

CENSUS (AMENDMENT) (SCOTLAND) BILL

Data Protection Impact Assessment (DPIA)

Name of Project	Census (Amendment) (Scotland) Bill
Date of report	2 nd October 2018
Author of report	Scotland's Census 2021 programme and Legislation Teams
Information Asset Owners (IAO) of relevant business units	Amy Wilson, Director of Statistical and Registration Services, National Records of Scotland
Date for review of Data Protection Impact Assessment (DPIA)	<p>The scope of this DPIA report is specific to the subject-matter of the Census (Amendment) (Scotland) Bill, as detailed in the 'Introduction' chapter below.</p> <p>The programme published its initial Privacy Impact Assessment (PIA) in January 2017.</p> <p>The DPIA covering all aspects of the programme will be considered for publication:</p> <ul style="list-style-type: none">• during the passage of the Census (Amendment) (Scotland) Bill• as part of the process of making the Census Order and Census Regulations• prior to the Census Rehearsal in October 2019• prior to Census Day in March 2021• prior to the first scheduled release of statistical outputs in March 2022

Introduction

The purpose of this document is to report on and assess against any potential privacy Impacts as a result of the implementation of the Census (Amendment) (Scotland) Bill.

The principal purpose of the Census (Amendment) (Scotland) Bill is to make answering census questions about prescribed aspects of gender identity, and about sexual orientation, voluntary. The Bill makes two, linked amendments of the Census Act 1920 ("the 1920 Act"). It adds references to "gender identity" and to "sexual orientation" to the schedule of matters about which particulars may be required to be

given in a census. The Bill also amends section 8(1A) of the 1920 Act to put particulars about sexual orientation, and enable some particulars about gender identity to be put, into the same category as particulars about religion so that no one can be fined under section 8(1) for failing or neglecting to answer questions about these matters.

The 1920 Act provides the enabling power to make the Census Order and the Census Regulations which govern the detail of each census. Whilst the Bill only amends the enabling powers in the 1920 Act, NRS and the SG currently propose the questions on sexual orientation and transgender status/history will be included in Census 2021. This DPIA considers the impact of the Bill in this broader sense and touches on issues that will be considered more fully in the DPIAs that will accompany the Census Order and Census Regulations.

The lawful basis for processing of census data is provided under Articles 6(1)(c) and (e) and 9(2)(g) and (j) of the EU General Data Protection Regulation (GDPR).

The 1920 Act makes the Registrar General for Scotland (“the Registrar General”), under the direction of Scottish Ministers, responsible for arrangements for the census in Scotland. The Registrar General heads National Records of Scotland (“NRS”) which carries out the work of the census. The 1920 Act provides the enabling power to make the Census Order and the Census Regulations which govern the detail of each census.

Data protection impact assessment screening questions

These questions are intended to help decide whether a DPIA is necessary. However, given the clear need for a DPIA to support the Census (Amendment) (Scotland) Bill, the questions and the corresponding answers are provided for illustration purposes.

1: Will Scotland’s Census 2021 involve the collection of new data about individuals?

A: Yes. Respondents are required to provide data which reflects the position on Census Day. The date of Scotland’s Census 2021 will be set in the Order in Council which directs that the census shall be taken. NRS anticipates that the Order in Council will be made by 2020.

2: Will Scotland’s Census 2021 compel individuals to provide data about themselves?

A: Yes. There is a legal obligation to respond, as per the 1920 Act.

3: Will data about individuals be disclosed to organisations or people who have not previously had routine access to the data?

A: Access to any data will be strictly controlled and limited to persons under the control of the Registrar General (includes employees and persons who are otherwise employed, or acting, as part of the Registrar General’s staff for purposes of the 1920 Act and suppliers of services to the Registrar General in connection

with the discharge of the Registrar's General functions (or employees of such a supplier). All such persons will be required to sign the Census Confidentiality Undertaking.

4: Are you using data about individuals for a purpose it is not currently used for, or in a way it is not currently used?

A: The 2021 programme more generally will be investigating the potential use of a number of administrative datasets to help support its delivery. This not linked to the Census (Amendment) (Scotland) Bill.

NRS envisages a number of areas where it may be possible to improve the efficiency, effectiveness and quality of Scotland's Census 2021 with the use of administrative data. These include design, operations and statistical quality, including quality assurance.

The datasets NRS are intending to use include:

- Electoral Registers
- Higher Education Student Data (HESA)
- Scottish Government School Pupil Census
- Further Education Student Data
- Health Activity Data – this does not contain health information – just the date of last interaction with the health service
- Vital Events – Births, Deaths, Marriages & Civil Partnerships
- NHS Central Register
- NRS Geography Data
- Registers of Scotland (RoS) Residential Sales

NRS may also seek to use the provisions of the Digital Economy Act 2017 to access data from other government departments. However, this work is still at a very early stage.

Such an approach would depend on the quality and availability of suitable administrative data and the outcome of further research to understand the impact, implications and quality gains of such an approach.

Specifically the work being undertaken involves:

- Research into population and household estimates using administrative data, to see if these can be produced independently of a census
- Creating a Synthetic Census Coverage Survey (CCS), using 2011 CCS data.
- Item level quality assurance to check if administrative data can identify if dates of birth have been entered incorrectly

As not everyone responds to the census, using administrative data to best place people who have been missed.

Using administrative data to see if partially completed records are valid.

Before taking this forward, NRS will take forward a robust assessment of the quality of the datasets under consideration and consider the legal, ethical and public acceptability issues before using any such data in this way. Data sharing agreements have been signed with all data providers. A round of stakeholder and public engagement work was completed in early 2018.

Further detail will be made available as research outputs are produced.

5: Does the project involve matching data or combing datasets from different sources?

A: Yes. The project more generally involves matching the above datasets to Scotland's Census 2011 and Scotland's Census 2021 data. This is not linked to the Census (Amendment) (Scotland) Bill.

6: Does or will Scotland's Census 2021 involve NRS using new technology that might be perceived as being privacy intrusive?

A: No. It is envisaged that people can respond using a variety of technologies but none would be privacy intrusive.

7: Will Scotland's Census 2021 result in NRS making decisions or taking action against individuals in ways that can have a significant impact on them? Will you profile individuals on a large scale?

A: NRS will not use the data collected to make decisions about or take action that will impact on individuals. No individuals or households will be profiled.

8: Will you profile children or target marketing or online services at them?

A: No.

9: Is the data about individuals of a kind particularly likely to raise privacy concerns or expectations? For example special category data such as, health records, criminal records or other data that people would consider to be private.

A: Yes. The Census (Amendment) (Scotland) Bill will amend the penalty provisions of the 1920 Act to make answering census questions on sexual orientation and prescribed aspects of gender identity voluntary.

10: Will Scotland's Census 2021 require you to contact individuals in ways that they may find intrusive?

A: Yes. Households will be individually targeted for post-out of internet access codes, and non-responding households may be targeted for follow-up visits by field staff.

11: Is the project collecting personal data from a source other than the individual without providing them with a privacy notice ('invisible processing')

A: No.

12: Is the project tracking individuals' location or behaviour?

A: No aspect of census operations involves tracking of individual's location or behaviour.

The purpose of the Data Protection Impact Assessment (DPIA)

The likely effects of the proposal, including the identification of privacy risks, have been informed by a range of evidence, including the Census 2021 Topic Consultation 2015 and an extensive programme of engagement and testing with stakeholders and communities of interest during question development work. However, it is the very lack of accurate, reliable baseline data and information around sexual orientation and transgender status/history which itself forms a central driver towards user demand for the inclusion of those questions in the Census in 2021.

This Data Protection Impact Assessment presents the findings of this process, helping to ensure that potential problems are identified at an early stage of the Bill process so that they may be addressed swiftly to prevent or limit any detrimental effects from occurring.

The DPIA is a living document. Publishing the DPIA alongside the Census (Amendment) (Scotland) Bill allows for additional risks and issues to be raised, and associated mitigations recorded. This will ensure that privacy impacts associated with the passage and implementation of the Bill are fully considered. This is especially important as the detail of what will be contained in the final Bill cannot be determined until it has been introduced into Parliament.

The scope of this DPIA is focused on the possible privacy impacts that may occur specifically from implementing the provisions in the Bill. It does not cover the scope of all privacy impacts which may result from the Scotland's Census 2021 programme as a whole. Whilst the Bill only amends the enabling powers in the 1920 Act and does not itself set the questions in the census, NRS and the SG currently propose the questions on sexual orientation and transgender status/history will be included in Census 2021. This DPIA considers the impact of the Bill in this broader sense and touches on issues that will be considered more fully in the DPIAs that will accompany the Census Order and Census Regulations

Background to the Census in Scotland

For over 200 years, Scotland has relied on the ten yearly census to underpin national and local decision making through the production and publication of socio-demographic statistical outputs about Scotland's population. The Census Act (1920)

enshrined it as a function of the Registrar General (RG) for Scotland (NRS Chief Executive), underpinned by the Census Order and Regulations.

Scotland's Census, which last took place in 2011, provides outputs of anonymous census estimates which offer an accurate picture of the number of people and their characteristics (such as age, health, where and how people live). National and local government, the education and academic communities, the third sector, commercial business and others require reliable information if they are to plan and conduct many of their activities effectively. The census provides this information and these outputs are particularly important when there is no other reliable source or when the ability to cross-reference or compare characteristics is necessary. It is an extremely valuable source of information on equality groups and is the only source in many cases. For example, only the census can provide detailed local area statistics on the minority ethnic population.

Whilst many aims and elements of the 2021 Census will be similar to previous censuses, there are some notable differences in the design of the 2021 programme. Arguably the largest difference relates to the intended use and impact of technology and changes in how it will be used. Around 20 per cent of households responded online during the 2011 Census. For 2021, NRS anticipates census responses will be received predominantly online although there will be full provision of other means of completion, such as paper questionnaire or via the telephone.

Objectives of Scotland's 2021 Census Programme

The programme was established by the Registrar General with the following objectives, which were approved by the Scotland's Census Programme Board:-

- to produce high quality census results
- to generate outputs that meet the needs of users
- to maximise online response
- to produce timely outputs to maximise benefits
- to protect, and be seen to protect, confidential information
- to do so in a cost effective way
- to make recommendations for the approach to future censuses in Scotland

Completion of the census is a legal requirement and there are penalties in place for non-completion. On the whole, the public participate proactively but NRS will undertake a range of activities to raise awareness and explain the benefits of the census to maximise participation. This will include providing information to the public regarding the safeguards which are in place to help ensure that the data collected is protected and treated in strict confidence. All individual census returns are closed to public access for 100 years.

Scotland's Census 2021 will involve the processing of data about individuals, including the collection and analysis of that data; the production and dissemination of statistics; and a variety of quality assurance and validation procedures.

All work undertaken by the Scotland's Census 2021 programme is governed by various statutory requirements and ethical considerations, including the Census Act 1920, the Data Protection Act 1998, the EU General Data Protection Regulation and the Code of Practice for Official Statistics. The success of the census depends upon the support and participation of individuals and as a result the maintenance and preservation of their privacy underpins everything that NRS does.

Evidence for inclusion of questions on Sexual Orientation and Transgender status/history

Census information is especially important where there is no other reliable source of the information, where the ability to cross-reference different characteristics of people or households is crucial, or where it is the only source of information about small areas and sub-groups of the population.

Changes to questions are regularly made between censuses to produce more relevant, reliable and accurate data. Society can change significantly in the 10 years between censuses and the questions have to keep pace. For example, for the last census in 2011 five new questions were introduced, including for national identity and long term health condition, and five were removed, including for bath/ shower and toilet access and religion of upbringing. Revisions were also made to some questions including on ethnic group, marital status, and to include same sex civil partnership options. Special attention was also given to the topic of ethnicity for 2011, to identify the best question not only for the census but also for use in other government surveys. A question on sexual orientation was considered for inclusion in the 2011 census. However, the level of public acceptance of the question was not considered sufficient to merit its inclusion in that census.

Extensive research and consultation has been carried out since 2011 which has clearly identified a user need for data on sexual orientation and transgender status/history. The start of this was when National Records of Scotland (NRS) invited views in the Scotland's Census 2021 Topic Consultation between 8 October 2015 and 15 January 2016. The consultation was a key step towards understanding what information users need from the census in 2021, and helped to build strong cases to justify the inclusion of topics. The focus of the consultation was on information required at topic-level, not the detail of the questions that should be asked on the questionnaire.

There continues to be an iterative and comprehensive process of user consultation, evaluation and prioritisation of user requirements and qualitative and quantitative question testing to inform decisions on the exact questions to be recommended for

inclusion in the 2021 Census. The evidence which is outlined in the sections below – and any further evidence from future testing - will help inform these questions.

The main requirement for the inclusion of the sexual orientation and transgender status/history questions is in connection with the Public Sector Equality Duty in terms of the Equality Act 2010 (the elimination of unlawful discrimination, the advancement of equality of opportunity and the fostering of good relations) and for use in informing policies and practices. In addition, the information would be widely used by service providers. For example, information on the size and geographic spread of the transgender population is essential for the planning of gender dysphoria services.

Whilst a strong need has been identified for the inclusion of these questions in the census, the testing and consultation work which has been carried out highlighted the sensitive nature of these questions and the fact that some people would not wish to answer these questions either about themselves or others. The main purpose of the Bill is to make answering census questions about prescribed aspects of gender identity, and about sexual orientation, voluntary. The prescribed aspects of gender identity being considered for inclusion in the census are transgender status/history.

Some stakeholders have noted that making sexual orientation and transgender status/history questions voluntary could indicate that these topics do not have the same importance as compulsory questions, something which may result in a negative perception of the 2021 Census with the LGBTI community. NRS have been working closely with the Equality Network and the Scottish Trans Alliance in relation to both of these topics and there is broad acceptance of the need to make these voluntary.

A further potential concern is around the quality of the data which a voluntary question would provide as it is possible that there would be a higher level of non-response to the question than would be the case for a mandatory question. However this is not necessarily the case; the non-response rate for the religion question (which was a voluntary question in the 2001 and 2011 Census) was no higher than that of many other questions. NRS cannot say for certain whether that would read across to the transgender status/history and sexual orientation questions.

Further details on all of the considerations around these questions can be found in the [topic reports](#).

Data Collection

As in previous years, Scotland's Census 2021 will collect data about people where they usually stay. Each household in Scotland will be asked to complete a set of questions about the household as a whole and about each person 'usually resident' in the dwelling occupied by the household. In addition, a small amount of data may also be collected about any visitors to the household who are present on census

night, as was the case during the 2011 Census. Visitor data is used to ensure a robust population count.

The census also collects data on people who are usually resident in “communal establishments” at the time of the census. These include hotels, hospitals, care homes, university accommodation, prisons, etc. Each establishment will be asked to complete a questionnaire about the establishment as a whole. In most cases, each resident in an establishment will also be asked to complete a set of individual questions.

The data which will be collected as part of the Scotland’s Census 2021 programme will be determined by a variety of criteria including the demonstrated needs of the users of the statistics as well as consideration of those completing it i.e. the public. The final set of questions to be asked will be determined following consultation, research and testing. The subject matters to be covered by the census will be set out in a Census Order and must be approved by the Scottish Parliament. The particular questions to be asked and the census forms/questionnaires which will be used are then set out in Census Regulations.

To help us first understand the needs of users, a consultation seeking views on the topics thought necessary for inclusion was conducted between 8 October 2015 and 15 January 2016. The consultation sought views at topic level rather than the detail of the questions and response options. The consultation was followed up by an extensive programme of engagement and testing around question topics and potential census questions.

The table below provides a summary of the topics and sub-topics under consideration for collection in Scotland’s Census 2021, based on the assessment of responses received to the consultation and consideration of NRS’ operational requirements.

Names of people usually living at address	Visitors	Household and family relationships
Accommodation type	Self-contained accommodation	Tenure and landlord
Number of bedrooms	Type of central heating	Cars or vans
Name	Sex	Date of birth
Transgender status/history	Marital or same-sex civil partnership status	Sexual orientation
Student status	Student term time address	Country of birth

Address one year ago	Date of arrival in the UK	Address of place of work or study
Method of transport to work or study	General health	Long-term health conditions
Long-term health problem or disability	English language	British Sign Language
Gaelic language	Scots language	Main Language
Passports held	National identity	Ethnic group
Religion	Unpaid care	Ex-Service community
Qualifications held	Economic activity	Occupation
Industry	Year last worked	Supervisory status
Hours worked	National Statistics socio-economic classification (NS-SeC)	

Most of these topics were covered in the 2011 Census. The exceptions to this include Transgender status/history, Sexual Orientation, Veterans/Ex-Service Status, Number of Bedrooms, British Sign Language and Passports Held. In particular NRS is aware of potential sensitivities around topics such as Transgender status/history and Sexual Orientation, and there is further detail on these topics below under 'Stakeholder Analysis and Consultation'.

How will the data be collected?

The programme is at the design and planning stage and many specific processes, procedures and operational aspects are not yet finalised. These designs will take into account the various legal requirements placed upon NRS as well as any privacy considerations raised by stakeholders in the discussions around this DPIA. However, NRS is clear that the 2021 Census will be conducted primarily online and will make best use of technology and digital services available at that time.

Online collection

It was possible to complete the census in 2011 online and almost 20% of households in Scotland opted to use that route. In 2021, NRS will be encouraging as many people as possible to complete online as there are a variety of advantages to be gained from maximising online participation., These include: -

- Easier and quicker for many respondents to complete and return
- Improved data quality
- Efficiencies to processing, and so reduce the time to produce outputs
- As a result, will offer efficiencies and help minimise costs.
- Public expectation that this will be possible.

However, it is important to note that paper questionnaires and returns will still be facilitated.

NRS will build on the success of the online household questionnaire used in 2011 but there are challenges as well as opportunities. User-centred design will seek to develop a questionnaire that is easy to use as well as being suitable for a range of digital devices (for example a PC, tablet or mobile phone). NRS will undertake research to ensure that a robust design for an online capture system is developed which both improves data quality and reduces any unnecessary burden on respondents. The design of the online questionnaire will take account of good practice standards and guidance.

In addition, the online questionnaire will be designed to digital first standards to maximise online take up and the gains in data quality. Opportunities that will be considered and tested include:

- contextual help to help complete questions
- use of digital solutions to reduce, or eliminate altogether, the amount of typing or subsequent coding required
- more comprehensive validation within and between questions
- redesign of questions for digital delivery
- redesign of questions to be device neutral.

Accessing census questionnaires

As a result of conducting the census primarily online, the way householders are introduced to their census questionnaire will change. International research suggests a postal first contact is the best and most cost-effective solution to ensure both coverage and address verification for the household. NRS is therefore planning to post-out an Internet Access Code to every household in Scotland.

This emphasises the importance of holding a high quality address list (our 'address register') and places it at the heart of the census design and operation. An address list which draws from the best national sources is essential for delivering the

necessary information to households and allow us to target follow-up for those households which do not initially respond.

In addition, the address register will underpin other processes which support the production of outputs following the census. NRS developed a high quality address register for the 2011 Census which has been maintained and will continue to make improvements before its use in 2021. NRS will also continue to monitor research in this area.

Encouraging online participation

To encourage online participation, NRS will need to ensure that privacy will be maintained but also that services are in place to assist people who would like to respond but may not feel able or comfortable doing so online.

Understanding our respondents and how they wish to interact with the census collection exercise is key to achieving the maximum response rate and work is currently underway to begin to do this. For instance, NRS is working with Scottish Government Digital Directorate and key public and third sector organisations to gain a better understanding of the challenges and solutions available.

In addition, regardless of their digital capability, there will always be parts of the population who are at risk of low levels of engagement or response. This includes those who may experience accessibility issues for example due to a health condition, language or literacy difficulties as well as those who do not wish to provide their information to us. NRS is considering who these groups may be for the 2021 Census and have begun to engage with them to understand their needs, concerns and to explore appropriate ways to support their participation.

Who will have access to the data that is collected?

Access to personal census information collected by the census will be strictly controlled, and limited to persons under the control of the Registrar General for Scotland (includes employees and persons who are otherwise employed, or acting, as part of the Registrar General's staff for purposes of the Census Act 1920) and suppliers of services to the Registrar General for Scotland in connection with the discharge of the Registrar General's functions (or employees of such a supplier).

All such persons will be required to sign the Census Confidentiality Undertaking which is a declaration that the signatory understands and will comply with the obligations of confidentiality set out in the Census Act 1920 (and other relevant census legislation). The Census Act 1920 makes it a criminal offence, punishable by imprisonment, a fine or both, for any person to disclose any personal census information to another person without lawful authority.

Furthermore, if any person discloses to another person any personal census information which they know has been disclosed in contravention of the 1920 Act,

that person is guilty of a criminal offence. The offences and the penalties which they may attract are set out in section 8 of 1920 Act.

Personal census information cannot be accessed via a Freedom of Information request until it is over 100 years old.

How will the data be collected and transmitted?

It is anticipated that the data will be predominantly collected from householders online via their internet enabled devices (for example, computers, smartphones, tablets, etc.). It will then be transmitted digitally and securely whilst maintaining integrity of the data. NRS will ensure that security controls are integral to all data transmission routes and networks. It is likely that paper questionnaires will be made available where required and these will be transmitted via postal services. Further details will be provided as plans are progressed.

How will personal data collected be stored, and disposed of when no longer needed?

NRS will hold the original individual returns in electronic format as closed public records for a period of 100 years. Thereafter, they will continue to be held by NRS but will be accessible by the public. The arrangements for this storage will be confirmed as plans develop. Working copies of the returns (including any used by suppliers or contractors) will be securely deleted/destroyed when no longer required.

Who will own and manage the data?

The information asset owner of the data supplied by those responding to the census will be the NRS Director of Statistical and Registration Services, working on behalf of the Registrar General for Scotland.

How will the data be checked for accuracy and kept up to date?

The data collected by the census represents a snapshot in time so there is no need for it to be kept up to date. There are robust statistical processes in place to assess accuracy and a range of statistical techniques and methodologies are used to improve the accuracy and quality of the statistics produced using the data that is collected.

Stakeholder analysis and consultation

Public perception and awareness is changing and quality of responses to sexual orientation questions in surveys is improving. There are continued societal changes, increased awareness and it is thought there is a growing assumption amongst data users that a question on sexual orientation will be included in the census.

Broadly speaking, asking questions on sexual orientation is seen as acceptable. Testing carried out for all three census offices in the UK showed that, in Scotland, 63 per cent people of people felt that it was acceptable to ask such a question whereas

15 per cent felt it to be unacceptable; however it should be noted that the survey explicitly stated that a question would be voluntary. However, when asked if they would respond to a sexual orientation question in the Census, only one per cent stated that they would not submit the Census form altogether, with 13 per cent stating that they would merely miss out that question.

Further NRS question testing has shown that the sexual orientation question asked on a voluntary basis is acceptable to both the general public and members of the LGBTI community. Whilst there is no specific evidence around the census, on the basis of previous policy changes in this area, it is likely that there will be some opposition to the addition of these questions, in particular on human rights or religious grounds. The voluntary nature of these questions, as enabled by this Bill, is intended to mitigate these concerns. More information on public perceptions can be found in the EQIA and the [topic reports](#).

Some stakeholders have noted that making sexual orientation and transgender status/history questions voluntary could imply that these topics do not have the same importance as compulsory questions, something which may result in a negative perception of the 2021 Census within the LGBTI community. NRS have been working closely with the Equality Network and the Scottish Trans Alliance in relation to both of these topics.

However, it should also be noted that the non-response rate for religion (which was a voluntary question in the 2001 and 2011 Census) was no higher than many other questions. NRS cannot say whether that would read across to the transgender status/history and sexual orientation questions. It should be noted that it is not necessarily the case that the non-response rate to a voluntary question would be any higher than the non-response rate to compulsory questions.

The issue of privacy for respondents completing their census questionnaires was raised by stakeholders in relation to the sexual orientation and transgender status/history questions. For 2021, an individual form will be available for people to complete individual census data in privacy. While the design and build of the online systems is at early stages, it is expected individuals will be able to request, complete and submit an individual questionnaire online, in private, without other members of the household being aware.

NRS is actively engaging with stakeholders with expertise in LGBTI issues, including SG Equalities and Family Law teams, Scottish Trans Alliance, Equality Network, Stonewall and Public Assurance Panels.

Transgender status/history

A need for information on gender identity has been identified via the consultation. Stakeholder engagement following the topic consultation identified a user need for information specifically on the transgender population. A gender identity question

would not gather the data required. The question development taken forward by NRS has been on a transgender status/history question rather than a more general gender identity question for Census 2021.

Gender reassignment is a protected characteristic as set out in the Equality Act 2010 and a range of organisations told us that data about those individuals was required in relation to fulfilling the duties specified for public bodies in that legislation.

Stakeholders told us that a reliable data source on the size and locality of the transgender population in Scotland is required to justify policy developments. These will reduce inequalities experienced by transgender people, and help design and enhance public services to meet specific needs, particularly in relation to the provision of health services. Because Scotland's transgender population is small and distributed widely across the country, the census was suggested as the only source which would be comprehensive enough to provide accurate information on that population.

Sexual Orientation

Considerable user demand has been identified via the consultation and follow up stakeholder engagement for the collection of information on sexual orientation in 2021. Sexual orientation is a protected characteristic as set out in the Equality Act 2010, and the main requirement for the information identified is in relation to the monitoring and reporting duties for public bodies in that respect. The information is also required to inform equality impact assessments, which in turn inform policies and practices. The Equalities and Human Rights Commission require this information to use in a statutory review of equality and human rights, which is carried out every five years.

While a sexual orientation question is included as a core question in the Scottish Household Survey, the Scottish Health Survey, and the Crime and Justice Survey, stakeholders noted the currently available survey data provides an insight into issues for LGBTI population but samples are too small to allow for analysis below local authority level for all local authorities. Users noted the data is needed for equality monitoring whilst significant funding is also provided to various services and equality groups. However, the lack of accurate baseline information was felt to be an issue. Stakeholders noted that census data could potentially provide:

- Baseline statistics for policy development
- Evidence for targeting programmes/ funding
- The ability to perform multivariate analysis at small geographies for which there is a strong user need.

A number of respondents recognised the sensitive nature of a question on sexual orientation, although noted public perception and awareness is changing and quality of responses to sexual orientation questions in surveys is improving. There are continued societal changes, increased awareness and it is thought there is a growing

assumption amongst data users that a question on sexual orientation will be included in the census. They also noted that the inclusion of a question should consider the likely proportion of respondents who would 'prefer not to answer', as a high proportion of such responses would undermine the aim of the question. Stakeholder engagement on the age of those who might complete a question noted that whilst some people might object if people under 16 were asked to complete the question, there may well be people under 16 who have developed a sexual orientation and who may wish to respond. For the sexual orientation and transgender status/history questions, consideration is being given to which age groups to ask these questions of. Stakeholders also noted consideration would have to be given to allow respondents to provide their responses without revealing the information to other household members.

Across the full scope of the Scotland's Census 2021 programme, and specifically through its wider privacy and data protection impact assessment processes, engagement is ongoing with a number of key stakeholders who have provided input and advice around legal, digital, data protection, governance, cyber and information security aspects. This includes the Information Commissioner's Office, Parliamentary Legislation Unit, NRS Privacy Impact Group, Scotland's Census 2021 Programme Board and Scotland's Census 2021 Sponsoring Board. There has also been engagement with privacy advocacy organisations including Big Brother Watch, Privacy International and NO2ID.

Assess necessity, compliance and proportionality

All work undertaken by the Scotland's Census 2021 programme is governed by various statutory requirements and ethical considerations, including the Census Act 1920, the Data Protection Act 2018, Schedule 2, Part 6, Section 27, GDPR, Article 89.2 and the Code of Practice for Official Statistics.

Our work depends upon the support and participation of individuals and as a result the maintenance and preservation of their privacy underpins everything that NRS does.

Individuals responding to the census need to know that their data will be safe and secure, who will have access to it and how it will be used.

Identify and assess risk

The Census 2021 Programme has implemented a comprehensive Information Risk Management framework. Through this independently approved process it is managing a broad range of risks that have been identified as potentially affecting either the confidentiality, integrity or availability of the processes, systems or data collected via Scotland's Census 2021.

The key risks under consideration are: -

- The risk of interruption of the census due to malicious activity targeting online systems including but not limited to Distributed Denial of Service
- The risk of theft of sensitive data collected by census due to malicious activity targeting the technical infrastructure storing Census 2021 data. i.e. targeted malware or direct hacking
- The risk of theft of sensitive data collected by census due to malicious activity by personnel within the Census programme, its contractors or supporting services
- The risk of loss of data due to environmental issues with the bulk storage of completed paper returns prior to capture i.e. fire or theft
- The risk of unintended exposure or loss of census data due to poor management of technical environments i.e. loss of equipment or system failure

Questions to identify privacy issues

The following questions help us to consider where other risks may emerge.

Involvement of multiple organisations

1: Will the initiative involve multiple organisations, whether they are public service partners, voluntary sector organisations or private sector companies?

A: Yes, there will be a number of organisations involved throughout the programme. including parts of the wider Scottish Government, local authorities, external contractors, the Office for National Statistics (ONS), the Northern Ireland Statistical Research Agency (NISRA), voluntary organisations and other stakeholders.

Anonymity and pseudonymity

2: If the project requires the matching of data sources together, would it become possible to identify an individual?

A: As the census collects personal data from the public, this data will itself be identifiable where names and addresses are present. In addition, statistical data processing will involve the creation or amendment of data and the possible matching of data with other sources, for example to improve quality. These processes are restricted to only those who are authorised to access this data.

These people will be bound by the Census Confidentiality Undertaking which is a declaration that the signatory understands and will comply with the obligations of confidentiality set out in the 1920 Act (and other relevant census legislation). The 1920 Act makes it a criminal offence, punishable by imprisonment, a fine or both,

for any person to disclose any personal census information to another person without lawful authority.

It is also important to note that all of the published statistical outputs will be anonymised. This is achieved using Statistical Disclosure Control which is a process that manipulates record-level data to ensure that no individual can be identified from census outputs with any degree of confidence.

Where Census 2021 information is linked to administrative datasets, all datasets will be de-identified in isolation before being linked together in a secure environment. Under this separation of functions approach, researchers working on the de-identified linked data will not have access to the original data containing names and address information. All outputs from the safe haven undergo statistical disclosure control by an independent research co-ordinator.

Technology

3: Will there be new or additional information technologies that have substantial potential for privacy intrusion?

A: A range of technologies will be used to support and deliver the census programme. Safeguards will therefore be built in to all processes to mitigate the risks of unauthorised access, amendment of data or transmission of data to others. As the technologies to be used are determined, further information about these safeguards will be provided. In some cases, only limited information will be provided to protect these safeguards.

Identification methods

4: Will there be the creation of new identifiers or re-using of existing identifiers?

A: NRS will use existing identifiers and create new identifiers to assist with the processing of the data collected from households and individuals. Existing household identifiers include house number and postcode. New household and individual identifiers are likely to include an internet access code (to enable participants to respond online). Existing individual identifiers include a derived identifier based on the household identifier and the person number. New individual identifiers will include a number associated with each person included in responses. This will only be used within the programme to assist with the processing of the data. In addition, it is envisaged that internet access codes may

be provided to enable individuals to complete their census separately from others in a household.

5: Will there be new or substantially changed identity authentication requirements that may be intrusive or onerous?

A: Most returns will be expected at household level and will only require use of an internet access code (provided by NRS) and other commonly used identifiers such as address and/or postcode. NRS will monitor ONS and other international work to understand how best to contact respondents in a primarily online census, and remain open to various methods of authentication. NRS will work to ensure that authentication methods for the collection of data are not intrusive or onerous.

6: What type of unique identifiers will be used in the project? These might have the effect of enabling identification of persons who were previously anonymous.

A: Statistical data processing will involve the use of unique identifiers, the creation or amendment of records and the possible matching of data with other sources e.g. to improve quality. It can be possible to identify individuals (e.g. where names are present) but these processes are restricted to only those who are authorised to access this data.

Personal data

7: Will there be new or significant changes to the handling of types of personal data that may be of particular concern to individuals? This could include data about racial and ethnic origin, political opinions, health, sexual life, offences and court proceedings, finances and data that could enable identity theft.

A: The main data-handling change for Scotland's Census 2021 as compared with 2011 is that it will be carried out predominantly online. In addition the potential topics to be included in Scotland's Census 2021 are detailed in the relevant section on page 8. Subject to consultation and approval by the Scottish Parliament, the census may include new questions, some of which may be of a sensitive nature e.g. sexual orientation and transgender status/history. Ensuring that those sensitive questions can be asked on a voluntary basis is the central thrust of the Census (Amendment) (Scotland) Bill provisions.

NRS will put in place secure procedures and processes which seek to minimise the risk of identity theft.

8: Will the personal details about each individual in an existing database be subject to new or changed handling?

A: The 2021 programme more generally will be investigating the potential use of a number of administrative datasets to help support its delivery. This is not linked to the Census (Amendment) (Scotland) Bill.

NRS envisages a number of areas where it may be possible to improve the efficiency, effectiveness and quality of Scotland's Census 2021 with the use of administrative data. These include design, operations and statistical quality, including quality assurance.

The datasets NRS are intending to use include:

- Electoral Registers
- Higher Education Student Data (HESA)
- Scottish Government School Pupil Census
- Further Education Student Data
- Health Activity Data – this does not contain health information – just the date of last interaction with the health service
- Vital Events – Births, Deaths, Marriages & Civil Partnerships
- NHS Central Register
- NRS Geography Data
- Registers of Scotland (RoS) Residential Sales

NRS may also seek to use the provisions of the Digital Economy Act 2017 to access data from other government departments. However, this work is still at a very early stage.

Such an approach would depend on the quality and availability of suitable administrative data and the outcome of further research to understand the impact, implications and quality gains of such an approach.

Specifically the work being undertaken involves:

- Research into population and household estimates using administrative data, to see if these can be produced independently of a census
- Creating a Synthetic Census Coverage Survey (CCS), using 2011 CCS data.
- Item level quality assurance to check if administrative data can identify if dates of birth have been entered incorrectly
- As not everyone responds to the census, using administrative data to best place people who have been missed.
- Using administrative data to see if partially completed records are valid.

Before taking this forward, NRS will take forward a robust assessment of the quality of the datasets under consideration and consider the legal, ethical and public acceptability issues before using any such data in this way. Data sharing

agreements have been signed with all data providers. A round of stakeholder and public engagement work was completed in early 2018.

Further detail will be made available as research outputs are produced.

9: Will there be new or significant changes to the handling of personal data about a large number of individuals?

A: The main data-handling change for Scotland's Census 2021 as compared with 2011 is that it will be carried out predominantly online. In addition the potential topics to be included in Scotland's Census 2021 are detailed in the relevant section on page 8. Subject to consultation and approval by the Scottish Parliament, the census may include new questions, some of which may be of a sensitive nature e.g. sexual orientation and transgender status/history. Ensuring that those sensitive questions can be asked on a voluntary basis is the central thrust of the Census (Amendment) (Scotland) Bill provisions.

10: Will there be new or significantly changed consolidation, inter-linking, cross-referencing or matching of personal data from multiple sources?

A: The 2021 programme more generally will be investigating the potential use of a number of administrative datasets to help support its delivery. This is not linked to the Census (Amendment) (Scotland) Bill.

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Further detail will be made available as research outputs are produced.

11: Will the project involve the linkage of personal data with data in other collections, or any significant change to existing data links or holdings?

A: The 2021 programme more generally will be investigating the potential use of a number of administrative datasets to help support its delivery. This is not linked to the Census (Amendment) (Scotland) Bill.

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Further detail will be made available as research outputs are produced.

Changes to data handling procedures

12: Will there be new or changed data collection policies or practices that may be unclear or intrusive?

A: No. Policies and practices may differ from previous censuses but NRS will work to minimise intrusion and ensure that the policies and practices are clear.

13: Will there be changes to data quality assurance or processes and standards that may be unclear or unsatisfactory?

A: No. Whilst processes and standards may change, NRS will ensure that they are clear and satisfactory. Change may be necessary to ensure that, in a changing world, arrangements remain fit for purpose to ensure that NRS continues to meet its obligations to keep data safe.

14: Will there be new or changed data security access or disclosure arrangements that may be unclear or extensive?

A: Data security arrangements will be reviewed and developed to reflect the changing profile of risks to our data and different approaches being taken for the collection of Census data and will align with the relevant international security standards and Government advice and guidance. Some changes may be made but certain aspects, particularly around security of data, will not necessarily be made public. Independent assurance will be sought around appropriateness, clarity and scope.

15: Will there be new or changed data retention arrangements that may be unclear or extensive?

A: As with previous censuses in Scotland, NRS will hold the original returns as closed public records for a period of 100 years. Thereafter, it will continue to be held by NRS but will be accessible by the public. The arrangements for this storage will be confirmed as plans develop. Working copies of the returns (such as any used by suppliers or contractors) will be securely deleted/ destroyed when no longer required.

16: Will there be changes to the medium of disclosure for publicly available data in such a way that the data becomes more readily accessible than before?

A: The data collected is used by NRS to produce a variety of statistical outputs. Subject to research and consultation with the users of those statistics, NRS may move away from publishing the traditional high volume of 'tables' that evolved during the time of print publishing. Instead NRS will look to make statistical outputs available in more accessible formats that provide flexibility for them to run queries seeking the specific statistics that they need.

This would lead to the potential of a higher degree of self-service but would all remain subject to disclosure control methods to ensure the privacy of individuals is

maintained. An approach along these lines would complement, rather than fully replace, the availability of pre-produced standard statistical tables.

Statutory exemptions/protection

17: Will the data processing be exempt in any way from the Data Protection Act or other legislative privacy protections? This might apply in areas such as law enforcement or public security.

A: Yes. GDPR Article 89 and Data Protection Act 2018 Schedule 2, Part 6.27(1)(b) exempts information that is only processed for statistical purposes from the provisions of the Act that gives an individual the right to see their own personal information data. A data subject does not have the right to object to NRS processing their data collected during the census as NRS is processing this data in order to meet its legal obligations under the Census Act 1920.

In addition, NRS complies with the Freedom of Information (Scotland) Act 2002 as regards the data collected and held as part of Scotland's Census. Sections 38.1(d) and 58(2)(b) of the Freedom of Information (Scotland) Act 2002, exempt personal census data from disclosure for 100 years, meaning no one can access personal census data through a Freedom of Information request.

18: Does the project involve systematic disclosure of personal data to, or access by, third parties that are not subject to comparable privacy regulation?

A: No, this project will not involve systematic disclosure of personal data to, or access by, third parties. Whilst NRS will produce reports on the census returns and abstracts containing statistical information derived from the census returns, these will not contain data from which individuals can be identified. Disclosure of personal data to any third party suppliers that NRS may contract to help conduct Scotland's Census 2021 will be strictly controlled and subject to adequate levels of protection which safeguard the rights and freedoms of data subjects.

Justification

19: Does the project's justification include significant contributions to public security measures?

A: No.

20: Is there to be public consultation?

A: Yes. An extensive programme of stakeholder engagement is ongoing and will continue throughout the lifecycle of Scotland’s Census 2021. Consultation around topics has already taken place whilst other plans to seek views, including on this DPIA, will be confirmed in due course.

21: Is the justification for the new data handling unclear or unpublished?

A: The 1920 Act makes the Registrar General, under the direction of Scottish Ministers, responsible for arrangements for the census in Scotland. The Registrar General heads NRS which carries out the work of the census. The 1920 Act provides the enabling power to make the Census Order and the Census Regulations which govern the detail of each census.

Our ['Plans for Scotland's Census 2021'](#) document, published on Thursday 27 September 2018, lays out proposals for how the census will be conducted and the questions it will ask. The next census will be conducted primarily online, making the best use of technology and digital services. The plans include our on-going programme of stakeholder engagement, question development and testing.

Other risks

22: Are there any risks to privacy not covered by the above questions?

A: A range of information risks have been identified and are subject to robust risk management procedures and processes. NRS does not believe that any significant material impact on the level of risk will occur as a result of the introduction of Census (Amendment) (Scotland) Bill provisions. However, it is hoped that the DPIA development process and related discussions with stakeholders will help to identify any further risks. The privacy risks will be reviewed regularly to enable new privacy risks to be identified and managed throughout the programme.

Identify measures to reduce risk/privacy solutions

All risks are actively managed with a view to maximising mitigations where possible. Many processes, systems and services are still under development and detail around the nature and method of mitigation is as yet unavailable. Future iterations of the programme DPIA will provide further information as appropriate.

Statistical Disclosure Control (SDC)

While most Census outputs take the form of statistical counts, there is a risk that information about an individual person could be deduced from Census outputs. For example, if everybody in a particular geographic area was aged under 50 apart from one old-age pensioner living in a single person household, a cross-tabulation of age and general health would reveal the response of that pensioner to the Census question on general health. The Census form gives respondents an assurance that their information will be treated as confidential, and statistical disclosure techniques and methodologies are employed to ensure that the risk of inadvertent disclosure in statistical outputs is minimised.

In order to ensure that census outputs across the UK are comparable, similar SDC processes are applied in each of the censuses in the UK.

Incorporating Privacy Risks into planning

High-level governance structures seek to ensure that risk management is sewn into planning and design.

Planning and identification of risk mitigation actions is an ongoing task and further detail will be provided in future updates to the programme DPIA. As the overall programme design develops further risks and mitigations will emerge and NRS will manage these robustly according to an agreed programme risk management framework.

Linking the DPIA to the GDPR data protection principles

GDPR Principle (a) (Article 5(1)(a))

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:

a) at least one of the conditions in Article 6 is met, and

b) in the case of special category personal data, at least one of the conditions in Article 9 is also met.

Have you identified the purpose of the project?

A: The Scotland's Census 2021 programme provides outputs of anonymous census estimates which offer a highly accurate picture of the number and characteristics of the entire population of Scotland as at Census Day 2021 (such as age, health, where and how people live), in accordance with the 1920 Act.

How will you tell individuals about the use of their personal data?

A: There will be detailed information available to the public via the Scotland's Census website and NRS Privacy Notices around how their personal data will be used. In

addition, a wide-ranging campaign of publicity and community engagement will be undertaken to encourage public participation which will further explain the uses and value of the census. A specific Privacy Notice for Scotland's Census 2021 is currently being drafted and will be published in due course.

Do you need to amend your privacy notices?

A: NRS continuously reviews its Privacy Notices to ensure that they reflect the current position. A specific Privacy Notice for Scotland's Census 2021 is currently being drafted and will be published in due course.

Have you established which conditions for processing apply?

A: The 1920 Act places a duty on the Registrar General, under the direction of Scottish Ministers, for making arrangements for the census in Scotland. Section 4 of the 1920 Act places a duty on the Registrar General to prepare reports on the census returns and allows the Registrar General to cause abstracts to be prepared containing statistical information derived from the census returns. GDPR Articles 6 and 9 apply to the processing of personal data for the taking of a census.

Article 6 (1)(c) "processing is necessary for compliance with a legal obligation to which the controller is subject" and Article 6(1)(e) "processing is necessary for the performance of a task carried out in the public interest or in exercise of official authority vested in the controller" provide lawful bases for processing personal data.

Article 9 (2)(g) "processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject" and Article 9 (2)(j) "processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject" provide lawful bases for processing special categories of personal data.

If you are relying on consent to process personal data, how will this be collected and what will you do if it is withheld or withdrawn?

A: Consent is not required as responding to the census is compulsory by law. Section 8(1)(d) of the 1920 Act states: "If any person being a person required in pursuance of any Order in Council or regulations [made under the Act] to answer any question, refuses to answer or gives a false answer to that question; he shall for each offence be liable on summary conviction to a fine....".

If your organisation is subject to the Human Rights Act, you also need to consider:

Will your actions interfere with the right to privacy under Article 8?

Article 8 of the European convention on Human Rights states:

Right to respect for private and family life:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

A: Section 2 of the 1920 Act states that “It shall be the duty of...the Registrar General for Scotland in relation to Scotland to make such arrangements and do all such things as are necessary for the taking of a census.”

The provisions of Article 8 as incorporated in the Human Rights Act 1998 allow public authorities to enquire into a person’s private life where they have a legal authority to do so and where such an enquiry is necessary in a democratic society for one of the aims stated in the Article.

The requirement to comply with the census is therefore entirely in accordance with the Human Rights Act in that the lawful authority is given by the 1920 Act and that it is necessary for the economic well-being of the country and for the purposes of the protection of health and the rights and freedoms of others.

Have you identified the social need and aims of the project?

A: The Scotland’s Census 2021 programme provides outputs of anonymous census estimates which offer a highly accurate picture of the number and characteristics of the entire population of Scotland as at Census Day 2021 (such as age, health, where and how people live), in accordance with the 1920 Act. National and local government, the education and academic communities, the third sector, commercial business and others need reliable information if they are to conduct many of their activities effectively. The census provides this information and these outputs are particularly important when there is no other reliable source or when the ability to cross-reference or compare characteristics is necessary.

Whilst there are an enormous number of uses and related benefits of the outputs, the most valuable can be categorised in two broad areas:

- Supporting evidence based policy making and related research

- Informing the allocation and targeting of resources

The outputs also improve the knowledge and understanding of the make-up and characteristics of Scotland and its people (and related trends) and serve to inform public debate.

Are your actions a proportionate response to the social need?

A: Yes. Once an Order in Council directing that a census shall be taken has been made, the Registrar General is under a legal obligation to conduct a census. The outputs produced by the census are vital to help shape Scotland's future by informing key decisions on how services such as transport, housing, schools and hospitals are planned and delivered.

GDPR Principle (b) (Article 5(1)(b))

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

Does your project plan cover all of the purposes for processing personal data?

A: All data is processed for the purposes of providing outputs of anonymous census estimates which offer a highly accurate picture of the number and characteristics of the entire population of Scotland as at Census Day 2021 (such as age, health, where and how people live), in accordance with the 1920 Act.

Have you identified potential new purposes as the scope of the project expands?

A: This will be considered as the programme progresses.

GDPR Principle (c) (Article 5(1)(c))

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

Is the quality of the information good enough for the purposes it is used?

A: Extensive statistical methodologies and quality assurance processes will be put in place to ensure that the statistics produced using the data collected are fit for purpose and best meet the needs of data users.

Which personal data could you not use, without compromising the needs of the project?

A: NRS will work closely with stakeholders to ensure that the programme only seeks to collect data that is required to produce the outputs for which there is an evidenced need.

GDPR Principle (d) (Article 5(1)(d))– accurate, kept up to date, deletion

Personal data shall be accurate and, where necessary, kept up to date.

If you are procuring new software does it allow you to amend data when necessary?

A: Statistical data processing features edit and imputation which seeks to enhance the quality of statistical outputs by eliminating any inconsistencies in the data collected. In some cases this may involve the use of software, but the full detail of systems and solutions to be deployed is yet to be defined.

How are you ensuring that personal data obtained from individuals or other organisations is accurate?

A: Data is provided by individuals, underpinned by legal obligation. Due to the important role the census plays in future planning for Scotland and the UK, NRS endeavours to ensure that the statistics produced using census data are as robust as possible. However, it is not necessary to keep census data up to date as the data collected by the census represents a snapshot in time.

GDPR Principle (e) (Article 5(1)(e))

Personal data processed for any purpose or purposes shall not be kept for longer than necessary for that purpose or those purposes.

What retention periods are suitable for the personal data you will be processing?

A: Longstanding government policy, since set out in law via the Freedom of Information (Scotland) Act 2002 sections 38.1(d) and 58(2)(b), is that individual census returns made by the public remain confidential for 100 years. Thereafter NRS continues to retain the returns on a permanent basis and make them available for public access. The arrangements for this retention and storage will be confirmed as plans develop. Working copies of the returns and working datasets formed from the data collected (including any used by suppliers or contractors) will be securely deleted/destroyed when no longer required. Where necessary retention schedules will be agreed and applied. Contractual safeguards will be put in place to ensure contractor compliance, including deletion certificates where appropriate.

Are you procuring software that will allow you to delete information in line with your retention periods?

A: The full range of systems and services which will support the census is yet to be defined and will be confirmed in due course. Any software deployed will require to align with agreed retention schedules.

GDPR Articles 12-22

Personal data shall be processed in accordance with the rights of data subjects under this Act.

Will the systems you are putting in place allow you to respond to subject access requests more easily?

A: GDPR Article 89 and Data Protection Act 2018 Schedule 2, Part 6.27(1)(b) exempt data that is only processed for statistical purposes from the provisions of the DPA that gives an individual the right to see their own personal data. A data subject does not have the right to object to NRS processing their data collected during the census as NRS is processing this data in order to meet its legal obligations under the 1920 Act.

NRS is required to comply with the Freedom of Information (Scotland) Act 2002 as regards the data collected and held as part of Scotland's Census, but no-one can get personal census data through a Freedom of Information request. This is set out in sections 38.1(d) and 58(2)(b) of the Freedom of Information (Scotland) Act 2002, which states that personal census data is exempt from disclosure for 100 years.

If the project involves marketing, have you got a procedure for individuals to opt out of their information being used for that purpose?

A: No. Personal data provided by individuals in response to the census will not be used (or made available to third parties) for marketing purposes.

GDPR Principle (f) (Article 5 (1)(f))

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

Do any new systems provide protection against the security risks you have identified?

A: Systems and services specifications include appropriate security controls, around which assurance will be sought through analysis and testing going forward.

What training and instructions are necessary to ensure that staff know how to operate a new system securely?

A: The requirement to provide appropriate training has been identified within relevant procurement specifications but delivery of services and systems has not yet reached a stage where details have become available.

GDPR Article 24

Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Will the project require you to transfer data outside of the European Economic Area (EEA)?

A: No census return data will be transferred outside the EEA.

If you will be making transfers, how will you ensure that the data is adequately protected?

A: Not applicable.