



MRS Guidance Note on Collecting Data on Sex and Gender

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MRS has produced this Guidance Note to help practitioners act legally and ethically in collecting data and asking research participants questions on biological sex, gender and gender identity as all research participants need to feel equally valued and satisfied that their voice is being heard.

Researchers can use this guidance to assess whether they are complying with the Code in collecting demographic information on these areas. This should be used along with the MRS Code of Conduct and Guidelines.

Explanation of Key Terms

Biological sex refers to a person's physical anatomy. In most cases the terms male and female will cover biological sex but there are a range of other variations in "anatomy and chromosomal makeup" which will require an additional classification such as intersex.

Intersex refers to a range of physical, hormonal or genetic features, present but not necessarily evident at birth, which are neither wholly female nor wholly male or are a combination of female and male.

Gender and gender identity is complicated. It is the way that an individual describes themselves and identifies with a gender category. A person's identity may or may not correspond with their biological sex and is quite separate and distinct from their sexual orientation. It is also not fully covered by the standard Male and Female categories. The wide range of non-binary gender identities means that some people may identify as male or female and some may identify with an alternative third option gender identity such as transgender. Other identities may include polygender, intergender, nongender, agender or transsexual. In short, gender identity may not be static and it can be complex.

Transgender is a term generally used to refer to transgender or **transsexual** people where a person's gender identity differs from their sex recorded at birth.

Legal and Regulatory Obligations

Under the MRS Code of Conduct 2019 it is important to allow participants to express their views in the way that they prefer. Breaching this requirement can leave your business open to investigation under the MRS disciplinary process.

Rule 9 of the MRS Code of Conduct:

Members must take all reasonable precautions to ensure that participants are not harmed or adversely affected by their professional activities and ensure that there are measures in place to guard against potential harm.

Rule 28 (c) of the MRS Code of Conduct:

Members must take reasonable steps to ensure c. that participants are able to provide information in a way that reflects the view they want to express, including don't know/prefer not to say

The Data Protection Act 2018 sets out a core requirement to have a legal basis for processing personal data. The guiding construct can be summarised as informed consent of individuals being asked for or providing information about themselves.

There is also a body of legislation that protects the rights of transsexual individuals (who have undergone medical intervention). These together with the provisions in the Data Protection Act are important in reinforcing the need to respect the privacy of an individual's sensitive personal health data:

Sex Discrimination (Gender Reassignment) Regulations: protects transsexual people against discrimination in employment and vocational training.

Gender Recognition Act 2004: provides a mechanism for someone to be legally recognised in their adopted gender. Identification of the trans history of a person who does not wish to be identified as having a trans history could lead to prosecution under Section 22 of the Gender Recognition Act.

Sex Discrimination (Amendment of Legislation) Regulation (2008): seeks to eliminate unlawful direct discrimination and harassment on grounds of gender reassignment in the provision of goods, facilities and services.

Equalities Act: imposes duties on public bodies to include transsexual people in their gender equality schemes. The Equalities and Human Rights Commission recommends that this requirement be extended to all trans people.

Methodological Points

Asking broader gender or sex questions requires researchers to take account of methodological issues. There is a small risk, with using open-ended questions or including the “other” option, that participants may give deliberately misleading, wrong or frivolous responses, which could lead to inaccuracy and bias in the data. The change in approach may also impact on male/female quotas for quota sample projects since there is no baseline information on “other” category. The Office of National Statistics (ONS) only collects statistics on sex or gender classifications of Male and Female.

Data collection of demographic information either relies on self-completion tools such as paper or online self-completion forms or is interviewer aided, such as in face to face or telephone interviews. For self-completion data collection tools, the best practice guidance can be implemented in straightforward manner. On the other hand, asking gender or sex questions when carrying out face to face or telephone interviewing requires greater tact. Standard current practice in the industry is for interviewers to complete the gender question based on tone of voice and name. Although this may be appropriate in the majority of situations, in some instances it may be incorrect.

Interviewers need to be:

- trained to recognise when it may be appropriate to offer the “other” option or “prefer not to say”
- provided with sufficient discretion and flexibility to allow them to enter additional categories if a participant indicates that they do not fall into the Male/Female category.

MRS intends to carry out additional research to trial different ways of asking gender and sex questions and will provide additional guidance based on the results of the research.

Key Points:

- Collection of sex and/or gender information needs to be tailored to the data collection tool.
- Self-completion tools should at a minimum include an additional field of “other” for either gender or sex questions.
- Interviewer-aided techniques for collecting information need to build in a level of discretion and flexibility for interviewers, to ensure the questions are responsive and are handled appropriately.

Sex or Gender Questions

It is important that all research participants feel satisfied that their voice is being heard. Allowing participants to provide information in a way that reflects the view they want to express is explicitly set out in the MRS Code of Conduct and this also applies to describing their sex or gender. The categories provided for completion must facilitate and recognise the fluidity of gender identity, by providing an additional option such as free-field 'other'.

Key Points:

Researchers need to:

- *Be clear as to which category of information they wish to collect* - Sex and gender are related but distinct and researchers must choose the right concept.
- *Encourage clients to consider whether the demographic information is relevant* – This is especially important if considering collecting trans-history but the level of detail required for a project should be reviewed.
- *Rethink the standard binary questions for both sex and gender* - Demographic questions on sex and gender must cater for non-binary genders.
- *Respect privacy of respondents* – Ensure that steps are taken to maintain confidentiality of responses. Persons who self-identify as “other” may be particularly concerned about the privacy of the research.

Examples of Gender and Sex Questions

Members must ensure that participants will be able to proceed through the research without being required to tick male or female if they do not identify as such. This may be done by including female/male and other as a (free field) options, allowing people to self-identify by asking an open-ended question or by adopting a two-step approach that covers assigned sex at birth and then current gender identity.

There is no one size fits all answer but examples of questions are set out below:

<i>Q.1 What is your sex?</i>	<i>Q.1 What is your sex? OR What is your gender</i>
<i>Female Male Intersex Prefer Not to Say</i>	<i>Female Male Other (please specify) Prefer Not to Say</i>

Checklist - Questions to ask

- Do I need to collect this information?
 - Why? Perhaps add 'is there a research purpose for collecting this information? Is it relevant and not excessive?'
- Should I collect information on sex or should I collect gender?
 - Do I want to match with other data sets or sources? If so, what do they collect?
- Can I make the answers optional?
- What response options should I provide?
 - Should I provide closed categories (including other) or an open field?
 - Do I want to include an intersex option for sex or an "other" option?

Gender Identity Questions

Establishing best practice in developing and asking gender identity questions will need to build on the position and practice of the Office of National Statistics (ONS) and research carried out by the Equalities and Human Rights Commission (EHRC). This will allow the research community to design and implement a consistent and standard gender identity question that can be understood and answered by all people living in the United Kingdom (UK).

MRS is not seeking to develop a gender identity question, but in the interim as different approaches are explored, this guidance note highlights some of the important additional considerations that should be taken into account in measuring gender identity.

Key Points

Researchers need to:

- *Maintain privacy and confidentiality* - Maintaining confidentiality of responses is important. Participants may not wish others to be aware as to how they self-identify and may be anxious or concerned about this which may inhibit them from identifying themselves. Particular care should be taken in capturing this data from children. The place in which data will be collected, the purpose for which it is to be used and the level of confidentiality or anonymity guarantees should all be considered by researchers and appropriately communicated to participants.
- *Ensure effective anonymisation as appropriate* - As the number of transgender people taking part may be small there may be a greater risk of identification. This could impact on their privacy and breach legal obligations under Data Protection Act and/or Gender Recognition Act and means that a range of tools and techniques must be considered in anonymising the data.
- *Take care collecting sensitive personal data on gender re-assignment* - Collecting information that discloses gender reassignment surgery is likely to be considered as sensitive personal data under the Data Protection Act 1998. This will require adherence to further conditions for lawful processing reflecting the nature of this type of information (perhaps provide a link to the relevant part of the ICO website re sensitive data?). It is also important to note that identifying the trans-history of a person who does not wish to be identified as having a trans-history is also prohibited under the Gender Recognition Act 2004.
- *Identify a clear purpose for the data collection* - Capturing this level of detail may be important in projects collecting equality information or investigating issues where there may be a particular impact on this section of the population such as bullying, workplace harassment and discrimination in employment, access to health and social care and homelessness. In these cases researchers and client may explicitly wish to include this minority population.
- *Provide appropriate categories/options* - It is important to provide a list of answers/categories and balance this by providing a list that represents most forms of

identity but is not exhaustive. Some participants may prefer self-completion for gender identity research.

Examples of Gender Identity Questions

The recommended gender identity questions from the (2012) EHRC Research Report together with rationales are set out below. EHRC recommended that all questions are asked but if there is limited space in the questionnaire, or information need not capture the legal definition of gender reassignment; questions 1 and 2 are adequate to capture transgender history and gender identity

Suggested questions	Data captured/Recommendations
<p>Q1 At birth were you described as...</p> <p><i>Please tick one option</i></p> <p>Male <input type="checkbox"/></p> <p>Female <input type="checkbox"/></p> <p>Intersex <input type="checkbox"/></p> <p>I prefer not to say <input type="checkbox"/></p>	<p>a) We would recommend that this question is asked first and a clear explanation is given for collecting the information. Confidentiality and anonymity should be described and assured (where possible).</p> <p>b) This question captures the sex ascribed to individuals at birth. A small number of individuals are described as intersex at birth, rather than male or female, therefore this option should be included. The sensitivity of the question requires a 'prefer not to say' option. This question, when used in combination with question 2, will allow for gender identity and transgender history to be captured.</p> <p>c) Testing did reveal that some trans participants would not be comfortable answering a question like this in <i>any</i> context, because they do not have to reveal this identity, are legally protected from doing so (hold a GRC), or feel uncomfortable revealing this. There will always be participants who will not want to reveal this information.</p>
<p>Q2 Which of the following describes how you think of yourself?</p> <p><i>Please tick one option</i></p> <p>Male <input type="checkbox"/></p> <p>Female <input type="checkbox"/></p> <p>In another way: <input type="checkbox"/> _____</p>	<p>a) We would recommend that this question is asked after question 1. This question captures the identity of individuals now. The insertion of the 'in another way' option was considered to be important for those individuals who may not think of themselves as male or female, and this terminology is preferred to the usual option of 'other'. This question, when used in combination with question 1, will allow for gender identity and transgender history to be captured.</p> <p>b) Testing found that the terms 'male' and 'female' are less problematic than 'man' and 'woman' because the former are seen as biological facts and not socially constructed like the latter terms. Additionally, despite concerns raised in the focus groups around the potential confusion of using traditional sex categories when asking how one describes themselves (such as about gender), evidence from cognitive interviews suggests that the categories 'male' and 'female' do work, and they work well for both trans and non-trans individuals.</p> <p>c) Where there is limited space in a form or questionnaire, or where the information required need not capture the legal definition of gender reassignment; this question and question 1 are adequate for capturing transgender history and gender identity. However, there will be people with a transgender history who will not disclose it through questions 1 and 2, either because they hold a GRC or because they simply do not wish to. A reliance on these two questions alone may therefore result in underestimation.</p>

Suggested questions	Data captured/Recommendations
<p>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?</p> <p>(This could include changing your name, wearing different clothes taking hormones or having any gender reassignment surgery).</p> <p>Yes <input type="checkbox"/> → Please go to Q4 No <input type="checkbox"/> → End.</p>	<p>a) Question 3 enables a better capture of gender reassignment in line with the definition of gender reassignment protected by the 2010 Equality Act. We recommend this question is used in combination with Q4, which will enable capture of the stage at which individuals are in the process, if any.</p> <p>However, there will always be trans people who will choose not to answer this question (see above).</p>
<p>Q4 Continuing to think about these examples, which of the following options best applies to you?</p> <p><i>Please tick one option</i></p> <p>I am thinking about going through this process <input type="checkbox"/> I am currently going through this process <input type="checkbox"/> I have already been through this process <input type="checkbox"/> I have been through this process, then changed back <input type="checkbox"/> None of the above <input type="checkbox"/> _____ I prefer not to say <input type="checkbox"/></p>	<p>a) Question 4 only works in conjunction with question 3, as it directly refers to the examples used in the previous question. Trans people will be routed to question 4. Question 4 enables a better capture of where individuals are in the process, in line with the definition of gender reassignment protected by the 2010 Equality Act. The options elicit intention to, whether currently undergoing and having gone through gender reassignment (as defined by the individual).</p> <p>b) The 'prefer not to say' option was recommended by participants. The 'none of the above' answer option gives participants the opportunity to write in an alternative response if they wish to.</p>
<p>Q5 Which of the following describes how you think of yourself?</p> <p><i>Tick all that apply</i></p> <p>Trans man <input type="checkbox"/> Trans woman <input type="checkbox"/> Transsexual person <input type="checkbox"/> Gender variant person <input type="checkbox"/> Cross dressing person <input type="checkbox"/> Transvestite person <input type="checkbox"/> Intersex person <input type="checkbox"/> In another way: <input type="checkbox"/> _____ I prefer not to say <input type="checkbox"/></p>	<p>a) This question will enable capture of the different gender identities within the trans population.</p> <p>b) We would advise that where possible, this question is included since it provides an opportunity for people to express themselves in the way that they want to.</p> <p>c) The 'prefer not to say' option was recommended by participants, and the option to self-define 'in another way'. The use of 'person' enables a human identity, rather than simply a category. The options 'transvestite' and 'cross dresser' were recommended separately as they can be different identities, as were the options to define as a 'trans man' or 'trans woman'. The list of answers is not exhaustive, but represents most forms of identity and self identity, without becoming onerously long.</p>

Source: EHRC Research Report No. 75

Useful Information Sources

[MRS Code of Conduct 2019](#)

[Monitoring equality: Developing a gender identity question \(2011\) Equality and Human Rights Commission research report no. 75](#)

[Technical note on measuring gender identity \(2012\) Equalities and Human Rights Commission](#)

[Trans data position paper. Office for National Statistics \(2009\)](#)