



## **MRS Best Practice Guide on Collecting Sample Data on Sexual Orientation**

**April 2024**

### **Introduction**

MRS has produced this Best Practice Guide to help practitioners act legally and ethically in collecting data and asking research participants questions on sexual orientation.

### **Scope**

Practitioners are required to give priority to local laws and guidance i.e., where research practice takes place. This guidance is focusing on the collection of data from the UK, although the general principles and examples could apply and/or be adapted for other countries depending upon the cultural and language norms for collecting sexual orientation data. Also, it follows that in countries where it is not lawful to have a same sex relationship, it is inappropriate to ask the sexual orientation question.

Sexual orientation is separate and distinct from gender and gender identity. Gender identity is the way that an individual describes themselves and identifies with a gender category. This is dealt with in separate MRS guidance. (See [MRS Guidance Note on Collecting Data on Sex and Gender](#))

### **Context**

MRS best practice recommendation is that for research and data collection to be inclusive of the population and all relevant personal characteristics should be included. This ensures that all participants are equally valued, and their opinions and attitudes are being gathered and represented.

Practitioners can also use this guidance to assess whether they are complying with the MRS Code of Conduct in collecting demographic information for these areas including for the purposes of National Representative (Nat Rep) samples. For UK Nat Rep samples to be inclusive of the population age, gender identity, social grade, region, ethnicity, physical and/or mental health conditions and sexual orientation should all be collected where it is considered appropriate.

This Guidance Note should be used in conjunction with the MRS Code of Conduct and Guidelines.

### **Interpretation of Requirements**

When requirements use the word "must" these are mandatory requirements and is a principle or practice that applies the MRS Code of Conduct, which Members and Company Partners are obliged to follow.

The requirements which use the phrase “should” describe implementation and denotes a recommended practice.

“May” or “can” refer to the ability to do something, the possibility of something, as well as granting permission.

## **Explanation of Key Terms**

### **Sexual orientation**

Definition from [Stonewall's Glossary of Terms](#):

*A person's sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person's orientation identity*

*Stonewall uses the term 'orientation' as an umbrella term covering sexual and romantic orientations.*

Relevant definitions of other terms used in this guide can also be found in Stonewall's Glossary of Terms.

## **Relevant Definitions from the MRS Code of Conduct (2023)**

**Client:** *A client includes any individual, organisation, department or division, including any belonging to the same organisation as an MRS Member, which is responsible for commissioning or applying the results from a project.*

**Participant:** *is any individual or organisation from or about whom data is collected.*

**Practitioners:** *includes all individuals within the data collection supply-chain e.g. researchers, moderators, interviewers, recruiters, mystery shoppers, contractors, freelancers and temporary workers.*

**Research:** *is the collection, use, or analysis of information about individuals or organisations intended to establish facts, acquire knowledge or reach conclusions. It uses techniques of the applied social, behavioural and data sciences, statistical principles and theory, to generate insights and support decision-making by providers of goods and services, governments, non-profit organisations and the general public.*

**Special category data:** *is the processing reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union Membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.*

**Vulnerable people:** *Vulnerable people means individuals whose permanent or temporary personal circumstances and/or characteristics mean that they are less able to protect or represent their interests (see [MRS Best Practice Guide on Research Participant Vulnerability](#)).*

## **Legal and Regulatory Obligations**

**The MRS Code of Conduct (2023)** contains several requirements covering design, data collection and reporting which are relevant to collecting, using and reporting sexual orientation data. The following are the key requirements:

### Design

The MRS Code (2023) requires practitioners to design research to the specification agreed with clients and to ensure that any data collection is fit for purposes and appropriate for the audience being analysed. When collecting participant data practitioners must not harm or adversely affect participants.

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 11 of the MRS Code of Conduct:

*Members must take reasonable steps to design projects to the specification and/or quality standards agreed with clients.*

### Data Collection

The MRS Code (2023) requires participants to be able to express their views, in a way which they prefer and with the option to not respond.

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.*

### Reporting

The MRS Code (2023) requires practitioners to include sufficient technical information for published data and reports to enable assessment of the validity of the results. In the context of inclusive data, reporting must clarify what sampling characteristics and parameters are used when defining Nationally Representative ('Nat Rep') or City Representative samples, and whether or not characteristics for consideration should include sexual orientation.

**MRS' best practice recommendation is that all relevant characteristics should be included for Nat Rep samples to be inclusive of the population e.g., age, gender identity, social grade, region, ethnicity, physical or mental health conditions and sexual orientation.**

The Relevant rules are:

Rule 58 of the MRS Code of Conduct:

*Members must ensure that data include sufficient technical information to enable reasonable assessment of the validity of results.*

Rule 59 of the MRS Code of Conduct:

*Members must ensure that reports include sufficient information to enable reasonable assessment of the validity of results*

**The UK GDPR** requires a legal basis for processing of personal data. Some personal data is categorised as 'special category data' and is subject to additional requirements when being collected.

Personal data categorised as special category data is data on:

- religious or philosophical beliefs
- health
- racial or ethnic origin
- trade union membership
- political beliefs
- sex life or sexual orientation
- genetic data
- biometric data (including photos when used for the purpose of uniquely identifying a natural person) of data subjects

Data on sexual orientation is categorised as special category data.

Special category data needs to be treated with greater care as collecting and using it is more likely to interfere with individual's fundamental rights or result in discrimination. This is part of the risk-based approach of the UK GDPR.

Researchers processing sexual orientation data as well as personal data will need to have a legal basis for the data being processed. When processing special category data practitioners must have a lawful basis under Article 6 of the GDPR in addition to meeting a special condition under Article 9 of the GDPR but these grounds do not have to be linked. [The MRS GDPR in Brief No.10 - Collection of Ethnic Data and Other Special Category Data](#) provides guidance on what you need to do to meet these requirements and checklists to help to identify what you need to do to collect sensitive special category data such as sexual orientation data in accordance with GDPR.

There is no restriction for processing any special category data such as sexual orientation as long as the requirements of Article 6 and Article 9 are being met, and practitioners fully document what they do when collecting special category data and how they do it.

**Equalities Act 2010** protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it is unlawful to treat someone.

It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation

These are called 'protected characteristics'.

Individuals are protected from discrimination:

- at work
- in education
- as a consumer
- when using public services
- when buying or renting property
- as a member or guest of a private club or association

### **Ethical Design Considerations**

1. Practitioners must take reasonable steps to design projects collecting sexual orientation data to the specification or quality standards agreed with clients; this includes which characteristics and parameters are to be used when identifying participants sexual orientation. Collection of sexual orientation questions needs to be appropriately tailored to the data collection tool.
2. Practitioners must ensure that participants will be able to proceed with any data collection about sexual orientation without being required to respond if they do not wish to.
3. Practitioners must include the response options 'don't know' and 'prefer not to say' when gathering sexual orientation data from participants, to meet the MRS Code of Conduct data collection requirements.
4. Practitioners must consider the [MRS Best Practice Guide on Research Participant Vulnerability](#) when collecting sexual orientation data as participants may feel vulnerable disclosing this information.
5. Sexual orientation may be very clear-cut for some participants, but some participants may prefer not to label themselves, and others might prefer not to disclose at all because they don't feel comfortable answering the questions. In some cases, answering such questions could be potentially harmful for participants due to cultural conflicts, including the admission of illegality in some countries. It is important to allow participants to self-describe and to opt-out of answering sensitive, personal questions.
6. Practitioners should consider the following when collecting sexual orientation data from participants:
  - **Provide adequate preamble/context before sexual orientation questions are asked:** *this is an example of a very sensitive question, and it is important that participants are pre-warned that this type of questioning is to be included.*
  - **Be clear as to why sexual orientation data is being collected and:** an example is the 'Why do we ask this?' text alongside the sexual orientation question in the England and Wales Census 2021:

*Your answer helps your local community by allowing charities, public bodies, and local and central government to understand what services people might need.*

- *This information helps monitor equality between groups of people of different sexual orientation. Your answer will help public bodies to identify potential discrimination or social exclusion based on sexual orientation and work to stop it from happening.*
- **Include a write-in field for the "Other" response option:** this allows participants to report their sexual orientation rather than being classified as "Other".

- **Encourage clients to consider the level of detail required:** this is particularly important if considering collecting in-depth information about sexual orientation. The level of detail required for a project should be reviewed to ensure that it is appropriate, proportionate and balanced.
- **Respect privacy of participants:** ensure that steps are taken to maintain confidentiality of responses and this is conveyed to participants. Persons who reveal sexual orientation may be particularly concerned about the privacy and confidentiality of their responses.
- **Balance data collection needs against the potential for intrusion:** whilst collecting inclusive data is important, participants also should be protected from harm and have the right to a private life. Consider how sexual orientation is collected, why it is being collected and implement measures to reduce the level of intrusion and potential for participant harm.
- **Alphabetical order:** to avoid unconscious bias the order of sexual orientation response options provided should be considered. Alphabetising or randomising the response list should reduce any potential unconscious bias.
- **Privacy notice:** The inclusion of Special Category of Personal Data must be covered in the Privacy Notice. Consideration on whether there should be a link to the Privacy Notice at the appropriate point in the data collection materials.
- **Open responses:** Self-completion and online tools should, as a minimum, include an open field for participants to answer in a way that reflects their response if it does not fit in with any of the response options provided. 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 sensitively by the interviewers.

7. Practitioners must report on the characteristics and parameters used when reporting on samples which are described as either Nat Rep or City Rep.

### **Examples of Question and Response Options**

There is no one size fits all question and response approach to collecting data about sexual orientation. There are a wide variety of ways to identify sexual orientation, so it can be a challenge to include enough options without making it too confusing for the participant. Descriptions of sexual orientation terms can be found in [Stonewall's Glossary of Terms](#).

The following are examples of how sexual orientation data can be collected.

**An example of question and response options to determine sexual orientation (taken from the England and Wales Census 2021 where it appeared as a voluntary question)**

**Note: The Census question effectively offers the 'prefer not to say' option, by including a preamble to the question that explicitly says that the question is voluntary. If there is no such preamble to a sexual orientation question, a 'prefer not to say' option must be added.**

*Which of the following best describes your sexual orientation?*

- *Straight/Heterosexual;*
- *Gay or Lesbian;*
- *Bisexual;*
- *Other sexual orientation, write in*

**An example of question and response options to determine sexual orientation (source: Voices4All)**

*Do you consider yourself to be:*

- *Asexual*
- *Bisexual*
- *Gay Man*
- *Gay Woman/Lesbian*
- *Heterosexual/ Straight*
- *Pansexual*
- *Queer*
- *Prefer to self-describe: (open text)*
- *Prefer not to say*

**An example of question and response options to determine sexual orientation (source: NHS)**

*Which of the following options best describes how you think of yourself?*

- *Heterosexual or Straight*
- *Gay or Lesbian*
- *Bisexual*
- *Other sexual orientation not listed*
- *Person asked and does not know/unsure*
- *Person asked but declined to give a response*

**Checklist:**

Practitioners should ask themselves and their clients the following questions when undertaking projects which use, collect or report data on sexual orientation:

**Design**

1.  What type of data does the client want me to collect?
2.  If a project is using Nat Rep or City Rep samples, does this definition include participants sexual orientation?

**GDPR**

3.  Do I need to collect sexual orientation data?
4.  Is there a research purpose for collecting sexual orientation data?
5.  Is the sexual orientation data being collected relevant and not excessive?
6.  Is the sexual orientation data needed to meet Nat Rep requirements or is it for another purpose?

### **Question Design**

7.  What information do I need to gather from the participants?
8.  Is the question/s suitable for the sexual orientation data I need to gather?

### **Response Options**

9.  Can the sexual orientation responses be optional?
10.  What response options should I provide?
11.  Should I provide closed categories for response options or open fields?
12.  Are 'don't know' and 'prefer not to say' options included in the response options?
13.  Should the response options be alphabetised or put in random order to reduce potential bias?

### **Vulnerability**

14.  Are the participants from whom sexual orientation data is being collected likely to be vulnerable?
15.  If there are vulnerable participants, has the [MRS Best Practice Guide on Research Participant Vulnerability](#) been referred to?

### Reporting

16.  Does the report detail the characteristics and parameters used for determining any Nat Rep or City Rep samples?
17.  Does the report contain sufficient information to determine the validity of any results reported, including sampling parameters?



## **Useful Information Sources**

- MRS: [MRS Code of Conduct 2023](#)
- MRS: [GDPR in Brief: Collection of Ethnic Data and Other Special Category Data](#)
- MRS: [MRS Guidelines: Essential Safeguards – Dealing with discriminatory comments](#)
- MRS: [Best Practice Guide on Research Participant Vulnerability](#)
- ONS: [Sexual orientation question development for Census 2021](#)
- NISRA: [2021 Census Sexual Orientation Topic Report](#)
- Stonewall: [Sexual Orientation - The Equality Act Made Simple](#)
- Voices4All: [Demographic questions](#)
- Voices4All: [Sampling and weighting questions](#)
- UK Government: [Government Equalities Office](#)