

# **Sex and Gender in data**

## **CRWIA Stage 2**

**September 2021**

## CRWIA Stage 2

### The CRWIA – key questions

#### 1. Which UNCRC Articles are relevant to the policy/measure?

The UNCRC articles most relevant to the sex and gender in guidance data are Article 3 - best interests of the child to be a primary consideration and Article 12 - right to express a view and have that view taken into account.

Most relevant GIRFEC principle is - Children and young people are at the centre of decisions that affect them with their voices heard.

The UNCRC (Incorporation) (Scotland) Bill, passed in the Scottish Parliament in March 2021, includes measures to embed children's rights into decision making and prevent future breaches.

Children belonging to certain groups are at increased risk of discrimination, including disabled children, minority ethnic, Gypsy/Traveller, migrant, asylum seeking, refugee, care experienced and LGBTI children, girls and young women. This discrimination takes a range of forms including barriers to accessing services; it is important that public bodies have data on children and young people across the spectrum of groups.

#### 2. What impact will the policy/measure will have on children's rights?

The guidance will have a neutral if data can be collected appropriately from children and young people. There are possible risks if data cannot be collected appropriately from children and young people. This then impacts on the availability of data on this group for use by public bodies to plan and design better services. Depends on the application of the questions asked.

#### 3. Will there be different impacts on different groups of children and young people?

Yes, children are likely to be more impacted than young people (13-25 years) by a question that asks about gender identity.

Arguably there are competing interests between a child's interest in being able to respond to a question that they comprehend (i.e. a question on their sex) and the interests of an adult to be asked a question on whether they are a man or women in an inclusive way (i.e. a gender identity question).

**4. If a negative impact is assessed for any area of rights or any group of children and young people, what options have you considered to modify the proposal, or mitigate the impact?**

One option to mitigate possible impacts on the rights of children and young people is to recommend in the guidance that public bodies only ask a trans status/history question of people aged 16 years and over. This would address the issue around comprehension. This approach has been adopted in the guidance.

To ensure that data is still collected on children and young people, the guidance could recommend that a question on sex is used to collect data on this group, and in addition to a trans status/history question for adults.

**5. How will the policy/measure contribute to the wellbeing of children and young people in Scotland?**

Having high quality and robust data on the numbers of boys and girls, and their corresponding demographic characteristics, will support a public body to meet their duties to safeguard, support and promote the wellbeing of children in their area, with wellbeing by allowing decisions and policy to be based on evidence, and feed into improving the service(s) offered.

**6. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?**

The guidance will lead to better quality data being collected, analysed and published. As such, it will lead to a better understanding of the extent to which implementation of the UNCRC has been successful.

**7. What evidence have you used to inform your assessment? What does it tell you?**

The assessment in the CRWIA is based on evidence from the Curriculum for Excellence to determine whether children and young people are likely to understand a question on their gender identity or trans status. It is also based on reviewing CRWIA in similar areas, for example Scotland's 2022 Census which highlighted that testing shows that some questions are less acceptable when they are asked about people under the age of 16 years (including a trans status or history question). Instead the Census will ask a binary sex question to gather data on whether a person is female or male.

## **8. Have you consulted with relevant stakeholders?**

A draft version of guidance has been published on the sex and gender in data Working Group's gov.scot page and stakeholders and individuals were invited to share their feedback on the proposals.

Some feedback related to whether some of the questions in the guidance should be restricted to those over 16 (conversely, some stakeholders expressed a view that young people under 16 should be able to respond to a question on trans status).

A number of responses to the consultation expressed a view that data should be collected on both sex and gender identity – this would mitigate possible impacts on children and young people from only asking about gender identity.

Additionally, the Chief Statistician met with a number of key stakeholder organisations to discuss how data on sex and gender is and should be collected. The list of organisations engaged can be viewed here: [SGD0104+-Communications+and+engagement+plan+-+update+26+November+2019.pdf \(www.gov.scot\)](#)

## **9. Have you involved children and young people in the development of the policy/measure?**

All engagement to date has been with adults.



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