I understand that you have expressed some concerns about the effect of amendment 7 to the Scottish Independence Referendum (Franchise) Bill, tabled by the Scottish Government and considered and agreed to by the Committee at its Stage 2 session on 6 June. As you may be aware, I undertook at that session to set out for you the current position and rationale behind the Scottish Government’s approach on this issue, and to report back to the Referendum Bill Committee ahead of Stage 3. Stage 3 is scheduled to take place in the week beginning 24 June.

Section 7B of the Representation of the People Act 1983 sets out the circumstances in which those applying to the local government registers can register using a declaration of local connection (which is made using a form available from Electoral Registration Officers). The circumstances covered are those people in mental hospitals, prisoners on remand and homeless people (including travellers). Section 7 of the Scottish Independence Referendum (Franchise) Bill as introduced would provide an additional ground for making a declaration of local connection for the purposes of the Register of Young Voters (“RYV”) by providing that any young person aged under 17 applying to the register in the RYV who did not wish to disclose their current address could use an address in Scotland at which they previously resided to register.

As I said when I gave evidence to the Committee on Thursday, the Scottish Government’s general approach to this Bill and policy underpinning it has been to replicate current registration practice for the purposes of the RYV as far as possible, while balancing that with the need to treat data on those young people sensitively, and recognising that they might have particular needs.

As the policy memorandum and explanatory notes accompanying the Bill made clear, the additional ground for those applying to register in the RYV was intended to be used by vulnerable young people, for example, those for whom the disclosure of their address, even to a very limited group of people (the RYV will not of course by published) could pose a risk.

However, as the original provision did not explicitly state who would be eligible to make such a declaration, the Scottish Government was concerned that the original provision could theoretically have allowed any young person under 17 living outside Scotland to apply to the Register of Young Voters using a previous address in Scotland. Scottish Government amendments 7 and 8 therefore put beyond doubt the purpose of the provision set out in section 7 of the Bill - which is to protect particularly vulnerable young people - by setting out, in broad terms, the circumstances in which such young people will be entitled to make such a declaration, so that the provision can fulfil its original intention.

As the amendments make clear, the two groups of young people who will be able to utilise this facility are young people being ‘looked after’ by a local authority, and those kept in secure accommodation (mainly in care situations).

I understand that you are concerned that there may be other young people in other circumstances who may have reasons for wanting to register without disclosing their address, for example those fleeing from a situation of domestic abuse, possibly with a parent. It is of course possible that such young people would still be able to register using a
declaration of local connection if the Electoral Registration Officer deemed them to be homeless.

Of course this situation is not unique to young people nor to the arrangements for the Referendum. Adults may currently wish not to disclose their address because of fears for their personal safety. There is a different route open to young people and their parent in such a situation where their security may be at risk. Young people in that and other situations which may affect their personal safety will still be eligible to apply to register to vote completely anonymously, as some individuals on the local government registers are already entitled to do. Registration by such means would provide even stronger protection than making a declaration of local connection, as it would mean that neither a person’s name or address would appear on the Register of Young Voters. Depending on personal circumstances, anonymous registration is available to every young person, and their parent.

The process of anonymous registration is well established, provided for by section 9B of the Representation of the People Act 1983, and regulations 31G to 31J and 45A to 45G of the Representation of the People (Scotland) Regulations 2001. The relevant parts of these are applied, so far as relevant, for the purposes of registration in the RYV. Anonymous registration is expressly linked to a safety test, i.e. the Electoral Registration Officer needs to be satisfied that the safety of somebody in the household would be at risk. To register anonymously, a person has to provide evidence of one of two types: that they, or a member of their household, is protected by one of several listed court orders giving protection from harassment; or that a senior police officer, chief social work officer or other listed person of similar type certifies that someone in the household’s safety would be at risk if they were registered showing their name or address.

I agree that it is crucial that individuals should know that these routes are open to them if they have any concerns about the security of the information they provide, or their (or anybody in their household’s) personal safety. The Scottish Government is therefore considering whether to bring forward at Stage 3 consideration of the Bill an amendment to the information provided on the back of the young voter registration form (set out in schedule 2 to the Bill). In addition, we have agreed with Electoral Registration Officers the need for them to engage actively with local authorities and other bodies with responsibilities of care to promote awareness of these arrangements.

I hope that this letter addresses any concerns you have and look forward to your response.

12 June 2013