

2021 census: Assessment of the guidance proposed by the UK census authorities to accompany the sex question

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The census is the most extensive source of demographic and social statistics available in the UK today and is at the heart of the British statistical system. The census provides vital information on the number and characteristics of people and households in the country that is relied upon by Government, Parliament, local authorities, the health service, the education sector, the academic community, business and the public.

(House of Commons Public Administration Committee, 2014)

Summary

The three UK census authorities are proposing guidance¹ to accompany the sex question in the 2021 census which instructs respondents to answer based on their self-declared gender identity. The main rationale they offer for this is that similar guidance was introduced in the 2011 census. However, this guidance was introduced without parliamentary or external scrutiny, or any assessment of the potential impact on data quality. A senior official in the National Records of Scotland recently admitted that it was not known if or how the 2011 guidance affected data reliability². Given the 2021 census is a 'digital first' census, it is likely that the guidance will be more prominent and, amongst particular sub-populations, the extent to which respondents will select their 'sex' based on their self-declared gender identity is unknown. The UK is currently at risk of losing meaningful data on a key demographic variable used by policy-makers and statisticians.

Introduction

1. The UK is at a serious risk of losing the capacity to gather data that, for decades, has provided the building blocks for policy-makers and researchers to monitor and tackle discrimination based on sex.
2. Biological sex is a key determinant of a person's experiences and outcomes, and one of the most important variables for the purposes of policy, planning and research. This position is supported by robust research evidence and analysis, which has examined the relationship, including causal relationships, between being born physically one sex or another, and a person's physical, social, economic and political outcomes from birth onward.

¹ <https://murrayblackburnmackenzie.org/2019/12/10/draft-guidance-under-consideration-for-2021-census-sex-question-summary-of-proposals/>

² <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12252&mode=pdf>

3. To understand how sex predicts people's life chances requires robust and reliable data that tells us whether a person is male or female. For nearly everyone this refers to their biological sex. As long as only a very small group of people have a Gender Recognition Certificate (GRC), the difference between sex as recorded at birth and sex as re-recorded on new birth certificate will be irrelevant for the results in most data (though not all) collection exercises.
4. For the first time, the census in England, Wales and Scotland will carry a new, voluntary question on gender identity. Despite this, guidance proposed by ONS, NRS and NISRA to accompany the longstanding, separate sex question will instruct respondents to answer the sex question based on their self-declared gender identity, thereby conflating two separate characteristics. This means that for an unknown (and unknowable) number of people, the census will collect a different type of data to sex. *This will actively reduce the reliability of census outputs by introducing additional uncertainty.*
5. Decision-making by the census authorities has been taken without adequate due diligence, impact assessment, proper consultation with all interests affected, and general transparency. This change is only happening because of intense lobbying by groups which promote the view that sex should be treated as irrelevant where it contradicts self-declared gender identity.
6. The proposal goes directly against the advice of eighty expert population data users, including ten Fellows of the British Academy, who wrote to the census authorities on 12 December 2019 asking that sex and gender identity should not be conflated. Instead, the proposed approach is based on the needs of a minority of respondents who do not feel comfortable disclosing the sex on their birth certificate.

“The guidance acts to conflate two distinct characteristics—sex and gender reassignment, both protected categories under the Equality Act 2010—and will effectively transform the longstanding sex question into a question about gender identity. We are concerned that this will actively undermine data reliability on a key demographic variable, and damage our ability to both capture and remedy sex-based discrimination.”

(Letter from Professor Alice Sullivan on behalf of expert population data-users).

Reliability

7. There are no official data on the size of the trans population in the UK. In 2018 the Government Equality Office (GEO) ‘tentatively’ estimated there were 200,000-500,000 trans people.³ Stonewall’s website gives a similar upper-bound of around 600,000, or one per cent of the UK population.⁴ Neither provide a source for these estimates.
8. Research undertaken by the GEO shows that the trans population is not evenly distributed by age, sex or economic class.⁵ This means that a loss of reliability will be

³ Government Equalities Office (2018) [Trans People in the UK](#).

⁴ Stonewall : [The Truth about Trans](#) [accessed 31 January 2020].

⁵ Government Equalities Office (2018) [National LGBT Survey Research Report](#).

felt particularly at a subpopulation level (for example, within age-groups) and become a larger issue whenever data on sex is included in multivariate analysis.

9. An unpublished briefing prepared by Professor Nick Bailey⁶ suggests that the proportion of younger adults with a trans identity is likely to be considerably higher than one per cent: possibly two to three per cent of the relevant population. It is also likely to vary geographically, particularly given the high mobility rates for younger adults and their tendency to move towards urban areas, and by social class. There is also strong evidence that trans identities are very differently distributed by sex in different age groups.
10. The impact on estimates of sex inequalities could be as much as twice this proportion, since there are transfers in both directions when people are allowed to answer the sex question based on gender identity: people who would have been counted as part of the male population are included in the female count and vice versa. The potential impact on estimates of sex inequalities in relation to, for example, the proportions working part-time or not working due to caring responsibilities could be around four to six per cent nationally, and higher at a local level. *This is not negligible.*
11. The census authorities have not explained how the data will be labelled, as both 'sex' and 'gender identity' are inaccurate (given the question muddies the two) or how users will be advised to use the data in analysis. The guidance itself is of no assistance here, apart from to confirm to users that the data consists of two different concepts and that it is not possible to disentangle the proportions of each one.
12. A lack of clarity as to what the data actually represents may have General Data Protection Regulations (GDPR) implications. These require data to be 'processed lawfully, fairly and in a transparent manner in relation to individuals' and 'collected for specified, explicit and legitimate purposes.'⁷

Maintaining continuity

13. The census authorities assert that its approach will provide continuity with the 2011 census, which introduced guidance stating that people should answer based on their subjective gender identity.
14. The 2011 guidance was introduced without proper due diligence by the census authorities in response to requests from advocacy groups. The Equality Impact Assessment Screening report on the 2011 census sex question stated that 'it would be a disproportionate use of resources to conduct an equality impact assessment'. The report also erroneously that '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' (Diversity Solutions, 2008: 4).⁸
15. To the extent that the low-key guidance issued in 2011 influenced the results, which is unclear, it is the 2011 results which are discontinuous with the previous 200 years of data. This should not set a precedent for the 2021 census.

⁶ Professor Bailey is Director of the ESRC-funded Urban Big Data Centre and Associate Director of the Scottish Centre for Administrative Data Research.

⁷ Information Commissioner's Office. [Guide to the General Data Protection Regulation: At a Glance](#)

⁸ Diversity Solutions (2008) [Equality Impact Assessment Screening 2011 Census. Development of question on sex/gender.](#)

16. The census authorities argue that the sex question has always been self-defined. This confuses trusting people to self-declare a characteristic accurately with *guiding* them towards an inaccurate answer. The guidance risks increasing the number of cases which do not provide data on sex as an objectively defined phenomenon by directing people to answer on the basis of gender identity who otherwise might not have interpreted the question in that way.
17. The 2021 census will be 'digital first' and it is anticipated that around 80% of respondents will answer online. This means that the guidance will be much more easily accessed, compared to the 2011 census when only 20% of respondents answered online, and the guidance was not linked to the online questionnaire.
18. Given wider social change (as evidenced for example by the 40-fold number of referral of young women to gender identity services in recent years) it is likely that the numbers choosing to answer the sex question in terms of their identity will be much larger in 2021 and future censuses if directed to do so by easily accessed guidance. This creates a potential for discontinuity in practice between 2011 and 2021, even they both in theory are based on the same guidance.
19. Our own recently published analysis⁹ of the numbers of people changing legal sex following the introduction of a self-declaration system in Belgium revealed levels of applications to change legal sex from female to male amongst those aged 16-24 years old were around five times higher than would be expected from the population share of women that age.

Data user views and respondent needs

20. Census question development and response options should be evaluated against the strength of user need. *We are not aware of any major data users that have requested a sex question that conflates sex and gender identity.*
21. It does not appear that the census authorities have reached this position based on the careful analysis of data use and discussion with those with expertise in the collection and analysis of population data.
22. The proposal discounts the views of 80 senior academics working with population data, including ten Fellows of the British Academy who have called on the census authorities not to conflate sex and gender identity in the sex question. The full letter is appended to this briefing.
23. Data users are afraid to speak out on this issue and we believe that there is a lack of leadership from those in positions of authority. The above letter was co-ordinated by Professor Alice Sullivan who in a social media post stated: "*I organised a letter to the census authorities about plans for the sex question. I received several apologetic emails from colleagues who were too frightened to sign this letter*".
24. Instead, the proposed approach is based on the needs of a minority of respondents who do not feel comfortable disclosing the sex on their birth certificate. This courtesy is not extended to other questions that respondents may find it unpleasant to answer.

⁹ <https://mbmpolicy.files.wordpress.com/2020/02/gender-recognition-reform-in-belgium.-lessons-for-scotland-2-february-2020-1.pdf>

This includes the request to disclose learning difficulties or developmental disorders, mental health conditions or severe physical health problems such as cancer.

25. In respect of privacy concerns, access to census data is strictly controlled. It is a criminal offence to unlawfully disclose census data: a person may be fined by up to £10,000, sent to prison for up to two years or both.

Underlying principles: changing the definition of sex

26. The proposed approach represents a profound conceptual shift in how sex is defined: from an objective fact, to a subjective belief. It also introduces, in the context of the UK's most important population survey, the idea *that it is wrong in principle* to ask a person their sex as recorded on their birth certificate. This shift has never been debated or endorsed by parliamentarians, given that – unlike the draft census questionnaire - guidance for the census is not subject to formal parliamentary scrutiny.
27. Any redefinition of sex within the context of the census is likely to be replicated in other data collection exercises. This introduces the risk that robust data on sex will be lost more widely, either through its conflation with, or replacement by, data based on self-defined gender identity.
28. This process has already started across the public, third and private sectors, again without proper scrutiny and evaluation. Campaigners have made it clear that they see embedding this change in the census as a way of placing it beyond further discussion in data collection more generally.
29. The UK is now at a serious risk of losing data on sex as a meaningful, clearly defined and measurable concept. If the census authorities proceed with this approach, it will be to the lasting detriment of both official statistics and our ability to tackle sex-based inequality. Biological sex remains relevant to women's lives and their outcomes, and the 2021 census should collect reliable data on sex until there is compelling evidence that it is no longer needed.

Equalities monitoring

30. A failure to collect robust data on sex will weaken the ability of public authorities to fulfil their legal duties under the Equality Act 2010 in relation to equalities monitoring.
31. The proposed approach abandons the idea that the census can gather objective data on sex in line with its definition in the Equality Act 2010, where it is a protected category, distinct from gender reassignment.
32. While census questions need not mirror the categories in the Equality Act as a matter of law, if census data is intended to inform equalities monitoring, then for the purposes of the protected characteristic of sex, the best way to achieve this is to align the census question with the 2010 Act.

Recommendation

That the proposed guidance instructing respondents to answer the sex question based on their self-declared gender identity is removed. If needed, any guidance should simply provide a clear explanation of *why* data on sex is collected and emphasise the confidentiality of its handling, but decline to interpret the question further.

Appendix 1. Letter from quantitative social scientists to the UK census authorities

[Sent on 12 December 2019 and copied to a Scottish Parliamentary committee on 18 December 2019.]

We are writing to express our concern about the proposed online guidance to accompany the sex question in the 2021 census, which advises respondents that they may respond in terms of their self-identified gender. The guidance acts to conflate two distinct characteristics—sex and gender reassignment, both protected categories under the Equality Act 2010—and will effectively transform the longstanding sex question into a question about gender identity. We are concerned that this will actively undermine data reliability on a key demographic variable, and damage our ability to both capture and remedy sex-based discrimination

1. Background

The census has collected data on sex since its inception in 1801. As a key demographic variable, robust data on the number of male and female citizens is of vital importance to the planning and delivery of public services. Data on sex is also used by statisticians and researchers working with population level data, for example, to explain different health and socio-economic outcomes between men and women. This type of research and analysis is dependent on clearly distinguishing who is male and female, as a key explanatory variable. Equalities monitoring of the protected characteristic of sex also requires sex-disaggregated data.

2. Question on gender identity

We welcome the decision to include a new, voluntary question on gender identity in the 2021 census in England, Wales, and Scotland. This will assist public authorities in planning services and provide a baseline against which to measure discrimination on the grounds of 'gender reassignment', which is another protected characteristic under the Equality Act 2010. The introduction of a new, separate question on gender identity means that there is no justification for advising respondents to give inaccurate answers to the sex question.

3. Guidance in the 2011 census and consistency over time

We are aware that guidance was issued to accompany the sex question in the 2011 census, advising transsexual and transgender individuals to respond to the sex question based on their self-declared gender identity. This should not however, be regarded as a precedent. The introduction of guidance in 2011 was not subjected to a full consultation with data users, nor was an equality impact assessment undertaken. As recently admitted by the former Head of Census Statistics in Scotland, the census authorities still do not know how the 2011 guidance affected the data collected (Wilson, CTEEA Committee, 12 September 2019).

The shift to a 'digital-first' census in 2021 means that any proposed guidance will be much more visible and accessible, compared to the 2011 census (which was predominantly paper based, with separate online guidance). It is also likely the number of respondents who might seek to answer the sex question in terms of their gender identity will be higher in 2021. Taken together, these factors introduce the potential for significant discontinuity with the 2011 and previous censuses.

4. Data reliability

The proposed guidance assumes that the number of respondents who self-identify as members of the opposite sex will be small, and that the measurement errors will therefore be small compared to other sources of misclassification. There is however no systematic evidence on the size and distribution of the trans population to support this assumption. It is unlikely that the trans population will be evenly distributed across the population, for example by age, sex and geography. This means that the effects on data reliability are likely to be greater at the sub-group level. This can have extreme consequences for particular subgroups, e.g. 1 in 50 male prisoners in England and

Wales identify as transgender.¹⁰ The Tavistock and Portman NHS Trust claims that between 1.2% and 2.7% of children and young people are 'gender-diverse'.¹¹

5. Impact on other data collection exercises

As the UK's most high-profile population survey, changes to the census are likely to influence other data collection exercises. If the decision to reframe the sex question in terms of self declared gender identity is replicated in other surveys, we are likely to lose data on sex more widely, with detrimental implications for policy-making, research and analysis.

6. Differences of Sex Development/Intersex

We are also concerned that the current iteration of the guidance proposed by both ONS and NISRA makes reference to those with intersex conditions or DSDs. We note evidence¹² submitted to the Scottish Parliament's Culture, Tourism, Europe and External Affairs (CTEEA) Committee during the passage of the Census (Amendment) (Scotland) Act 2019 from charity DSD Families which expressed concern about the conflation of a medical condition with an identity characteristic.

As experts in social statistics and users of population level data, we call on the UK's census authorities to retain the integrity of the category of sex, and not to conflate this with gender identity.

Signatories

1. Professor Nick Allum, Professor of Research Methodology, University of Essex
2. Professor Nick Bailey, FRSA, Professor of Urban Studies, University of Glasgow
3. Dr David Bann, Associate Professor in Population Health, UCL
4. Christopher Barrie, Postdoctoral Prize Research Fellow in Sociology, Nuffield College, University of Oxford
5. Professor Mel Bartley, FBA, Professor Emerita of Medical Sociology, UCL
6. Dr Michael Biggs, Associate Professor in Sociology, University of Oxford
7. Professor Vikki Boliver, Professor of Sociology, University of Durham
8. Professor Jonathan Bradshaw CBE, FBA, Emeritus Professor of Social Policy, University of York.
9. Professor Mike Brewer, Professor of Economics, University of Essex
10. Dr Luke Buchanan-Hodgman, Lecturer in Economics, University of Kent
11. Professor John Bynner, Emeritus Professor of Social Sciences in Education, UCL
12. Professor Tak Wing Chan, Professor in Quantitative Social Science, UCL
13. Professor Tarani Chandola, Professor of Medical Sociology, University of Manchester
14. Professor Nishi Chaturvedi, Professor of Clinical Epidemiology, Director of the MRC Unit for Lifelong Health and Ageing, UCL
15. Professor Sin Yi Cheung, Professor of Sociology, School of Social Sciences, Cardiff University
16. Professor Irma Clots-Figueras, Professor of Economics, University of Kent
17. Dr Gabriella Conti, Associate Professor in Economics and Co-Investigator of the National Child Development Study
18. Professor Colin Crouch, FBA, AcSS, Professor Emeritus, University of Warwick
19. Dr Augustin de Coulon, Senior Lecturer in Economics, Kings College London
20. Professor Nan Dirk de Graaf, Professor of Sociology, University of Oxford

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814689/hmip-annual-report-2018-19.pdf

¹¹ 'Outcomes and Predictors of Outcome for Children and Young People Referred to UK Gender Identity Development Services: A longitudinal Investigation', National Institute for Health Research, award 17/51/19.

¹² https://www.parliament.scot/S5_European/Inquiries/CensusBill_DSDFamilies_CTEEA518CB33.pdf

21. Brian Dodgeon, Research Fellow, UCL Department of Social Science
22. Professor Tim Doran, Professor of Health Policy, University of York
23. Professor Geoff Evans, FBA, Professor in Sociology of Politics, University of Oxford
24. Professor Eirini Flouri, FAcSS, Professor of Developmental Psychology, UCL
25. Professor Rob Ford, Professor of Political Science, University of Manchester
26. Dr Vanessa Gash, Reader in Sociology, City University, London.
27. Professor Jonathan Gershuny, CBE FBA FAcSS, Professor of Economic Sociology, UCL
28. Dr Arjan Gjonca, Associate Professor of Demography, LSE
29. Professor Harvey Goldstein, FBA, Professor of Social Statistics, University of Bristol
30. Dr John Goldthorpe, CBE, FBA, Emeritus Fellow in Sociology, Nuffield College, University of Oxford
31. Professor Stephen Gorard, Professor of Education and Public Policy, University of Durham
32. Dr Amanda Gosling, Senior Lecturer in Economics, University of Kent
33. Professor Francis Green, Professor of Work and Education Economics, UCL
34. Dr Kirstine Hansen, Associate Professor in Quantitative Social Science, UCL.
35. Dr Paul Hewson, Data Scientist, City Science, Exeter
36. Professor Mike Hough, Emeritus Professor of Criminal Policy, Birkbeck, University of London
37. Professor Alun Hughes, Professor of Cardiovascular Physiology and Pharmacology, Head of the Department of Population Science & Experimental Medicine in the UCL Institute of Cardiovascular Science, and Associate Director of the MRC Unit for Lifelong Health and Ageing, UCL
38. Professor Cristina Iannelli, Chair of Education and Social Stratification, University of Edinburgh
39. Professor Hazel Inskip, Professor of Statistical Epidemiology and Deputy Director MRC Lifecourse Epidemiology Unit, University of Southampton.
40. Dr Andrew Jenkins, Associate Professor in Social Science, UCL
41. Professor Stephen Jenkins, Professor of Economic and Social Policy, LSE
42. Professor John Jerrim, Professor of Education and Social Statistics, UCL
43. Professor Jan O. Jonsson, Professor of Sociology, University of Oxford
44. Professor Heather Joshi, CBE, FBA, FAcSS Emerita Professor of Economic and Developmental Demography , UCL
45. Professor Kathleen Kiernan, OBE, FBA, Emeritus Professor of Demography and Social Policy, University of York
46. Professor Miguel León-Ledesma, Professor of Economics, University of Kent
47. Dr Tiziana Leone, Associate Professor in Health and International Development, LSE
48. Dr Angela Luna-Hernandez, Lecturer in Social Statistics, University of Southampton
49. Professor Susan McVie, OBE, FRSE, Professor of Quantitative Criminology, University of Edinburgh
50. Professor Colin Mills, Associate Professor of Sociology, University of Oxford
51. Dr Paul Norman, Associate Professor Population & Health Geography, University of Leeds
52. Charlie Owen, Principal Research Associate, UCL Department of Social Science.
53. Dr Samantha Parsons, Research Fellow, UCL
54. Professor Lindsay Paterson, FBA, Professor of Education Policy, University of Edinburgh
55. Professor Lucinda Platt, Professor of Social Policy and Sociology, LSE
56. Professor Amanda Sacker, Professor of Lifecourse Studies, UCL
57. Professor Jacqueline Scott, Emerita Professor of Empirical Sociology, University of Cambridge
58. Professor Maria Sobolewska, FRSA, Professor of Political Science, University of Manchester
59. Professor Fiona Steele, OBE, FBA, Professor of Statistics, LSE.
60. Professor Steve Strand, Professor of Education, University of Oxford
61. Professor Alice Sullivan, Professor of Sociology, Director 1970 British Cohort Study, UCL

62. Professor Oriel Sullivan, Professor of Sociology of Gender, UCL
63. Professor Kathy Sylva, Professor of Educational Psychology, University of Oxford
64. Professor Chris Taylor, Professor of Social Sciences, Cardiff University
65. Professor Morag Treanor, Professor of Child and Family Inequalities, Heriot-Watt University, Edinburgh.
66. Professor Nikos Tzavidis, Head of Economic, Social and Political Sciences, Professor of Statistical Methodology, University of Southampton
67. Professor John Van Reenen, Ronald Coase Chair in Economics, LSE
68. Dr Aase Villadsen, Research Associate, UCL Department of Social Science
69. Professor David Voas, Professor of Social Science and Head of Department of Social Science, UCL
70. Dr Zaki Wahhaj, Reader in Economics, University of Kent
71. Professor Dick Wiggins, Professor in Quantitative Social Science, UCL
72. Professor Malcolm Williams, Professor of Social Research Methodology, Cardiff University

[Eight additional signatories who preferred their names not to be public have been omitted]

As at 6 February 2020, Professor Sullivan reported to MurrayBlackburnMackenzie that she had not received any formal response to the multi-signatory letter from the directors of the three census authorities, nor the Prime Minister or the First Minister of Scotland.

MurrayBlackburnMackenzie

About us

Established in late 2018, MurrayBlackburnMackenzie is a policy analysis collective, made up of Dr Kath Murray, Lucy Hunter Blackburn and Lisa Mackenzie

Dr Kath Murray is a Research Fellow in Criminology at the University of Edinburgh. Her doctoral research on stop and search led to major legal and policy reform, for which she received an Economic and Social Research Council (ESRC) Outstanding Impact prize.

Lucy Hunter Blackburn is a former senior civil servant (Head of Higher Education Division, Head of Reducing Reoffending Division and Director of Policy at Historic Scotland). Lucy is near to completing a PhD at the University of Edinburgh looking at student finance.

Lisa Mackenzie is a former communications specialist in the UK Government and has worked in a number of Whitehall departments, including the Department for Social Security and Home Office, as well as the Commission for Racial Equality.

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