

Scotland's Census 2021 Privacy Impact Assessment

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1. Introduction

This initial Privacy Impact Assessment (PIA) considers the privacy implications associated with planning and undertaking Scotland's Census 2021. National Records of Scotland (NRS) has prepared this initial PIA to capture some of the early privacy considerations and to demonstrate our commitment to safeguarding confidentiality and to working in an open and transparent way.

The PIA will reflect an internal assessment of privacy risks, consultation with users and other stakeholders as well as the development and implementation of measures to manage and mitigate those risks and any issues of specific concern.

We hope it will encourage stakeholders with an interest to get involved and help to identify the issues NRS needs to consider and also the steps we can take to mitigate these issues.

What is a PIA?

A PIA seeks to identify privacy considerations of a policy, project or programme of work in collaboration with those people who have an interest in it. It should be considered a 'live' process through which this document will be updated and amended as discussions take place with stakeholders and plans develop over the coming years. This approach is essential in order to respond effectively to new conditions, the development of work plans, methods or approaches and technological advances as well as wider legislative, data security or handling requirements.

With the 2021 Census in mind, one of the aims is to ensure that the 21st census to be conducted in Scotland since 1801 delivers its benefits and meets data protection requirements and public expectations of privacy.

More information about PIA's is available on the website of the Information Commissioner's Office (ICO) - www.ico.org.uk.

Identifying the need for a PIA

As with other censuses across the world, the aim of Scotland's Census 2021 is to collect data about every person living in the country. It is clear to NRS that such an operation – with the amount of personal data involved – should be subject to a 'full scale' Privacy Impact Assessment. In addition however, the ICO offer a number of 'screening questions' which should also be used to consider this.

Where any questions are answered with a 'yes', this would suggest that a full PIA might be appropriate. Those screening questions, along with answers in the context of Scotland's Census 2021 are noted below.

Q: 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. We anticipate that the Order in Council will be made by 2020.

Q: Will Scotland's Census 2021 compel individuals to provide data about themselves?

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

Q: 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 Census Act 1920) and suppliers of services to the Registrar General for Scotland in connection with the discharge of his functions (or employees of such a supplier). All such persons will be required to sign the Census Confidentiality Undertaking (more on page 14 and Annex A).

Q: 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 will be investigating the potential use of a number of administrative datasets to help support its delivery.

We envisage 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.

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. 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. Further detail will be made available as research is taken forward.

Q: Does or will Scotland's Census 2021 involve NRS using new technology that might be perceived as being privacy intrusive? For example, the use of biometrics or facial recognition.

A: No. It is envisaged that people can respond using a variety of technologies

but none would be privacy intrusive.

Q: 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?

A: NRS will not use the data collected to make decisions about or take action that will impact on individuals.

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

A: Yes. Some proposed questions, which may be voluntary, are of a sensitive personal nature.

Q: 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.

These screening questions reaffirm our assumption that a full PIA would be valuable. However, the programme is at an early stage of design and planning and many specific processes, procedures and operational aspects are not yet fully defined. This initial assessment therefore sets out very early thoughts and details the further work that will be carried out including, importantly, how and when we will seek input from stakeholders.

What is privacy?

It would be useful to first consider what 'privacy' is in this context. In their 'Code of Practice on Privacy Impact Assessments', the Information Commissioner's Office identifies two principal forms of privacy:

- Physical privacy – the ability of a person to maintain their own physical space or solitude
- Informational privacy – the ability of a person to control, edit, manage and delete data about themselves and to decide how and to what extent such data is communicated to others.

Scotland's Census 2021 programme 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. Therefore, safeguarding the informational privacy of personal information is the clearest form of privacy issue but there will be aspects of physical privacy too.

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, 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 we do.

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.

Background to Scotland's Census

For over 200 years, Scotland has relied on the census to provide anonymised aggregate statistics which underpin national and local decision making. It is Scotland's largest data gathering exercise and provides statistics covering the number and characteristics of Scotland's people, helping to shape Scotland's future by forming the basis for improved decision making. It is recognised that the production of these statistics is currently best met by conducting a census of the whole population every 10 years.

Statistics produced from the census are especially important where there is no other reliable source, where the ability to compare and cross-reference different characteristics of people or households is crucial, or where it is the only source of data about small areas and sub-groups of the population.

The success of the census depends on the participation of the public. On the whole, the public participate proactively but to ensure that everyone is included, all households are required to participate by law. Whilst that is the case, 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 treated in strict confidence. For example, individual census records are closed to public access for 100 years.

A key feature of a census is that there is only one opportunity to get it right. All systems and services must be meticulously planned, designed and tested to be fully functional at the time of the Census as any failure or interruption to system capability or capacity could affect the overall success of the programme.

Scotland's Census in the UK context

NRS works closely with the census offices for England and Wales (Office for National Statistics), and for Northern Ireland (Northern Ireland Statistics and Research Agency). Although the censuses are managed independently, the three organisations work together on matters such as the date of the census and the harmonisation of questions, methods, definitions and outputs, as far

as possible. This helps ensure comparability of the statistics and to meet the needs of users wanting UK statistics and our legal obligations to Eurostat. It is important to note that the Office for National Statistics is responsible for producing and sharing UK wide statistics, including for EU needs.

Scotland's Census in the international context

NRS also has strong relationships with international census-taking countries and participates in international forums where research, experiences and plans are shared. For instance there is particular current focus on the experiences of Australia and Canada, where censuses have been held during 2016.

Additional information

Further background on Scotland's Census 2021, including detail around scope, objectives, design and governance can be found on the [Scotland's Census website](#)¹.

In addition, information and a detailed description of how the last census was undertaken has been published as [Scotland's Census 2011 General Report](#).²

EU General Data Protection Regulation and 'Brexit'

A new General Data Protection Regulation (GDPR), which seeks to strengthen and unify data protection for individuals within the European Union will come into force on 28th May 2018. As the UK will still be part of the European Union at that time the new law will apply to the UK and is expected to continue to apply while we still remain part of the European Union. As yet the UK Department of Culture, Media and Sports has not clarified what its plans for data protection are following the UK leaving the European Union.

In addition, the regulator of the [Data Protection Act 1998](#)³, the UK Information Commissioner's Office issued a statement in relation to the referendum result and the data protection implications, published on their [website](#)⁴. and they are continuing to work on developing [guidance](#)⁵ for the GDPR. As a result, NRS will ensure that all measures for the conduct of the 2021 Census are compliant with the GDPR.

2. The flow of data

What data will be collected?

¹ <http://www.scotlandscensus.gov.uk/design-2021>

² http://www.scotlandscensus.gov.uk/documents/censusresults/Scotland's_Census_2011_General_Report.pdf

³ <http://www.legislation.gov.uk/ukpga/1998/29/contents>

⁴ <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2016/07/referendum-result-response/>

⁵ <https://ico.org.uk/for-organisations/data-protection-reform/guidance-what-to-expect-and-when/>

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.

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, army camps 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 that will be collected in 2021 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 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 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.

Accommodation type	Self-contained accommodation	Tenure and landlord
Number of rooms	Type of central heating	Cars or vans
Sex	Marital or same-sex civil partnership status	Age
Student status	Household and family relationships	Country of birth
Address one year ago	Date of arrival in the UK	Method of transport
Address of place of work	Address of place of study	Ethnic group
National identity	Gaelic language	Scots language

English language	Other languages	Religion
General health	Long-term health problem or disability	Unpaid care
Long-term health conditions	Qualifications held	Economic activity
Occupation	Industry	Year last worked
Supervisory status	Hours worked	Number of Bedrooms
Sexual Orientation	Household Income	Citizenship
Second Address	Reason for Migration	Voluntary and Unpaid Work
Intended length of stay in the UK	National Statistics socio-economic classification (NS-SeC)*	Ex-Service community
Gender Identity		

*NRS intends to collect the range of data needed to derive National Statistics Socio-economic Classification (NS-SeC).

Most of these topics were covered in the 2011 Census. The exceptions to this include Gender Identity, Sexual Orientation, Income, Number of Bedrooms, Second Address, Type of Migration, Citizenship, Voluntary and Unpaid Work. In particular we are aware of potential sensitivities around topics such as Gender Identity, Sexual Orientation and Household Income, so we provide some further detail on these topics below.

Gender Identity

A need for information on gender identity has been identified via the consultation. 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. They told us that a reliable data source on the size and locality of the transgender population in Scotland is required to justify policy developments that will reduce inequalities experienced by trans people, and for designing and enhancing 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.

However the precise nature of the concepts to be measured need to be better understood. NRS conclude therefore that further work is required to understand the exact nature of user need. Consideration will then be given to whether

including a question in the census is the most appropriate way of collecting the information and/or whether alternative methods of meeting the user need exist.

Sexual Orientation

Considerable user demand has been identified via the consultation 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 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.

Respondents noted a requirement to undertake analysis of sexual orientation in relation to a number of other characteristics. Whilst sexual orientation is included as a core question in the Scottish Household Survey, Scottish Health Survey and Crime and Justice Survey, these sources do not provide data below local authority level, and do not allow for disaggregation of the information by other characteristics. Respondents noted a requirement for data on areas below local authority level for use in service planning and monitoring. Examples of areas for which information would be required included localities built up from output areas, data zones and intermediate zones.

A number of respondents recognised the sensitive nature of a question on sexual orientation, although recognised that public views have changed considerably since the planning for the census in 2011. 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. A number of respondents felt that the question should not be asked of people under 16 years of age, and consideration would have to be given to allow respondents to provide their responses without revealing the information to other household members.

NRS acknowledge the strength of user need which exists for the collection of information on sexual orientation. We conclude that further work is required to understand whether including a question in the census is the most appropriate way of collecting the information, and will therefore undertake question and public acceptability testing to help inform a decision on whether a question should be recommended for inclusion in the census in 2021. As part of this work, consideration will also be given to whether alternative ways of meeting the user need exist.

Household income

Considerable user demand has been identified via the consultation for the collection of information on income in 2021. It is required by central government, local government, public and private organisations and researchers for a multitude of purposes including deprivation analysis, area profiling, policy development and monitoring, service planning, and resource allocation. Many respondents noted that information on income is fundamental to understanding poverty and inequality and only modelled data or data from sample surveys is currently available, which does not meet their requirement for data at small area level.

Users told us that a question on personal income would be preferable, in order that analysis could be undertaken at an individual level, but that a question on household income would be acceptable if that was not possible. NRS acknowledge the strength of user need which exists for the collection of information on income. We conclude that further work is required to understand whether including a question in the census is the most appropriate way of collecting the information, and will therefore undertake question and public acceptability testing to help inform a decision on whether a question should be recommended for inclusion in the census in 2021. As part of this work, consideration will also be given to whether alternative ways of meeting the user need exist.

How will the data be collected?

As noted earlier, the programme is at an early stage of design and planning and many specific processes, procedures and operational aspects are not yet fully defined. 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 PIA. However, we are 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 which will help to speed up the production of outputs
- As a result, will offer efficiencies and help minimise costs.
- We believe there will be an expectation from the public that this will be possible. However, it is important to note that paper questionnaires and returns will still be facilitated

We will build on the success of the online household questionnaire used in 2011 but there are challenges as well as opportunities. We need 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). We 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 first - and independently from any paper questionnaire - 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 detailed drop-down boxes to reduce, or eliminate altogether, the amount of typing or subsequent coding required
- more comprehensive validation within and between questions
- 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. We are 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. We developed a high quality address register for the 2011 Census which has been maintained and we will continue to make improvements before its use in 2021. We will also continue to monitor research in this area.

Encouraging online participation

To encourage online participation, we 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, we are 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 hard to reach and 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. We are considering who these groups may be for the 2021 Census so we can engage with them to understand their needs, concerns and to explore appropriate ways to support their participation.

Exploring the use of 'administrative data'

Various local and national government departments and other public bodies hold datasets to support and manage their day-to-day activities. They routinely gather data when registering people or carrying out transactions, or for record keeping, usually when delivering a service. These are referred to as "administrative data" and examples include: educational records, electoral registrations and council tax records. The 2021 programme will be investigating the potential use of a number of administrative datasets to help support its delivery.

We envisage 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.

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. 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. Any such research will be conducted in safe secure environments and further information will be made available as this work is taken forward.

We will also undertake additional work to research the viability of producing census like statistics using a combination of administrative data and surveys, which would help to deliver the benefit of reducing respondent burden. This body of work will be the subject of a separate Privacy Impact Assessment.

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](#)⁶) and suppliers of services to the Registrar General for Scotland in connection with the discharge of his functions (or employees of such a supplier).

All such persons will be required to sign the Census Confidentiality Undertaking ([Annex A](#)) 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 Census Act 1920, that person is guilty of a criminal offence. The nature of these offences and the penalties which may ensue are set out at section 8(2) to (7) of the Census Act 1920.

Personal census information cannot be accessed via a freedom of information request until it is over 100 years old⁷.

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?

⁶ <http://www.legislation.gov.uk/ukpga/Geo5/10-11/41/contents/enacted>

⁷ By virtue of sections 2, 38 and 58 of the [Freedom of Information \(Scotland\) Act 2002](#), personal census information is exempt from disclosure for the period of 100 years.

The information asset owner of the data supplied by those responding to the census will be the NRS Scotland's Census Director, 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.

3. Plans for consultation and engagement

NRS and the Scotland's Census 2021 programme is keenly aware of the wide diversity of interests represented by various groups and organisations who have a particular focus on what the census is and what it does. Engagement with our stakeholders will be key to helping us identify privacy risks and develop our plans to manage those risks.

Consultation, research and testing will play an important part in the design and content of questionnaires to ensure that the questions will meet user requirements and be acceptable and understandable to respondents.

In this initial PIA we identify a range of those stakeholders who we believe are likely to have an interest. We are aware there will be many more and intend, through discussions with those below, to identify more as our work on the PIA and the programme more broadly, progresses.

Internal stakeholders

Stakeholder	Role	Planned communications and engagement activity
Registrar-General for Scotland (RG)	Responsible for conducting the census; NRS Chief Executive; Chair of Scotland's Census Programme Board	As Chair of SCPB the RG will be regularly appraised of delivery progress and will contribute to Board approvals for all major programme decisions.
Scotland's Census Programme Board (SCPB)	Direction of programme; ensure delivery; commit resource	A copy of the initial PIA has been shared with the SCPB. Any comments offered will be considered in advance of subsequent drafts. Those drafts will similarly be shared with the SCPB as it develops

	Internal NRS membership	following discussions with other stakeholders.
Scotland's Census Sponsoring Board	Internal and external membership	To help steer the programme, ensuring it delivers maximum value and benefits. To help generate support, aid alignment with other government priorities and strategic activity as well as encourage the realisation of benefits. Advocating the value of the programme to all others who will influence its success.
Scotland's Census Director	Review and sign-off of PIA. Approval of all major programme decisions. Member of SCPB. Information Asset Owner	This initial PIA has been approved by the Census Director. Regular review and approval of plans for stakeholder engagement and subsequent updates of the PIA.
NRS Data Protection Officer	Advice and assurance around compliance with Data Protection Act (1998) principles and overall review of PIA. Member of Privacy Impact Group	Contributed to initial PIA and will be engaged at each iteration of document throughout lifecycle.
NRS Information Assurance	Provide security guidance and advise on information risk management for NRS projects involving protectively marked/personal information or data.	Contributed to initial PIA and will be engaged at each iteration of document throughout lifecycle.
NRS Privacy Impact Group	Provide privacy guidance and advise on NRS PIA's	Contributed to initial PIA and will be engaged at each iteration of document throughout lifecycle.
NRS Security	Provision of	Contributed to initial PIA and will be

	security policy, procedure, support and guidance	engaged at each iteration of document throughout lifecycle.
NRS Senior Information Risk Owner (SIRO)	Information Risk Management at corporate level; member of Scotland's Census Programme Board	The SIRO will be responsible for ensuring accreditation of any ICT systems and services used in Scotland's Census 2021, and as a member of SCPB will be appraised and regularly updated around programme delivery progress.

External stakeholders

Stakeholder	Role	Planned communications and engagement activity
General Public	Participation – provision of data via completion of questionnaire	Plans will be further defined around testing public awareness and attitudes around the census and participation in it using research and staging of public events.
Information Commissioners Office (ICO)	Regulatory; Guidance/ advice on PIA	Contact has already been established with the Information Commissioner's Office. They corresponded with NRS via the question topic consultation (Oct 2015 to Jan 2016) and are aware of the initial plans to publish a PIA. They have committed to review and advise on the PIA.
Privacy interest groups (e.g. NO2ID, Big Brother Watch, Open Rights Group)	Groups representing members of the public, and others, with privacy interests and concerns	The programme has approached a range of privacy advocate groups, seeking to establish contacts within each organisation, with whom we will engage and maintain contact as the programme develops.
Scottish Government Data Protection and Information Assets team (SG DPIAT)	Guidance/ advice on PIA	The SG DPIAT provided comments on the PIA and advise on the programme's compliance with the Data Protection Act 1998.
Population and Migration	Key users; help raise	PAMS is the principle forum for key users of NRS demographic statistics.

Statistics committee (PAMS)	awareness and encourage public participation	PAMS acted as the Scotland's Census Advisory Group for the 2011 Census, offering views on the plans for that programme, and is expected to fulfil a similar role for the 2021 Census.
Potential suppliers and contractors	Service providers	Supplier engagement events were conducted in 2016 to share information about the types of services that the programme will need to procure. The importance of privacy to the programme was communicated as part of these events.
Office of National Statistics	Responsible for the census for England and Wales, and for UK Outputs	Extensive collaboration around harmonisation, UK outputs, statistical processing methodologies.
Northern Ireland Statistics and Research Agency	Responsible for the census for Northern Ireland	Extensive collaboration around harmonisation, UK outputs, statistical processing methodologies.

4. Identifying the privacy and related risks

NRS is committed to demonstrating that all the data we collect, access or use and all the work we undertake is done with due regard for and in a way that maintains the privacy of those to whom it relates. This assessment sets out measures to identify and address privacy risks or issues associated with Scotland's Census 2021 programme, not least those associated with:

- ensuring that full and proper regard is given to individuals' rights to privacy
- protecting the data that we collect and use
- preventing the abuse or misuse of data
- avoiding accidental or deliberate disclosure of data or any data losses

The assessment of risks to individual privacy must be complemented by consideration of organisational risks. As well as the potential harm to individuals, any breach of privacy would also have serious repercussions for the work and reputation of NRS.

Two broad privacy risks have so far been identified by Scotland's Census 2021 programme and are summarised below.

Privacy issue/ risk	Risk to individuals	Compliance risk	Associated organisation/ corporate risk
<p>Unauthorised disclosure of data</p> <p>There is a risk of compromise to confidentiality of data about individuals because of unauthorised or inadvertent disclosure.</p> <p>Examples include inadvertent compromise by a statistical process such as disclosure control, deliberate compromise by a member of staff or a targeted attack by cyber criminals.</p> <p>Vulnerability in or malfunction of security controls</p> <p>There is a risk of compromise to confidentiality, integrity or availability of data about individuals because of weaknesses in</p>	<p>Compromise to confidentiality of data leading to harm or distress to an individual or group of individuals.</p> <p>Data subjects may have privacy concerns relating to the security of information technology used to process their data and about the extent of organisational measures in place to protect their data.</p>	<p>There is a risk of non-compliance with the Census Act 1920 (section 8), Data Protection Act 1998, Human Rights Act 1998 (Articles 8 and 10 ECHR), Freedom of Information (Scotland) Act 2002 (sections 38 and 58).</p>	<p>Reputational damage to NRS and/or the data providers; Possible enforcement action against NRS; Loss of confidence in NRS and/or the data providers; Loss of public finances to NRS and/or data providers</p>

technical or procedural security controls.			
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Questions to identify privacy issues

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

Involvement of multiple organisations

Q: 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. This is likely to include parts of the wider Scottish Government, local authorities, external contractors, the Office for National Statistics, the Northern Ireland Statistical Research Agency, voluntary organisations and privacy advocate groups.

Anonymity and pseudonymity

Q: 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.

As noted on page 14 these people will be bound by the Census Confidentiality Undertaking (Annex A) 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.

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.

Technology

Q: 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

Q: 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 identifiers are likely to include an internet access code (to enable participants to respond online). Existing individual identifiers include name. 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 possible that internet access codes may be provided to enable individuals to complete their census separately from others in a household.

Q: 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. We 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.

Q: 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

Q: 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 7. 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 gender identity.

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

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

A: We envisage 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.

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. 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. Any such research will be conducted in safe secure environments and further information will be made available as this work is taken forward.

Q: 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. The potential topics to be included in Scotland's Census 2021 are detailed in the relevant section on page 7. 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.

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

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

A: Various local and national government departments and other public

bodies hold datasets to support and manage their day-to-day activities. They routinely gather data when registering people or carrying out transactions, or for record keeping, usually when delivering a service. These are referred to as “administrative data” and examples include: educational records, electoral registrations and council tax records. The 2021 programme will be investigating the potential use of a number of administrative datasets to help support its delivery.

We envisage 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.

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. 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. Further detail will be made available as research is taken forward. Such research will be conducted in a safe and secure environment.

Q: 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: Various local and national government departments and other public bodies hold datasets to support and manage their day-to-day activities. They routinely gather data when registering people or carrying out transactions, or for record keeping, usually when delivering a service. These are referred to as “administrative data” and examples include: educational records, electoral registrations and council tax records. The 2021 programme will be investigating the potential use of a number of administrative datasets to help support its delivery.

We envisage 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.

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. 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. Further detail will be made available as research is taken forward. Such research will be conducted in a safe and secure environment.

Changes to data handling procedures

Q: 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.

Q: 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 we continue to meet our obligations to keep data safe.

Q: 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.

Q: 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.

Q: 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, we may move away from publishing the traditional high volume of 'tables' that evolved during the time of print publishing. Instead we 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

Q: 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. Section 33(4) of the Data Protection Act 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 and 58 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.

Q: 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

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

A: No.

Q: Is there to be public consultation?

A: Yes. There will be an extensive programme of stakeholder engagement throughout the lifecycle of Scotland's Census 2021. Consultation around topics has already taken place whilst other plans to seek views, including on this PIA, will be confirmed in due course.

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

A: No. The Census Act 1920 provides the justification. Under section 1 of the Census Act 1920, an Order in Council may be made directing that a census shall be taken. It is anticipated that an Order will be made in respect of the 2021 Census by 2020. Under section 2, the Registrar General for Scotland must make such arrangements as are necessary for the taking of the census.

Other risks

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

A: No further risks were identified. However, it is hoped that the PIA 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.

5. Identify privacy solutions

Risk	Solution(s)	Result: is the risk eliminated, reduced, or accepted?	Evaluation: is the final impact on individuals after implementing each solution a justified, compliant and proportionate response to the aims of the project?
<p>Unauthorised disclosure of information</p> <p>There is a risk of compromise to confidentiality of data about individuals because of unauthorised or inadvertent disclosure leading to:</p> <ul style="list-style-type: none"> • harm or distress to an individual or group of individuals; • reputational damage to NRS and/or the data providers; • possible enforcement action against NRS; • loss of confidence in NRS and/or the data providers; and, 	<p>All persons who may come into contact with census data 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</p>	<p>Reduced.</p>	<p>Yes.</p>

<ul style="list-style-type: none"> loss of public finances to NRS and/or data providers. <p>Examples include inadvertent compromise by a statistical process such as disclosure control, deliberate compromise by a member of staff or a targeted attack by cyber criminals.</p>	<p>lawful authority.</p> <p>NRS is committed to ensuring that privacy of every individual whose data will be collected and processed as part of this programme will be protected. All statistical outputs produced by NRS fully comply with the Code of Practice for Official Statistics. The fifth principle of the Code of Practice for Official Statistics is confidentiality: 'Private information about individual persons (including bodies corporate) compiled in the production of official statistics is confidential, and should be used for statistical purposes only.'</p> <p>NRS complies with the following practices which are specified in the Code of Practice for Official Statistics: -</p> <ul style="list-style-type: none"> Ensure that official statistics do not reveal the identity of an individual or organisation, or any private information relating to them, taking into account other relevant sources of information. 		
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	<ul style="list-style-type: none"> • Keep confidential information secure. Only permit its use by trained staff who have obligations under this Code. • Ensure that arrangements for confidentiality protection are sufficient to protect the privacy of individual information, but not so restrictive as to limit unduly the practical utility of official statistics. Publish details of such arrangements, where appropriate. 		
<p>Vulnerability in or malfunction of security controls</p> <p>There is a risk of compromise to confidentiality, integrity or availability of data about individuals because of weaknesses in technical or procedural security controls leading to: harm or distress to an individual or group of individuals; reputational damage to NRS and/or the data provider; possible enforcement action against NRS;</p>	<p>NRS is proud of having a long standing excellent reputation for handling personal data securely, having held personal data since 1855 in relation to births, deaths, marriages and the census. NRS has in place a range of security and information assurance procedural and technical controls to minimise the risk of data compromise. These controls are currently being reviewed to ensure that they reflect the changing profile of risks to our data,</p>	<p>Reduced.</p>	<p>Yes.</p>

<p>loss of confidence in NRS and/or the data provider; and, loss of public or non-public finances.</p> <p>Data subjects may have privacy concerns relating to the security of information technology used to process their data and about the extent of organisational measures in place to protect their data.</p>	<p>the requirements of the Census programme and that they continue to align with the appropriate international security standards and Government guidance. These controls will continue to be reviewed throughout the Census programme.</p>		
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Linking the PIA to the data protection principles

The Data Protection Act 1998 is built on 8 broad principles, which are detailed below. Answering the questions noted, during the PIA process, can help to identify where there is a risk that the programme will fail to comply with the DPA or other relevant legislation.

Principle 1

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

- a) at least one of the conditions in Schedule 2 is met, and**
- b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.”**

Q: 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 Census Act 1920.

Q: 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.

Q: 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.

Q: Have you established which conditions for processing apply?

A: Section 2 of the Census Act 1920 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”, and that “The Registrar General for Scotland in the exercise of his powers and in the performance of his duties under this Act or under any Order in Council or regulations made thereunder shall be subject to the control of, and comply with any directions given by, the Scottish Ministers.”

The Data Protection Act 1998 Schedule 2, Conditions 5 (b) and (c) and Schedule 3, Condition 7 (1)(c) therefore apply to the processing of personal data for the taking of a census.

Schedule 2 Condition 5(b) requires that 'the processing is necessary for the exercise of any functions conferred on any person by or under any enactment'. Condition 5(c) requires that 'the processing is necessary for the exercise of any functions of the Crown, Minister of the Crown or a government department', in respect of any personal data.

Schedule 3, Condition 7 (1)(c) requires that 'the processing is necessary for the exercise of any functions of the Crown, Minister of the Crown or a government department', in respect of sensitive personal data.

Q: 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 Census Act 1920 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:

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

A: 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.

Section 2 of the Census Act 1920 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 Census Act 1920 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.

Q: 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 Census Act 1920. 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.

Q: 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.

Principle 2

“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.”

Q: 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 Census Act 1920.

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

A: This will be considered as the programme progresses.

Principle 3

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

Q: 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.

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

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

Principle 4

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

Q: 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.

Q: 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.

Principle 5

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

Q: 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, 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.

Q: 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.

Principle 6

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

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

A: Section 33(4) of the Data Protection Act exempts 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 Census Act 1920.

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 and 58 of the Freedom of Information (Scotland) Act 2002, which states that personal census data is exempt from disclosure for 100 years.

Q: 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.

Principle 7

“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.”

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

A: Scotland's Census 2021 programme is at an early stage of design and planning and many specific processes, procedures and operational aspects are not yet fully defined, including the identification and specification of systems and services required. This initial assessment records our current understanding and will be updated as the programme develops. NRS will take appropriate technical and organisational measures to safeguard census data from unauthorised and unlawful processing.

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

A: NRS will ensure that suitable training and instructions are provided. Further information will be provided as more detail of the design becomes available.

Principle 8

“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.”

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

A: This section will be further populated as more detail of the overall design becomes available.

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

A: This section will be further populated as more detail of the overall design becomes available.

6. Sign off and record the PIA outcomes

Planning and identification of risk mitigation actions is an ongoing task and further detail will be provided in future updates to this PIA. 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.

Risk	Approved solution	Approved by
<p>Unauthorised disclosure of information</p>	<p>All persons who may come into contact with census data 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.</p> <p>All statistical outputs produced by NRS fully comply with the Code of Practice for Official Statistics.</p>	<p>Amy Wilson, Census Director</p>
<p>Vulnerability in or malfunction of security controls</p>	<p>NRS has in place a range of security and information assurance procedural and technical controls to minimise the risk of data compromise. These controls are currently being reviewed to ensure that they reflect the changing profile of risks to our data, the requirements of the Census programme and that they continue to align with the appropriate international security standards and Government guidance. These controls will continue to be reviewed throughout the Census programme.</p>	<p>Amy Wilson, Census Director</p>

7. Integrate the PIA outcomes back into the project plan

Planning and identification of risk mitigation actions is an ongoing task and further detail will be provided in future updates to this PIA. 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.

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Annex A CONFIDENTIALITY OF PERSONAL CENSUS INFORMATION

The success of the census depends on everyone in Scotland providing information about themselves. We cannot expect them to do that, if they fear that their details will be made public. So section 8 of the Census Act 1920 makes it **a criminal offence to disclose that 'personal census information'** without lawful authority. Everyone working on the census, whether they are employed by the Registrar General or work for a company providing services to the Registrar General in connection with the Census, is subject to the strict confidentiality provisions of the Census Act 1920 and the Census (Scotland) Regulations 2010.

Everyone working with (or who has access to) personal census information must sign a **Census Confidentiality Undertaking** to confirm that they understand these legal obligations and are aware of the penalties for unlawful disclosure or use of the information, or failure to keep it safe.

Please read the extracts provided below from the Census Act 1920 and the Census (Scotland) Regulations) 2010. When you have done so, you are required to sign the **Census Confidentiality Undertaking** which will be kept by the National Records of Scotland and may be used for criminal investigations into possible offences.

Registrar General for Scotland

The Census Act 1920

Section 8 of the Census Act 1920, as amended by the Census (Confidentiality) Act 1991, states:

"8(1) **If any person -**

(a) refuses or neglects to comply with or acts in contravention of any of the provisions of this Act or any Order in Council or regulations made under this Act he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale [currently £1,000].

8(2) **If the Registrar General for Scotland or any person who is -**

(a) under the control of either of the Registrars; or

(b) a supplier of any services to either of them

discloses any personal Census information to another person, without lawful authority, he shall be guilty of an offence.

8(3) If any person discloses to another person any personal census information which he knows has been disclosed in contravention of this Act, he shall be guilty of an offence.

8(4) It shall be a defence for a person charged with an offence under subsection (2) or (3) to prove

- (a) that at the time of the alleged offence he believed-
 - (i) that he was acting with lawful authority; or
 - (ii) that the information in question was not personal Census information;
and
- (b) that he had no reasonable cause to believe otherwise.

8(5) A person guilty of an offence under subsection (2) or (3) shall be liable -

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum [currently £10,000] or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

8(6) For the purposes of this section -

- (a) references to a Registrar include, where he is also the holder of a designated office, references to him in his capacity as the holder of that office;
- (b) a person is to be treated as under the control of one of the Registrars if he is, or has been -
 - (i) employed by that Registrar (whether or not on a full-time basis); or
 - (ii) otherwise employed, or acting, (whether or not on a full-time basis) as part of that Registrar's staff for purposes of this Act;
- (c) a person is to be treated as a supplier of services to a Registrar if he -
 - (i) supplies, or has supplied, any services to that Registrar in connection with the discharge by that Registrar of any of his functions;
or
 - (ii) is, or has been, employed by such a supplier.

8(7) In this section -

"census information" means any information which is –

- (i) acquired by any person mentioned in subsection (2) above in the course of any work done by him in connection with the discharge of functions under section 2 or 4 of this Act;
- (ii) acquired by any such person in the course of working, for purposes of section 5 of this Act, with any information acquired as mentioned in subparagraph (i) above; or
- (iii) derived from any information so acquired.

"designated office", in relation to a Registrar, means any office for the time being designated by him in writing for the purposes of this section; and

"personal Census information" means any Census information which relates to an identifiable person or household.

The Census (Scotland) Regulations 2010

Regulations 18 and 19 of the Census (Scotland) Regulations 2010, state:

18. Any person having the custody, whether on that person's behalf or on behalf of any other person, of any forms of return or other documents (including electronic documents) containing personal census information must keep such forms and documents in such a manner as to prevent any unauthorised person having access to them.

19. A person to whom information is given pursuant to the Census Order and these Regulations must not, other than for the purposes of the Act -

(a) make use of that information; or

(b) publish it or communicate it to any other person.

This is an important document. Please read it carefully and keep it in a safe place.

I have read section 8 of the Census Act 1920, as amended by the Census (Confidentiality) Act 1991, and regulations 18 and 19 of the Census (Scotland) Regulations 2010.

I understand and acknowledge the obligations of confidentiality and the conditions on which census information (including information on identifiable individuals and households) can be held, used and disclosed as set out in the Census legislation.

I understand that it is an offence under section 8(2) of the Census Act 1920 to disclose any personal census information to another person without lawful authority and that convictions for such an offence may result in a criminal record and fine and/or up to two years imprisonment. I also understand that it is an offence under section 8(1) of the Census Act 1920 to fail to comply with the provisions on safekeeping and use of information in regulations 18 and 19 of the Census (Scotland) Regulations 2010, and that the penalty for such an offence is a fine of up to £1,000.

I undertake to comply with this legislation.

I also undertake to report any concerns I have about the confidentiality of census information, whether arising from my own duties and actions or those of others, to [insert e-mail address] or by telephone on [insert telephone number].

Please sign the form below and then detach it and pass it to the [insert address]. Please retain the rest of this paper for your own reference.

I have read section 8 of the Census Act 1920, as amended by the Census (Confidentiality) Act 1991, and regulations 18 and 19 of the Census (Scotland) Regulations 2010.

I understand and acknowledge the obligations of confidentiality and the conditions on which census information (including information on identifiable individuals and households) can be held, used and disclosed as set out in the Census legislation.

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Signed _____ Date _____

Job Title _____

Full name _____ **(Block letters)**