

CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE

CENSUS (AMENDMENT) (SCOTLAND) BILL

SUBMISSION FROM ANONYMOUS

**Census (Amendment) (Scotland) Bill**

I have no problem with making census questions about gender identity and about sexual orientation voluntary. I am concerned about the definitions provided.

The Census is carried out for 2 purposes as described in the Policy Memorandum

1) Clause 8 – the need for *'reliable information on the number and characteristics of people and households if they are to conduct many of their activities effectively'*

2) Clause 13 for the Public Sector Equality Duty in terms of the Equality Act 2010.'

The Policy Memorandum throughout does not clearly or accurately define 'sex', 'gender identity' or sexual orientation.' Sex and Gender are conflated.

In Clause 5 'The Scottish Government regards ***"gender identity" as already being covered by the reference to "sex" ... and could ask questions without the amendment of the paragraph being made'***

In Clause 6 ***'The issues of "sex" and "gender identity" are linked, especially if the "sex" question asked is a non-binary sex question...'***

In Clause 15 it is stated that ***'The sex question being proposed for the 2021 Census will continue to be one of self-identification and will provide non-binary response options. Importantly, the sex question proposed will NOT SEEK A DECLARATION OF BIOLOGICAL OR LEGAL SEX.'***

In Clause 18 it is stated that ***'The term "trans" in the proposed question refers to a diverse range of people who find their gender identity does not fully correspond with the sex they were assigned at birth... This question falls with gender identity, which refers to the internal sense of who we are, and how we see ourselves in gender terms being male, female, or somewhere in between/beyond these identities'***

If sex is as stated in Clause 15 to be defined as self-identity with no reference to biological or legal sex then this would seem to imply that sex is the same as gender identity as defined in clause 18 as 'the internal sense of who we are, and how we see ourselves in gender terms being male, female or somewhere in between/beyond these identities'. If this is the case then there would be no transgender people as defined in Clause 18 since 'their gender identity does not fully accord with the sex they were assigned at birth' and if sex = gender identity they cannot be trans.

Sex – is observed, nobody assigns sex since non-professional people can clearly see if they baby they have given birth to is a boy or girl from observing secondary sexual characteristics. Sex is biological and dimorphic and not a spectrum we reproduce sexually – the female producing the eggs which are fertilised by the male. Women suffer inequalities because of sex, because of their ability to get pregnant and give birth not because of their gender identity (an internal sense of who we are and how we see ourselves'). Sex as distinct from gender identity needs to be kept as a compulsory question and needs to refer to biological sex so that accurate data can be kept for the purposes of planning services and for the purpose of monitoring inequality of women as distinct from transgender people who identify as women.

Accurate data needs to be kept about the population of the transgender community in order to plan services (especially the specialised services they require in the NHS and to monitor inequality which cannot be done if the sex box is ticked for the gender they identify as.

The Equality Act of 2010 lists sex and not gender as a protected characteristic and gender re-assignment and not gender identity as a protected characteristic. It is important the Government actually complies with the law as it stands at the moment. It is clear from the Equality Act that Gender Re-assignment applies not only to those who have had surgery but to those who appear to be transgender. In order to monitor Gender re-assignment a separate question needs to be asked about gender identity and this question needs to be separate and distinct from the question about sex. I respect the feelings of non-binary people and think data should be captured on this community, but apart from numbers and meeting the needs to have data for Equality Monitoring but I fail to see how services can be planned on the basis of knowing how many non-binary people are in the population.

The definition of sexual orientation in this memorandum is defined as '***a combination of emotional, romantic, sexual or affectionate attraction or feelings towards another person***'

Sexual orientation is **sexual** attraction – homosexuals and lesbians are same **sex** attracted; heterosexuals are opposite **sex** attracted and bisexuals can be attracted to either sex. The definition provided by this memorandum is vague and confused and is clearly designed to be inclusive of everyone according to their gender identity which as defined above may be different from their natal sex. I am not comfortable with the implications of the definition given in this memorandum i.e that a male who identifies as a woman but who has not had surgery can identify as a lesbian/ that a woman who identifies as a man can identify as gay.

In conclusion – There should be a question on sex and this should be based on biological reality. To capture data on the transgender community a question should be asked about gender/gender identity which need not be compulsory and the question on sexual orientation need not be compulsory but the question should be more clearly defined. If transgender people answer only the question on sex based on self-identification then no meaningful data is captured on the protected characteristic of sex or the protected characteristic of 'gender-reassignment' and the Census fails in both of its main objectives

which is to comply with its Public Sector Equality Duty and in providing reliable and accurate data for planning purposes.