

Our ref: Fol/18/03424

J Stewart

request-533496-dc06383e@whatdotheyknow.com

17 December 2018

Dear J Stewart,

Request under the Freedom of Information (Scotland) Act 2002 (FOISA)

Thank you for your request received on 19th November 2018 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for copies of any documents or policies for the following:

1 When the 2011 Census asked 'What is your sex?' with two possible answers Female or Male, were the National Records of Scotland collecting information on biological sex or self-identified sex/gender identity?

2 What Guidance was issued for this question?

3 It is proposed that the 2021 Census question 'What is your sex?' will have more options to choose i.e. Female, Male or Other, as biological sex is binary will this question actually be asking about a persons gender identity and not sex? What are your definitions of these terms?

4 As Sex is a protected characteristic within the Equality Act 2010 why are the National Records of Scotland no longer collecting this information? What assessments have been carried out to reveal the impact this will have?

5 How will the National Records of Scotland ensure they comply with the Public Sector Duty as set out in the Equality Act 2010 if they no longer record the basic information on biological Sex?

6 Which Women's groups were consulted when the question 'What is your sex?' changed its meaning from collecting statistics on biological sex to Self Identified sex/Gender Identity? Can you provide copies of the submissions you received from the Women's groups?

7 What other stakeholders did National Records of Scotland consult when the definition of Sex changed to no longer mean biological sex but Self identified

sex/Gender Identity? Did any express concerns on how this would negatively impact on the delivery and planning of services e.g. Health? Can you provide copies of the submissions you received from them?

Response to your request

The answers to your questions are:

1. The 2011 Census sex question collected self-identified sex. The question asked “What is your sex?” with two response options but it did not specify any more details in the question text. More detailed guidance published online advised transgender people to respond in terms of how they identify. The full guidance text is provided in the response to question 2.

2. The additional guidance provided online for this question in 2011 was:

I am transgender or transsexual. Which option should I select? If you are transgender or transsexual, please select the option for the sex that you identify yourself as. You can select either ‘male’ or ‘female’, whichever you believe is correct, irrespective of the details recorded on your birth certificate. You do not need to have a Gender Recognition Certificate.

If you are answering for someone who is transgender or transsexual then where possible you should ask them how they want to be identified. If they are away, you should select the sex you think they would wish to be identified as. You can select either ‘male’ or ‘female’, irrespective of the details recorded on their birth certificate. You do not need to know if they have a Gender Recognition Certificate.

3. The sex question currently under development for Scotland’s Census 2021 will continue to ask self-identified sex as in 2011. It will not seek a declaration of biological or legal sex. The proposed change to the question is for the inclusion of a non-binary response option ‘Other’. However, it should be stressed that all questions to be asked in the 2021 Census will be considered by Parliament as part of the legislative process and therefore it is possible that the final question may be different.

4. Current proposals are that Scotland’s Census 2021 will continue to ask a sex question and outputs will be on a binary basis as in 2011. A standalone report is proposed that will analyse the non-binary responses and the information collected in the trans status question.

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proposed that will analyse the non-binary responses and the information collected in the trans status question.

6. The question “What is your sex?” has not changed its meaning from what was asked in 2011 to the question that is currently under development for Scotland’s Census 2021. NRS have received no submissions from women’s groups and we are in the process of setting up meetings with interested women’s groups with regard to the questions currently under development and their outputs.

7. The question “What is your sex?” has not changed its meaning from what was asked in 2011 to the question that is currently under development for Scotland’s Census 2021. The Topic Consultation report (https://www.scotlandscensus.gov.uk/documents/census2021/Scotlands_Census_2021_Topic_Consultation_Report_August_2016.pdf) lists all organisations who responded to the formal consultation on topics to be included in the 2021 Census.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to:

Information Governance Team
National Records of Scotland
Ladywell House
Ladywell Road
Edinburgh
EH12 7TF
Email: foi@nrscotland.gov.uk

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your rights is available on the Commissioner’s website at: <http://www.itspublicknowledge.info/Appeal>.

Yours sincerely,

Amy Wilson
Director of Statistical and Registration Services