

THE POLITICAL ERASURE OF SEX

1: Sex and the Census

Executive Summary

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This report shows how and why the UK census authorities are jeopardising our ability to collect robust, high quality sex-disaggregated data in the forthcoming UK census. The census has collected invaluable data on the United Kingdom's population since 1801. It gathers unparalleled information on patterns of migration, employment, education and other social phenomena, which informs policy and research. What data the census collects and omits is therefore a matter of great public interest.

Recent developments at the Office for National Statistics (ONS) and the National Records of Scotland (NRS) have led to changes to the sex question in the census. This means that the sex question now records 'self-identified sex', or gender identity, rather than biological sex. These changes have been made in a way which lacks democratic transparency and accountability.

We attribute these developments to a process of 'policy capture,' whereby public policy becomes skewed in favour of one particular interest group over and above others. In the case of the census, the demands of groups which claim to represent the interests of the trans community have been privileged to the detriment of women, but also to those who require robust data on sex to plan public services, allocate public resources and monitor equalities outcomes.

The policy capture we identify took hold during the process of developing a new, voluntary question on gender identity in the next census in England, Wales and Scotland, although its origins can be traced back twenty years. In this report, the decision-making processes of ONS and NRS are considered in turn. The Northern Ireland Statistics and Research Agency (NISRA) does not intend to include a question on gender identity in 2021, and is therefore not included in this research.

THE CAPTURE OF ONS: KEY FINDINGS

» The UK Government's 2007 Equalities Review prompted ONS to collect data on the trans population. The process undertaken by ONS lacked transparency and rigour, and was dominated by small interest groups who argued that 'gender' should replace 'sex' in large datasets. This was reinforced by the Equality and Human Rights Commission in 2011, who endorsed the shift to define 'woman' as a 'gender-based' and not a 'sex-based' concept.

» It is essential when collecting data to clearly define what is being measured. Conflating sex with gender identity makes it impossible to collect robust data on either characteristic. During testing for the sex and gender identity questions, some participants pointed to the need to clarify what data was being measured when asking questions about 'sex'. At no point did ONS address these issues.

» In the 2011 census, new guidance advised respondents to answer the sex question in accordance with their self-declared gender identity. This was not subject to any formal parliamentary approval or due process. It has since been confirmed via a recent freedom of information request to ONS that this decision was made "at the request of the LGBT community".

» Throughout the development of questions for the 2021 census, ONS failed to recognise that women are key stakeholders in the sex question. Their engagement with 'stakeholders' involved only interest groups that claim to represent the needs of those with transgender identities.

» In 2017, ONS considered making the mandatory sex question voluntary, and even mooted removing it from the census altogether. This prompted a handful of leading UK social scientists to voice their concern about losing data on a key demographic variable. The feminist campaign group Woman's Place UK set up a petition calling for its retention. The ONS rowed back, later denying that this had ever been their intention.

» While ONS has now settled on a binary sex question for the 2021 Census, they intend to replicate the guidance used in 2011, which frames it as a question about 'self-identified sex' rather than biological sex.

» In December 2019, 80 of the UK's leading social scientists wrote to the UK census authorities to express concern about this guidance and its potential impact on the quality of sex data, particularly amongst population subgroups.

» At the time of writing, ONS have failed to respond substantively to these concerns and remain committed to this guidance.

THE CAPTURE OF NRS: KEY FINDINGS

» A draft bill introduced to the Scottish Parliament in October 2018, sought to amend the Census Act 1920 so that the question on sex was conflated with gender identity. The accompanying notes also proposed replacing the binary sex question with a non-binary sex question (that is, one which enables respondents to record their sex as something other than 'male' or 'female').

» The data produced by NRS during their question development process did not support the decision to change the binary sex question to a non-binary sex question. This decision was reached by placing disproportionate emphasis on the subjective reactions of a very small pool of trans respondents to the sex question.

» Scrutiny by the Scottish Parliament resulted in the draft bill being amended to remove the conflation of 'sex' with 'gender identity'. The parliamentary committee also recommended that the sex question remain binary. NRS eventually dropped this proposal and announced formally in August 2019 that they would revert to a binary sex question.

» Official documents revealed via freedom of information requests demonstrate that, while developing the questions on sex and gender identity, NRS officials met almost exclusively with groups claiming to represent the interests of the trans community.

» NRS did not meet with any women's groups during the question development period, despite the obvious interest that women have in a sex question that generates high quality data on the number of female citizens in Scotland.

» Both during and following the passage of the census bill, MSPs expressed concern about the guidance proposed by NRS to accompany the sex question. This guidance – also used by ONS in the 2011 census (see above) – advises respondents to answer in accordance with their self-identified sex, thereby framing the sex question as one about gender identity.

» In September 2019, a senior NRS official admitted during an oral evidence session that NRS do not know what impact the 2011 self-identification guidance had on the data collected on sex. NRS continue to support using this guidance for the 2022 census in Scotland.

GENERAL CONCLUSIONS

» A process of policy capture has taken place, through which the perceived interests of some transgender respondents have been elevated over-against the legitimate interests of women in gathering high quality data on women as a sex class.

» ONS and NRS' redefinition of the sex question as a gender identity question stems from placing disproportionate emphasis on the reactions of a small number of trans respondents, which ONS and NRS frequently confuse with the needs of data users.

» Both ONS and NRS have made unsubstantiated claims that changing societal attitudes to and understanding of sex and gender justify reframing the longstanding sex question in the census.

» Both authorities failed to reconcile the aim of collecting robust data on sex with the desires of a small number of respondents who want their self-identified gender to overwrite the recording of their biological sex.

» ONS and NRS failed to recognise women as key stakeholders in the development of proposals for both the longstanding sex question and the new question on gender identity in the next UK census.

» Both authorities have failed adequately to engage expert data users during the development of the next census. The concerns expressed by 80 of the UK's leading social scientists regarding the self-identification guidance remain unaddressed at time of writing.

» **As a result, it remains unclear whether the next UK census will collect robust, high quality data on sex: a key demographic variable.**

Who conducted this research?

This report arises from research funded by Research England's Strategic Priorities Fund (SPF) QR allocation to the University of Oxford. This project was also supported by Woman's Place UK. The principal investigator was Professor Selina Todd. The lead researcher and writer was Dr Jane Clare Jones. Other research and writing was undertaken by Lisa Mackenzie.

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