

## **CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE CENSUS (AMENDMENT) (SCOTLAND) BILL SUBMISSION FROM LGBT YOUTH SCOTLAND**

### **Introduction: LGBT Youth Scotland**

Our vision is that Scotland is the best place to grow up for lesbian, gay, bisexual, transgender and intersex young people. We play a leading role in the provision of quality youth work to LGBTI young people that promotes their health and wellbeing, and are a valued and influential partner in LGBTI equality and human rights.

LGBT Youth Scotland welcomes both the opportunity to respond to this consultation, and the intention to include information regarding the monitoring of gender identity and sexual orientation in the Census.

Implementing changes set out below would help the Scottish Government achieve its Getting it Right for Every Child (GIRFEC) aspirations, in particular through allowing young people to be accepted as part of the community in which they live and learn, which in turn allows them to become effective contributors.

### **Use of Data**

LGBT Youth Scotland uses Census data in our research, training and policy functions. The public services with which we work require reliable data on protected characteristics in order to create equality outcomes and action plans, and to monitor progress towards meeting duties under the Equality Act 2010. Monitoring sexual orientation and transgender identity through the Census would gather accurate data regarding the needs and experiences of this population and would allow public bodies to respond more effectively.

### **Impacts of Data Collection**

It is important to note that we expect the initial figures regarding the identities of lesbian, gay, bisexual and transgender individuals to be low for the following reasons:

1. Some young people are not 'out'<sup>1</sup> to their family, friends or colleagues. This may apply at any age but is particularly likely among young people who are going through the coming out process or their identities may be forming as a young adult.
2. Participants many not have an understanding of why this information is needed and may have concerns regarding the use of this data.

However, effective monitoring of sexual orientation and transgender identity through the Census would be an import first step in gathering robust national data and would allow for public bodies, businesses and the third sector to better meet the needs of these populations

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<sup>1</sup> LGBT people often 'come out' to let others know how they identify. This is different for everyone, but the person should have control over this process.

in relation to areas such as healthcare, education and employment. This is particularly relevant as our research<sup>2</sup> shows that:

- In healthcare: LGBT young people in Scotland experience high levels of mental health problems. In 2017, 84% of LGBT and 96% of transgender young people in Scotland felt they had experienced a mental health problem
- In education: 46% of LGBT and 53% of trans young people rated their school experiences as 'bad'
- In work: 26% of LGBT young people in employment had experienced verbal abuse; 22% had experienced rumours; 21% had been ignored and 5% had been physically assaulted in the workplace

Additional benefits would include:

Public spending would inevitably be affected by the Census capturing and publishing this data. This will better enable young people to find suitable and adequate resources and help them feel part of the wider community. In 2017, only 52% of LGBT young people felt included by the wider community<sup>3</sup>.

The data will send a strong message to services regarding the obligation to meet the needs of Scotland's LGBT populations. As a result it is expected that services will take steps to be more inclusive of LGBT people.

Furthermore, when young people are completing the Census form, seeing different gender identities and sexual orientations represented on the form will give a strong message that they are part of and accepted by wider society, and may even help them work out how they identify.

### **Responding to the 2021 Census**

We wish to raise concerns that this process may lead to a young person either involuntary or accidentally, being 'outed'<sup>4</sup>. This could happen because they are questioned by someone else completing the Household Questionnaire on their behalf, or because they do not fully understand the process. When an adult is completing the form on behalf of a young person, we would recommend an option for 'unsure' or 'don't know' regarding a young person's sexual orientation.

### **Individual Questionnaire Responses**

Responses from young people that will not be seen by others in their household are essential to allow young people the safety to respond how they wish without them being

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<sup>2</sup> Life in Scotland for LGBT Young People, available online: <https://www.lgbtyouth.org.uk/media/1354/life-in-scotland-for-lgbt-young-people.pdf>

<sup>3</sup> Ibid <sup>4</sup> To be 'outed' is when a person or process takes away this control from the young person and shares this personal information, either deliberately or accidentally. This can put people in vulnerable positions – especially young people.

'outed' through the process. However, we recognise that young people may wish to do this without telling others in the household. There should be a process put in place that ensures that if an Individual Questionnaire response is received, it automatically replaces any other information submitted from the overall Household Questionnaire response. Putting this in place and making it easy for young people to access (eg online) will make young people more likely to respond and reduce (but not eliminate) issues with under-reporting.

We believe that the option to respond in this manner should be lowered to young people 13 years old and over. This is in line with the Legal Age of Capacity Act (1991) which states there should be a presumption of capacity unless deemed otherwise. All children have a right to an identity and to be recognised by the state.

### **Recording Gender Identity**

We welcome guidance for transgender people remaining unchanged regarding whether they select male or female. We believe transgender people should be able to choose the gender they identify with. However, the binary option of male and female would leave people who identify as non-binary unable to honestly answer the question. Given that this is an obligatory question, with an associated fine for non-completion, it puts non-binary people in an unfair position. In order to ensure non-binary people receive the same recognition as transgender people it would be appropriate to add a third option. This change would yield comparable data with previous Census data. The Equality and Human Rights Commission believe around 0.4% of the population identify as neither male nor female<sup>4</sup>.

Additionally, there should be a supplementary voluntary question to record the number of transgender people by asking if people do currently or if they have ever identified as transgender. Capturing this data at the national level would be extremely valuable, and the only way that we would get as close to an accurate figure for transgender people in Scotland. This would lead to better allocation of resources to support the transgender population as previously set out.

### **Voluntary Status of Responding**

We welcome the presumption that questions around gender identity and sexual preference would be given 'voluntary' status. This process should not put young people in a situation whereby they are forced to 'come out' to others in their household before they are ready and choose to.

Under-reporting should be a consideration for responses to questions of sexual orientation and gender identity – which may be exacerbated by the voluntary status of these questions, but the overall move to attempt to capture the data as accurately as possible will still yield the most representative national level data ever collected.

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<sup>4</sup> [https://www.equalityhumanrights.com/sites/default/files/technical\\_note\\_final.pdf](https://www.equalityhumanrights.com/sites/default/files/technical_note_final.pdf)

## **Household Questions – Relationships**

The 2011 Household Questionnaire Census form uses gendered language to capture data, which may be incongruous with how some people identify, and therefore may not reflect how they view their relationships. This can be avoided by using non-gendered language – for example, instead of ‘son’ or ‘daughter’ use ‘child’. This will increase the number of respondents who now feel better reflected by the Census.

Young people should be able to self-identify their relationships with others in the household through the Individual Response forms. Again, it should be clear that this information should automatically supersede data given in the Household Questionnaire for reasons previously stated.

## **Relationship Status**

Young people are not able to adequately record their relationship status in the 2011 form. Options for ‘single’ and ‘in a relationship, living separately’ will help better reflect relationship statuses of young people. Respondents should also be able to submit this information through the Individual Response forms.

## **Conclusions**

We believe that these changes set out above would help young LGBT people in Scotland reach their potential as set out in the GIRFEC model. In particular, it would allow young people to:

- See their identity better reflected across society, both in Household Questionnaire and in the eventual sharing of the collected data
- Access resources that are better adapted to address the needs of young LGBT people
- Feel part of the wider community and better reach their full potential