



ONS Census Transformation Programme

The 2021 Census

Assessment of initial user
requirements on content for
England and Wales

Gender identity topic report

May 2016

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1. Introduction

In June 2015 the Office for National Statistics (ONS) published the public consultation document ‘[The 2021 Census initial view on content for England and Wales](#)’¹. This discussed the initial views of ONS regarding the potential inclusion of current (2011) and additional topics in the 2021 Census. The public consultation was open from 4 June 2015 to 27 August 2015 and aimed to promote discussion and encourage the development of strong cases for topics users wanted to be included in the 2021 Census. The focus was on information required from the 2021 Census, not the detailed questions that could be asked on the questionnaire.

ONS received 1,095 responses to the consultation; 279 of these were from organisations and 816 were from individuals. Gender identity was not consulted on specifically; however, 54 respondents discussed gender identity in their response. Of these, 14 specifically requested ‘Gender identity’ to be included as an additional topic in the census.

There are no sub-topics within this additional topic request.

Based on the evidence given by users, topics were evaluated using the criteria detailed in the consultation document using a standardised method. The criteria are listed in table 1 below. The criteria largely reflect those used in the 2011 Census topic consultation and have undergone expert review within ONS and via the Census Advisory Groups for use in the 2021 Census topic consultation. More detail on the scoring methodology is available in section 2 of the document ‘[The 2021 Census - Assessment of initial user requirements on content for England & Wales: Response to consultation](#)’².

Table 1 Evaluation criteria

<p>1. User requirement</p> <ul style="list-style-type: none"> • Purpose • Small geographies or populations • Alternative sources • Multivariate analysis • Comparability beyond England and Wales • Continuity with previous censuses 	<p>2. Other consideration</p> <ul style="list-style-type: none"> • Data quality • Public acceptability • Respondent burden • Financial concerns • Questionnaire mode
	<p>3. Operational requirement</p> <ul style="list-style-type: none"> • Maximising coverage or population bases • Coding of derived variables and adjustment for non-response • Routing and validation

This report provides ONS’s updated view based on our evaluation of user responses against these evaluation criteria.

¹ <https://www.ons.gov.uk/census/censustransformationprogramme/consultations/the2021censusinitialviewoncontentforenglandandwales>

² <https://www.ons.gov.uk/file?uri=/census/censustransformationprogramme/consultations/2021censustopicconsultation/assessmentofinitialuserrequirementscontentforenglandandwalesresponsetoconsultation.pdf>

Further information on this topic is provided through a series of annexes:

- Annex A: Overview of relevant legislation
- Annex B: EHRC recommended questions on gender identity
- Annex C: Additional information on international context
- Annex D: Organisational responses by sector

2. Background

Gender identity is defined by the Equalities and Human Rights Commission (EHRC) in '[Monitoring Equality: Developing a gender identity question](#)'³ as the way in which an individual identifies with a gender category. This is based on an individual's own perception of themselves and as such the gender category with which a person identifies may not match the sex they were assigned at birth. In contrast, sex is biologically determined.

An overarching term used to describe those whose gender identities do not match the sex assigned at birth is 'Trans'. Trans identities can, as described in a recent paper from the House of Commons Women and Equalities Committee '[Transgender Equality](#)'⁴ published in 2015, take a number of forms. For example a trans identity can, in addition to being male or female, be 'non-binary' in character. This means that the person considers their identity to be located at a point along a continuum between male and female which may be fixed or variable. Alternatively, a trans identity may be 'non-gendered', meaning that the person identifies as neither male nor female.

Within this group the term 'gender reassignment' refers to people who are proposing to undergo, are undergoing, or have undergone, a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex. This is the definition used in legislation such as the Equality Act 2010; those meeting this definition have the protected characteristic of 'gender reassignment'. Throughout this report, where respondents referred to the requirements of the Equality Act 2010 or protected characteristics it has been assumed that it is this group that is being referred to.

The development of legislation relating to the trans community is discussed in greater detail in Annex A.

We are aware that trans people themselves refer to their diverse identities and experiences in many different ways and that use of some terms is contested. We have tried in this report to use terms which are generally accepted and widely used within the trans community.

As a result of the 2007 '[Equalities Review](#)'⁵ by the Cabinet Office, the ONS undertook an '[Equality Data Review](#)'⁶ which identified significant gaps in data for some equality areas, including information on transgender people. The report recommended that government agencies work with non-government stakeholders to agree an approach for obtaining more equality information on transgender people and those undergoing the process of gender reassignment.

In response to this recommendation the ONS published a '[Trans Data Position Paper \(May 2009\)](#)'.⁷ This outlined the difficulties of collecting data on gender identity within household surveys. These included:

- public acceptability concerns linked to the sensitivity of the topic and the terminology used

³ <https://www.equalityhumanrights.com/en/publication-download/research-report-75-monitoring-equality-developing-gender-identity-question>

⁴ <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

⁵ http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/equalitiesreview/upload/assets/www.theequalitiesreview.org.uk/equality_review.pdf

⁶ <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/measuring-equality/equality/equality-data-review/index.html>

⁷ <http://www.ons.gov.uk/ons/guide-method/measuring-equality/equality/equality-data-review/trans-data-position-paper.pdf>

- respondent burden concerns linked to the number of questions required to collect data on gender identity
- data quality concerns linked to the small size of the population of interest and evidence demonstrating that respondents give different answers depending on the survey situation

For example, trans people obtaining a Gender Recognition Certificate cannot be required to reveal their birth sex or gender history, although they may choose to disclose these. Hence, not all those with the protected characteristic of 'gender reassignment' will reveal their gender history.

As a result it was suggested that alternative measures should be explored. It was advised that, to be effective, this work would need to be led by those associated with the trans community and that data collection could be through attitude surveys, administrative sources and specialist surveys.

Subsequently, EHRC commissioned a research study to develop and cognitively test new gender identity questions to be used for equality monitoring, which could be understood and answered by people who are transgender and non-transgender. The results of this study were published in '[Monitoring equality - Developing a gender identity question](#)'⁸ in 2011. This report includes a recommended suite of four questions for capturing information on gender identity. The first three are required to identify the population with a trans gender identity and within this the population with the protected characteristic of gender reassignment. The fourth captures information on those meeting different parts of the definition associated with the protected characteristic of gender reassignment. The full suite of questions is reproduced in Annex B.

[Testing of these questions](#)⁹ on an online self-completion survey found that 0.8% of approximately 10,000 respondents had trans identities and that around half of this population had the protected characteristic of gender reassignment. However, the EHRC note that some of the responses which appear to come from trans people may not actually do so.

Whilst data on gender identity are currently limited, data collection methodology for this topic is rapidly developing in many areas of the world. Interviewer administered censuses carried out in India and Nepal in 2011 allowed people to record a gender other than male or female. The questions used are shown in box 1.

In the same year, a self-completion census was carried out in Australia and respondents could report their sex as other than male or female on paper forms, if they contacted the Census Inquiry Service for instruction. The Australian Bureau of Statistics is proposing to continue to allow respondents to do this for both paper and online forms in the 2016 Census.

Only India has released data on the population that identified as other than male or female. Nepal and Australia did not produce outputs from their censuses on this population due to data quality and disclosure issues respectively.

Of the 47 countries in Europe that have ratified the European Convention of Human Rights, none collect information on gender identity in their censuses. [The Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing](#)¹⁰, published in 2015, acknowledges that some countries may wish to start to collect information on gender identity

⁸ <http://www.equalityhumanrights.com/publication/research-report-75-monitoring-equality-developing-a-gender-identity-question-technical-note-measuring-gender-identity>

⁹ <https://www.equalityhumanrights.com/en/publication-download/technical-note-measuring-gender-identity>

¹⁰ <http://www.unece.org/publications/2020recomm.html>

through censuses and recommend that rigorous testing should be undertaken before doing so. The report also highlighted disclosure risks as numbers are likely to be small and suggested that information should not be collected if it cannot be published.

Figure 1 England and Wales, India and Nepal 2011 Census questions on sex

England and Wales 2011 Census, self-completion individual form:

2 What is your sex?
 Male Female

Nepal 2011 Census, interviewer completed household listing form:

Total Number of Usually Living Household Member			
Total	Male	Female	Third Sex

India 2011 Census, interviewer completed household schedule form:

Q. 3
Sex
 Male ...1
 Female 2
 In case the respondent wishes to return other than code 1 or 2 then give code '3'
 Other...3

Please see Annex C for additional information on the international context.

The Council of Europe Resolution 2048 made in April 2015 discusses the rights of all those with a trans identity. In response to this the Women and Equalities Select Committee, which was established to examine the Government’s performance on equalities issues, stated in the paper ‘Transgender Equality’ referenced above:

“the use of the terms “gender reassignment” and “transsexual” in the Act is outdated and misleading; and may not cover wider members of the trans community.

The protected characteristic in respect of trans people under the Equality Act should be amended to that of “gender identity”. This would improve the law by bringing the language in the Act up-to-date, making it compliant with Council of Europe Resolution 2048; and make it significantly clearer that protection is afforded to anyone who might experience discrimination because of their gender identity.”

Any development of a question related to gender identity may need to take these kinds of considerations into account.

ONS expect that including a question on gender identity in the census would require an amendment to the Census Act 1920. The Act originally allowed the collection of 6 groups of information consisting of:

- names, sex, age
- occupation, profession, trade or employment
- nationality, birthplace, race, language
- place of abode and character of dwelling
- condition as to marriage, relation to head of family, issue born in marriage
- any other matters with respect to which it is desirable to obtain statistical information with a view to ascertaining the social or civil condition of the population

The addition of a question on religion in the 2001 Census required changes to the Census Act 1920 as it was judged that the right to collect information on this topic was not covered by the 6 groups listed above. This was done through primary legislation: the Census (Amendment) Act 2000.

Such primary legislation had to be passed by both the House of Commons and the House of Lords. Members of the House of Lords were concerned that the question could be seen as an infringement of respondents’ civil liberties so it was decided that the question would be voluntary.

Any change to the Census Act 1920 to enable a question on gender identity, whether voluntary or otherwise, would likewise have to be made through primary legislation.

As gender identity is an additional census topic request, an initial view was not given in the consultation document ‘The 2021 Census: Initial view on content for England and Wales’.

Table 2 Initial view of ONS

Topic detail	Initial view	Collected in 2011?
Gender identity	New topic proposed by users in response to the consultation - no initial view presented	No

3. Summary of consultation responses

Table 3 presents the number of responses by type of respondent and organisational sector. The organisations that responded to this topic are listed by sector in Annex D.

Table 3 Gender identity - number of responses by type of respondent

Type of respondent	Total responses	
	N	% total responses
Individual	19	35
Organisation (all sectors)	35	65
Sector		% organisation responses
- Government department/public body	3	9
- Local authority	16	46
- Health organisation	1	3
- Housing	0	0
- Academic / research	3	9
- Charity and voluntary	11	31
- Commercial	0	0
- Genealogist/family historian	0	0
- Other	1	3
Total responses	54	100

Note: Percentages might not add to 100% due to rounding.

Note: An organisation may have submitted more than one response

Fourteen respondents submitted a specific request for the inclusion of an additional topic on gender identity; half of these stated they were representing organisations. The remainder of respondents discussed gender identity within the ‘Basic demographics and household composition’ or ‘sexual identity’ topics. Some respondents discussed sexual identity and gender identity together by referring to the lesbian, gay, bisexual and transgender (LGBT) community.

The quotes below illustrate how respondents use information about gender identity. They provide additional context to the evaluation.

Users from both central and local government and the charity and voluntary sector, noted the importance of collecting high quality data about gender reassignment in order to meet the requirements of the Equality Act 2010 and the associated public sector Equality Duty. However, they did not confine their request to this section of the trans community as discrimination is not limited to this population. Data would be used for government policy development and monitoring, resource allocation, and service planning.

Government Equalities Office (GEO): *“While public bodies are gathering data on the protected characteristics of their users and populations, without reference to accurate population data*

from the census on the transgender population at the local level, it is difficult for them to make improvements to assessing or demonstrating whether this is being done appropriately. In addition, the Equality Duty is supported by specific duties, set out in regulations which came into force on 10 September 2011. The specific duties require public bodies to publish relevant, proportionate information demonstrating their compliance with the Equality Duty; and to set themselves specific, measurable equality objectives. In complying with this duty, public bodies need access to robust external sources of evidence and information, such as census data.”

Stonewall: *“Trans people experience high levels of discrimination and prejudice, yet there is a lack of accurate population data for this group. This is a real barrier to researchers, policy-makers and those developing and commissioning services for trans people at a local and national level. We are conscious that there are particular sensitivities around gender identity monitoring, but there is also a real user need in order to reduce discrimination and improve the health and well-being of trans people in Britain. We believe the ONS should consult with trans people with a view to including questions on gender identity in the 2021 census.”*

Respondents linked uses of the data to the specific requirements of the trans community in relation to the improvement of health provision.

Gender Identity Research and Education Society: *“Until recently, resource allocation with regard to gender non-conforming people, especially in health services, has been based on very outdated data. This has failed to reveal that gender non-conforming people comprise about 1% of the general population. A rapidly growing but still relatively small proportion of that population has so far sought medical care for their gender variance. That growth has overwhelmed the specialist NHS gender identity services, for which waiting lists are now measured in years. Based on the size of the gender non-conforming population, that growth rate is likely to continue for the foreseeable future.”*

Throughout the responses on this topic prevalent themes were the lack of robust data on the trans community, uncertainty about the size of the population, and the need to start collecting data even if it is not included in the 2021 Census:

Government Equalities Office (GEO): *“In the absence of census data by gender identity (regarded as the gold standard by us and many of our stakeholders) there is considerable debate about the size and composition of the transgender population in Britain.”*

Government Equalities Office (GEO): *“The absence of basic data on the transgender population results in the invisibility of transgender inequalities and disadvantage for decision-makers and funders. It also limits our ability to systematically research the things which affect these people and understand the multiple dimensions of disadvantage.”*

Trades Union Congress: *“We also believe that social progress over recognition of transgender people reflected in many positive steps from government outwards now makes it appropriate to try to establish for the first time the size of the population identifying as trans. We accept there are significant issues for example around the wording of a question but these can be solved by discussion with trans organisations - the important step is to agree it is necessary to begin collection of data.”*

Equality and Diversity Forum: *“The EDF is not wedded to the idea that such information has to be collected by a census provided that the information is in fact collected.”*

The majority of other respondents focused on allowing individuals to identify in their preferred way and increasing the visibility of the trans population.

4. Evaluation

The following sections show the scores allocated to the topic by individual criterion based on the evidence given by users. The criteria largely reflect those used in 2011, but have undergone expert review within ONS and via the Census Advisory Groups. The document '[The 2021 Census - Assessment of initial user requirements on content for England & Wales: Response to consultation](#)'¹¹ gives details on the scoring methodology including:

- 'user requirements criteria', including a description of relative weights, are described in section 2.1 of the document. Note that, in the following tables, the overall score is weighted and is not the sum of the scores for individual criteria
- 'other considerations' are described in section 2.2 of the document. These will predominately be used in conjunction with the user requirement score to steer the development of the census questionnaire and the production of administrative data research outputs
- 'operational requirements' are described in section 2.3, of the document. ONS has operational uses for some of the data collected in the census, of which the most important is maximising coverage of the 2021 Census. Each sub-topic is categorised as being of maximum, moderate or minimum importance in relation to operational requirements.

Respondents generally discussed gender identity; this included all members of the trans community irrespective of whether they have the protected characteristic of gender reassignment.

The protected characteristic of 'gender reassignment' refers to people who are proposing to undergo, are undergoing, or have undergone, a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex. When evaluating the user need for data on this topic, where respondents referred to the requirements of the Equality Act 2010 or protected characteristics it has been assumed that they are referring specifically to those with the protected characteristic of gender reassignment.

4.1 User requirements - gender identity

Table 4 User requirement score by criterion

Criterion	Score	Evidence
Weighted Overall Score	66.5	Medium user need
Purpose	7	<p>Respondents said that the data on gender reassignment would be used for understanding inequality and informing policy development and monitoring. For example, the Government Equalities Office (GEO) stated that:</p> <p><i>“The dearth of detailed high quality evidence on transgender people is hindering our ability to make improvements to understanding and tackling inequality, discrimination and disadvantage, and measuring progress for these groups effectively. The lack of the most basic</i></p>

¹¹ <https://www.ons.gov.uk/file?uri=/census/censustransformationprogramme/consultations/2021censustopicconsultation/assessmentofinitialuserrequirementscontentforenglandandwalesresponsetoconsultation.pdf>

Criterion	Score	Evidence
		<p><i>demographic data on transgender populations means that policy makers and service providers are required to operate in a vacuum, without the necessary evidence to support decision-making and policy development. For example, estimating the costs and benefits of trans-inclusive employment policies and practices; and developing the business case for trans-inclusive service provision etc.”</i></p> <p>The GEO, amongst others, also discussed how data could be used to inform service provision and resource allocation to help meet obligations under the Equality Act 2010. These obligations relate to those with the protected characteristic of gender reassignment:</p> <p><i>“If ONS did not collect Census data on gender identity in 2021 this would have a significant impact on the GEO and the Equality and Human Rights Commission’s (EHRC) ability to make improvements to monitoring the impact of the Equality Act 2010 by the key protected characteristic covered by the legislation. Under the Public Sector Equality Duty, (section 149 of the Equality Act 2010) public bodies, including Government Departments and Ministers, service providers and local authorities are required to: eliminate unlawful discrimination; harassment; and victimisation; and advance equality of opportunity; and foster good relations between people who share a protected characteristic and those who do not.”</i></p> <p>The Equality and Diversity Forum noted the requirement to inform health services:</p> <p><i>“The Equality Act 2010, section 7, makes provision for gender re-assignment to be a protected characteristic and discrimination on this ground is prohibited. In order to measure the effect of indirect discrimination on transgender people it is necessary to measure the numbers of transgender people in particular populations. Similarly, if public authorities, such as health authorities, are to make appropriate provision for transgender people they do need to have access to reliable information about the number of people having this characteristic in the relevant population.”</i></p> <p>The London Borough of Hackney stated that:</p> <p><i>“we would encourage ONS to consider collecting information on gender identity so that information is available in line with the Equality Act, and current thinking about equality and raising the visibility of the LGB + T population. This information would help to ensure people are treated fairly, that discrimination is avoided and that cohesion is promoted.”</i></p>
<p>Small geographies or populations</p>	<p>7</p>	<p>This topic relates to proportionately small groups within the population; less than 1% of the population are thought to have trans identities.</p> <p>All respondents asked for data at local authority level or above. Respondents indicated that data below national level would be needed to support service planning and delivery. The Government Equalities Office (GEO) said that:</p> <p><i>“Discussions with our stakeholders indicate, for example, that health commissioners would benefit from robust data on transgender populations at a local level, which would enable them to better</i></p>

Criterion	Score	Evidence
		<p><i>understand the pool of potential users and the extent of user needs. This in turn would help them to better target services for transgender users, which will have a direct and significant effect on the experiences, treatment and outcomes for transgender people.”</i></p> <p>The Equality and Diversity Forum added:</p> <p><i>“if public authorities, such as health authorities, are to make appropriate provision for transgender people they do need to have access to reliable information about the number of people having this characteristic in the relevant population.”</i></p> <p>Cornwall council, the local authority, stated:</p> <p><i>“Currently there is no census data available for sexual orientation or gender reassignment (as there is no question asked) and also there is no other reliable local or national data available for these categories. Therefore when the Council publishes its annual workforce data profile it is unable to made comparison between its workforce and the local or national picture in these areas.”</i></p>
Alternative sources	10	<p>The Government Equalities Office stated that:</p> <p><i>“In the past, to inform policy and legislation, the government has relied on limited and scarce evidence to estimate the size of the transgender population.”</i></p> <p>They further explained:</p> <p><i>“There is currently no appropriate source of robust data on the nature, size and structure of the transgender population in England and Wales. In the absence of census data, we do not have an official estimate of the transgender population. No government or administrative surveys collect data on transgender people. Furthermore, there is no official agreed and tested question (or series of questions) for how to ask about gender identity, although a number of stakeholders have experience and insight on this issue.”</i></p> <p>The Gay and Lesbian Association of Doctors and Dentists, amongst others, considers there to be no robust data:</p> <p><i>“Currently we do not have any reliable estimates of the number of trans people in the UK. This makes the trans community a hidden minority and may affect service delivery and policy.”</i></p> <p>Despite publishing an estimate that around 650,000 people in the UK experience some degree of gender non-conformity on their website, the Gender Identity Research and Education Society is amongst the organisations advocating the need for more robust statistics. The London Friend organisation commented that:</p> <p><i>“The majority of other relevant data is from smaller research projects, often generated by LGBT organisations or individuals themselves. This can be easily disregarded by local commissioners and public health teams as it does not always meet quality standards of some more robust datasets, or does not contain any local analysis of data.”</i></p> <p>As previously discussed, respondents referred to EHRC research using the suite of questions they developed to capture data on gender identity (including gender reassignment), One individual noted:</p>

Criterion	Score	Evidence
		<p><i>“The only source of information specific enough to the UK is the “Technical note: measuring gender identity” by the Equality and Human Rights Commission in May 2014.”</i></p> <p>The EHRC, however, noted in their report the potential for respondent error and that the results are not representative of the whole population.</p> <p>There was also agreement amongst respondents that there are very few, if any, alternative sources of data on gender reassignment specifically. For example, Bedford Borough Council stated that:</p> <p><i>“Consideration should be given to including a question on Gender Reassignment since this is a protected characteristic under the Equality Act 2010 and there are no alternative sources of data.”</i></p> <p>There may be some scope to investigate changes of sex in administrative data, including requests for Gender Recognition Certificates or for health services related to gender reassignment. However, the Equality Act 2010 protects those “people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex”. Those individuals “proposing to undergo” a process may not appear in any administrative source of data as having the protected characteristic of gender reassignment.</p> <p>Several individual respondents discussed the lack of data on individuals with non-binary gender identities. For example, one individual stated:</p> <p><i>“There is no good source of information on the number of non-binary identifying people, since most sources restrict the options to two (male and female).”</i></p>
Multivariate analysis	7	<p>The Government Equalities Office discussed the need for data to enable multivariate analysis:</p> <p><i>“There is significant policy interest in understanding and addressing inequalities for transgender people, discrimination and disadvantage associated with race, age, health and social care, education, hate crime, employment and the labour market, economic inequality, living arrangements, family composition and public attitudes, for both trans-women and trans-men. Many of these represent policy issues which are reflected by topics contained within the census.”</i></p> <p>The Older Lesbian, Gay, Bisexual and Trans Association state that they would use data on gender identity in conjunction with data on sexual identity, health and care for training purposes.</p> <p>Respondents told us about a need to use data in combination with data about protected characteristics under the Equality Act 2010. For example, Trades Unions Congress said that:</p> <p><i>“Transgender people also have many other identities and often face issues in those identities covering other protected characteristics. Information about other characteristics, if established by using data concerning eg health, occupation, religion, might show up important areas in which to focus resources and attention once the data exists.”</i></p>

Criterion	Score	Evidence
Comparability beyond England and Wales	6	<p>The lack of robust data on gender identity means that if the topic of gender identity were to be included in the 2021 Census there would be no equivalent data available for comparison data to compare to unless Scotland and Northern Ireland were to also include a question. This lack of data meant that respondents provided little evidence of a need for data comparable beyond England and Wales.</p> <p>However, the Government Equalities Office and the Equality and Diversity Forum indicated that comparability is important in relation to developing policies relating to the whole trans community, and the Gender Identity Research and Education Society stated that they are involved with developing UK wide policies of the trans community with the Department of Health, Department for Education, Home Office and Government Equalities Office.</p> <p>In addition, the Equality Act 2010 is applicable to Great Britain, and therefore comparable data beyond England and Wales would be of use to respondents. For example, the Government Equalities Office stated that:</p> <p><i>“Equality legislation is a reserved matter and the Equality Act 2010 applies in England, Scotland and Wales. The Equality and Human Rights Commission’s remit also extends to England, Scotland and Wales. We expect that the Scottish Government and the Welsh Assembly have similar needs for Census data on LGB&T populations. It is important that comparisons can be made across the UK and between areas of different sizes to determine the effectiveness of different policy approaches in different jurisdictions, and to compare, for example the differing needs of rural versus urban communities.”</i></p> <p>Other evidence provided includes campaigning by individuals and organisations. For example, the Older Lesbian, Gay, Bisexual and Trans Association state:</p> <p><i>“Olga is a national campaign group supporting the needs of older gay and trans people, especially in health and social care.”</i></p> <p>An individual added:</p> <p><i>“My remit as a nonbinary activist is UK-wide, and it requires me to provide information to support this.”</i></p>
Continuity with previous censuses	0	<p>Since information on gender identity has not been collected in the census no comparisons with previous censuses would be possible if a question was to be included in the 2021 Census.</p>
Weighted Overall Score	66.5	Medium user need

4.2 Other considerations - gender identity

Table 5 ONS assessment of impact by criterion

Criterion	Operational impact	Justification
Impact on data quality	High	<p>ONS has not previously included a question on gender identity in the census. As such, concerns are as highlighted in ONS' 'Trans Data Position Paper (May 2009)'¹² and as discussed in relation to the development of the EHRC's recommended suite of questions on gender identity¹³ in 2012.</p> <p>Testing of the EHRC suite of questions on an online self-completion survey showed that the majority of respondents would answer all of the proposed questions in an individual questionnaire, with only 0.2 per cent (18) out of over 10,000 respondents not answering all relevant questions. However, only 0.8 per cent of respondents were identified as having a trans identity; hence this level of non-response may still have an impact on results. ONS anticipate that data quality would be lower in a census context where the questionnaire may be completed by one individual on behalf of all household members as individuals may not have disclosed their trans identity to other household members.</p> <p>Sex, as biologically determined, is one of the most frequently used and important characteristics the census collects as it is used in most multivariate analysis of data and feeds into the UK population projections¹⁴. It is critical that the collection of information on gender identity for a small population (estimated to be less than 1%) does not jeopardise the quality of data collected on sex for the population who don't have trans identities or the protected characteristics of gender reassignment.</p> <p>Any question on gender identity would need to be understood by the whole population. Following testing, the EHRC concluded that some of the responses which appear to come from trans people show that this may not be the case; suggesting potential respondent error. For example none of those that stated a birth sex of female and a gender identity of male gave an answer indicating that they had the protected characteristic of gender reassignment.</p> <p>Therefore, as the population of interest is very small the quality implications may create errors bigger than the population we are trying to estimate.</p> <p>Inclusion of a question on this topic may discourage some usual residents from participating in the 2021 Census. This is a key concern for ONS. For example, trans people obtaining a Gender Recognition Certificate cannot be required to reveal their birth sex or gender history. The ONS 'Trans data position paper (May 2009)' reported that 55 per cent of trans respondents would refuse under any circumstances to answer a question that may lead to their gender history being disclosed.</p>

¹² <http://www.ons.gov.uk/ons/guide-method/measuring-equality/equality/equality-data-review/trans-data-position-paper.pdf>

¹³ <http://www.equalityhumanrights.com/publication/research-report-75-monitoring-equality-developing-a-gender-identity-question-technical-note-measuring-gender-identity>

¹⁴ *The importance of the sex variable is reflected in the Government Statistical Service policy, recorded in Hansard, to always collect and make available, for example in publications, statistics disaggregated by sex, except where considerations of practicality or cost outweigh the identified need.*

Criterion	Operational impact	Justification
		<p>In addition, not all of those who have the protected characteristic of gender reassignment will continue to identify as part of the trans community. Hence, it may not be possible to collect data on all of this population.</p>
Impact on public acceptability	High	<p>The data quality issues discussed above relate to public acceptability. The fact that 55 per cent of trans respondents would refuse to answer a question that may lead to their gender history being disclosed under any circumstances suggests that asking this question is probably not deemed acceptable by the population of interest.</p> <p>Additionally, the EHRC emphasise the sensitivity of the topic and state that it is essential that questions be asked in a confidential setting as members of the trans community may consider the topic to be private or may not have disclosed their gender identity to other members of their household. Maintaining privacy of individuals responding to this question in a self-completion household context will be an important consideration. As completing the census is mandatory for all usual residents of England and Wales this is a concern.</p> <p>There are also concerns linked to the acceptability of the terminology as the language used by members of the trans community is evolving; trans people of different generations and philosophies have their own preferences for the words to describe themselves. However, EHRC testing in 2012 concluded that the terminology in their recommended questions was publically acceptable at the time of development.</p> <p>Gender reassignment is becoming more visible and widely discussed in the media so public opinion and willingness to provide information on this topic may be changing.</p>
Impact on respondent burden	High	<p>EHRC research recommends four questions (reproduced in Annex B) to capture information on gender identity covering:</p> <ol style="list-style-type: none"> 1. sex at birth, 2. gender identity, 3. gender reassignment 4. (if relevant) stage of gender reassignment process <p>EHRC concluded that all four questions were required as there was relatively little overlap between the different minority groups and relying on only some of the questions would risk missing some groups.</p> <p>Adding to the burden of asking four questions:</p> <ul style="list-style-type: none"> • the EHRC recommend that an introductory text is provided in writing before these questions are asked to explain why the data is being collected, how confidentiality will be protected and how respect of the answers will be ensured • question 3 includes a clear definition of the terms used to help people of all ages understand the question and the response options • questions 3 and 4 are interrelated so respondents have to continue thinking about the first to answer the second

Criterion	Operational impact	Justification
		<p>Reading and understanding this quantity of material would impose a substantial respondent burden.</p> <p>However, the EHRC do note that, depending on the user requirement, the first three recommended questions on gender reassignment may be sufficient and the first would replace the standard mandatory sex question. Furthermore, it is anticipated that any additional questions on gender identity would need to be voluntary. Hence, the burden could be less than currently anticipated.</p> <p>In addition, the EHRC concluded that the trans community understood the questions and that those not part of the trans community understood the first three questions. Respondents who were not part of the trans community would be routed around question four.</p>
Impact on financial concerns	Medium	<p>Four questions, a preamble and explanatory text are recommended; hence a relatively large amount of space would be taken by this suite of questions on both a paper form and online. In addition, two of the questions include a write-in option which would require manual coding; as the population expected to use these options is very small this would not be a major financial concern.</p> <p>However, there is an additional concern that inclusion of this topic may affect overall response to the 2021 Census and hence increase costs associated with follow-up field force operations.</p>
Impact on questionnaire mode	Low	<p>Based on the EHRC recommended questions on gender identity, we do not foresee any issues with comparability between modes of data collection as the first two questions could be shown on separate pages and although questions 3 and 4 would need to be seen together they would both display on a screen at once without requiring scrolling.</p>

4.3 Operational requirements - gender identity

As questions on this topic have not been asked in any previous England and Wales censuses we do not anticipate any operational requirement to collect this information from the census.

5. Updated view

The following table gives the updated view of ONS at the topic level and the justification for this.

Table 6 Updated view

Topic detail	Initial view	Updated view	Justification
Gender identity	n/a	Consider whether/how to meet need	<p>Data users showed a clear requirement for information on gender identity for policy development and service planning; especially in relation to the provision of health services. This focused on a need for data on a population comprising less than one per cent of the population at local authority level, and for the data to be available for analysis in combination with other characteristics.</p> <p>Respondents also told us that data about individuals with the protected characteristic of gender reassignment were required in relation to fulfilling duties under the Equality Act 2010.</p> <p>However, the consultation responses were not clear on the exact output categories required. Hence, the exact concepts to be measured need to be clarified</p> <p>Additionally, other considerations regarding data quality, public acceptability and respondent burden are 'high'. ONS still consider the conclusion of their 'Trans data position paper (May 2009)'¹⁵:</p> <p><i>“data collection via household surveys is not the most appropriate method of meeting these requirements.”</i></p> <p>to be valid for the census as a large household based data collection exercise.</p> <p>In addition, as explained earlier in this document (2. Background), there are specific legislative issues linked with collecting data on gender reassignment, and it is possible that the inclusion of a question on gender reassignment in the census would require an amendment to primary legislation.</p> <p>ONS plans to take forward work on gender identity.</p>

¹⁵ <http://www.ons.gov.uk/ons/guide-method/measuring-equality/equality/equality-data-review/trans-data-position-paper.pdf>

6. Equality implications of ONS's updated view

The Equality Act 2010 and associated public sector equality duty require public bodies to work towards eliminating discrimination and promoting equality of opportunity with regard to nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These requirements are reinforced by secondary legislation in both England and Wales¹⁶ as well as by the Equality Objectives published recently by the Welsh Government which seek to address the key equality challenges faced in Wales and to support progress towards the well-being goals in the Well-being of Future Generations (Wales) Act 2015.

The proposals made for the 2021 Census content will consider identified 'User requirements' for data alongside other factors such as 'Other considerations' and 'Operational requirements' specified in our evaluation criteria. In addition, it will be important to take account of the impact of any decisions that we may make on equality. Impacts can be:

- positive - actively promote equality of opportunity for one or more groups, or improve equal opportunities/relations between groups
- adverse or negative - cause disadvantage or exclusion (any such impact must be justified, eliminated, minimised or counter-balanced by other measures)
- neutral - have no notable consequences for any group

The Equality Act 2010 includes gender reassignment as a protected characteristic but does not include those with other trans identities such as those with a non-binary gender identity. As such, any development of questions related to gender identity, intended to collect data on those with the protected characteristic of gender reassignment should ensure that this sub-group can be identified separately from the wider trans community.

In addition, the collection of data on this protected characteristic should not have a detrimental impact on the collection of other protected characteristics, such as sex.

As shown in previous sections of this document, consultation respondents demonstrated a clear need for data about this topic. Those advocating the inclusion of a question on gender identity in the 2021 Census explicitly linked their needs to the positive effects of:

- enabling targeted government policy development and monitoring, resource allocation, and service planning for the trans population (especially in relation to health provision)
- enabling organisations to fulfil the requirements of the public sector Equality Duty in relation to those with the protected characteristic of gender reassignment

However, as discussed previously, there are public acceptability issues related to asking a question on this topic. Privacy concerns are especially relevant in the context of gender identity because those who have legally changed their gender from that assigned at birth are not obliged to reveal their gender history. ONS will consider with stakeholders the impact of this on the quality of any data that could be collected and whether the positive impacts of collecting data would be greater than the negative impacts.

¹⁶ *The Equality Act 2010 (Specific Duties) Regulations 2011 and The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.*

The next steps discussed below focus on developing a greater understanding of this topic and take into account the identified equality implications. As research and stakeholder engagement continues, if further equality implications emerge, these will be considered and mitigated where necessary. Further information on the research linked to question development and testing, and stakeholder engagement will be published as required.

7. Next steps

There is a user need for data about gender identity, particularly in relation to planning services and allocating resources to support interventions for this community. The user requirement for data on those with the protected characteristic of gender reassignment is strengthened by the Equality Act 2010. Hence, ONS plans to take forward work on gender identity.

Although the EHRC has developed a recommended suite of questions to collect data on gender identity there is no national harmonised standard question on gender identity, and in the '[Trans Data Position Paper \(May 2009\)](#)¹⁷, ONS concluded that household surveys were not an appropriate approach to collecting information about gender identity.

ONS therefore plan to:

- review the 'Trans Data Position Paper' in light of subsequent changes in legislation and the identified difficulties of collecting data on gender identity within household surveys
- seek to learn from other National Statistics Agencies
- work with stakeholders, including members of the trans community, to clarify the specific data required on gender identity and the concepts to be measured
- identify alternative options for meeting the user requirement for data, for example administrative data; paying particular attention to the public acceptability of these options
- make a recommendation on how to take forward work on gender identity across the ONS

¹⁷ <http://www.ons.gov.uk/ons/guide-method/measuring-equality/equality/equality-data-review/trans-data-position-paper.pdf>

Annex A: Overview of relevant legislation

The rights of trans people were first recognised in 1996 when a European Court Ruling rendered it unlawful to dismiss from employment an individual for intending to undergo, undergoing, or having undergone gender reassignment. This led to the development of equality laws specifically relating to trans people.

Trans people intending to undergo, undergoing or having undergone gender reassignment were identified for protection from discrimination by the Sex Discrimination (Gender Reassignment) Regulations 1999. The Gender Recognition Act 2004 then enabled transgender people to legally change their gender from that assigned at birth. Subsequently, the Equality Act 2006 introduced the Gender Equality Duty which required public authorities to have due regard to the need to eliminate unlawful discrimination and harassment against transsexual people in the fields of employment and vocational training.

The [Equality Act 2010](#)¹⁸, which extended and harmonised equality law, states that it is unlawful to discriminate against anyone because of certain characteristics (including gender reassignment). The term transsexual person is used to refer to those who have the protected characteristic of gender reassignment and includes people who are proposing to undergo, are undergoing, or have undergone, a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex but may not cover other members of the trans community. Furthermore, the Act introduced a public sector Equality Duty, which requires public bodies to consider how their policies affect people with protected characteristics.

More recently the Council of Europe Resolution 2048 made in April 2015 was accompanied by the report '[Discrimination against transgender people in Europe](#)'¹⁹ which stated:

“Transgender people have a gender identity which is different to the gender assigned at birth. This includes people who intend to undergo, are undergoing, or have undergone gender reassignment as well as those who prefer or choose to present themselves differently to the expectations of the gender assigned to them at birth. Diversity within the transgender spectrum is large, with 73 per cent of transgender people not identifying themselves with the gender binary male–female.”

¹⁸ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

¹⁹ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=19956&lang=EN>

Annex C: Additional information on international context

The 2011 interviewer administered censuses in Nepal and India (as well as the self-completion census in Australia) allowed respondents to record their sex as being other than male or female, through the inclusion of a third gender response option. However, outputs from the census in Nepal were not produced owing to a number of data quality issues, including limited training of census enumerators and lack of suitable software. Outputs from the 2011 Census in India have been published on the [Census of India website](#)²⁰ and show that 0.04 per cent of the population identified as other than male or female.

In 2015, Statistics New Zealand published a new '[Statistical Standard for Gender Identity](#)'²¹. This is separate to their '[Statistical Standard for Sex](#)'²² and was developed to standardise definitions and measures of gender identity data. The statistical standard for gender identity provides a three-fold classification of gender identity: male, female and gender diverse. The objective of the statistical standard is to:

“enable policy-makers to develop measures that will address matters of importance affecting gender minority groups. This will more adequately address the needs of these people across the gender identity spectrum in areas such as health, social, education, and employment.”

The statistical standard states that there are some situations where information on gender identity is important and others where data on sex recorded at birth is more relevant. Whilst use of the statistical standard for gender identity is not mandatory, several government organisations in New Zealand are considering how to implement these recommendations. The '[Preliminary view of 2018 Census content](#)'²³ document, published in 2015, recommended that information on gender identity should not be collected in the 2018 Census but that there is a need to further explore and test the implications of collecting data on people who are biologically intersex within the sex question of the census.

In February 2016, the Australian Bureau of Statistics published a '[Standard for Sex and Gender Variables](#)'²⁴ which includes guidelines on the collection of counts of persons who wish to report as being other than male or female. These new standard classifications for sex and gender both include male, female and other options. For gender, the other response option is for adults and children who identify as non-binary, gender diverse or with descriptors other than man/boy or woman/girl. As this standard was recently published no information on its implementation is currently available.

²⁰ http://www.censusindia.gov.in/2011census/population_enumeration.html

²¹ <http://www.stats.govt.nz/methods/classifications-and-standards/classification-related-stats-standards/gender-identity.aspx>

²² <http://www.stats.govt.nz/methods/classifications-and-standards/classification-related-stats-standards/sex.aspx>

²³ <http://www.stats.govt.nz/Census/2018-census/prelim-content.aspx>

²⁴ <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1200.0.55.012Main%20Features12016?opendocument&tabname=Summary&prodno=1200.0.55.012&issue=2016&num=&view=>

Annex D: List of organisations that responded, by sector

This list includes organisations that responded to at least one consultation question, or discussed collection of data, on the 'Sexual identity' topic. If multiple responses were received from an organisation the name only appears once.

Government department/public body

Government Equalities Office (**GEO**)
HM Revenue & Customs (**HMRC**)

Welsh Government

Local authority

Basildon Council
Bedford Borough Council
Bournemouth Borough Council
Carmarthenshire County Council
Cornwall Council
East Sussex County Council
Essex County Council
Lancashire County Council
London Borough of Bexley

London Borough of Hackney
London Borough of Richmond upon Thames
Oxfordshire County Council
Powys County Council
Royal Borough of Kingston upon Thames
Shropshire Council – Intelligence and Research Team
Swansea Council

Health organisation

Cardiff and Vale University Health Board

Housing

No responses were received from organisations

Academic/research

British Sociological Association

Forum for Sexual Orientation and Gender Identity Equality

Charity and voluntary

Discrimination Law Association
Equality and Diversity Forum
Gay and Lesbian Association of Doctors and Dentists (**GLADD**)
Gender Identity Research and Education Society
Lesbian, Gay, Bisexual, Transgender Foundation
London Friend

National AIDS Trust (**NAT**)
Older Lesbian, Gay, Bisexual and Trans Association (**OLGA**)
Stonewall
Tai Pawb
The National Lesbian, Gay, Bisexual & Transgender Partnership

Commercial

No responses were received from organisations

Genealogist/family historian

No responses were received from organisations

Other

Trades Union Congress

