New Zealand’s response to a call for input from the Independent Expert on protection against violence and discrimination based on sexual orientation

1. **What are the current efforts by States to increase their knowledge of the LGBT population? Specifically, are questions about sexual orientation and gender identity included in government surveys (e.g. the census, national health surveys, income and living condition surveys, or other surveys funded or mandated by the State), administrative records (e.g. birth certificates /birth registries, identity cards, school records, professional licenses, social security and public benefit records, and other government documents)?**

* Stats NZ are committed to ensuring our data collection is more inclusive and reflective of Aotearoa’s LGBTQI+ population. This is in an effort to improve knowledge about these groups across a range of measures to meet information needs, and to enable individuals to better see themselves in the data collected about them. For several years, Stats NZ has been working with interest groups and agencies to understand the topics and how to collect robust data about them.
* Census: Questions about sex (with a third response option), gender identity, and sexual orientation were included in our testing programme for the 2018 Census, which included cognitive testing, and a small-scale and two large-scale public tests with thousands of people. This testing was done as a result of the interest we received in these topics during the public consultation for the proposed content for the 2018 Census. Our testing indicated that inclusion of these topics through a self-completed questionnaire would not likely produce accurate information on the populations of interest for the 2018 Census. As a result, questions on sexual orientation and gender identity were not recommended for inclusion. The 2018 Census report on final content, released in July 2017, discusses the recommendations in more detail. The Minister of Statistics and Government Statistician has stated this be a priority area for the next census, as well as ongoing work in household surveys.
* Data system leadership: Stats NZ has developed a statistical standard for sexual identity, as well as an overarching framework for sexual orientation. These will act as a guide for collecting consistent and robust information about New Zealanders with diverse sexual identities across the data system. Stats NZ also produced a statistical standard for collecting information on gender identity in 2015. Our statistical standards for both gender identity and sex are up for review in the next year to ensure they are still relevant and meet information needs.
* Household surveys Stats NZ has a project underway which focuses on the way information on sex, gender identity and sexual orientation will be collected in our household surveys. We expect recommendations from this project to be implemented soon and will have more detailed information released about this in the coming weeks. We aim to collect information on all these concepts in a robust and inclusive way. The two-step approach, where information on sex at birth and gender identity is currently being investigated. We expect our approach will be relatively consistent with the approach taken by Statistics Canada, and we have consulted with them as well as other experts throughout our development process.
  + A question on sexual identity was included in the 2018 General Social Survey (GSS) for the first time. This data is currently being collected and will be released mid-2019. We aim to treat sexual identity in the same way we do any other demographic variable, by creating breakdowns of the data for different groups across various measures (e.g. life satisfaction). It is still too soon to say what exact measures will be possible to output; however we expect high level wellbeing measures to be achievable. We plan to add a question on sexual identity to other household surveys such as the Household Economic Survey in the near future.
* The New Zealand Health Survey run by The Ministry of Health also collects information on sexual identity which will provide important insights about the health of sexual minority groups in Aotearoa. The question is self-completed by the respondent. Due to its sensitive nature, the question is not asked when the respondent is being assisted in completing the survey.
* The National Health Index records gender, which is self-identified.

1. **What kinds of data can be collected by government to understand the nature and extent of violence (e.g. through statistics on LGBT-phobic hate crimes and hate speech), discrimination, and disparities in health, education, labour, civic participation, and other important areas?**

* Stats NZ collect information about New Zealander’s experiences of discrimination in the GSS. We will be able to analyse this for sexual minorities in our 2018 GSS, which includes a question on sexual identity in the demographic module. The Ministry of Justice also collects data in the New Zealand Crime and Victimisation Survey (NZCVS), which includes in depth information about New Zealanders experience of crime, and includes questions on gender identity and sexual identity. This will likely provide an important source of data specific to crime. The annual New Zealand Health Survey (NZHS) has included a question on sexual identity from the 2014/15 iteration onwards, and produces several different health measures, both subjective and objective.
* There have been cohesive attempts by non-government bodies to collect health data on the rainbow community, such as the Counting Ourselves survey in 2018.
* Ministry of Health has data focused on mental health outcomes - a 2016 review of rangatahi Maori deaths by the Suicide Mortality Review Committee found issues of sexuality were significant in 7.2% of deaths, Youth'12 survey found rainbow students had the highest rates of depression.

1. **What safeguards are in place, what safeguards are needed, to protect the human rights of individuals providing personal data as well as individuals collecting such data?** **This question includes the following:**
2. ***Safeguards to protect the privacy of individuals who provide data about their sexual orientation/gender identity, and the confidentiality of the data provided by these individuals.***

* We recognise that answering questions on gender identity, sex and sexual identity can be particularly sensitive for some people. We are taking steps to maximise privacy for respondents when answering these questions within the current constraints of our survey administrative systems. We know from research that the ability to enhance the privacy of the survey environment will increase respondents’ willingness to answer a gender identity question and to answer accurately. Our GSS and Household Economic Survey (HES) are both currently interviewer administered (CAPI). Steps have been taken here to encourage respondents to answer with the digit or letter with corresponds to their answer for all questions, rather than stating the answer aloud itself (e.g. they may say 13, rather than bisexual). It is a normal part of the survey answering process by the time they reach potentially sensitive questions such as the sexual identity question. While this approach goes some way to increasing the privacy for respondents, we are currently investigating the feasibility of having a self-complete module (CASI) which includes these questions, alongside a selection of others in the survey. The level of information we will be able to output is dependent on how small the numbers we are working with are. Ensuring confidentiality and data quality is imperative for all our information releases, and small sample sizes are one of the factors to consider. The use of CASI would be a similar approach to the treatment of certain questions in the NZHS and the NZ Crime and Victimisation Survey (NZCVS). We also recognise that in some cases having an explicit ‘prefer not to say’ option will be necessary.
* Information from the household surveys is incorporated in the IDI, a large research database that holds anonymised microdata about people and households. Data held in the IDI is carefully managed and protected under the Statistics Act 1975. Research projects must meet rigorous criteria set to keep data safe and used appropriately. Research must be in the public interest to be approved. We will be carefully considering any implications of linking information which reflects LGBT New Zealanders.
* Ideally, data about sexuality and gender should be collected through anonymous surveys, rather than national collections for statistical purposes.
* There is a need to balance the desire for privacy, with the need to collect clinical information to care for an individual (e.g, knowing what screenings Transgender people should undergo).

1. ***Broader statutory rules and administrative policies to insure transparency and accountability of government institutions such as statistical bodies.***

* Stats NZ has transparent statutory obligations outlined in the following legislation:
* Statistics Act 1975 – our role, responsibilities, and authority.
* Privacy Act 1993 – we protect your personal information.
* Official Information Act 1982 – we make official information available while maintaining personal privacy.
* Public Records Act 2005 – we keep full and accurate records, and provide access to records of long-term value.

1. **What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?**

* We are actively considering risks associated with collecting this information, both in collection and in data management, and will be putting steps in place to mitigate these. These include the steps we mentioned above around ensuring privacy when completing surveys, as well as making sure our information has the necessary safeguards to prevent misuse or identification of any individuals.
* Collecting both gender and sex could inadvertently "out" somebody as Trans without their consent. This is a growing risk as the capability to link data increases. There is also a risk of data being accessible to people or practitioners or organisations that the person in question doesn't want it to be.

1. **Are there circumstances where data collection is ill-advised, such as in countries that criminalise same sex behaviour or where particular government agencies have demonstrated a cause for concern regarding their treatment of issues related to sexual orientation and gender identity?**

* We suggest that information should only be collected where there is an established information need, as is the case in New Zealand for sexual and gender minorities. New Zealand respects, protects and fulfils the rights of LGBTQI individuals. We have had laws allowing same-sex civil unions since 2005, and same-sex marriage since 2013.
* Safety concerns for collecting this information in countries where certain identities or relationships are either criminalised or highly stigmatised will need careful consideration.

1. **When States engage in data gathering activity, to what extent is civil society able to meaningfully participate in the design and implementation of those programs?**

* Stats NZ creates and publishes statistical standards for New Zealand data system collections. The statistical standard for gender identity and the statistical standard for sexual identity were created by a collaborative approach. A working group and a stakeholder group were established to help guide the standards development. (These groups encompass members from other Government agencies and non-Government organisations that have an interest/knowledge in the topic). Topic research is carried out and before the standard is drafted a public consultation is held – allowing the public to submit their views on the topic and associated aspects. The standard is written incorporating the findings from the public consultation and the knowledge from the working group and stakeholders. All statistical standards are publicly released to Aria (our classification and concept management tool) – for all to access.
* Note: The most recent public consultation process for sexual orientation and sexual identity, carried out in April 2018, received 924 submissions.
* There is generally consultation on government data collection systems before they are amended or implemented. For example consultation on changes to the National Health Index and public consultation on the census.
* In New Zealand people are also free to express their views to Members of Parliament and government departments at any time and on any matter.

1. **Does the lack of a global classification scheme carry risks that data will not be useful for international comparisons or will not accurately reflect the identities and live realities of local populations?**

* The lack of a consistent global classification scheme may introduce some risk around being able to make international comparisons on information collected about gender identity and sexual orientation. In saying that, there are important geographical distinctions in how both gender identity and sexual orientation is understood and expressed, therefore generating a scheme suitable for all countries may not be feasible. There will always be a tension between enabling international comparability, while having something still relevant to the content and culture of each country.
* Stats NZ is involved in international collaboration with other statistical agencies and attended last year’s “UN 7th Global Forum for Gender Statistics”. Ongoing collaboration and communication will be important moving forward in this area to enable sharing of knowledge, greater efficiency and consistency.
* Stats NZ recently contributed to an in-depth review on measuring gender identity by The Bureau of the Conference of European Statisticians (CES). This report examines the issues and challenges and current state of the art in the statistical measurement of gender identity internationally.