



Gender Minorities Aotearoa
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25 July 2022

Submission to Te Tari Taiwhenua - Department of Internal Affairs.
The self-identification regulations and recognising gender for people born overseas.
PART ONE: Details of the self-identification process.

About us

Gender Minorities Aotearoa is a nationwide transgender organisation. It is run by and for transgender people; including binary and non-binary, intersex, and irawhiti takatāpui.

We operate within the kaupapa Māori public health framework Te Pae Māhutonga, and The Ottawa Charter (1986).

We provide over 2,000 individual peer supports each year, to transgender people of all ages, cultures, and backgrounds. Our resources for updating identity documents have been accessed 1,132 times so far in 2022, and our staff member who is a Justice of the Peace has provided JP assistance 21 times.

Issue 1. Options for prescribing sex and gender markers available for the self-identification process

We believe that a default of no sex marker is ideal for self-determination, as it would allow individuals to opt-in when and if they decide to do so, and we recommend that ideally Section 6 (a) (iii) be removed from the Regulations. We would like this recommendation to be reflected in the report to the Minister, following this consultation.

However, in lieu of the option to remove the sex marker entirely, we believe that it is essential to have the option of an “unspecified” marker, such as the “X” available on NZ passports.

We recommend the following options for capturing population gender information, and believe these to be the appropriate markers for birth certificates:

Male (M)
Female (F)
A non-binary gender (N)
Unspecified (X)

This captures everyone who identifies as a binary gender (male and female), and everyone

who doesn't (non-binary genders). It also gives an option for those who do not identify with either (X). This "X" option would be automatically consistent with passports in New Zealand Aotearoa, and is one of the more common third gender markers recognised on other passports around the world.

We recommend that these 4 options have a te reo Māori translation included, in the same manner that the Male and Female markers currently do. For non-binary genders we recommend ira tāhūrua-kore, and irahuri. [1]

We recommend against including a takatāpui marker, as this indicates both ethnicity and being rainbow-identified (which might include lesbian, gay, bisexual, and other identities). This information (ethnicity and sexual orientation) does not belong on a birth certificate.

We recommend against including a gender diverse marker, as diversity is a relationship, rather than an individual experience. It's also a euphemism for transgender and non-binary, which comes from cisgender people and cisgender-led rainbow organisations, rather than trans and non-binary people themselves, or transgender-led organisations. It also serves no functional purpose in this context.

We recommend against including an intersex marker, primarily because it undermines the safety of people born with an intersex variation. This is also the position held by intersex activists and intersex advocacy organisations, broadly.

Further context to our recommendation against including a takatāpui marker.

These are discussion points raised during conversations between Māori transgender members of our staff.

Including a takatāpui marker would mean:

- It would specify being Māori, making people an additional target for racism.
- There are very strong reasons why birth certificates no longer have ethnicity on them.
- These include standard privacy concerns, as well as a history of serious harm being done on the basis of recorded ethnicity in this kind of state record. We do not need tools or data that can be, and have historically been, used for ethnic discrimination.
- It would specify being rainbow identified (as opposed to just being a sex marker). The government does not have a mandate to collect sexuality information in this record. The law requires information about sex, not about sexual activity.
- It could be used by non-Māori rainbow people.
- It could be used by non-rainbow Māori people.
- It would be impossible to manage/enforce a specific way of using it.
- It would empower the government to store further information on rainbow Māori in perpetuity for its own purposes without meaningful oversight or control by rainbow Māori, denying rainbow Māori sovereignty over data

collected about them. This directly contradicts a commitment to tino rangatiratanga.

- Orgs/services which use sex information as listed on birth certificates will need to update their policies, and may not do so with the requisite respect for tikanga and kawa around Māori people's sex and sexuality
- It would not contribute to tino rangatiratanga as the discussion document/submission forms suggest it would - it wouldn't affect Māori in general, it would simply add a registry for Māori people who have changed their sex marker.
- Tāne and wahine are already under M and F markers, so more appropriately add a Māori translation to the Non-binary marker, and the Unspecified marker.

Issue 2. Who can be a suitably qualified third party to support applications for children and youth

Anyone over 18 years old, and therefore able to make a legal declaration, who supports the young person's autonomy to self declare their own gender should be considered a 'suitably qualified third party'.

We do not believe there needs to be a specific length of time they need to have known the young person. Transgender young people who have a time pressure to amend their birth certificate before they need to produce it, when enrolling in a new school for example, may be unable to achieve this if there is an arbitrary time restriction placed on how long they have know the person willing to support their application.

We do not believe that having a criminal record should stop a person from being able to make a legal declaration of this kind.

Issue 3. Additional requirements for multiple applications

Currently multiple name changes are allowed, requiring only a statutory declaration.

In a similar way, there is no need for any additional measures to be put in place regarding changing a sex marker, beyond a legally binding statutory declaration.

Any additional mandatory requirements making this process more complicated than a name change would constitute a significant and unreasonable barrier for transgender people with legitimate reasons to amend their sex marker more than once.

[1] <https://genderminorities.com/glossary-transgender/>