



## **MRS Best Practice Guide on Collecting Data on Sex and Gender**

**March 2022**

### **Introduction**

MRS has produced this Best Practice Guide to help practitioners act legally and ethically in collecting data and asking research participants questions on biological sex, gender and gender identity.

### **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 data on sex and gender.

This guidance does not cover methodological issues relating to inclusive data such as sampling. The methodological issues are explored in separate FAQs which have been developed by the MRS Representation in Research working group.

### **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, including for the nationally representative samples. For nationally representative samples to be inclusive of the population, age, gender identity, social grade, region, ethnicity, physical disabilities and/or mental health conditions and sexual orientation should all be collected.

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**

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. 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 limited to male and female. The wide range of other gender identities, such as non-binary, means that some people may identify as male or female and some may identify with an alternative third option gender identity such as transgender.

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

### **Relevant Definitions from the MRS Code of Conduct (2019)**

**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 (2019)** contains several requirements covering design, data collection and reporting which are relevant to collecting, using and reporting sex and gender identity data. The following are the key requirements:

#### Design

The MRS Code (2019) 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 (2019) 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 (2019) requires practitioners to include sufficient technical information within 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 gender identification.

**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 sex and gender.**

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 Data Protection Act 2018 and 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 collected on gender reassignment may be categorised as special category data if health information is disclosed.

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.

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 practitioners need to do to collect sensitive special category data in accordance with GDPR.

There is no restriction for processing any special category data 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' and sex and gender reassignment are included within the legislation.

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 sex and gender data to the specification or quality standards agreed with clients; this includes which characteristics and parameters are to be used when identifying participants sex and gender. Collection of sex and gender 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 sex and gender 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 sex and gender 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 sex and gender data as participants may feel vulnerable disclosing this information.
5. Gender 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 gender data from participants:
  - **Provide adequate preamble/context before gender 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.*
  - **Include a write-in field for the "Other gender identity" response option:** this allows participants to report their gender 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 gender.

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 gender data sexual may be particularly concerned about the privacy and confidentiality of their responses.
  - **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 include the response options 'don't know' and 'prefer not to say' when gathering gender data from participants. Practitioners should include options to self-identify gender, e.g., the use of 'other, please specify' response options. These options support inclusivity.
  8. 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 gender data is collected, why it is being collected and implement measures to reduce the level of intrusion and potential for participant harm.
  9. Alphabetical order: to avoid unconscious gender bias the order of sex and gender response options provided should be considered. Alphabetising or randomising the response list should reduce any potential unconscious bias.

### **Example of Sex Data Question and Response Options**

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

The following is an example of how sex data can be collected.

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

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**Examples of Gender Identity Questions**

**An example of question and response options to determine gender (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 gender sexual question, a 'prefer not to say' option must be added.**

*Is the gender you identify with the same as your sex registered at birth?*

- Yes
- No, write in gender identity

**The recommended gender identity questions from the Equality and Human Rights Commission Research report 75 together with rationales is set out below.**

<b>Suggested questions</b>	<b>Data captured/Recommendations</b>
<p><b>Q1 At birth were you described as...</b></p> <p><i>Please tick one option</i></p> <p style="text-align: center;"><b>Male</b> <input type="checkbox"/></p> <p style="text-align: center;"><b>Female</b> <input type="checkbox"/></p> <p style="text-align: center;"><b>Intersex</b> <input type="checkbox"/></p> <p style="text-align: center;"><b>I prefer not to say</b> <input type="checkbox"/></p>	<p><b>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).</b></p> <p><b>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.</b></p> <p><b>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</b></p>

Suggested questions	Data captured/Recommendations
	<p>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><b>Q2 Which of the following describes how you think of yourself?</b></p> <p><i>Please tick one option</i></p> <p><b>Male</b> <input type="checkbox"/></p> <p><b>Female</b> <input type="checkbox"/></p> <p><b>In another way:</b><input type="checkbox"/></p> <p>_____</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.</p> <p>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><b>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?</b></p> <p><b>(This could include changing your name, wearing different clothes taking hormones or having any gender reassignment surgery).</b></p> <p><b>Yes <input type="checkbox"/> → Please go to Q4</b></p> <p><b>No <input type="checkbox"/> → End.</b></p>	<p><b>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.</b></p> <p><b>However, there will always be trans people who will choose not to answer this question (see above).</b></p>
<p><b>Q4 Continuing to think about these examples, which of the following options best applies to you?</b></p> <p><b><i>Please tick one option</i></b></p> <p><b>I am thinking about going through this process <input type="checkbox"/></b></p> <p><b>I am currently going through this process <input type="checkbox"/></b></p> <p><b>I have already been through this process <input type="checkbox"/></b></p> <p><b>I have been through this process, then changed back <input type="checkbox"/></b></p> <p><b>None of the above <input type="checkbox"/> _____</b></p>	<p><b>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).</b></p> <p><b>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.</b></p>

Suggested questions	Data captured/Recommendations
<p><b>I prefer not to say</b> <input type="checkbox"/></p>	
<p><b>Q5 Which of the following describes how you think of yourself?</b></p> <p><i>Tick all that apply</i></p> <p><b>Trans man</b> <input type="checkbox"/></p> <p><b>Trans woman</b> <input type="checkbox"/></p> <p><b>Transsexual person</b> <input type="checkbox"/></p> <p><b>Gender variant person</b> <input type="checkbox"/></p> <p><b>Cross dressing person</b> <input type="checkbox"/></p> <p><b>Transvestite person</b> <input type="checkbox"/></p> <p><b>Intersex person</b> <input type="checkbox"/></p> <p><b>In another way:</b> <input type="checkbox"/> _____</p> <p><b>I prefer not to say</b> <input type="checkbox"/></p>	<p><b>a) This question will enable capture of the different gender identities within the trans population.</b></p> <p><b>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.</b></p> <p><b>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.</b></p>

### **Checklist:**

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

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 sex and gender?

GDPR

3.  Do I need to collect gender data?
4.  Is there a research purpose for collecting gender data?
5.  Is the gender data being collected relevant and not excessive?
6.  Is the gender 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 gender data I need to gather?

## Response Options

9.  Can the gender 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 gender 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 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](#)

[Stonewall](#)

[Sex and gender identity question development for Census 2021](#)