



**Australian Government**

**Attorney-General's Department**

## **COLLECTION AND RECORDING OF SEX/GENDER INFORMATION BY THE AUSTRALIAN GOVERNMENT**

Australian Government agencies collect and record sex/gender information about members of the public for a variety of reasons. These could include enabling an administrative departmental decision to be made (such as eligibility for a Centrelink payment or for a visa), to establish identity for security purposes or to obtain statistical data.

The collection and recording of sex/gender information by government agencies is a sensitive topic for members of the public who are sex and/or gender diverse. This includes people who have changed or are undergoing a change in their sex or gender, who identify as a different sex or gender to their birth sex or gender, or who are intersex. Currently, there is no consistent Australian Government approach to the collection of sex/gender information from people in this situation.

As part of its ongoing work to address issues faced by the sex and/or gender diverse community, the Australian Government has committed to undertake a review to determine how and why it collects and records sex/gender information.

The Attorney-General's Department is coordinating this review. It is intended that the information gathered during the review will inform the development of Government guidelines for the collection and recording of sex/gender information.

### *A note about terminology*

The terms 'sex' and 'gender' are often used interchangeably, but they have different meanings. This distinction can be very significant for members of the sex and/or gender diverse community. There is no clear consensus about what the definitions should be, although 'sex' is often understood to refer to a person's biological sex, whereas 'gender' generally refers to outward social markers of gender such as dress, mannerisms and name etc. A person's sex and gender are not always the same.

The term 'sex/gender information' will be used by the Department in the review to encompass both sex information and gender information. The review will identify which term or terms are used by government agencies and the guidelines are intended to assist government agencies to use appropriate terminology.

## *Scope and methodology of the review*

The Department has prepared a series of questions designed to identify how and why government agencies collect and record sex/gender information. There are general questions about the practices of the agency as well as specific questions about each occasion on which sex/gender information is requested.

A list of the proposed questions is attached. The Department is seeking views on whether these questions are appropriate to obtain the information sought or what (if any) further questions should be asked.

A list of the proposed government agencies to be consulted is attached. This list represents the main service delivery agencies of the Australian Government with whom members of the sex and/or gender diverse community would have most involvement. Although the proposed guidelines will apply across the Government, the review is targeted in this way to ensure it is as effective and timely as possible. The Department is seeking views on whether this list of agencies is appropriate or which (if any) additional agencies should be consulted.

The Department is aware that sex/gender information is sought in relation to employment and other related processes by government agencies and that this can be a sensitive area for members of the sex and/or gender diverse community. The way in which government agencies collect sex/gender information in relation to employment is reasonably consistent across government and is generally for the purpose of obtaining statistical data relating to gender equality. To maximise the effectiveness of the review, information about employment processes is not being sought at this time. However, this issue and its impact on members of the sex and/or gender diverse community will be considered as part of the development of the proposed guidelines.

## ***This is a positive start and I welcome this initiative. Proposed list of questions***

### *General Questions*

- Has any member of the public ever complained about a requirement to provide sex/gender information?

If yes, please provide details – how many complaints and on what basis

- Do you have a policy relating to sex and/or gender diverse clients?

If yes, please provide details (eg name of policy and reference number)

- Do you require clients to verify sex/gender information with written evidence?

If so, what evidence do you require?

- Is there any action taken if inconsistent, changed, conflicting or insufficient sex/gender information is received from a client?

For example, listed sex/gender does not match physical appearance, no sex/gender is selected, sex/gender information changes over time, client is unable to verify sex/gender information with written evidence etc.

- Can a client change their sex/gender information in documents and/or records?

If yes, what is the process for doing this?

- Do you retain details of a client's history of sex/gender change?  
If yes, who has access to this information and when might it be disclosed?
- Do you issue any documents, cards etc which list a client's sex/gender?  
If so, please provide details (i.e. name of document/card etc and reference number and details of the information listed)
  - Excellent
  - Need to make sex/gender diverse people aware of what is the correct way to change name/sex. All Government Departments and Agencies require change of name before Sex Affirmation Surgery and change of sex after Sex Affirmation Surgery
  - Most sex/gender diverse people are not aware of this requirement, as it is not explained to them
  - What this means is no Sex Affirmation Surgery, means no change of sex on records
  - Please explain the following E.G:- "Alteration, or removal of all reproductive organs" How does the Government define "Reproductive Organs" as this is baffling to the Trans community

*Please provide answers to the following questions, if possible, for each occasion on which sex/gender information is requested:*

- What is the specific occasion/situation when sex/gender information is collected from a client?  
Please be as specific as possible – eg 'application for spouse visa' rather than 'visa application'; 'application for widow pension' rather than 'pension application'.
- How is the sex/gender information collected?  
For example, a form, interview process, application process, survey, questionnaire etc.  
Please provide details – e.g. name of form and reference number.
- Does the form use the term 'sex' or 'gender'?
- What is the reason the sex/gender information is collected and recorded?  
Examples of reasons for collecting sex/gender information could include establishment of identity, for security purposes, to determine a client's s title (eg Mrs or Mr), collection of data for statistical purposes, or where a client's sex/gender is relevant to a decision to be made. If the sex/gender information is relevant to a decision to be made, please provide details of the decision and the reason sex/gender is relevant to that decision.
- What (if any) authority requires you to request sex/gender information?  
For example, legislation, policy, management directive etc. Please provide as many details as possible, e.g. name of legislation and relevant section, or name of policy and reference number.
- What options are provided in relation to sex/gender information?

For example, choice of male or female, choice of male or female or a third option, choice of Mr, Mrs, Miss etc, or other. Please list the options provided in full.

This is directed at the government departments concerned. I have friends who are still married, so cannot amend their BC, so receive letters marked MR JOAN, or MRS JOHN. I think these are of more concern than being called correctly as say Ms Sally.

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- Is it mandatory for the client to provide sex/gender information

***Proposed list of government agencies***

- Attorney-General's Department
  - CrimTrac
  - Please explain CrimTrac
- Department of Foreign Affairs and Trade
  - Australian Passports Office
- Department of Immigration and Citizenship
- Department of Defence
- Department of Veterans' Affairs
- Department of Education, Employment and Workplace Relations
- Department of Families Housing, Community Services and Indigenous Affairs
- Department of Human Services
  - Medicare
  - Health Insurance Commission central records
  - PBS
  - Centrelink
  - Department of Finance and Deregulation
  - Australian Electoral Commission
- Department of Health and Ageing
  - Australian National Preventative Health Agency
  - Australian Organ and Tissue Donation and Transplantation Authority
- Department of the Treasury
  - Australian Bureau of Statistics
  - Australian Tax Office
  - Commonwealth Superannuation