



Australian Government

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Australian Government Guidelines on the **Recognition of Sex and Gender**

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Introduction

1. The Australian Government recognises that individuals may identify and be recognised within the community as a gender other than the sex they were assigned at birth or during infancy, or as a gender which is not exclusively male or female. This should be recognised and reflected in their personal records held by Australian Government departments and agencies.
2. The Australian Government is primarily concerned with a person's identity and social footprint.¹ As such, the preferred approach is for Australian Government departments and agencies to collect gender information. Information regarding a person's sex would not ordinarily be required.
3. These Guidelines apply to all Australian Government departments and agencies. The Guidelines:
 - a. outline a consistent sex and gender classification system for Australian Government records
 - b. outline a consistent standard of evidence for people to change or establish sex and/or gender on personal records, and
 - c. support the consistent collection and sharing of sex and/or gender information across Australian Government departments and agencies.
4. The Guidelines provide guidance to Australian Government departments and agencies on the collection, use and amendment of sex and gender information in individual personal records.
5. Increased consistency in the way the Australian Government collects and records sex and gender will strengthen Australia's identity security system, the integrity of agency records and the accuracy of individual personal records, in line with the Australian Government's approach to identity security.²
6. These Guidelines support legal protections against discrimination on the grounds of gender identity and intersex status in Commonwealth anti-discrimination law.³
7. The collection, use, storage and disclosure of all personal information, including sex and gender information, by departments and agencies are regulated by the Australian Privacy Principles in the *Privacy Act 1988*.⁴
8. Consistent with the Australian Public Service Values, all Australian Government departments and agencies will treat all people with dignity and respect, regardless of their sex and/or gender identity.

Background

9. In 2009, the Australian Human Rights Commission released *Sex Files: the legal recognition of sex in documents and government records*. The Commission recommended the Australian

¹ For a definition of 'social footprint,' please see the Key Terms section.

² Australia's identity security framework is underpinned by the National Identity Security Strategy and associated documents. For more information please see the Attorney-General's Department website [Identity Security](#).

³ The *Sex Discrimination Act 1984*, as amended by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013*, provides protection from discrimination on the grounds of gender identity and intersex status.

⁴ On 12 March 2014, the Australian Privacy Principles replaced the National Privacy Principles and Information Privacy Principles, and applies to both organisations, and Australian Government (and Norfolk Island Government) agencies. The thirteen Australian Privacy Principles are set out in Schedule 1 of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012*, which amended the *Privacy Act 1988*. The full text of the Australian Privacy Principles as set out in Schedule 1 to the *Privacy Act 1988* can be accessed [here](#).

Government consider the development of national guidelines concerning the collection of sex and gender information from individuals.

10. These Guidelines have been prepared following a review of how and why Australian Government departments and agencies collect sex and gender information from members of the public.

Sex and Gender

11. For the purposes of these Guidelines, *sex* refers to the chromosomal, gonadal and anatomical characteristics associated with biological sex.
12. The term *intersex* refers to people who are born with genetic, hormonal or physical sex characteristics that are not typically 'male' or 'female'. Intersex people have a diversity of bodies and gender identities, and may identify as male or female or neither.
13. *Gender* is part of a person's personal and social identity. It refers to the way a person feels, presents and is recognised within the community. A person's gender may be reflected in outward social markers, including their name, outward appearance, mannerisms and dress.
14. Although sex and gender are conceptually distinct, these terms are commonly used interchangeably, including in legislation.
15. A person's sex and gender may not necessarily be the same. Some people may identify as a different gender to their birth sex and some people may identify as neither exclusively male nor female.
16. The preferred Australian Government approach is to collect and use gender information. Information regarding sex would ordinarily not be required and should only be collected where there is a legitimate need for that information and it is consistent with Australian Privacy Principle 3 (see paragraph 29). Individuals may have biological characteristics or undergo a variety of treatments that make it difficult to identify or define a person's true biological sex. Sex can also be legally changed in Australian identity documents, including birth certificates.⁵
17. The necessity of a medical service or associated benefit should be determined by the physical need for that service or benefit, regardless of a person's recorded sex and/or gender.
18. Departments and agencies should ensure when they collect sex and/or gender information they use the correct terminology for the information they are seeking. Please see the Key Terms section of these Guidelines for additional information.

Sex and Gender Classification in Australian Government Records

19. Where sex and/or gender information is collected and recorded in a personal record, individuals should be given the option to select M (male), F (female) or X (Indeterminate/Intersex/Unspecified).

⁵ Responsibility for birth certificates lies with states and territories.

20. The X category refers to any person who does not exclusively identify as either male or female, i.e. a person of a non-binary gender. People who fall into this category may use a variety of terms to self-identify.⁶
21. If the X descriptor set out at paragraph 19 is too lengthy for collection forms or data systems, the Australian Government's preference is to use either 'unspecified' or 'indeterminate'. This classification system is consistent with the Australian Government passports policy for applicants who are sex and gender diverse and Australian Standard AS4590 – *Interchange of client information*.⁷

Proof of Sex and Gender/Amending Sex and Gender in Government Records

22. Consistent with Australian Privacy Principle 13, departments and agencies must take all reasonable steps to correct the personal information in their records to ensure it is accurate, up-to-date, relevant and not misleading. This includes a person's sex and/or gender information.
23. Where a person requests the sex and/or gender information on their personal record be amended, departments and agencies must respond to a correction request within 30 days, and, on request by the individual, take reasonable steps to notify a third party of a correction.
24. When responding to a request for amendment or correction, or where it is necessary to verify a person's sex and/or gender to confirm identity or determine eligibility for a service or entitlement, departments and agencies will recognise any one of the following as sufficient evidence of their sex and/or gender:
 - a) a statement from a Registered Medical Practitioner or a Registered Psychologist which specifies their gender⁸
 - b) a valid Australian Government travel document, such as a valid passport, which specifies their gender, or
 - c) a state or territory birth certificate, which specifies their gender. A document from a state or territory Registrar of Birth Deaths and Marriages recognising a change of sex and/or gender will also be seen as sufficient evidence.
25. Sex reassignment surgery and/or hormone therapy are not pre-requisites for the recognition of a change of gender in Australian Government records.
26. Conflicts in official documents may arise for people who are intersex or transitioning from one gender to another. When departments and agencies are presented with conflicting information about a person's sex or gender, they may seek further information and supporting evidence to corroborate a person's identity or social footprint, in accordance with the Australian Government's approach to identity security.

⁶ For additional information, see the definition of 'Indeterminate' in the Key Terms section.

⁷ As at November 2015, AS4590 is being reviewed and the terminology for the X category may change. Should this occur, the terminology in these Guidelines may also change to maintain consistency.

⁸ Sample text for such a statement is at Appendix A. There is no requirement that the form of words outlined in Appendix A be used in order for a statement to be valid evidence for establishment or change of gender. For definition of a Registered Medical Practitioner or a Registered Psychologist please see section on Key Terms.

27. Where there is conflicting gender information about a person's sex or gender on the Australian Government and State or Territory documents held by a person, the Australian Government travel document or the latest dated document will take precedence in establishing a person's gender for Australian Government purposes.
28. While individuals are encouraged to progressively ensure their documents reflect their preferred gender, there are legitimate reasons people may hold conflicting documents. For example, people who identify primarily as X may want to hold a passport in a particular gender to ensure their safety while travelling overseas.⁹

Collecting Sex and Gender Information for the Purposes of Data

29. Consistent with Australian Privacy Principle 3, all departments and agencies that collect sex and/or gender information must not collect information unless it is necessary for, or directly related to, one or more of the agency's functions or activities. Where such information is necessary, it may only be collected by lawful and fair means. Departments and agencies can only collect information about an individual from that individual if consent is given, it is required or authorised by law or it is unreasonable or impracticable to do so. Where such information is not necessary, this category of information should be removed from forms or documents.
30. Consistent with Australian Privacy Principle 4, departments and agencies must destroy or de-identify unsolicited personal information as soon as practicable if they determine that it could not have been collected in accordance with Australian Privacy Principle 3.
31. Collecting and maintaining sex and gender-disaggregated data is crucial to the ongoing monitoring of equality between men and women. These Guidelines are not designed to restrict departments or agencies from collecting sex and gender information where this data is necessary for the performance of their specific function, is used to inform the development of policy or delivery of services, or contributes to sex and gender disaggregated data.
32. Consistent with Australian Privacy Principle 5, where Australian Government departments and agencies are collecting sex and/or gender information, they must ensure individuals are generally aware of the purpose for which the information is being collected. Notification must occur at or before the time the information is collected, or if that is not practicable, as soon as practicable after.
33. Where departments and agencies are collecting sex and/or gender information for a statistical or other purpose not linked with individual personal records (i.e. information is collected but not recorded in an individual record), individuals should also be given the option to select Male, Female or X, in line with the sex and gender classification system set out in paragraph 19.
34. Where it is necessary to verify sex or gender to confirm identity or determine eligibility for a service or entitlement, the evidence set out in paragraph 24 is sufficient proof of a person's sex or gender.
35. Departments and agencies should refrain from making assumptions about a person's sex and/or gender identity based on indicators such as their name, voice or appearance.

⁹ Note that an individual may only hold one passport at a time in one gender.

Privacy and Retaining Records of Previous Sex and/or Gender

36. The strict controls contained in Australian Privacy Principles 6, 7, 8 and 9 relating to the use and disclosure of personal information possessed or controlled by a department or agency apply to information relating to a person's sex and/or gender as they do to all other forms of personal information.
37. In line with the Australian Government's approach to identity security, departments and agencies should ensure the continuity of the record of an individual's identity. Only one personal record should be made or maintained for an individual, regardless of a change in gender or other change in personal identity.
38. Consistent with Australian Privacy Principle 11, to protect the privacy of an individual who has changed their sex and/or gender on Australian Government records, departments and agencies should ensure an individual's history of changes of sex/gender or name is protected from interference, subject to appropriate security controls and is recorded and accessed only when the person's history is relevant to a decision being made. Information which is no longer needed or required must be de-identified or destroyed.

Queries and Complaints

39. Where information about a person's sex and/or gender is unclear, the department or agency should communicate directly with the individual to resolve the issue.
40. Departments and agencies should record and monitor complaints or queries made relating to the recording of sex and/or gender information in order to assess the success of policy changes and inform future policy in this area.
41. Departments and agencies should use the information from the monitoring of complaints to address concerns and amend relevant policies.
42. The *Sex Discrimination Act 1984* (Cth) includes protections against unlawful discrimination on the grounds of sexual orientation, gender identity and intersex status. The Australian Human Rights Commission is able to investigate and conciliate complaints of discrimination, harassment and bullying based on a person's gender identity and intersex status. Individuals who believe they have experienced unlawful discrimination may wish to contact the Commission's Complaints Information Service on 1300 656 419, 02 9284 9888, 1800 620 241 (TTY toll free) or [the Commission's website](#) for further information.
43. Individuals concerned about breaches of privacy may be referred to the Office of the Australian Information Commissioner (OAIC) on 1300 363 992 or directed to [the Office's website](#) which has information on how to make a privacy complaint.

Commencement and Implementation

44. These Guidelines commenced on 1 July 2013.¹⁰ All Australian Government departments and agencies are expected to progressively align their existing and future business practices with these Guidelines by 1 July 2016.

¹⁰ A minor update to these Guidelines was implemented in November 2015.

45. Implementing these Guidelines requires departments and agencies to undertake a review of legislative, regulatory or policy requirements relating to the collection of sex and/or gender information and amend these as required to ensure compliance. This includes information collected and records kept by departments and agencies as employers. Where there is no legislative or regulatory authority or policy or business need for the information, the requirement should be removed within three years.
46. Implementation may also require the redesign of paper and electronic forms.
47. Departments and agencies should pay particular attention to the use of titles in forms and personal records. It may be necessary to retrain staff to use updated forms and systems.
48. Departments and agencies that engage with members of the public on a regular basis should implement policies to uphold the Guidelines, including developing training for front-line staff relating to terminology, definitions and sensitivities associated with the intersex, transgender and/or gender diverse communities. The Guidelines should also be incorporated into diversity training.
49. Departments and agencies that engage with members of the public on a regular basis should also provide clear and accessible information on how sex and/or gender information can be changed on personal records, in line with and explicitly referencing the Guidelines on their website or other media as appropriate.
50. Departments and agencies that do not currently have any policies in place to assist staff in managing relationships between the organisation and members of the intersex, transgender and/or gender diverse community should develop such policies, including appropriate references to the Guidelines.
51. Where departments and agencies are jointly responsible with the states and territories for the maintenance and record of individuals' information, including sex and/or gender, those agencies should work with the states and territories to seek their agreement to implement these Guidelines.
52. Where departments are responsible for setting policy for other departments or agencies regarding sex and/or gender information they should work with these departments or agencies to ensure the Guidelines are reflected in policy and practice.

Where to go for More Information

53. An electronic version of these Guidelines and contact information for enquiries can be obtained at the Attorney-General's Department website [Gender Recognition](#).
54. For specific enquiries or feedback on these Guidelines, please contact the Attorney-General's Department via email at SexandGender@ag.gov.au.

Key Terms

Please note there may be multiple or different definitions of the following terms. The following definitions have been provided for the purposes of these Guidelines.

Australian Privacy Principles

Schedule 1 to the *Privacy Act 1988* (Cth) contains the Australian Privacy Principles which apply to Australian organisations, including all Australian Government agencies. The full text of the Australian Privacy Principles as set out in Schedule 1 to the *Privacy Act 1988* can be accessed [here](#).

Gender

Gender is part of a person's social and personal identity. It refers to each person's deeply felt internal and individual identity and the way a person presents and is recognised within the community. A person's gender refers to outward social markers, including their name, outward appearance, mannerisms and dress. A person's sex and gender may not necessarily be the same. An individual's gender may or may not correspond with their sex assigned at birth, and some people may identify as neither exclusively male nor female.

Indeterminate

For the purposes of these Guidelines, a person of indeterminate sex or gender is either someone whose biological sex cannot be unambiguously determined or someone who identifies as neither male nor female. Many terms are used to recognise people who do not fall within the traditional binary notions of sex and gender (male and female), including non-binary, gender diverse, gender queer, pan-gendered, androgynous and inter-gender. Some cultures may have their own terms for gender identities outside male and female, for example, 'sistergirl' and 'brotherboy' are used by some Aboriginal and Torres Strait Islander people.

Intersex

The term 'intersex' refers to people who are born with genetic, hormonal or physical sex characteristics that are not typically 'male' or 'female.' Intersex people have a diversity of bodies and identities.

Registered Medical Practitioner or Registered Psychologist

For the purposes of these Guidelines:

- **Registered Medical Practitioner** means a medical practitioner registered with the Medical Board of Australia (or equivalent overseas authority). Registered medical practitioners may specialise in various medical fields including, but not limited to, surgery, urology, gynaecology, endocrinology, psychiatry and general practice.
- **Registered Psychologists** means a Psychologist who holds General registration status with the Psychology Board of Australia (or equivalent overseas authority).

Statements from persons not registered with the Medical Board of Australia or the Psychology Board of Australia (or equivalent overseas authorities) such as, but not limited to nurse practitioners, health practitioners and natural practitioners are not acceptable evidence of sex and/or gender.

Sex

For the purposes of these Guidelines, sex refers to the chromosomal, gonadal and anatomical characteristics associated with biological sex. Individuals may have a range of circumstances or undergo a variety of treatments that make it difficult to define a true biological sex.

Social footprint

A social footprint is evidence of a person's identity operating in the community. A social footprint can be established using credentials or other information (changes of name, details of education/qualifications, electoral register entries, employment history, and interactions with organisations such as Australia Post, banks, financial institutions and State and Territory public authorities) which establish a person's use of an identity in Australia over time.

Statement from a Registered Medical Practitioner or Registered Psychologist

A statement signed by a Registered Medical Practitioner or Registered Psychologist (General Registration). A sample, although non-compulsory, form is included at Appendix A. See also definition of Registered Medical Practitioner or Registered Psychologist for more information.

Transgender/trans

The term 'trans' is a general term for a person whose gender is different to their sex at birth.

Valid Passport

A valid passport is a current Australian Passport or other travel document that was valid for at least two years on issue.

Appendix A – Sample statement from a Registered Medical Practitioner or Registered Psychologist

This sample text is suggested for a statement from a Registered Medical Practitioner or Registered Psychologist (General registration) certifying the gender of a person. Please note that there is no requirement that this form of words be used in order for a statement to be valid evidence of gender.

Registered Medical Practitioner/Psychologist letterhead (including full name and contact details)

I, <medical practitioner/psychologist's full name>, have a clinician/patient relationship with, and have treated, <name of patient> (OR have a clinician/patient relationship with <name of patient> and have reviewed and evaluated their history).

<Name of patient> identifies as the gender of _____.

Signature of Medical Practitioner / Psychologist
Signature block of Medical Practitioner / Psychologist

Registration number from the Medical Board of Australia or Psychology Board of Australia
(or equivalent overseas authority)