

Collecting information on gender identity



Collecting information on gender identity

Revised (second) edition, 28th May 2012

Contents

Glossary	Error! Bookmark not defined.
Aim of this guide.....	6
Introduction	7
Equality information and the duty	7
What information is required by the equality duty?.....	8
Purpose and value of monitoring.....	8
Why collect data on gender?	9
What to ask?	10
Recommended questions.....	10
How to ask the questions	12
Meeting the equality duty	14
Conclusion	14
Appendix 1	16
Contacts	17

Glossary

Acquired gender

The new gender of a person who has undergone gender reassignment and/or legally recognised. It is possible for an individual to transition fully without surgical intervention.

Cross-dresser

The term refers to a person who wears the clothing of the opposite sex because it is the clothing of the opposite sex. This excludes people who wear opposite sex clothing for other reasons. Cross-dressers may not identify with, or want to be the opposite gender, nor adopt the behaviours or practices of the opposite gender, and generally do not want to change their bodies. This term is associated with transvestite, though some cross-dressers would not identify as such.

FtM

Female to male trans person. A person who is changing, or has changed, their gender role from female to male. Also described as a 'trans man'.

Gender

Gender refers to socially constructed roles, behaviours, activities, and attributes. The terms 'man', 'masculine', 'woman', and 'feminine' denote gender.

Gender dysphoria

Gender dysphoria is the medical term for the condition in which a person assigned one gender (usually at birth on the basis of their sex), identifies as belonging to another gender, or does not conform with the gender role their respective society prescribes to them.

Gender identity

The way in which an individual identifies with a gender category,

Gender reassignment

The term 'gender reassignment' applies to the process of transitioning from one gender to another. The term used in the Equality Act to describe people who intend to transition, are transitioning or have transitioned is 'transsexual'. So, a person who intends to undergo, is undergoing or has undergone a process of gender reassignment (which may or may not involve hormone therapy or surgery) is a transsexual person.

GRA

Gender Recognition Act 2004.

GRC

Gender Recognition Certificate. A full Gender Recognition Certificate shows that a person has satisfied the criteria for legal recognition in the acquired gender. It makes the recipient of the certificate, for all intents and purposes, the sex listed on the certificate from that moment onward. The legal basis for creating a Gender Recognition Certificate is found in the Gender Recognition Act 2004.

GRS

Gender reassignment surgery.

Intersex

There are a number of intersex conditions (recently renamed Disorders of Sex Development), some of which lead to physical genital anomalies. Those born with them may experience inconsistency between their gender identity and the gender role assigned at birth.

LGBT

Lesbian, Gay, Bisexual and Transgender. Where this group does not include trans people it is referred to as LGB.

MtF

Male to female trans person. A person who is changing, or has changed, their gender role from male to female. Also described as a 'trans woman'.

Sex

Sex refers to biological and physiological characteristics. In Britain, the terms 'male' and 'female' are used in birth certificates to denote the sex of children. Sex and gender, and the terms, 'male/female' and 'man/woman' are often used and understood interchangeably. However, in the research literature, sex and gender are considered separately.

Trans

The terms 'trans people' and 'transgender people' are both often used as umbrella terms for people whose gender identity and/or gender expression differs from their birth sex, including transsexual people (those who intend to undergo, are undergoing or have undergone a process of gender reassignment to live permanently in their acquired gender), transvestite/cross-dressing people (those who wear clothing traditionally associated with the other gender either occasionally or more regularly), androgyne/polygender people (those who do not identify with male or female

identities and do not identify as male or female), and others who define as gender variant.

Transgender

An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with trans.

Transsexual

The term used in the Equality Act to describe people who intend to transition, are transitioning or have transitioned is 'transsexual'. So, a person who intends to undergo, is undergoing or has undergone a process of gender reassignment (which may or may not involve hormone therapy or surgery) is a transsexual person.

Transvestite

The term used to describe a person who dresses in the clothing of the opposite sex. Generally, transvestites do not wish to alter their body and do not necessarily experience gender dysphoria.

Aim of this guide

The aim of this guide is to help public authorities subject to the equality duty, and those thinking about or currently monitoring gender identity, to do so using an acceptable and methodologically robust approach.

Who this guide is for

This guide has been developed primarily for those responsible for implementing the equality duty in public authorities subject to the duty - in particular those responsible for collecting and using information. It should be read by relevant equality, procurement, statistics and human resources staff.

The guide will also assist those who have an interest in the work of public authorities. This includes service users, voluntary sector bodies, trade unions, equality organisations and people with protected characteristics (also referred to as 'protected groups'), as set out in the Equality Act 2010.

Content of this guide

This guide draws on research commissioned by the Equality and Human Rights Commission in 2011, which developed and cognitively tested a range of questions for monitoring gender identity¹.

¹ Balarajan, M., Gray, M. & Mitchell, M. (2011) Monitoring equality: Developing a gender identity question. Equality and Human Rights Commission

Introduction

Most people nowadays have had experience of being asked monitoring questions or survey questions on sex, gender and/or gender identity in a variety of contexts. In general, these include employment applications; employer surveys (public and private sector); car insurance applications and voluntary sector service organisations. More specifically among trans people, they may also include monitoring forms and surveys by hospitals; by lesbian, gay, bisexual and transgender (LGBT) organisations and surveys of transgender people. Notably however, not one question or suite of questions has been developed that allows everyone, regardless of their gender identity, to answer satisfactorily.

Equality information and the duty

The Equality Act 2010 (the Act) includes a new public sector equality duty ('the equality duty' or the 'duty'), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 5 April 2011.

The new duty covers the following protected characteristics (or protected groups): age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but not for all aspects of the duty. Some aspects of the gender duty covered gender reassignment but the new duty now gives full coverage to this group.

The duty consists of a general equality duty, which is set out in section 149 of the Equality Act 2010 itself, and specific duties which are imposed by secondary legislation. The purpose of the specific duties is to improve performance on the general equality duty. An overview of the public sector equality duty can be found in our [Essential guide to the equality duty](#)².

The general equality duty

The general equality duty requires public authorities to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation.
- Advance equality of opportunity between people who share a characteristic and those who do not.
- Foster good relations between people who share a characteristic and those who do not.

² <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

This is very similar to the previous 'general duties' for race, disability and gender equality. It entails giving appropriate weight and priority to the need to:

- Remove or minimise disadvantages.
- Take steps to meet the needs of people with protected characteristics.
- Encourage people with protected characteristics to participate in public life.

Public authorities are also encouraged to take steps to take account of people's disabilities (for example, by making reasonable adjustments). Fostering good relations includes looking at how to tackle prejudice and promote understanding.

What information is required by the equality duty?

The draft specific duties require listed public authorities to publish information to demonstrate that they have complied with the general equality duty. The purpose of having and using such information is to embed equality into their everyday work.

The information that different authorities need to collect to inform their decisions under the equality duty will vary widely between different sectors and organisations. It is up to each individual authority to establish what information they will need to collect and publish. An overview of information requirements of the equality duty can be found in our [Equality information and the equality duty: A guide for public authorities](#).³

Purpose and value of monitoring

Information gathering (or monitoring) is the process used to collect, store, analyse and use data. It can be used to highlight possible inequalities, investigate their underlying causes and track progress in removing any disadvantage.

Public authorities are responsible for making a wide range of decisions. This ranges from decisions about overarching policies and setting budgets to day-to-day decisions, which affect specific individuals. Equality monitoring is a way of considering the effect of these decisions on different groups protected from discrimination by the Equality Act. There are two reasons for this: to consider if there are any unintended consequences and to consider if the policy will be fully effective.

³ http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/information_guidance.pdf

Why collect data on gender?

Public authorities are required to publish information on how they are meeting the duty. This includes reporting at least annually on how their policies and practices are affecting staff and service users with different protected characteristics. While most will already collect and hold a vast array of information, especially around gender, it is unlikely that they will understand all relevant issues around gender reassignment.

Monitoring numbers of transgender people is a very sensitive area and opinion continues to be divided on this issue. Many transgender people have been bullied, harassed and marginalised, and could be very negatively affected by disclosure of their status. Without gathering some form of evidence, however, it may be difficult to monitor the impact of policies and procedures on transgender people or their employment patterns such as recruitment, training, promotion or leaving rates.

However, some people will always be reluctant to participate in equality monitoring, for example, surveys or focus groups, in spite of their purpose. This may be due to, for example, survey fatigue, a feeling of intrusiveness, a perceived lack of relevance, a lack of time, and/or dislike of the organisation requesting the information.

For those that do agree, there may be an added reluctance to identify with a particular personal characteristic due to a fear of discrimination in response to a particular answer. This is especially true for some people within the transgender community where there is a concern that answering questions on monitoring forms will bring about negative repercussions. For example, if a service provider reports no transgender service users, does that mean that these services are not required by transgender people or is this an indication that the services are avoided by transgender people because they are viewed as unsuitable?

There is also a concern which relates to counting transgender people. The numbers of transgender people are small, so when small numbers are reported at a local level, identifying and meeting the needs of transgender people may be given low priority.

However, regardless of their gender identity, some people welcome being included in surveys. A survey not only gives an individual a means to express an opinion but also offers a general recognition of the importance of the issue within society. It can also engender positive feelings about an organisation or service if questions are asked in an appropriate language that indicates the questioner has an awareness of the people from whom it is collecting information¹.

What to ask?

While the definition of gender reassignment as defined by the Act was the driving force when designing the monitoring questions, the idea of running questions on all equality monitoring forms, national surveys or even a census was considered. These questions would therefore replace the current questions, for example “Are you male/female?”. Therefore, the questions below have been designed to be short, simple and understood by the UK population as a whole, including those who are not familiar with transgender people or issues.

The questions have also been designed to be inclusive and voluntary. Throughout their development, the questions went through an iterative consultation period with a sample of the general public who identified with a range of gender identities. The consultation showed that some people may be uncomfortable with answering openly about their gender identity under certain circumstances. Therefore, the following questions and supporting guidance have been designed in a way that aims to provide an environment where people can be confident that the information that they provide will be kept confidential.

The questions have been designed to be asked in full as presented in Appendix 1. In the text below we review the individual questions and their purpose in turn.

Recommended questions

Questions 1 and 2

The context in which the questions are asked will heavily influence reporting and disclosure of gender history in those who have transitioned. This is because while most people who have transitioned will think about their sex at birth when answering, some people with a Gender Recognition Certificate (GRC) may answer this question by indicating their acquired sex. Therefore, an introductory text should be provided before this question in order to encourage participation and to gain respondents’ trust to answer the questions. The text should explain why the data are being collected; how the data will be protected under the Data Protection Act; and how respect for the respondents’ answers will be achieved by the organisation; for example, through ensuring confidentiality and anonymity throughout.

The questions should be asked of those aged 16 and above.

Question 1 asks for sex at birth, while question 2 asks gender identity:

Question 1

At birth, were you described as....

Please tick one option

Male

Female

Intersex

I prefer not to say

Question 2

Which of the following describes how you think of yourself?

Please tick one option

Male

Female

In another way : _____

Question 1, when used in combination with question 2, allows for a transgender identity and/or history to be collected.

Where there is little space in a form or questionnaire, or where the information requirements need not collect the legal definition of gender reassignment, questions 1 and 2 alone are adequate for recording gender identity and capturing a transgender identity and/or history.

As mentioned above, there will be people with a transgender identity and/or history who will not disclose it through questions 1 and 2. We therefore recommend that you ask the following three questions, as relying only on the data from question 1 and 2 may result in underestimating the number of people with the protected characteristic of gender reassignment as classified under the Act.

Questions 3 and 4

Questions 3 and 4 address gender reassignment as a protected characteristic and a personal process (rather than a medical process). Including these questions, which address intention to undergo gender reassignment, will allow you to fully collect evidence for transgender services users, employees and people within other given populations, using the Act's legal definition.

While question 3 has been designed to be answered by the whole population; only those that identify under the transgender umbrella will be asked to answer the fourth question.

Question 3

Have you gone through any part of a process (including thoughts or actions) to change from the sex you were described as at birth to the gender you identify with, or do you intend to?

(This could include changing your name, wearing different clothes, taking hormones or having gender reassignment surgery).

Yes → Please go to Q4

No → END

Question 4

Continuing to think about these examples, which of the following options best applies to you?

Please tick one option

I am thinking about going through this process

I am currently going through this process

I have already been through this process

I have been through this process, then changed back

None of the above _____

I prefer not to say

How to ask the questions

Most equal opportunity forms are in a paper or online format. Since these designs provide a greater degree of privacy, anonymity, confidentiality and avoid embarrassment for respondent and researcher; we recommend asking these questions as a self completion paper or online survey.

However, for those surveys that are carried out online, it should be noted that some people may be uncomfortable in responding to a gender identity question. For example, those who are not 'out' about their identity and/or hold a GRC, may be concerned that online completion could be traced to their personal computer, workstation or email addresses. It is therefore important to provide further information and reassurances about who would have access to their data before

asking people to complete monitoring forms or surveys (see below for a discussion of issues relating to anonymity and confidentiality).

When designing a questionnaire, please be aware that automatic routing from one question to another can 'close down' questions to some respondents (for example, answering 'male' or 'female' to one question might prevent someone from answering other questions later that would still be relevant). Our recommended questions have been designed so that this does not happen. Therefore, when using these questions please make sure that the routing guidelines are followed.

Anonymity

Research shows that the general public is more willing to answer a survey provided the information they provide is kept anonymous and confidential⁴. This is especially true for those who identify as transgender. For example, a survey by a:gender⁵ of their full and associate members (that is, Government department/agency staff who have permanently changed their perceived gender, have the need to do so, or who identify as intersex) showed that while nearly half of their respondents had declared their 'trans' status in the past on an anonymous Civil Service Questionnaire; only a quarter had done so when they had to give their name.

Therefore, it is essential that you ensure privacy for those completing any equality monitoring form. At its simplest, this may be considering where a respondent completes the questionnaire. For example, filling out a questionnaire at a reception desk at a doctor's surgery or police station generally does not provide a secure or private space.

However, privacy must be ensured throughout the monitoring process; right through to analysis and publication. Sometimes, it may be possible to identify individuals from the monitoring analysis even when you are publishing for your organisation as a whole. Even if it is not possible to identify an individual with certainty from the monitoring data, if the information points to only a small group of people, this might also affect their rights under the Data Protection Act. Therefore, if the number you are reporting on is less than ten we recommend that you replace the number with an asterisk.

Confidentiality

Public authorities have a duty to protect an individual's right to privacy. In particular you need to remember that the Gender Recognition Act 2004 provides that, where a

⁴ Groves, R.M, Fowler, F.J, Couper, M.P, Lepkowski, J.M., Singer, E., Tourangeau, R. (2009) Survey Methodology, 2nd Edition. Hoboken, NJ: Wiley.

⁵ a:gender (2007) Gender Identity and Employment Monitoring A transsexual/transgender/intersex perspective. Home Office.

person holds a GRC, they must be treated according to their acquired gender and it is a criminal offence to disclose their status. A transsexual person may consent to you disclosing the information if they decide it is in their interests to do so. However, such consent must be explicit. It may not be assumed. Also, you should not ask transsexual staff or service users to produce their certificate as evidence of their legal gender.

Meeting the equality duty

While the purpose of this guide has been to present evidence on the best way of collecting information on gender identity, asking these questions alone is not enough to understand the key barriers that people encounter in employment or when using public services. Equality monitoring is not only about counting the number of people with a particular protected characteristic. An approach that relies on headcounts is unlikely to collect important evidence from those who do not want to be counted, may be small in number, or where the emphasis should be on service or organisational delivery, rather than individuals.

Therefore, as a public body you will need to take further measures in order to tackle discrimination, harassment, advance equality and foster good relations. The following are some approaches which will help you in ensuring that your employees and/or service users are treated with dignity and respect:

- Ensure that your service or employment policies and practices do not discriminate against transgender people – especially in terms of dignity at work and harassment policies, recruitment and monitoring. Larger organisations may wish to develop specific policies on gender identity.
- Keep up-to-date on the current legislation in this area and on the availability of further information and advice.
- Provide training for staff on how the equality duty applies to transsexual people.
- Consider setting up a support network for staff or service users (larger organisations).
- Produce effective guidance for managers on dealing with the process of transition.

Conclusion

This guidance is designed to assist you with fulfilling your obligations under the equality duty. It recommends a suite of questions that you can ask on gender identity for the purposes of monitoring. By taking the approach recommended in this guide you will be able to make positive progress towards treating all people with decency and respect.

We recommend that as a public body you:

- are clear that all monitoring questions related to gender identity are optional.
- only collect information that will be used.
- are clear about why the data are being collected and what the data will be used for.
- explain how data confidentiality and anonymity will be ensured at all times so no one apart from those who **should** have access **will** have access to their data.
- ensure that the data are anonymous - build in additional safeguards where necessary.
- ensure the data are protected under the Data Protection Act.
- ensure that any policies expressly cover transsexual people so that staff and service users are confident about the framework within which they are operating.

For any further information regarding the questions or data collection please contact research@equalityhumanrights.com

Appendix 1

Q1 At birth, were you described as....

Please tick one option

Male

Female

Intersex

I prefer not to say

Q2 Which of the following describes how you think of yourself?

Please tick one option

Male

Female

In another way: _____

Q3. Have you gone through any part of a process (including thoughts or actions) to change from the sex you were described as at birth to the gender you identify with, or do you intend to?

(This could include changing your name, wearing different clothes, taking hormones or having gender reassignment surgery).

Yes → Please go to Q4

No → END

Q4 Continuing to think about these examples, which of the following options best applies to you?

Please tick one option

I am thinking about going through this process

I am currently going through this process

I have already been through this process

I have been through this process, then changed back

None of the above _____

I prefer not to say

Contacts

England

Equality and Human Rights Commission Helpline

FREEPOST RRLL-GHUX-CTRX

Arndale House, The Arndale Centre, Manchester M4 3AQ

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

Wales

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Telephone: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

Helpline opening times:

Monday to Friday 8am–6pm.

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary.

Calls may be monitored for training and quality purposes.

Interpreting service available through Language Line, when you call our helplines.

If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs. All publications are also available to download and order in a variety of formats from our website:

www.equalityhumanrights.com

Contacts

England

Equality and Human Rights Commission Helpline

FREEPOST RRLG-GHUX-CTRZ

Arndale House, The Arndale Centre, Manchester M4 3AQ

Main number: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Main number: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

Wales

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Main number: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

Helpline opening times:

Monday to Friday 8am–6pm.

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary.

Calls may be monitored for training and quality purposes.

Interpreting service available through Language Line, when you call our helplines.

If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs. All publications are also available to download and order in a variety of formats from our website.

www.equalityhumanrights.com

www.equalityhumanrights.com