Stephen Imrie  
Devolution (Further Powers) Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP  

5 May 2015  

Dear Stephen  

I promised to provide further information to the Committee on some points that arose during the oral evidence session held on 23 April 2015. These related to pre-population of electoral registration forms, use of personal information for the purposes of donations to political parties etc., and appropriate disclosure of information contained in registers. I am pleased to be in a position to provide that further evidence for the Committee’s consideration.

**Pre-population of registration forms**

We have further investigated issues surrounding the pre-population of electoral registration forms sent to households with personal information. We are aware that the household enquiry form (HEF) may be pre-populated with the details of the people currently registered at a particular address. We have previously given advice that dates of birth should not be pre-printed on forms sent to households as this would be providing an excessive amount of personal information which could lead to some damage or distress to an individual. We continue to hold that view and would wish to see any regulations relating to registering young people reflecting our view.

We are reassured that Electoral Registration Officers (EROs) have sufficient powers to obtain information from the registrars about recently deceased people and are able to delete those entries promptly so as to avoid distress to their families. EROs also have powers to review and delete entries where they have reason to believe a person no longer lives at their registered address. The regular and proactive use of these powers will assist in keeping the personal information contained in the electoral registers up to date, which is one of the data protection principles.
Protection and disclosure of young person’s information

Clauses 12 to 14 of the Bill provide for the protection of information and some exemptions from that protection. The definition of “a young person’s information” is given at Clause 12(2)(a) and only applies to those who are under 16 years of age. There will be some young people who are enfranchised by this Bill but will be 16 years of age when the register is published.

The third principle under the Data Protection Act is that, “personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed”. As I mentioned to the Committee on 23 April, the ICO has some concerns that the Bill as currently drafted will provide some recipients of the electoral registers with more personal data than they need for their purpose. For example, the Scottish Courts & Tribunals Service (SCTS) is entitled to a copy of the electoral register for the purpose of jury service. Jurors must be at least 18 years old. As the Bill stands, they would be given information about people who would still be under 18 before the next annual update to the register and so not eligible to serve as a juror. Without being marked in a way to identify them as 16 years old, then the SCTS may waste resources (potentially including Court time) by including those under 18 years of age in jury lists. The Boundary Commission for Scotland (for the purposes of a review of UK constituency boundaries only) and credit reference agencies could also find themselves in a similar position of having personal data that is irrelevant to them.

We therefore recommend that the Bill should be amended so that those electors under the age of 18 should not have their personal details supplied to recipients who have no need for their information. We suggest that this could be done by exemptions from supply to certain recipients under the relevant parts of the 2001 Regulations.

Donations by young people

The issue of validating the eligibility of a person to donate to a political party or candidate was raised during the oral evidence session. We understand the Electoral Commission will provide further evidence to the Committee about whether under-16s could be eligible donors. From the ICO’s perspective, we would wish to see the Bill reflect the third data protection principle as described above. Where there is a clear need for EROs to disclose personal data, and for political parties or candidates to use personal data, for a specified purpose, this will comply with the data protection principles. It will be necessary for the
Committee and the Scottish Government to consider how this information is to be best supplied in the case of under-16s as their details could not be disclosed to a political party as the Bill stands. This could be achieved by a political party writing to the ERO to confirm the details of the young person. This would help to ensure that the disclosure is limited to the particular purpose and there is a clear audit trail for both the political party and the ERO.

I trust this further evidence is helpful to the Committee during its deliberations. If the Committee would like any clarification or further information to be provided by us, we would be happy to do so.

Yours sincerely

Dr Ken Macdonald
Assistant Commissioner for Scotland