



Jan Rivers
fyi-request-11860-a8250c3e@requests.fyi.org.nz

25 MAR 2020

Dear Jan Rivers

On 11 December 2019, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, information regarding changes made by the Ministry to better represent gender diverse people.

For the sake of clarity, I will address each of your questions in turn.

- *Which organisations lobbied for this and over what time period?*
- *Which community organisations and individuals were consulted and over what time period?*

No one community group or organisation lobbied for this change. However, the Ministry has received a number of complaints over the years from individuals who wanted the ability to accurately record their gender. Once the Ministry had made the decision to include a third option the following organisations were contacted to discuss appropriate language to use.

- Counting Ourselves
- Evolve
- Gender Minorities Aotearoa
- Human Rights Commission
- InsideOut
- Intersex Trust Aotearoa New Zealand
- Mauri Ora – Victoria University Medical Centre
- Rainbow Youth
- Social Investment Agency
- State Services Commission
- Statistics New Zealand

The names of individuals who contacted, or were contacted by, the Ministry in relation to this change are withheld under section 9(2)(a) of the Official Information Act (the Act) in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

- *Please provide a copy of any meeting minutes, notes and reports arising from meetings with community groups and communications to MSD advocating these changes as well as subsequent policy papers and impact assessments (see also below).*

The Ministry did not hold any formal meetings with community groups, but instead contacted the organisations above by phone to discuss the most appropriate language to use.

Please find attached the following three documents regarding discussions with and feedback from the organisations contacted:

- Collated feedback '*Updating gender fields in MSD forms and systems*', undated
- Handwritten notes from consultation with Statistics New Zealand, the State Services Commission, and the Human Rights Commission, dated 19 July 2019 to 12 August 2019
- Notes of contact with organisations consulted, dated 24 July 2019 to 5 August 2019.

Please note that some information is withheld from these documents under section 9(2)(ba)(i) of the Act as it is subject to an obligation of confidence. The release of this information, which identifies what each organisation's feedback was to the Ministry, would be likely to prejudice the future supply of similar information. The greater public interest is in ensuring that the Ministry continues to receive confidential feedback and advice.

The names of individuals are also withheld from these documents under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

The changes made by the Ministry do not impact policy. As such, no impact assessments or policy papers were required. This part of your request is therefore refused under section 18(e) of the Act as the information requested does not exist.

- *What public notification occurred prior to and during this consultation including notifications to the MSD website or the govt.nz consultation "have your say" website or through social media or newsletters.*
- *Please advise how the consultation process ensured that the policy framework mandated for use by public sector organisations by the Department of the Prime Minister and Cabinet since July 2019 ensured that diverse perspectives were included, ensured that advice was free and frank, mitigated risks, reveals diverse views and explains how the changes will be monitored and evaluated. In particular I would like to know what consideration, if any, was given to including the voices of those who might raise concerns about embedding gender identity in the Social Welfare system.*

As this change has had no impact on policy, no public consultation was required or undertaken.

- *Please provide the impact assessment that was carried out, including issues related, but not limited to, for example:*
 - *The impacts on student accommodation*
 - *Statistical record keeping for sex equity issues*
 - *The approach taken to maintaining gender (feeling) as well as sex (biology) related to an individual in MSD's records i.e. will the system in future occlude the relationship between sex and gender contrary to the approach taken by Statistics New Zealand.*

As previously stated, this change was made to enable clients to accurately record their gender, as it has no impact of any policy or procedures no impact assessments were completed.

This part of your request is therefore refused under section 18(e) of the Act as the information requested does not exist.

- *The cost and impacts of the flow through of this decision to other government departments e.g. IRD, Stats NZ, ACC, and the associated costs across government of this decision.*
- *The costs to and impacts on third sector organisations in redesigning systems to account for this change and the ability of such services to continue to provide clients with services to women that maintain their privacy, safety and dignity in line with the Human Rights Act provisions which support sex-based protections.*

The changes made by the Ministry do not affect any policies or practices which involve other agencies or organisation. As such, no flow-on costs or impacts are expected or have been identified.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry of Social Development's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the changes made to make the Ministry's language and reporting more accurate and inclusive, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

pp 

Karen Bishop
General Manager, Planning and Change

Updating gender fields in MSD forms and systems

Overview:

Option:	primary	secondary	against	total
Another gender	1			1
non-binary	3		2	1
Gender diverse	2	2		4
Other	1	1	1	1
a gender not listed above		1		2
'X'		2		2

Common feedback:

- Some groups/organisations didn't have a preference over what we decided as the 3rd option. They feedback that just doing this work is a hugely positive thing for the community.
- A 3rd option with free text would be ideal

High level overview of feedback on third gender option:

Group:	Primary recommendation	Secondary recommendation	Strongly against	Other feedback
s 9(2)(ba)(i)	non-binary	a gender not listed above		<ul style="list-style-type: none"> • Free text option would be best
			other	<ul style="list-style-type: none"> • No opinion on 3rd option.
	Another gender	gender diverse	non-binary	<ul style="list-style-type: none"> • Against Non-binary as many Pasifika people in NZ wouldn't identify with that or see it as an umbrella term for different genders, whereas they may feel more included by 'another gender' or 'gender diverse'.
	Other	X	non-binary	<ul style="list-style-type: none"> • Something else to consider given that gender is fluid is how often this is reviewed, or how often you ask the question.
	non-binary	gender diverse		<ul style="list-style-type: none"> • s 9(2)(ba)(i)

				<ul style="list-style-type: none"> • s 9(2)(ba)(i)
s 9(2)(ba)(i)	Free text			<ul style="list-style-type: none"> • Include a free text option • s 9(2)(ba)(i)
	Gender Diverse			<ul style="list-style-type: none"> • Have free text option
StatsNZ	Gender diverse			<ul style="list-style-type: none"> • They are currently reviewing their recommendations – would like for us to be part of this.
SIA				<ul style="list-style-type: none"> • No opinion on 3rd option
SSC				<ul style="list-style-type: none"> • No opinion on 3rd option • recommended we are 'safer' if we go with the current StatsNZ recommendation. • Also asked if it's possible for us to have free text that isn't coded back – just recorded on clients file.
HRC	non-binary	X		<ul style="list-style-type: none"> • Avoid turning this piece of work political • Suggest we let them, and other organisations know before we have any public announcements on this due to the negative feedback this could get in the media.

Released under the Official Information Act

STATSNZ 19 July 2019.

Current Standard = Gender diverse.
"Option that best suits you"
Stats Standard is up for review.

→ Select more than 1 gender option.

13 July / SIA

- Support.
personal advice.

26 July 2019

SSC

→ Option of 'prefer not to say'
Not answering the Q should
be an option.

~~We~~ 'We count survey'
used Non-B.
↳ Gender D.

['Please state ...' even if not coded
back?]

→ HR changes.

→ Inside out provided training for
mgmt.

- Stats get the data - (can't go
wrong if we use that).

[* disability / ethnicity @ same time.
as gender update.]

→ ^{s 9(2)(a)} [redacted] - GM HR/Analytics - Update
info with staff

→ Crown Law HR.

→ SSC Accept gender diverse is an option.
↳ Update if we do.

(3)

[26 July 2019]
HRC

- Cool to hear -

→ Public Consultation
Later.

- Avoid election period.
2 year review

- Ongoing open channel
for review & refinement.

- Counting ourselves

- 1100 responses

- 50% Not-binary

OT - 2017 'Science. Diverse'

- @ Police, MotI, MoJ

- StatsNZ working on it.

- Went to DCE's to get
agreement.

- s 9(2)(a) - Lead on youth policy.

~~WMAKA~~

MotI - Use 3rd option.

ACC - [MoJ]

→ Aus - doc being sent
2013 - 2015.

(4)

→ HRC heads-up Minister announce ^{meant.}

→ HRC recommended consultation take place for BPM bill changes

→ Non-Binary, XA

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Official Information Act 1982

12 August 2019

DIA

- Adding gender options on online citizenship forms.

"Male, female, non-binary, Intersex"
*Stat declaration re how they have identified as that gender

14 August 2019

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Official Information Act 1982

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

External groups:

	24 July -
Evolve – Youth One Stop Shop	24 July - Left a message for [redacted] today, and missed a call earlier this afternoon. She suggested sending an email and to touch base tomorrow. I've sent her the message and will call her when she lets me know what time is best.
Maui Ora - Victoria University Medical Centre	24 July - I spoke to § 9(2)(a) today. She suggested it would be better to contact [redacted] (Inside Out) and [redacted] (Intersex Awareness NZ) to get guidance on this. She also suggested Gender Minorities – I understand that this group was discounted from earlier conversations that were held with the working group. § 9(2)(ba)(i) [redacted] § 9(2)(a) gave me her email address § 9(2)(a) if we wanted further advice.
Intersex Awareness NZ	24 July - Have left a message and will follow up via email shortly.
InsideOut	24 July - Left a message for [redacted] today, and missed a call earlier this afternoon. She text me with her email address, so have sent her the message and asked whether we can talk tomorrow when she has time. 5 August - Trainer used resources – InsideOut can provide examples Conversational guidelines for frontline staff, to support alongside online training. Can provide testimonials from other people. Can make suggestions.
RainbowYouth	24 July - Spoke to [redacted] today. § 9(2)(ba)(i) RainbowYouth have supported the delivery of training to other organisations (i.e. ACC) – if we're interested in this, § 9(2)(a) email is § 9(2)(a)
Otago Uni and Polytech	24 July - Email sent
Victoria University	24 July - Email sent
AUT	24 July - Email sent
Gender Minorities Aotearoa	31 July – Email Sent
St Johns	31 July – Phone call/Email Sent

Government:

StatsNZ	§ 9(2)(a)	19 July – Advised current StatsNZ recommendation is 'Gender diverse' and that it would be suitable for us as we're allowing clients to self-declare meaning that even if their birth cert says female, they can record Male on our system. A big frustration from people who've changed gender is being forced to select 'Gender Diverse' when they do associate with a specific gender because what they are recording does not match their birth cert.
SSC	§ 9(2)(a)	
SIA	§ 9(2)(a)	23 July – Met with [redacted] she was able to provide personal advice as she has gone through the process of changing gender with her son. Advice was around how awkward and unnecessary questions can impact someone.

HRC		<i>The Commission supports what MSD is doing to amend the data architecture of your systems and affirms the consultative approach you are taking. The global system of data collection is changing and this is an excellent first step within the Ministry. Once the terminology is confirmed, it should be accompanied by information to communities and to the public that you welcome ongoing feedback about the designation of the third option (not about the option itself). We are also interested to be involved in how to communicate to your existing clients how they can update their gender in the system.</i>
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Contact but no response yet:

Otago Uni and Polytech
Victoria University
AUT
Tiwhanawhana
St Johns
(HRC) also forwarded my details onto 10 other people/groups who have not responded yet

Group:	Contact:	Response required:
Gender Minorities Aotearoa		y
ITANZ		n
InsideOut		y
Evolve		y
Counting Ourselves		y
<i>Mauri Ora - Victoria University Medical Centre</i>		n
<i>RainbowYouth</i>		n
StatsNZ		n
SIA		n
SSC		n

(b) (7) (C)

(b) (7) (D)

(b) (7) (E)

n

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Official Information Act 1982

Shareable info:

Hi XXXX,

Thank so you much for your recent feedback. We've collated all feedback we've received, and it is broken down below.

I've had to remove some feedback and I've also removed anything that may identify who provided each piece of feedback.

Here is a breakdown of the suggested options. They are split into 3 categories as a lot of groups recommended 2 options, some also had strong objections to different options, so I have added an against column too. The total is *[primary + secondary – against]*

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High level feedback:

Primary recommendation	Secondary recommendation	Strongly against	Other feedback
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		other	<ul style="list-style-type: none"> No opinion on 3rd option.
Another gender	gender diverse	non-binary	<ul style="list-style-type: none"> Against Non-binary as many Pasifika people in NZ wouldn't identify with that or see it as an umbrella term for different genders, whereas they may feel more included by 'another gender' or 'gender diverse'.
Other	X	non-binary	<ul style="list-style-type: none"> Something else to consider given that gender is fluid is how often this is reviewed, or how often you ask the question.
Free text			<ul style="list-style-type: none"> s 9(2)(ba)(i)
Gender Diverse			<ul style="list-style-type: none"> Have free text option

Gender diverse			<ul style="list-style-type: none"> • They are currently reviewing their recommendations – would like for us to be part of this.
			<ul style="list-style-type: none"> • No opinion on 3rd option
			<ul style="list-style-type: none"> • No opinion on 3rd option • recommended we are 'safer' if we go with the current StatsNZ recommendation. • Also asked if it's possible for us to have free text that isn't coded back – just recorded on clients file.
non-binary	X		<ul style="list-style-type: none"> • Avoid turning this piece of work political • Suggest we let them, and other organisations know before we have any public announcements on this due to the negative feedback this could get in the media.

Key messages:

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