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Culture, Tourism, Europe and External Affairs
Committee
Scottish Parliament
Edinburgh

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Dear Joan

SCOTLAND'S CENSUS 2021

I write to update you on matters relating to Scotland's Census 2021. You will recall that during the Census Order Committee evidence session on 27 February 2020 I agreed to consider whether further clarification of the legal status of the Census guidance was required.

I have now had the opportunity to reflect upon our discussion and can advise that additional text will be included in guidance documentation that covers the full census rather than only specifically for the sex question. Whilst much of the focus of discussion has been on the sex question guidance, these matters are relevant to the census as a whole. National Records of Scotland has extensively tested and developed the best possible guidance to support completion and as such no adjustments will be made to the current question guidance text.

National Records of Scotland has developed the following package of measures to achieve clear messaging on the status of guidance and census responses across the suite of materials to be used in Scotland's Census 2021:

1. Contact Letters - Text will be included in each of the contact letters – Initial Contact, Gentle Reminder and Firm Reminder Letters. The relevant section in each letter will (after warning of the possibility of receiving a criminal record and fine for refusing or neglecting to answer compulsory questions, providing a false answer or signing a false document) state: *"Your responses do not otherwise affect your legal rights, obligations or status or those of the people to whom the responses relate"*.

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2. Online Collection Platform - There is a section in the Online Collection Platform called “Before we start” where all individuals completing online will be provided with some general guidance about completing the Census questionnaire. Everyone must go through this section before they can begin completing the Census questionnaire so the messaging covers the full response. The relevant part is shown below:

“What you’ll be asked

You will be asked different questions, depending on the type of questionnaire you are completing and your own circumstances.

- Some questions will ask about where you usually stay and others will ask about you and the people who stay at your address
- If you are completing an individual questionnaire, we will only ask questions about you
- The questions about trans status or history, sexual orientation and religion are voluntary. You do not have to answer these questions if you do not want to.
- *It is an offence to refuse to answer a question, other than the voluntary questions. Your responses will not otherwise affect your legal rights, obligations or status or those of the people you answer for”.*

3. Privacy Notice - The privacy notice tells individuals what to expect when National Records of Scotland collects personal information for the census and explains when and how personal information is disclosed. This notice applies to everyone and will be available online. There is a section in the notice titled “The census questions”, which will (after warning of the possibility of a criminal record and fine as mentioned above) state *“Your responses do not otherwise affect your legal rights, obligations or status or those of the people to whom the responses relate.”*

4. Census Questionnaire Data Protection Note - A Data Protection Note has specifically been developed for the census questionnaire. Everyone who is about to complete the online questionnaire will be pointed towards this and a printed copy will also be issued with all paper questionnaires. People can also access the full Privacy Notice from this notice (via a weblink). All respondents should, therefore, read it before completing their questionnaire. The relevant text being included is below:

“It is an offence to refuse or neglect to answer a question (other than those shown as being voluntary) or to give a false answer to any question.

Your responses do not otherwise affect your legal rights, obligations or status or those of the people to whom the responses relate”.

I hope you will agree that the measures above provide clarity of the legal status of guidance while ensuring that the best possible guidance is available for those who need it.

Fiona Hyslop

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