

Stonewall response: 2021 Draft Guidance on Sex, Gender Identity and Sexual Orientation

1. Stonewall welcomes the opportunity to respond to these draft questions and guidance. The introduction of voluntary questions in the 2021 Census to determine the size of the LGBT population is a historic step forwards, and will be invaluable in supporting public authorities to meet their legal equalities duties, and informing public policy, to advance equality for LGBT people across England and Wales.

Draft sex question and guidance

Non-binary inclusion

2. We acknowledge that the Government has committed to maintaining the sex question in the 2021 Census in its current binary form in its 2018 White Paper [Help Shape Our Future](#). We remain concerned that this question will force non-binary people to respond to this question in a way that does not align with their identity, and ~~this~~ is likely to cause distress for many non-binary respondents, as well as leading to inaccurate data collection, as non-binary people will not have the opportunity to answer honestly and correctly.

Recommendation: In future Censuses, we hope to see the ONS test and introduce a third category in the sex question to ensure that non-binary people can respond to this question in line with their identity, as is currently being explored in Scotland. We are also keen to discuss with the ONS how they intend to ensure that the data on sex collected in England and Wales in the 2021 Census is consistent with the data on sex collected in Scotland in the 2021 Census.

Recommendation: Given that the sex question for 2021 will remain binary, we strongly recommend that the guidance accompanying the sex question is updated to include specific guidance for non-binary respondents on how best to respond. This guidance should encourage non-binary people to respond in line with how they feel most comfortable (and that this may or may not align with their sex assigned at birth), while recognising the very difficult position non-binary people are put in when required to define themselves as female or male. We are happy to support the development of this guidance.

Note on 'a question about gender will follow'

3. We are pleased that trans people will not be required to respond to this question with their sex assigned at birth – in line with the guidance on the sex question that accompanied the 2011 Census.
4. Stonewall recognises the finding from the 2018 [Census Topic Research Update](#) that the note 'a question on gender will follow' was found to make the question 'more acceptable to non-binary and transgender people'. Given the current binary nature of the sex question, we recognise the value of making it clear to non-binary people in particular that there will be an opportunity for them to disclose their gender in the Census. However, we are concerned that this note as worded has the potential to create significant confusion, as it could be interpreted to imply that ~~the sex question is unrelated to the gender question~~ sex is unrelated to gender. This risks fuelling misinformation about what information the 'sex' question intends to gather (for example, that this question intends only to gather data on sex assigned at birth) and how trans people should respond to this.

Stonewall response: 2021 Draft Guidance on Sex, Gender Identity and Sexual Orientation

5. In particular, we are concerned that some people may interpret this note as implying that respondents should answer the sex question in line with their sex assigned at birth, which may be very distressing for many trans people – as the current wording implies that there is a clear distinction between the sex and gender questions.
6. In addition, we are concerned that the interchanging usage of ‘gender’ and ‘gender identity’ to describe the question gathering information on respondents’ trans status risks creating confusion.

Recommendation: To ensure that this question is as clear as possible to both cis and trans respondents, we strongly recommend that the accompanying note reading ‘a question about gender will follow’ is either removed, or reworded to include specific reference to ‘gender identity’ rather than ‘gender’, for example:

- *You will have the opportunity to provide more information about your gender in a later question.*

Alongside this, we recommend that guidance for this question is updated (as below) to provide clearer guidance on how trans respondents should respond to the sex question.

Accompanying guidance

7. We are concerned that the draft guidance for trans respondents accompanying this question is less clear than its 2011 predecessor. The 2011 guidance made specific reference to trans respondents and took an affirmative and instructive approach by asking trans respondents to ‘select the answer which you identify as’.
8. The current draft wording represents a step backwards from the 2011 guidance, as it does not explicitly refer to trans people (creating a risk that some trans people may not realise that the guidance is directly intended for them), and it only indirectly supports trans people to respond to the sex question in line with their gender identity. We believe that encouraging trans people to respond to the sex question in line with their gender identity will empower trans respondents to do this (and thus avoid having to respond in line with their sex assigned at birth, which many trans people may find distressing), and ensure consistency with both the data gathered in the 2011 Census, and in the way that trans people answer this question.

Recommendation: We strongly recommend that the draft guidance is amended to include explicit reference to trans respondents and how they should reply, and should make it clear that trans people should reply to this question in line with how they identify (in line with the 2011 guidance).

Recommendation: We strongly recommend the ONS and central Government run awareness-raising campaigns targeted at trans communities, the wider LGBT community and the general population to raise awareness of how respondents should [answer](#) these questions on sex, gender identity and sexual orientation. The ONS should make the benefits of this data collection clear, and should also make it clear how they intend to use the data collected (including disaggregating it where relevant to highlight data on different groups). We are very happy to support your awareness-raising work through our communications channels and networks.

Draft question and guidance on gender/gender identity

9. We warmly welcome the introduction of a separate question that will gather information on whether or not a respondent is trans. In line with the 2018 testing findings, we believe this two-tier approach (sex question followed by trans status question) is the best way to accurately gather data on size of the trans population.

Draft guidance

Stonewall response: 2021 Draft Guidance on Sex, Gender Identity and Sexual Orientation

10. We understand that the wording in question tested best with respondents in terms of acceptability. However, given that the question requires a negative response from trans people (i.e. to respond as a trans person, you must respond 'no' rather than affirmatively), it's vital that the guidance for trans respondents in responding to this question is clear.

Recommendation: We strongly recommend that the draft guidance is updated to make specific reference to trans people (including non-binary people) and how they should respond, for example:

- *If you are trans/transgender or non-binary, you should respond 'No' to this question*

Recommendation: We'd recommend that the words 'it's up to you to decide your gender' and 'gender is about your identity' are removed, as we don't consider them to be necessary

. Instead, we recommend the focus of the guidance is on how respondents should practically answer the question,

. Instead, we recommend the focus of the guidance is on how respondents should practically answer the question, whether they are trans or cis.

11. We would also like to discuss in further detail whether the question titles ('your gender', for example) are for the purposes of this consultation, or if they will be included like this in the Census itself. The current wording may be confusing to some respondents given the interchanging usage of gender/gender identity throughout to refer to this question.

Open text box

12. We warmly welcome the opportunity for respondents to describe their gender identity in an open text box. However, we believe that the current wording ('please specify gender') may need clarifying, as below. We would also like clarity on whether this open text box is available to all respondents, or just to respondents who answered 'no'.

Recommendation: We strongly recommend that the guidance accompanying this question is updated to make it clear that you don't need to specify your gender if you don't want to, and listing options to support people to respond (for example, female, male, non-binary, man, woman, genderqueer, trans man, trans woman, etc.)

Draft sexual orientation question and guidance

- [16.13.](#) We are very pleased to see the inclusion of a question on sexual orientation, and we are happy with how the question is asked.

Draft guidance

- [14.](#) We believe that it is not necessary to define the terms heterosexual/straight, gay, lesbian and bisexual in terms of attraction to 'sex or gender', as this may risk creating confusion among respondents.

Recommendation: We recommend that the definition for heterosexual/straight refers to 'different-sex' attraction (or attraction to people of a different sex) and that the definitions of gay, lesbian and bisexual refer to 'same-sex' attraction (or attraction to people of the same sex), as these are commonly used terms. We recommend that references to 'opposite' sex or gender are removed, as this could be interpreted to imply that there are only two sexes/genders (male or female).

General comments



Stonewall response: 2021 Draft Guidance on Sex, Gender Identity and Sexual Orientation

Recommendation: In line with the proposals in the *Equalities Impact Assessment* that accompanied the recent White Paper, it is vital that high quality guidance is provided for people who are completing these questions on behalf of others. We would be very happy to support the ONS in the development of this guidance. We would also be happy to support the ONS with Welsh translations of the questions and guidance.