18/EC as regards the environmental risk assessment of genetically modified organisms.</td>
<td>29 September 2019</td>
<td>The Genetically Modified Organisms (Deliberate Release etc) (Miscellaneous Amendments) (Scotland) Regulations 2019</td>
<td>To, among other things, transpose the Directive.</td>
<td>Minister for Rural Affairs and the Natural Environment</td>
<td>15 March 2019</td>
<td>Whilst transposing Directive (EU) 2015/412 the opportunity was taken to transpose this directive at the same time.¹</td>
</tr>
<tr>
<td>Directive (EU) 2019/523 amending Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community.</td>
<td>31 August 2019</td>
<td>The Plant Health (Scotland) Amendment Order 2019</td>
<td>To, among other things, transpose the Directive.</td>
<td>Minister for Rural Affairs and the Natural Environment</td>
<td>31 October 2019</td>
<td>None.</td>
</tr>
</tbody>
</table>

¹ Transposition of Directive(EU) 2015/412, amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of genetically modified organisms (GMOs) in their territory, is discretionary and therefore there is no transposition deadline. The transposition of Directive (EU) 2018/350 came into force during the last reporting period because the opportunity was taken to transpose it at the same time as Directive (EU) 2015/412. However it is included in this report because transposition fell due in this reporting period.
<table>
<thead>
<tr>
<th>EU Legislation</th>
<th>Transposition Deadline</th>
<th>Transposing SSI</th>
<th>Purpose of SSI</th>
<th>Lead SG Minister</th>
<th>In force / due in force</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive (EU) 2019/523 amending Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community.</td>
<td>31 August 2019</td>
<td>The Plant Health (Forestry) Amendment (Scotland) Order 2019</td>
<td>To, among other things, transpose the Directive.</td>
<td>Minister for Rural Affairs and the Natural Environment</td>
<td>31 October 2019</td>
<td>None.</td>
</tr>
<tr>
<td>EU Legislation</td>
<td>Transposition Deadline</td>
<td>Transposing UKG SI</td>
<td>Purpose of UKG SI</td>
<td>Lead SG Minister</td>
<td>In force / due in force</td>
<td>Reason for devolved provision in UKG SI</td>
</tr>
<tr>
<td>----------------</td>
<td>------------------------</td>
<td>--------------------</td>
<td>------------------</td>
<td>-----------------</td>
<td>------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003.</td>
<td>N/A</td>
<td>The Pesticides (Amendment) Regulations 2019</td>
<td>To amend references in primary and subordinate legislation to Regulation (EC) 1107/2009, in consequence of amendment of that Regulation by Regulation 2019/1009.</td>
<td>Minister for Rural Affairs and the Natural Environment</td>
<td>31 October 2019</td>
<td>Updates are minor and technical in nature and it has been the practice for the four administrations to work collaboratively on a UK-wide approach to the regulation of pesticides. It is therefore considered appropriate that amendments are made through a UK SI.</td>
</tr>
</tbody>
</table>

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2 Relying on section 57(1) of the Scotland Act 1998.
<table>
<thead>
<tr>
<th>EU Legislation</th>
<th>Transposition Deadline</th>
<th>Transposing UKG SI</th>
<th>Purpose of UKG SI</th>
<th>Lead SG Minister</th>
<th>In force / due in force</th>
<th>Reason for devolved provision in UKG SI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein</td>
<td>N/A</td>
<td>The Control of Trade in Endangered Species (Miscellaneous Amendments) Regulations 2019</td>
<td>They update references in primary and secondary legislation to the Control of Trade in Endangered Species (Enforcement) Regulations 1997 by replacing them with references to the Control of Trade in Endangered Species Regulations 2018.</td>
<td>Cabinet Secretary for the Environment, Climate Change and Land Reform</td>
<td>6 November 2019</td>
<td>For The Wildlife and Countryside Act 1981, COTES 2019 updates the offence, in Scotland, of holding certain birds within a period of time following certain offences under COTES 2018. For The Conservation (Natural Habitats, &amp;c.) Regulations 1994 and The Conservation of Habitats and Species Regulations 2017, COTES 2019 updates in both Regulations a defence of acting in the course of investigating an offence under COTES. This will mitigate potential constrains on investigations into non-compliance with CITES requirements.</td>
</tr>
<tr>
<td>EU Legislation</td>
<td>Transposition Deadline</td>
<td>Transposing UKG SI</td>
<td>Purpose of UKG SI</td>
<td>Lead SG Minister</td>
<td>In force / due in force</td>
<td>Reason for devolved provision in UKG SI</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------</td>
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<td>------------------</td>
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<td>------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities.</td>
<td>N/A</td>
<td>The Accreditation of Forensic Service Providers (Amendment) Regulations 2019</td>
<td>To amend the Accreditation of Forensic Service Providers Regulations 2018, which transpose Council Framework Decision 2009/905/JHA.</td>
<td>Cabinet Secretary for Justice</td>
<td>20 November 2019</td>
<td>The Scottish Government had no fundamental objection to the making of this SI but we had questions about aspects of it. In the course of progressing our enquiries, UKG suddenly advised that the SI had already been signed and was due to be laid shortly. Therefore the consent of Scottish Ministers was not obtained prior to the making of these regulations. The Cabinet Secretary for Justice has written to UKG to express his disappointment that the proper process was not followed in this instance.</td>
</tr>
<tr>
<td>Directive (EU) 2018/410 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814.</td>
<td>9 October 2019</td>
<td>The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019</td>
<td>To amend the Greenhouse Gas Emissions Trading Scheme Regulations 2012 to implement some of the amendments made by Directive (EU) 2018/410.</td>
<td>Cabinet Secretary for Environment, Climate Change and Land Reform</td>
<td>21 November 2019 (in part)</td>
<td>The EU ETS regime is implemented by UKG SI, with the consent of the devolved administrations, so agreeing to make this change by further UKG SI was considered the most effective way to do so.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
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<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Policy on organics is aligned across the UK, with the Secretary of State designated as competent authority for the UK, and implementation of EU obligations in organics has always been done by UKG SI with consent of the devolved administrations. Agreeing to implement this Regulation as regards organics by further UKG SI was therefore considered appropriate.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU Legislation</td>
<td>Transposition Deadline</td>
<td>Transposing UKG SI</td>
<td>Purpose of UKG SI</td>
<td>Lead SG Minister</td>
<td>In force / due in force</td>
<td>Reason for devolved provision in UKG SI</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------</td>
<td>-------------------</td>
<td>------------------</td>
<td>------------------</td>
<td>------------------------</td>
<td>-------------------------------------</td>
</tr>
</tbody>
</table>

The UKG SI also implements and enforces the Regulation for England only as regards other policy areas. Corresponding SSIs implement and enforce the Regulation for Scotland as regards those policy areas.
### PART C: New EU Directives to be transposed in the next 6-month period from 17 December 2019 to 16 June 2020

<table>
<thead>
<tr>
<th>EU Legislation</th>
<th>Transposition Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commission Implementing Directive (EU) 2019/1813</strong> amending Implementing Directive 2014/96/EU on the requirements for labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC as regards the colour of the label for certified categories of propagating material and fruit plants and the content of the supplier’s document.</td>
<td>31 March 2020</td>
</tr>
</tbody>
</table>

---

4 This lists only those EU Directive obligations which may require some further provision by an SSI or a UKG SI, relying on section 57(1) of the Scotland Act 1998, to transpose the obligation for devolved purposes.
December 2019

Dear Joan

I am pleased to provide the biannual report on Horizon 2020 to the Culture, Tourism, Europe and External Affairs Committee. The data included in the report is based on analysis by Scotland Europa (Scottish Enterprise) of the latest European Commission statistical bulletin on Horizon 2020 (July 2019).

Scotland continues to perform disproportionately well for the size of its research base, compared to other UK nations, with Scottish organisations having secured almost €650 million from Horizon 2020 up to July 2019 reflecting the high international profile of our institutions. A detailed breakdown is provided in the report attached.

Scotland’s higher education institutions and research institutes continue to attract the majority of funds in Scotland, securing 80% (over €521 million) of the total funds awarded. Scottish businesses have secured almost €97.5 million of the Horizon 2020 funding awarded to Scotland to date, with SMEs accounting for almost €84 million of the funds.

Scottish organisations are currently eligible to continue to fully participate in Horizon 2020 for the duration of the programme until EU Exit. If Boris Johnson’s withdrawal agreement is signed with the EU this would extend eligibility to the end of Horizon 2020. The report sets out further detail in terms of different Brexit-related scenarios including a potential no deal.

Participation in the future Horizon Europe programme, the successor to Horizon 2020, is unclear and therefore we are unable to fully address the issue in the report. However we have provided as much information as we have available to us at this time.

Tha Ministearan na h-Alba, an Iuchd-comhairleachaidh sònraichte agus an Rùnaire Maireannach fo chumhachan Achn Coiteachaidh (Alba) 2016. Falcibh www.lobbying.scot
Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Taigh Naomh Anndrais, Rathad Regent, Dùn Èideann EH1 3DG
St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
ANNEXE A

The UK Government's stated policy approach is that it would prefer the option to associate to Horizon Europe. The UK Government is also investigating potential alternatives to participating in Horizon Europe. Sir Adrian Smith’s report, “Changes and Choices,” was published on 5th November 2019 just before the pre-election period.

The Scottish Government continues to pursue a number of policy issues with BEIS relating to Horizon 2020 and Horizon Europe and we are seeking to maximize Scotland’s participation in the programmes.

I hope this information is helpful to the Committee.

With regards,

RICHARD LOCHHEAD
SCOTLAND’S ENGAGEMENT IN HORIZON 2020

Introduction: Background to Horizon 2020 and Horizon Europe

Horizon 2020 is the EU’s flagship research and innovation (R&I) programme, designed to deliver results that make a difference in people’s lives and is seen as a means to drive economic growth and create jobs.

The programme has a larger budget than its predecessors and has an overall budget of around €78.6 billion in today’s prices. It started in 2014 and will be succeeded in 2021 by the next framework programme for R&I in the EU, Horizon Europe, which will run to 2027. Discussions are ongoing through the EU institutions and processes about the precise size of the budget for Horizon Europe and the content of the programme.

Should the UK exit the EU, the UK Government will need to decide whether to fully associate to Horizon Europe, subject to negotiation with the EU. The terms of association or third country participation in the programme are unclear as they are currently being finalised by the EU as part of its regulations on the next Multi-Annual Financial Framework (MFF).

Structure of Horizon 2020

Horizon 2020 is essentially a portfolio of different programmes, arranged under three core pillars (themes), subsequently divided into a variety of objectives and challenges. The programmes as mechanisms to promote collaboration can look quite different for example mobility, excellence, innovation or project focused programmes:

- **Excellent Science** - funding excellent science and research through open competition. This includes four programmes: the European Research Council; Research Infrastructures; Future and Emerging Technologies; and the Marie Skłodowska-Curie research grant scheme.
- **Industrial Leadership** - this includes a programme to support innovative small to medium-sized enterprises (SMEs); financial instruments to fund innovation; and a programme to encourage the development of enabling and industrial technologies.
- **Societal Challenges** - this pillar consists of seven groups of challenges supporting research in areas such as inclusive societies, health, climate, food, security, transport and energy.

Participants from any Member State are able to apply to participate and receive associated funding for any part of the Horizon 2020 programme. Access to participants from non-Member states is in most cases more restricted and may not involve receiving funding from the European Commission.

The Excellent Science pillar involves mobility schemes supporting excellent researchers and supporting curiosity-driven work. Through the Industrial Leadership and Societal Challenges pillars, much of the work is driven through large “bottom up” project consortia who form groups themselves and submit bids to the programme in
response to “calls” from the Commission around particular research topics. Project
groups can typically involve many universities, companies and other organisations
from several member states at a time. Consortia compete with each other for
research funding.

**Horizon 2020 - Cross cutting schemes**

The Horizon 2020 work programme is complemented by five additional cross-cutting
themes:

- **European Institute of Innovation and Technology (EIT)** - this aims to increase
  Europe’s competitiveness, encourage economic growth and innovation,
  strengthen synergies and cooperation among education institutions, research
  organisations and businesses and create the environment to develop
  entrepreneurs.
- The Enhanced **European Innovation Council** (EIC) pilot - this initiative
  supports top-class innovators, entrepreneurs, small companies and scientists to
  scale up ideas internationally. It brings together the parts of Horizon 2020 that
  provide funding, advice and networking opportunities for innovators. This pilot
  includes the SME Instrument.
- **Joint Research Centre** (JRC) is the Commission’s in-house science centre and
  provides independent scientific and technical support to EU research policy
  making activities. As part of Horizon 2020, the JRC is focusing its direct actions
  on the societal challenges as well as providing R&D contributions under the
  EURATOM Treaty and the EU’s research programme for nuclear research and
  training.
- **Spreading Excellence and Widening Participation** - this addresses the causes
  of low participation in Horizon 2020 by participants from some Member States. It
  ensures that the benefits of an innovation-led economy are maximised and widely
  distributed across the European Union.
- **Science with and for Society** – this programme aims to build effective
  cooperation between science and society, to recruit new talent for science and to
  pair scientific excellence with social awareness and responsibility.

**Horizon 2020 Partnerships**

Horizon 2020 includes a range of partnerships with industry and the public sector to
help deliver on its innovation and economic growth aims. Supporting the framework
programme is the **Innovation Investment Package (IIP)**, which is helping to fund
innovation in sectors that deliver high quality jobs. The IIP is formed of six **Joint
Technology Initiatives**, four **Joint Programmes**, and a **Joint Undertaking**.

The **Joint Technology Initiatives (JTIs)** are specialised public private partnerships
between the Commission and industry. These are run as Joint Undertakings that
organise their own research agenda and award funding for projects on the basis of
open calls. Under Horizon 2020, the five JTIs operate in the following strategic
areas:

- Innovative Medicine
- Fuel Cells and Hydrogen
- Clean Sky
- Electronic Components
- Systems for European Leadership and Bio-based Industries.

**Horizon 2020 and European Structural and Investment Funds (ESIF)**

The EU’s Cohesion Policy 2014–2020, sets out common rules governing funds such as the European Regional Development Fund (ERDF) and the European Social Fund (ESF) and focuses strongly on research and innovation. For example, ERDF had four key priorities: innovation and research, the digital agenda, support for small and medium-sized businesses (SMEs) and the low-carbon economy.

With the purpose of the cohesion policy funds being to support capacity building, including funding for research infrastructure and equipment, the programmes can help increase capacity to participate in Horizon 2020. Additionally under the new cohesion policy each member state and region should develop a Smart Specialisation Strategy to identifying their competitive advantages, set strategic priorities and make use of smart policies in order to maximise their knowledge-based development potential. Such strategies are a precondition to organisations being able to apply for/being a country that can receive research and innovation funding from ESIF.

**Continued participation in Horizon programmes**

The Scottish Government fully recognises the importance of our continued participation in EU programmes for research and innovation. The SG, Scottish Enterprise and the Scottish Funding Council continue to be active in EU Research and Innovation discussions on Horizon Europe. A joint response to the Horizon Europe Strategic Planning consultation titled “Shaping Horizons: Scotland’s recommendations on the strategic planning for Horizon Europe”, published on 13th September 2019.

Mr McKee addressed the EU’s Research and Innovation days conference on Horizon Europe in Brussels in September. He set out Scottish research and innovation strengths and how these support realisation of the Sustainable Development Goals. Mr McKee’s speech on Redefining Prosperity can be found here.

Due to the continuing uncertainty around the precise terms of the UK’s exit from the EU, it is unclear how Scotland’s participation in Horizon 2020 in the short term, and Horizon Europe in the longer term as well as related European programmes such as the ETC may change over the next few years.

Currently UK organisations are eligible to participate in Horizon 2020 until Brexit. If Brexit is delivered under a ratified Withdrawal Agreement, this would extend this eligibility to the end of 2020. Some contingencies are being put in place by the UK Government in the event that Horizon 2020 funding from the European Commission becomes unavailable to UK organisations if the UK exits the European Union without an agreed withdrawal agreement.
The UK Government introduced the Horizon 2020 HMT Guarantee in the case of a no deal. This covers the continuation of funding for all eligible grants, as well as grants submitted before EU Exit and confirmed as successful after EU Exit. All Horizon 2020 Guarantee funding is for the lifetime of the grant as awarded.

The Horizon 2020 HMT Guarantee extension covers all successful bids made after EU Exit, and up to the end of 2020, on schemes that the UK can bid for in its expected new status as a third-country.

In August 2019, the UK Government announced that, in a no deal either the EU or, if not, UKRI will evaluate those bids “in the queue” and not yet awarded project funding under the non-third country parts of Horizon 2020 by exit date (i.e. the monobeneficiary schemes of the ERC, MSCA and others) and successful projects will be funded.

However the Guarantee does not guard against significant research funding gaps, nor does it take account of data, goods and mobility issues. Important parts of Horizon 2020 are unlikely to be open to the UK as a non-associated, industrialised third country after a no deal Brexit. This could result in a loss of income for Scottish research organisations of an estimated total of at least €40 million up to the end of the programme in December 2020, depending on the Brexit date.

It would be in the UK Government’s gift to announce UK alternative schemes or extend the guarantee to cover new bids that would otherwise have been submitted to these schemes in order to stabilise the situation and reduce uncertainty for researchers.

All Scottish organisations and individuals who currently hold a Horizon 2020 grant or a grant from any other of the programmes covered by the guarantee are encouraged to register on the UKRI portal here: https://apply-for-innovation-funding.service.gov.uk/eu-grant/overview.

The UK Government is also taking what it describes as a precautionary measure to investigate potential alternatives to participating in Horizon Europe. It continues to refer to its intention to associate to the programme. UK Ministers commissioned Professor Sir Adrian Smith to provide independent advice on the design of future UK funding schemes for international collaboration, innovation and research. His report was published on 5th November 2019 just before the pre-election period.

Any UK alternative schemes should be fully co-produced with the Scottish Government taking devolved responsibilities on R&I fully into account, should replace lost EU funding to Scotland in full, and should take full account of the distinctive needs of Scotland’s research and innovation base.

**Horizon 2020 – Overall Budget**

Horizon 2020 is the largest EU Research and Innovation programme to date and was launched on 1 January 2014. Horizon 2020 has run from 2014 to the end of
2020 with a **budget** of **€78.6 billion** (for a breakdown see Table below). This is a 30% increase compared to the €53 billion for its predecessor FP7.

The European institutions are currently discussing the appropriate budget for **Horizon Europe** and estimates vary from around **€77 billion** to **€100 billion**.

### Horizon 2020 – Overall Budget

<table>
<thead>
<tr>
<th>Pillar</th>
<th>Percentage of budget(^1)</th>
<th>Budgeted amount in € million</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Excellent science</strong></td>
<td>31.7%</td>
<td>24,441</td>
</tr>
<tr>
<td>The European Research Council</td>
<td>17%</td>
<td>13,095</td>
</tr>
<tr>
<td>Future and Emerging Technologies</td>
<td>3.5%</td>
<td>2,696</td>
</tr>
<tr>
<td>Marie-Skłodowska-Curie Actions</td>
<td>8%</td>
<td>6,162</td>
</tr>
<tr>
<td>European research infrastructures</td>
<td>3.2%</td>
<td>2,488</td>
</tr>
<tr>
<td><strong>Industrial leadership</strong></td>
<td>22.1%</td>
<td>17,016</td>
</tr>
<tr>
<td>Leadership in enabling and industrial technologies</td>
<td>17.6%</td>
<td>13,557</td>
</tr>
<tr>
<td>Access to risk finance</td>
<td>3.7%</td>
<td>2,842</td>
</tr>
<tr>
<td>Innovation in SMEs</td>
<td>0.8%</td>
<td>616</td>
</tr>
<tr>
<td><strong>Societal challenges</strong></td>
<td>38.5%</td>
<td>29,679</td>
</tr>
<tr>
<td>Health, demographic change and wellbeing</td>
<td>9.7%</td>
<td>7,472</td>
</tr>
<tr>
<td>Food security, sustainable agriculture and forestry, marine maritime and inland water research and the Bioeconomy</td>
<td>5%</td>
<td>3,851</td>
</tr>
<tr>
<td>Secure, clean and efficient energy</td>
<td>7.7%</td>
<td>5,931</td>
</tr>
<tr>
<td>Smart, green and integrated transport</td>
<td>8.2%</td>
<td>6,339</td>
</tr>
<tr>
<td>Climate action, environment resource efficiency and raw materials</td>
<td>4%</td>
<td>3,081</td>
</tr>
<tr>
<td>Europe in a changing world – Inclusive innovative and reflective societies</td>
<td>1.7%</td>
<td>1,309</td>
</tr>
<tr>
<td>Secure societies – Protecting freedom and security of Europe and its citizens</td>
<td>2.2%</td>
<td>1,695</td>
</tr>
<tr>
<td><strong>Science with and for society</strong></td>
<td>0.6%</td>
<td>462</td>
</tr>
</tbody>
</table>

\(^1\) Percentages rounded to one decimal point
Spreading excellence and widening participation | 1.1% | 816
--- | --- | ---
European Institute of Innovation and Technology (EIT) | 3.5% | 2,711
Non-nuclear direct actions of the JRC | 2.5% | 1,903
TOTAL | 100% | 77,028
Euratom programme | - | 1,603
Total Horizon 2020 budget | 78,631

**Horizon 2020 Key Facts – Scotland’s Performance to date**

<table>
<thead>
<tr>
<th>Scottish participation in H2020</th>
<th>Number of participations</th>
<th>Funding awarded estimated in (€m)</th>
<th>% of total funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Higher Education Institutes</td>
<td>900</td>
<td>486.0</td>
<td>74.9%</td>
</tr>
<tr>
<td>Research Institutes</td>
<td>98</td>
<td>35.4</td>
<td>5.5%</td>
</tr>
<tr>
<td>Private Commercial</td>
<td>219</td>
<td>97.5</td>
<td>15.0%</td>
</tr>
<tr>
<td>Public Agencies</td>
<td>63</td>
<td>21.7</td>
<td>3.3%</td>
</tr>
<tr>
<td>Others (associations)</td>
<td>32</td>
<td>8.4</td>
<td>1.3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,202</strong></td>
<td><strong>€649.0m</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

**Horizon 2020 – Breakdown of Scotland’s Participation**

<table>
<thead>
<tr>
<th>Pillar</th>
<th>Priority Area</th>
<th>EU financial contribution to all participations in the selection (€m)</th>
<th>Percentage of Scottish Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent Science</td>
<td>European Research Council (ERC)</td>
<td>211.1</td>
<td>32.5%</td>
</tr>
<tr>
<td></td>
<td>Future and Emerging Technologies (FET)</td>
<td>21.8</td>
<td>3.4%</td>
</tr>
<tr>
<td></td>
<td>Marie-Sklodowska-Curie Actions</td>
<td>89.8</td>
<td>13.8%</td>
</tr>
<tr>
<td></td>
<td>Research Infrastructures</td>
<td>26.7</td>
<td>4.1%</td>
</tr>
<tr>
<td></td>
<td>Excellent Science - Cross-theme</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total: Excellent Science</strong></td>
<td></td>
<td><strong>€349.4</strong></td>
<td><strong>53.8%</strong></td>
</tr>
</tbody>
</table>

---

2 Performance is reported post-evaluation, once grants have been awarded, and grant agreements have been signed within individual projects. Based on an EC statistical bulletin on Horizon 2020 as released on July 2019. (data downloaded: 2019/06/2017)

3 Percentages rounded to one decimal point. Funding rounded to the nearest £100,000.
<table>
<thead>
<tr>
<th>Industrial Leadership</th>
<th>%</th>
<th>€</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leadership in enabling and industrial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>technologies (LEIT)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information and Communication</td>
<td>7.3%</td>
<td>69.6m</td>
</tr>
<tr>
<td>Technologies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nanotechnologies</td>
<td>1.1%</td>
<td>7.2</td>
</tr>
<tr>
<td>Advanced materials</td>
<td>0.6%</td>
<td>3.8</td>
</tr>
<tr>
<td>Biotechnology</td>
<td>0.2%</td>
<td>1.3</td>
</tr>
<tr>
<td>Advanced manufacturing and processing</td>
<td>0.6%</td>
<td>3.9</td>
</tr>
<tr>
<td>Space</td>
<td>0.8%</td>
<td>5.0</td>
</tr>
<tr>
<td>Access to risk finance</td>
<td>0.0%</td>
<td>0.1</td>
</tr>
<tr>
<td>Innovation in SMEs</td>
<td>0.2%</td>
<td>1.2</td>
</tr>
<tr>
<td>Industrial Leadership - Cross-theme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total: Industrial Leadership</td>
<td>10.7%</td>
<td>69.6m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Societal Challenges</th>
<th>%</th>
<th>€</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health, demographic change and</td>
<td>8.4%</td>
<td>54.2</td>
</tr>
<tr>
<td>wellbeing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Food security, sustainable agriculture</td>
<td>7.0%</td>
<td>45.6</td>
</tr>
<tr>
<td>and forestry, marine and maritime</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and inland water research and the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>bioeconomy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secure, clean and efficient energy</td>
<td>10.9%</td>
<td>70.7</td>
</tr>
<tr>
<td>Smart, green and integrated transport</td>
<td>3.7%</td>
<td>24.3</td>
</tr>
<tr>
<td>Climate action, environment,</td>
<td>2.3%</td>
<td>15.0</td>
</tr>
<tr>
<td>resource efficiency and raw materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Europe in a changing world -</td>
<td>1.2%</td>
<td>7.9</td>
</tr>
<tr>
<td>inclusive, innovative and reflective</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Societies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secure societies - Protecting</td>
<td>0.7%</td>
<td>4.7</td>
</tr>
<tr>
<td>freedom and security of Europe and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>its citizens</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Societal Challenges - Cross-theme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total: Societal Challenges</td>
<td>34.3%</td>
<td>222.4m</td>
</tr>
</tbody>
</table>

| Spreading excellence and widening     | %     | €     |
| and widening participation            |       |       |
| Teaming of excellent research         | 0.03% | 0.2   |
| institutions and low performing RDI   |       |       |
| regions                               |       |       |
| Twinning of research institutions     | 0.2%  | 1.4   |
| ERA chairs                            |       |       |
| Policy Support Facility (PSF)         | -     | -     |
| Supporting access to international    |       |       |
| networks                              | -     | -     |
| Transnational networks of National    |       |       |
| Contact Points                        | -     | -     |
| Spreading excellence and widening     |       |       |
| participation - Cross-theme            | -     | -     |
| Total: Spreading excellence and       | 0.2%  | 1.6   |
| widening participation - Cross-theme  |       |       |
| Total: Spreading excellence and       | 0.2%  | 1.6   |
| widening participation                |       |       |
Scotland has secured almost €650 million funding from Horizon 2020 (to July 2019). This represents around 11% of the total funding awarded to UK organisations (over €5.9 billion).

Scottish Higher Education institutions and Research Institutes are the main beneficiaries by organisation type, securing 80% (over €521 million) of all the funding awarded to Scottish organisations. This includes €486 million to higher education institutions and almost €35 million to research institutes.

Scottish businesses have secured €97.5 million of the Horizon 2020 funding awarded to Scotland to date, with SMEs accounting for almost €84 million of this.

**Funding Based on Thematic Areas**

Within the three main pillars of Horizon 2020 and five additional cross-cutting schemes, Scotland’s performance to date is as follows:
• Under the **Excellent Science** pillar, which includes the European Research Council grants (ERC) and Marie Skłodowska-Curie Actions (MSCA), almost €350 million has been awarded (almost 54% of the overall €649 million awarded to Scotland).

• Under the **Industrial Leadership** pillar, almost €70 million has been awarded (almost 11% of the funds awarded to Scotland).

• Under the **Societal Challenges** pillar, over €223 million has been awarded (over 34% of the funds awarded to Scotland).

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**Scotland’s participation in the pillars of Horizon 2020 (July 2019)**

<table>
<thead>
<tr>
<th>Pillar</th>
<th>HEIs</th>
<th>Research institutes</th>
<th>Business</th>
<th>Public</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Excellent Science</strong></td>
<td>€331.5m</td>
<td>€11.3m</td>
<td>€5.0m</td>
<td>€0.8m</td>
<td>€0.8m</td>
<td>€349.4m</td>
</tr>
<tr>
<td><strong>Industrial Leadership</strong></td>
<td>€44.0m</td>
<td>€18.0m</td>
<td>€5.1m</td>
<td>€1.4m</td>
<td>€1.2m</td>
<td>€69.6m</td>
</tr>
<tr>
<td><strong>Societal Challenges</strong></td>
<td>€107.3m</td>
<td>€71.3m</td>
<td>€19.7m</td>
<td>€18.5m</td>
<td>€5.5m</td>
<td>€222.4m</td>
</tr>
</tbody>
</table>

The five smaller cross-cutting schemes account for 1.1% of the funds secured by Scotland.

Scotland’s largest proportion of Horizon 2020 funding comes from the **Excellence Science** Pillar (which includes ERC and MSCA schemes) and aims to reinforce and extend the excellence of the Union’s science base and the European Research Area in order to be globally competitive. Scotland has secured €211 million of European Research Council funding and almost €90 million under the Marie Skłodowska-Curie Actions.

Under the **Industrial Leadership** pillar, the priority area within which most funds have been secured to date is Information and Communication Technologies with €47.2 million awarded to Scotland.

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4 HEI – Higher Education Institution
The **Societal Challenges** pillar is split across 7 broad thematic areas and has the largest amount of the Horizon 2020 budget (€28.6 billion, or 38%). Scotland has secured a significant amount of funding within 3 of these:

- Health, Demographic Change and Wellbeing: over €54 million (24% of Societal Challenge pillar funding secured in Scotland)
- Secure, Clean and Efficient Energy: €70.7 million (31.8%)
- Food Security, Sustainable Agriculture and Forestry, Marine and Maritime and Inland Water research: over €45.6 million (almost 20.5 %)

The other Societal Challenges are: Smart, Green and Integrated Transport (€24.3 million awarded to Scotland); Climate Action, Resource Efficiency and Raw Materials (€14.9 million); Inclusive, Innovative and Reflective Societies (almost €7.9 million); and Secure Societies (€4.7 million).

There is a 20% target for overall funding awarded to SMEs within the Leadership in Industrial and Enabling Technologies and Societal Challenges pillars of Horizon 2020. To date Scotland has secured over €292 million within these pillars, of which over €91 million has been awarded to Scottish SMEs. This equates to around 31% of the funding to Scotland in these pillars. The SMEs which have secured funding are businesses, research organisations and other types of organisations.

**Other European Activity – The Vanguard Initiative**

The **Vanguard Initiative** (VI) is a partnership of European regions working collaboratively to deliver economic growth by pioneering new approaches to develop joint demonstration cases in key industry sectors, the final goal of which is full scale commercialisation. The basis of this collaboration is the enterprise-driven, smart specialisation strategies of the EU (e.g. Scotland’s Economic Strategy).

The VI believes that “regions” are significant contributors in driving the EU’s agenda of increasing economic growth and competitiveness as they are closest to their specialist research and enterprise base and are uniquely placed to identify and connect regional partners with European opportunities.

Scotland continues to play a leading role in shaping the work and direction of the Vanguard Initiative and remains committed to continuing to do so. Scotland’s active engagement has allowed us to establish a reputation as a partner of choice amongst VI member regions.

Scotland, through Scottish Enterprise, is a **co-leading region (along with the Basque Country)** on the VI **Pilot in Advanced Manufacturing in Energy-Related Technologies in Harsh Environments** (or ‘ADMA Energy Pilot’, for short). ADMA Energy aims to make the EU the global leader in manufacturing of robust high integrity components and systems for marine renewables, and subsea and offshore energy applications. It also aims to help larger companies strengthen their supply chains by working with innovative SMEs. Led by Scotland and the Basque Country, the VI ADMA Energy Pilot **brings together 10 VI regions as of 2019** (Scotland, Basque Country, Asturias, Navarre, Norte, Lombardy, Emilia-Romagna, Flanders, Dalarna and Scania). These regions all have arguably complementary **smart specialisation priorities** and host stakeholders with particular expertise in this field.
and above all a large, established industrial and advanced manufacturing base in marine renewable energy technologies and wider offshore energy and subsea applications.

The area of corrosion has seen most development within the project, and in early 2017, the Pilot was awarded an EU-funded project to progress work. The resulting NeSSIE project (North Sea Solutions for Corrosion in Energy), mapped existing knowledge of anti-corrosion technology in the maritime sector supply chain. If testing is successful, the deployment of new corrosion solutions could contribute to a large reduction in the cost of operation and maintenance in offshore devices – helping make the wave and tidal sectors more competitive and thereby helping to reduce the levelized cost of energy; and contributing to the sustainability of local energy systems in areas such as Orkney and the wider North Sea region (and the Scottish Government’s Energy Strategy ambitions). NeSSIE is led by Scottish Enterprise and involves the University of Edinburgh as a partner.

For NeSSIE, the total EU contribution to Scotland is €259,276, of which Scottish Enterprise receives (as coordinating partner) €139,291 and University of Edinburgh €119,985. The total project value is €845,856, including match funding from partners (the intervention rate from EU on NeSSIE is 80%). A follow-up project is planned.

ADMA Energy partners are also currently developing a new demonstration case in sensing and remote monitoring technologies for offshore wind, supported by the European Commission through the INTERREG Interregional Innovation Investment instrument. The project is led by the Basque Country with heavy involvement from Scotland.

Scotland also plays a role, for example, in the VI Bio-Economy Pilot (the Industrial Bio-Technology Innovation Centre where Scottish Enterprise have also played a supporting role) and in the Efficient and Sustainable Manufacturing Pilot (the Scottish Institute for Remanufacture has been involved).

**Continued Partnership with VI**

Scotland is currently a leading member of the VI group of regions and wishes to remain so as part of protecting our continued relationship and influence in the European Union. There has been no resistance from other members to Scotland’s on-going collaboration as part of the VI and to date, the VI have supported a continuing partnership with Scotland post EU exit at policy, Director level and in discussions with the Commission.

The VI is its own legal entity so is not bound by EU rules or regulation regarding participation.

Along with Scotland, the VI has also sought clarity from the Commission on third country access to funding streams which could be aligned to VI projects (eg INTERREG).
Other European Activity – European Territorial Cooperation (ETC) Programmes (also known as Interreg)

Scotland has participated in ETC Programmes for more than 20 years to provide strong foundations for European collaboration and cooperation.

As strong and valued partners in ETC projects, a total of 74 Scottish organisations are participating in 144 territorial cooperation projects and have to date been awarded just under €76 million across 9 of the 2014-2020 programmes.

For example, Scotland is a partner in Circular Ocean. Involving organisations from Scotland, Ireland, England, Greenland and Norway, Circular Ocean is developing, sharing and testing new solutions and opportunities for processing, recycling and repurposing of marine plastic waste among Northern European and Arctic regions.

Another project that Scotland is part of is NWE-Chance. This project brings together eHealth companies, hospitals specialised in heart failure treatment and research institutes from Belgium, Germany, the Netherlands and Scotland to develop and validate integrated eHealth applications combined with nanotechnology for heart failure patients at home.

The biggest recipients of ERDF awards are the private sector (31%), and higher and further education institutions (27%), followed by Scottish Government and agencies (23%), Local Authorities (11%) and; NGO (7%).
16 December 2019

EUROPEAN SOCIAL FUND (ESF) AND EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF) PROGRAMMES

I write to update the Committee on the delivery of the European Structural Funds programmes since my last bi-annual update in June.

2014-2020 ESF AND ERDF PROGRAMMES

In our previous correspondence we advised that as a result of the European Commission audit of July 2018 the ESF Programme was placed in pre-suspension in February 2019. Over the past six months officials have continued to work to address the issues identified by the European Commission’s (EC) audit report. This includes systems changes and proposals which seek to change how we recover funds from the EC. The EC have agreed in principle with our proposals to resolve the issues, but it has taken significantly longer than anticipated to secure clarification around the evidence requirements to satisfy both the audit authority and the EC. The process of obtaining sufficiently detailed evidence from lead partners and delivery agents has also taken longer than anticipated.

While significant progress has been made, with the majority of system changes now implemented, not all audit requirements were completed within 9 months of the pre-suspension date and, as a consequence, the ESF programme has been placed in full suspension on the 15 November 2019.

The suspension process is a technical procedure by the European Commission (EC), which means that claims from the Scottish Government to the EC will continue not to be paid.

We continue to work with the EC to resolve the issues identified in the report and ensure the lifting of the suspension.

We are working to minimise the potential for any loss to the programmes, to avoid any losses to recipients of funds and to limit any changes to the existing compliance processes.
We are continuing to make payments where we can, including activity associated with the ERDF programme, and appreciate the impact delays in claims and the uncertainty this can have, particularly on those smaller organisations which deliver vital services across Scotland. We are determined to avoid any charity or third sector body going out of business as a result of the suspension.

We have continued to commit funds to the ESF and ERDF programmes and I can confirm that grant awards totalling £568 million have been made to individual projects with the total committed grant to planned activity coming to £689 million. At current prices, the programme is anticipated to be worth £743 million (at December 2019 exchange rate) and, whilst achieving this target will be challenging, it remains our aim to fully commit these funds. To date £104 million of this has been paid to lead partners (to 30 November 2019).

**2007-2013 ESF AND ERDF PROGRAMMES**

We are continuing to work with the EC to close the 2007-2013 programmes, for which there is a £31 million provision in the Scottish Government accounts to cover anticipated repayments to the EC. We have received confirmation that the Highlands and Island ERDF programme has now been closed and our expectation is that the net recoveries payable will be covered by the existing provision.

**POST-2020 REPLACEMENT FUNDING**

There was no further information from UK Government on their proposals for the replacement of ESF and ERDF funding through the ‘Shared Prosperity Fund’ before the general election campaign began, despite our requests. My colleagues and I have continued to raise this, including through the Joint Ministerial Committee, and will continue to do so following the election.

As you will be aware, I advised your colleagues on the Finance and Constitution Committee on 26 June of my intention to establish a Steering Group to inform the Scottish position to any future funding. This Group has now been formed and the Consultation into The Replacement of European Structural Funds in Scotland Post EU-Exit was launched on 5 November and will close on 12 February 2020. A report with recommendations will be made in Spring 2020 to Cabinet.

Ivan McKee