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## **Measuring sexual orientation and gender identity**

**Note by the Equality and Human Rights Commission of the United Kingdom\***

### *Abstract*

The Equality and Human Rights Commission's remit calls for it to consider a wide range of information on people with characteristics protected under the Equality Act 2010. In terms of statistics, there are few data on either sexual orientation or gender identity that would allow comparisons to be made between groups of people who share the same characteristics. This paper briefly describes question development and recent progress towards developing an evidence base in these areas.

## **I. Introduction**

1. Text The UK's Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and promote and protect human rights. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited by the UN as an 'A status' National Human Rights Institution.
2. To fulfil its remit, the Commission requires a wide range of information on people with different protected characteristics which are covered by the Equality Act 2010. This includes statistics disaggregated by: age, disability, ethnic group, gender identity, marital or civil

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partnership status, pregnancy and maternity, religion, sex and sexual orientation. Since its inception, the Commission has encouraged the collection of data on equality characteristics, by taking part in:

- National Statistics Harmonisation Group meetings and several of its topic groups (this group helps producers of statistics to collect data in similar ways)
  - Development of a suite of questions on disability, which have now been adopted as harmonised questions
  - Development of a question and methodology for collecting data on sexual identity, which has also been adopted as a harmonised question
  - Meetings to discuss topics and questions for the 2011 Census and recently for the 2021 Census
3. The Commission also carried out its own research to develop and test questions on gender identity.
4. Many surveys now collect data on some of the required characteristics. Age and sex are almost always collected, while it is fairly common to find data on ethnic group and to a lesser extent on disability. Fewer surveys collect data on religion, only a handful on sexual orientation and none on gender identity.
5. A key reason for the lack of data on the last two characteristics is, of course, the sensitivity of information on these characteristics. Individuals justifiably fear discrimination, victimisation or even violence should their sexual orientation or gender identity become known. This makes it especially important that information is collected and reported in a way that guarantees the highest levels of confidentiality. It is also vital that data on these characteristics is only collected for valid reasons and is seen to be used effectively to further equality and human rights.
6. This paper reviews progress so far in Britain, first on measuring sexual orientation and second on measuring various aspects of gender identity, including recent developments in these two areas.

## **II. Measuring Sexual Orientation**

### **A. About sexual orientation**

7. Sexual orientation has several dimensions, including sexual attraction, behaviour and identity. For example, a person's sexual attraction may be towards their own sex, the opposite sex or both sexes. For the purpose of statistical surveys, the emphasis is on sexual identity, which allows respondents to self-identify based on their subjective view of themselves, and does not ask about sexual attraction or behaviour.

### **B. Question development and outputs**

8. Prior to the 2011 Census in England and Wales, many stakeholders had requested that a question on sexual orientation be included. While the consultation on topics for inclusion reported strong user requirements, the UK's Office for National Statistics (ONS) took the view at the time that such questions were not suitable for the Census (see ONS, 2006 for details).

Instead they proposed to carry out a programme of work to develop an alternative way to meet user needs.

9. The Sexual Identity Project was set up by ONS in 2006 to develop a survey question, to test the question and implementation and to provide user guidance on implementation for other researchers. Advisory groups set up to support the project allowed input from stakeholders from both within and outside government, including academics, non-governmental organisations and lesbian, gay and bisexual (LGB) groups. The project comprised three main parts:

- Reviews of the literature, the legal framework and of UK and international surveys.
- Quantitative research, including four trials on the ONS Omnibus Survey and a pilot on the General Lifestyle Survey.
- Qualitative research, including focus groups and cognitive testing, follow-up interviews with those who preferred not to answer and feedback from interviewers.

10. All project publications are available on the ONS website under 'Sexual identity guidance and project' at:

<https://www.ons.gov.uk/methodology/classificationsandstandards/sexualidentityguidanceandprojectdocumentation> (accessed May 2016).

11. The project resulted in two versions of a question on sexual identity for use in either face-to-face and telephone interviews respectively, with the implementation designed to avoid disclosure if the respondent was not alone. For face-to-face interviews, the answers are given random numbers which are different for each person in the household:

Which of the options on this card best describes how you think of yourself?  
Please just read out the number next to the description.  
The numbers on each card are different for each person.  
27. Heterosexual / Straight  
21. Gay / Lesbian  
24. Bisexual  
29. Other

12. For telephone interviews, the answer options are first read out and then repeated with pauses to allow the respondent to select a response:

I will now read out a list of terms people sometimes use to describe how they think of themselves.  
1. Heterosexual or Straight  
2. Gay or Lesbian  
3. Bisexual  
4. Other  
As I read the list again please say 'yes' when you hear the option that best describes how you think of yourself.

13. In both cases, other spontaneous responses such as 'Don't Know' or refusal can be recorded by the interviewer.

14. In addition, the following version of the question is offered for self-completion surveys, although with warnings that this mode was not included in the original testing:

Which of the following options best describes how you think of yourself?

1. Heterosexual or Straight
2. Gay or Lesbian
3. Bisexual
4. Other
5. Prefer not to say

15. In January 2009, the question on sexual identity was added to the Integrated Household Survey (IHS) and at the same time was adopted as a harmonised question. More details on the latter can be found on the ONS website at:

<https://www.ons.gov.uk/methodology/programmesandservices/harmonisationprogramme>  
(Accessed May 2016).

16. An evaluation report and first results from the IHS question were published in September 2010, and estimates of the population by sexual identity have since been published each year. The latest release, in October 2015, included the overall percentage of the population who identify as lesbian, gay or bisexual (1.6%) as well as breakdowns of the population by sexual identity and by gender, region and occupation. (see ONS, 2015).

### C. Recent developments

17. Although the data have continued to be collected, detailed analysis in addition to population estimates has not been regularly published and access to the data is limited. It is hoped that this situation will soon improve, with sexual identity question responses being made available on Annual Population Survey datasets via secure access arrangements.

18. Following a topic consultation for the 2021 Census for England and Wales, which confirmed user requirements for sexual identity data, further work is also proposed to inform the decision as to whether a question can be asked in 2021, a sexual identity question is to be included in the 2017 Census test.

## III. Measuring Gender Identity

### A. About gender identity

19. In these meetings the term 'Gender Statistics' is used to refer to statistics disaggregated by sex and on issues relating to gender. The difference between sex and gender is that:

- Sex - Sex refers to biological and physiological characteristics and the terms used are 'male' and 'female'.
- Gender - Gender refers to socially constructed roles, behaviours, activities and attributes and the correct terms to use are 'man' and 'woman'.

20. For the majority of the population there is a simple relationship between sex and gender: men are male, women are female. However for a minority a broader range of categories is required.

21. Gender identity is the broader concept that needs to be considered in this case. It relates to the gender category with which a person identifies. This can be at odds with their apparent sex

or gender role, it may be neutral or non-gendered, it may involve a transition from one gender to another, or it may have aspects of both man and woman.

22. Under the Equality Act 2010, protection is specifically given to transsexual (or trans) people. A trans person is one who proposes to undergo, is undergoing or has undergone a process of gender reassignment, which refers to the process of transitioning from one gender to another. This may include changing their name, wearing different clothes, hormonal treatment or surgery.

23. Another group of people to consider are Intersex people. There are several intersex conditions (now renamed Disorders of Sex Development). Those born with them may experience inconsistency between their gender identity and the gender role assigned at birth.

24. Although at present protection under the Equality Act 2010 is only given to trans people, the Commission prefers to consider the broader definition of gender identity, and this will be adopted in this paper.

## B. The Commission's research and guidance

25. Over the period from 2010-2012, the Commission carried out a programme of research into collecting information on gender identity and produced guidance on the questions to ask and suitable methodology to use (see EHRC, 2012). This included:

- Reviewing over 20 questions from a range of countries in search of questions suitable for further testing.
- Selecting a short list of questions for testing and further refinement through focus groups and cognitive testing with both trans and non-trans people.
- Question testing via an online survey.

26. The following four questions were finally selected and included in the guidance:

Q1 Birth sex  
At birth, were you described as ...

1. Male
2. Female
3. Intersex
4. I prefer not to say

Q2 Gender identity  
Which of the following describes how you think of yourself?

1. Male
2. Female
3. In another way (write in)

Q3 Gender reassignment  
Have you gone through any part of a process (including thoughts or actions) to change from the sex you were described as at birth to the gender you identify with, or do you intend to?  
(This could include changing your name, wearing different clothes, taking hormones or having gender reassignment surgery).

1. Yes
2. No
3. I prefer not to say

Q4 Stage of gender reassignment process

Continuing to think about these examples, which of the following options best applies to you?

1. I am thinking about going through this process
2. I am currently going through this process
3. I have already been through this process
4. I have been through this process, than changed back
5. None of the above (write in)
6. I prefer not to say

27. Together, these questions provide a way of collecting data on: sex at birth, current gender identity, whether someone is a trans person and, if so, at what stage they are in the process.

28. In addition to recommending questions, guidance is also provided on:

- How to ask the questions, with preference given to a self-completion paper or online format. In both cases it is important to provide further information and reassurances about who would have access to the data. Confidentiality of the responses is essential and response rates may be increased if anonymity can also be guaranteed.
- Meeting the equality duty, which is a statutory requirement on public service providers in Britain to consider the need to eliminate discrimination, advance equality of opportunity and foster good relations both in their role as employer and service provider.

### C. Recent developments

29. Recent events have brought the issue of gender identity back onto the agenda.

30. First, there is a possibility that the legislation may be extended. A recent inquiry by the Women and Equalities Committee (WEC), a committee of Members of Parliament who oversee the Government's performance on equalities issues, proposed that the protected characteristic should be amended to "gender identity" (WEC, 2016). This would extend the coverage of the legislation to transgender people more widely. This proposal will be considered by the Commission in the 2016/17 financial year (EHRC, 2016).

31. Second, a consultation on topics for the 2021 Census for England and Wales received several requests for a question on gender identity. As a result of this user demand, the UK's Office for National Statistics is expected to carry out work to consider options for the collection of data on gender identity.

## IV. Conclusion

32. Although these are difficult characteristics to measure, new work in these areas should encourage and help to develop new sources of data. The developmental work for the 2021 Census is particularly welcome and it is hoped the 2017 Census Test will show that it is now possible to collect census data on sexual identity.

## V. References

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