



Equality Impact Assessment Screening

2011 Census

Development of question on sex/gender

Equality impact assessment: Screening decision checklist	
Name of policy or practice	2011 Census questionnaire design
Name and contact details of assessor	<p>Caroline Jones, Director Diversity Solutions Consultancy Ltd. Cavell House Stannard Place St. Crispin's Road Norwich NR18 9PJ</p> <p>Email: carolinejones@diversity-solutions.com</p> <p>Tel: 0845 260 0028</p>
Name and contact details of client	<p>Peter Stokes Head of Statistical Design 2011 Census Office for National Statistics Segensworth Road Titchfield Fareham PO15 5RR</p>
Purpose of policy or practice	<p>Sex/gender question for 2011 Census: Assessment of user requirements related to the sex question for the 2011 Census, considered by the census demography, families and households topic group.</p>
Date of screening decision	14.10.2008
Proceeding to assessment?	No
Priority level for assessment ¹	Low (with the exception of the gender identity issues outlined in 2 below).

¹ Priority levels are generally set at high, medium or low according to the level of actual or potential equality impacts that may be expected. Assessors must use their best judgment to determine the level.

Deadline for completing assessment	Not applicable
If not proceeding to assessment, complete one of the following:	
<p>1. Assessor's reasons for deciding there is insufficient resource to proceed (e.g. insufficient time, staff, competing priorities, etc.):</p> <p>Not applicable.</p>	
<p>2. Assessor's reasons why it is not necessary to do an assessment on this policy (e.g. no adverse equality impacts likely to affect any communities or groups within communities):</p> <p>ONS has recommended that the 2011 Census sex question should be the same as that asked in the 2001 Census, resulting in a classification of person to male or female. The question to be asked is as follows:</p> <p style="text-align: center;">What is your sex? Male <input type="checkbox"/> Female <input type="checkbox"/></p> <p>The census demography, families and households topic group, which considered the question in detail, has published the following:</p> <p>“The data will be used to produce breakdowns by sex of the census population itself and the population by other census variables. It is also required for use of census for making population estimates. It is recognised by the topic group that what is actually collected is gender rather than sex in that respondents choose which box to tick. The group recommend no change to the question from 2001, although it should be noted that a private individual wanted the right to record themselves as non-gendered. More formal guidance for the transsexual and transgender community should be provided in advice on how to complete the form.”</p> <p style="text-align: center;"><i>The 2011 Census: Statement of user requirements – Demography, families and households</i>, ONS, November 2007, paragraph 3.2.</p> <p>In the view of the assessor, it would be a disproportionate use of resources to conduct an equality impact assessment on the sex question.</p> <p>Consultation</p> <p>ONS has conducted extensive consultation on the 2011 Census questions through a number of channels to include the views of as many users as possible. This is summarised in the information paper <i>The 2011 Census: Statement of user</i></p>	

requirements – Demography, families and households, ONS, November 2007.

Gender identity: Issuing guidance on census form completion

ONS does not intend to ask a question on gender identity in the 2011 Census.

As with the 2001 Census, the 2011 Census raises issues of census form completion for trans people and proxy respondents that must be addressed by ONS. Some of the issues were also raised by the Trans Community in 2001: see Appendix 1.

Changes to equality legislation since 1999 have given greater protection against discrimination to trans people in the areas of employment, goods, facilities and services. Public sector bodies have a statutory duty to promote gender and gender identity equality.

The Gender Recognition Act 2004 gives transsexual people the legal right to live in their acquired gender. A trans person who has obtained a Gender Recognition Certificate should put their true gender on all official forms, including the census form.

European case law has determined that sex includes gender reassignment. To reflect this determination, the Sex Discrimination (Amendment of Legislation) Regulations 2008 – SI 2008/963 extends protection in employment against discrimination on the ground of gender reassignment to apply also to the provision of goods and services.

To comply with their statutory duty to promote gender equality, ONS must issue clear guidance to trans people, including those who do not have a Gender Recognition Certificate so that they, or others completing the census form on their behalf, are enabled to give accurate answers to the question.

Consulting on guidance

In drawing up guidance for 2011 Census respondents, ONS must consult with trans people, trans community groups and others to develop appropriate guidance on gender identity in relation to the sex question.

For this equality impact assessment screening process, consultation has been conducted with Paula Thomas, a trans community representative who was asked to give her expert view. Ms. Thomas also made a relevant enquiry of ONS related to the 2001 Census (see Appendix 1). Her current view is as follows:

“Where no Gender Recognition Certificate has been issued:

Clear guidance is required here. For example, it should be made clear that someone who believes herself to be female, despite having a male birth certificate and no Gender Recognition Certificate, can tick the female box without fear of prosecution under the Perjury Act.

Where the form is not being filled in by the trans person:

Particularly difficult problems could arise where the form is being filled in by someone else (e.g. partner, parent/guardian). They [the proxy respondent] may fear prosecution for false statement and not be aware of the significance of the

Gender Recognition Certificate. They may not believe the trans person's assurances that it really isn't a problem."

Consultation on the guidance should include the views of trans community groups such as the Gender Trust and Press for Change, which work on behalf of adult trans people. It is also essential to consult with Mermaids, to capture the views of younger trans people and their parents. Links to their websites are below:

<http://www.gendertrust.org.uk/>

<http://www.pfc.org.uk/>

<http://www.mermaids.freeuk.com/>

Other issues arising for the Trans Community

The data outputs of the decennial census help all business sectors to identify the numbers of people in different localities who are also part of minority communities. This enables them to plan and provide employment, goods, facilities and services.

Lack of gender identity data outputs from the 2011 Census may raise issues for public bodies such as local authorities, NHS and police services. Numerically, trans people will continue to be a hidden minority community. Since 2007, the Gender Duty of the amended Sex Discrimination Act 1975 has required public bodies to demonstrate due regard to the need to eliminate unlawful discrimination and harassment on grounds of gender reassignment in the provision of employment, goods, facilities and services. This may prove difficult if there are no baseline data on the numbers of trans people in different localities.

Planning for the future

ONS should consult with trans people, trans community groups and others to consider the development of a gender identity question for use in social surveys. This would assist ONS and other public bodies to comply with the Gender Duty of the amended Sex Discrimination Act 1975.

Press for Change has developed gender identity monitoring questions and these provide a useful starting point: see <http://www.pfc.org.uk/node/1408>.

It may be appropriate to consider extending the terms of reference of the ONS Sexual Identity Project to include gender identity. Although gender identity and sexual identity are different, there are key similarities between both identities in the issues to be considered for social survey question development and implementation guidance.

For information on the Sexual Identity Project see <http://www.ons.gov.uk/about-statistics/measuring-equality/sexual-identity-project/index.html>

Monitoring of screening decision (to be completed by ONS):
ONS comments on external assessor's advice: Comments noted and considered
Date of scrutiny meeting: 28 November 2008
<p>Actions agreed:</p> <ul style="list-style-type: none"> • Provide guidance to trans people, including those who do not have a Gender Recognition Certificate so that they, or others completing the census questionnaire on their behalf, are enabled to give accurate answers to the question asking 'what is your sex?' • Consult on this guidance with trans community groups.
Recommendations to Committee:N/a
Name and signature of Panel Chair: Peter Benton, Deputy Director Census

Appendix 1

Source: Press for Change website <http://www.pfc.org.uk/node/71>
Title: Census 2001: How should you fill it in?
Date: February 1999

For most people, the ten-yearly census is just another form to fill in ... but for thousands of trans people around the country, it raises yet again the question of how to legally and truthfully answer the question about sex.

Because UK law does not fully recognise trans people in their true gender, the possibility arose that once again, it would be impossible to provide a truthful answer which also matched legal requirements. There is a legal obligation to complete the census form accurately, so trans people faced an unpleasant dilemma.

However, this letter from the Office of National Statistics (in response to an enquiry from Press For Change campaigner Paula Thomas) makes it clear that trans people **can** now give an answer which is both truthful and legal:

- **Trans women** should record their sex as **female** if they believe that to be correct, even though their birth certificates will still say 'male'
- **Trans men** should record their sex as **male** if they believe that to be correct, even though their birth certificates will still say 'female'.

Letter from the Office of National Statistics



MARGARET WORT
Census Legislation
Room 4300 (E)

Our Ref: W1 1 00/024

Date: 14 December 1998

Ms Paula Thomas

address deleted

Dear Ms Thomas

Thank you for your email of 13 December 1998 concerning the completion of the 2001 Census form.

The White Paper on the 2001 Census, which details the Government's plans and the proposed questions for the Census, will not be published until mid January 1999. Should there be the traditional question on the individual's Sex in the 2001 Census, it would be reasonable for you to respond by ticking either the 'Male' or 'Female' box whichever you believe to be correct, irrespective of the details recorded on your birth certificate.

Yours sincerely

MARGARET WORT
CENSUS LEGISLATION