

# **Data collection and publication guidance**

## **Sexual Orientation**

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# Data collection and publication guidance - Sexual Orientation

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## Introduction

The Equality Act 2010 (the 2010 Act)<sup>1</sup> protects people from discrimination because of sexual orientation. The legislation covers areas including education, employment, the provision of goods and services to the public and the exercise of public functions.

The 2010 Act also introduced a public sector equality duty<sup>2</sup> which came into force on 5 April 2011. The duty requires public authorities, including the Scottish Ministers, to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. The duty covers nine protected characteristics<sup>3</sup>, including sexual orientation.

In addition to the public sector equality duty, Scottish Ministers have the power to supplement the public sector equality duty by placing specific duties on certain Scottish public authorities, and have done so by way of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012<sup>4</sup>.

It is recommended that all public authorities follow good practice in gathering and using relevant evidence and information. Sexual orientation statistics are important for monitoring discrimination and inequality. Good quality sexual orientation data will help with understanding the issues faced by people of

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<sup>1</sup> [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15)

<sup>2</sup> [Section 149 of the Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15/schedule/1/paragraph/1)

<sup>3</sup> The duty only applies to the protected characteristic of marriage and civil partnership in relation to eliminating unlawful discrimination etc. relating to work under Part 5 of the 2010 Act.

<sup>4</sup> [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/1200/made), as amended ([link to original version, with subsequent amendments not yet incorporated](#)).

different sexual orientations, allowing for intersectional analysis with other socio-demographic characteristics, including those protected by the 2010 Act. The information may also be used to inform policy formulation and service delivery.

In order to promote more consistency, the Scottish Government developed harmonised questions for use in surveys in Scotland. The guidance, originally published in 2012, was reviewed in 2021. This document sets out the revised guidance.

## Background

What is meant by sexual orientation?

Sexual orientation is a combination of emotional, romantic, sexual or affectionate attraction or feelings towards another person. It is important to acknowledge that sexual orientation is not just related to sex but is also about a person's identity.

How a person determines their sexual orientation can be based on any combination of the above attractions or feelings or behaviours. It can be fluid over time and in different contexts and an individual may not even know what their sexual orientation is. A person can have a sexual identity while not being sexually active. Sexual orientation is the preferred language for asking questions in Scotland, as this is in line with the protected characteristic in the 2010 Act.

The specific protections afforded by the 2010 Act include discrimination based on sexual orientation towards persons of the same sex, persons of the opposite sex, or persons of either sex. The Hate Crime and Public Order (Scotland) Act 2021 is phrased slightly differently in that a reference to sexual

orientation includes sexual orientation towards persons of the same sex, persons of a different sex, or both persons of the same sex and persons of a different sex.<sup>5</sup>

When should the question be asked?

The question should be included on all surveys where collecting information about protected characteristics<sup>6</sup> is of interest. Most research investigates inequalities between different protected characteristics (e.g. by age, ethnicity, religion) and sexual orientation should be included as a key demographic variable in the same way as others are. The question alone will not provide all the information for certain pieces of research. In particular, those carrying out the survey may need to ask additional questions if:

- sexual behaviour or attraction is of key interest
- further information on the 'other' category is required

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<sup>5</sup> [Hate Crime and Public Order \(Scotland\) Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2021/12/section/1)

<sup>6</sup> [Section 4 of the 2010 Act](#) sets out the nine characteristics that are protected under that Act.

## Recommended question

This is the recommended question for collecting data on sexual orientation.

The question has been developed for use in online and paper surveys by NRS for Scotland's 2022 census, in which the question is voluntary. The Office for National Statistics (ONS) recommends a single question regardless of survey format. Although the question recommended by the ONS is different to the one recommended here the response options are the same.

We recommend that the question be used as it appears here for use in all surveys in Scotland. The question should only be asked of respondents aged 16 and over:

|           |  |
|-----------|--|
| Question: | Which of the following best describes your sexual orientation?<br>Tick <b>one</b> box only   |
| Answer:   | <ol style="list-style-type: none"><li>1. Straight / Heterosexual</li><li>2. Gay or Lesbian</li><li>3. Bisexual</li><li>4. Other sexual orientation, please write in</li><li>5. Refusal (spontaneous only)</li><li>6. Prefer not to say (non-interviewer led questionnaires only)</li></ol> |

## Additional guidance for interviewers

### Instructions and 'prefer not to say'

Instructions should be given at the beginning of the interview/survey saying why all of the questions are being asked, that they are all voluntary and, if a respondent does not wish to answer any of the questions, they do not have to. This ensures all questions are treated the same.

Testing by the ONS has shown that provision of a 'prefer not to say' option results in an increase in non-responses in telephone/face-to-face interviews.

As such the recommendation is that this should only be included in online and paper surveys where refusal is not otherwise possible with the caveat that this may increase the rate of non-response to this question.

If a 'prefer not to say' option is added to this question then it should be added to all questions. In interviewer-led surveys clear instruction at the beginning should advise people that they do not have to answer any question that they do not wish to.

### Presentation of the question and terminology

The words used in the question stem have been carefully selected and tested to be as acceptable as possible to respondents, to aid understanding of what is being asked, and to provide the most reliable data for users. If the wording is changed then people may not answer or may answer in a different way and comparisons will not be possible.

Like the wording of the question, the categories have been carefully selected and tested. Research has highlighted that people are not always familiar with the terminology used to describe a person's sexual orientation.

A lot of confusion centres around the use of the word 'heterosexual', which is sexual orientation towards persons of the opposite sex. To help increase the understanding of this term, the word 'straight' is used alongside it which is a colloquial term that is more widely understood. It is never acceptable to use the word 'normal' in place of or alongside 'heterosexual'.

The term 'gay' is used to describe someone who is sexually and emotionally attracted to someone of the same sex and is a widely understood term. It is not recommended that the term 'homosexual' is used as it is offensive to many people. The term 'gay' is mostly used by men to describe themselves and is

also used by some women, whilst other women refer to themselves as 'lesbian'. As a result, both of these terms should be used together. If detailed information is required on the gender breakdown, this can be achieved by analysing the responses alongside those for the gender question.

The term 'bisexual' is used to describe sexual orientation towards persons of either sex. This term is in common usage.

Not everyone defines themselves in the above listed terms, and so it is important to have an 'other' category so that people do not feel that they are being made to choose a specific category.

If the respondent enquires what is meant by the categories, it should be explained that, for example, heterosexual/straight might mean that a person is attracted to people of the opposite sex, for gay and lesbian this might mean they are attracted to those of same sex and for bisexual they might be attracted to both men and women. Interviewers should not just assume that a respondent is heterosexual/straight if they say 'I'm normal' or 'I'm ordinary'. The interviewer should probe by asking 'so which of the categories would you choose?'.

The level of acceptability attached to any term is subject to change over time. With this in mind, the terminology used with regards to sexual orientation will be continually monitored and, when necessary, categories will be revised.

Research shows that the order the categories appear in does not affect responses to the question, therefore the categories have been ordered in population size to reduce response errors. Research has shown that people tend to read down the list only as far as the first suitable answer and for that reason, the categories are generally listed by population size.

## Concealed randomised showcards

The ONS have developed a system that uses concealed randomised showcards<sup>7</sup> in order to be able to ask the question in households where more than one household member is being interviewed at once and still maintain each individual's privacy. This involves providing a showcard with a coversheet (to ensure no other member of the household sees the card) on which the response categories are written alongside a random number, not in sequential order, so that the respondent just reads out the number next to the relevant category. The interviewer then records which showcard was used and the response number. If more than one individual is being interviewed at a time then each individual will receive a different randomised card. It is very important that before the first showcard is handed over to the first respondent that the interviewer makes it clear to all members that each showcard is unique and that all numbers are different to ensure the privacy of each individual.

## Contact us

This document has been provided to help people collect information on sexual orientation in Scotland. We welcome any comments you have on this guidance note. It will be revised and updated periodically.

[social-justice-analysis@gov.scot](mailto:social-justice-analysis@gov.scot)

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<sup>7</sup> A showcard is a visual aid to help interviewers when a question has multiple response so they can show the respondents the response categories without having to read them out.

## Annex 1: Previous question versions

This annex lays out the questions recommended for use in household surveys in Scotland in the previous iteration of this guidance (published 2012). The question presented in the main body of this document has been developed for use in Scotland's 2022 census and replaces those presented below.

### Face-to-face interview

Question: Which of the options on this card best describes how you think of yourself? Please just read out the number next to the description. (NB The numbers on each card are different for each person)

1. Straight / Heterosexual
2. Gay or Lesbian
3. Bisexual
4. Other
5. Don't know/Refusal (spontaneous only)

### Telephone interview

Question: I will now read out a list of terms people sometimes use to describe how they think of themselves.

(Interviewer read the list to end without pausing: Note that 'heterosexual or straight' is one option; 'gay or lesbian' is one option)

1. Straight / Heterosexual
2. Gay or Lesbian
3. Bisexual
4. Other
5. Don't know/Refusal (spontaneous only)

As I read the list again please say 'yes' when you hear the option that best describes how you think of yourself

Self-completed questionnaire/postal

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

1. Straight / Heterosexual
2. Gay or Lesbian
3. Bisexual
4. Other

## Annex 2: The Office for National Statistics Sexual Identity Project

This annex on the ONS Sexual Identity Project was included in the previous version of this guidance. The ONS has since moved to a harmonised standard on sexual orientation to align with language from the Equality Act 2010.<sup>8</sup>

In 2006, the Office for National Statistics (ONS) initiated a project to develop and test a question to collect information on sexual orientation for use on social surveys. All the work conducted by the ONS relating to this project, including question development, testing and guidance on using the question, can be found at [\[Archived Content\] UK Government Web Archive - The National Archives](#).

After initial consultation, the ONS decided to develop and test a question on self-perceived sexual identity. The ONS define sexual identity as being about who a person is, not what they do: “it is important to remember that it is not specifically about sexual behaviour or attraction, although these aspects might relate to the formation of identity” and “perhaps sharing a collective social identity with a group of other people”.<sup>9</sup>

The ONS “deemed sexual identity the most relevant dimension of sexual orientation to investigate given its relation to experiences of disadvantage and discrimination. Testing showed that respondents were not in favour of asking about sexual behaviour in a social survey context, nor would it be appropriate in general purpose government surveys”.

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<sup>8</sup> [Sexual orientation data harmonised standard – GSS \(civilservice.gov.uk\)](#)

<sup>9</sup> Measuring Sexual identity A guide for researchers: [\[Archived Content\] UK Government Web Archive - The National Archives](#)



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