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REDACTED

Our Ref           **JB**  
Your Ref  
Date               **25 January 2021**

Dear Mr Halliday

## **CHIEF STATISTICIAN DRAFT GUIDANCE**

### **Regarding: Working group about a person's sex and gender Data collection and publication – draft guidance paper**

We welcome the opportunity to comment on the draft guidance on collection and publication of data by Scottish public bodies. We recognise that this guidance is particularly pertinent in the context of Scottish Parliament plans to reform the Gender Recognition Act 2004 in Scotland. In order to inform the Working Group I have gathered some views from colleagues in Dundee Health and Social Care Partnership and Dundee City Council.

Overall, we recognise it will be helpful for guidance document to be available. We appreciate that it uses straight forward language and gives clear information and definitions where appropriate. The paper draws together key National and International principles and considerations when collecting and publishing data, it will be particularly advantageous to have this information gathered in one clear guidance document.

The guidance address concerns that there isn't a standard way that data about sex and gender is currently being collected, either in Scotland or the UK. The guidance will assist Public Bodies in Scotland to collect and explore data about gender and sex as well as providing data on intersecting issues related to sex, gender, ethnicity, disability and age. In addition, it will help better understand experiences and outcomes of trans people. The guidance provides a way forward towards harmonisation and supports Public Bodies to apply a more consistent approach to the collection of data around sex and gender. We agree that it supports important progress towards allowing data collected in different sources, to be combined or compared, and still reported in a meaningful way and to allow for comparability between groups and other data sources when the data is reported.

We welcome the opportunity this guidance will create for increased data to be collected, aggregated or used in a way that takes account of the differences between men and women, and their impact in areas such as health and access to services. This will support Public



Bodies to explore and help demonstrate where there is discrimination and to monitor the effects of actions. Additionally, it is helpful that the guidance sets out information and guidance for Public Bodies to consider when they are collecting data about sex and gender, so that data collection has a clear purpose and is rooted in the organisations to address this. We recognise and agree that this guidance will evolve over time and in particular will need to be reconsidered after the non-binary working group has reported its conclusions.

It is helpful that the guidance is based on and confirms established principles including those of dignity and respect. The clear definitions of terms including sex, legal sex, gender, gender identity and transgender will not only assist Public Bodies to ask the appropriate questions but when applied will all maintain the dignity of and demonstrate respect for the person.

We would welcome legislative changes to support whole systems change. When there is discretion on gender recording strong minded individuals with personal opinions and bias can influence options for recording. It is also useful to have clarity in order for Public Bodies to have expectations of other agencies for example our data base is externally purchased and the provider is required to change anything that does not comply with legislation.

There is an appropriate reference to the Public Sector Equality Duty and the guidance helpfully explains the position of the requirement to gather employment information. The inclusion of information about employment data is helpful for highlighting that Public Bodies can enable employees and service users to self-identify their sex as is the reminder that an option of “prefer not to say” is very important.

The guidance has the capacity to successfully remind Public Bodies to consider the importance of the purpose and need for the data proposed for collection when deciding to collect it. We appreciate the inclusion within the guidance factors to consider when deciding what data to collect, this reinforces the need to collect only pertinent data. We welcome the clear list provided in Section 12 of the important questions for those collecting data to answer prior to collecting and using data about sex, gender or trans status. It is thought there may be a way of presenting the information in Section 12 in a better way for the reader.

We would want to highlight that some data we collect as a Public Bodies in Health and Social Care and other local authorities is driven by regular Statistic Returns required by Scottish Government. We would ask that any such requests for statistical returns from Scottish Government take account of the Guidance when it is issued.

While it is understandable that proposed ‘sex’ question differs from the approach taken by the Census 2022 and acknowledged that the recommendation was based on extensive testing and feedback from stakeholders; there is a sense of disappointment that direct comparisons with locally and national data may be made more difficult in future years because of this.

In particular we find it helpful that it is proposed to have suggested questions in Section 5 as well as information to accompany data collection (Section 6) and advice about analysing, disaggregating and publishing data that has been collected in Section 7.

We would like to make particular comments around the suggested questions in Section 5.

## Regarding Section 5.

- Use of Pronouns- It is thought that it may be helpful to consider some guidance on use of pro-nouns for interviewers.

Could the question guidance advise that unless otherwise requested/indicated the interviewer should refer to the person as them or they rather than make assumptions about him/her.

- We suggest that greater Clarity is needed regarding questions that include an option of 'when answering for another person'

In the Question wording there is a suggestion that:

'How would you describe your gender? Or "How would you describe the gender of (name of respondent)?" when responding for another person.

We think you need greater clarity about whose view are you wanting here. It is not clear whether the example expects the respondent is to give their view or the 'other persons' response?

When you ask  
How would **you** describe the gender of (name of respondent)?

Do you want Marys view (the other person) or the view of the person responding on their behalf? The respondent may have a different view from the person who the interview/survey is about. e.g. Marys friend is answering the questions for Mary. Marys friends view is that Mary is a girl. Marys view is that Mary is a boy - that would be Marys self-declared answer.

It is noted that not all example questions include "when answering for another person" and wonder if this sentence could just helpfully be removed and clarity given at start of questions that the person answering should not give their view but the view of the person they are answering for (if that is the intention).

Regarding suggested Questions about Gender and Sex. While we would welcome questions about Sex and about Gender not always listing Male/Man/Boy as 1 Female/woman/girl as 2 and we think it is perhaps better not to vary the order of answers within a survey/interview. It may be worth considering choosing the order for each suggested question.

Many thanks for the opportunity to comment on this draft. Please let me know if I can be of further assistance.

Yours sincerely

Joyce Barclay  
Senior Officer