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Culture, Tourism, Europe and External Affairs
Committee
The Scottish Parliament
Edinburgh, EH99 1SP

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Dear Joan,

Thank you for your letter of 27 June in which you raise a number of issues around the sex and transgender status/history questions proposed for Scotland's Census 2021.

First of all, now that the Census (Amendment) (Scotland) Bill has received Royal Assent, I would like to thank you and the Committee again for your support in the passing of this Act. This piece of legislation ensures that respondents are quite rightly not penalised for not answering questions on these personally sensitive matters and it will also help with the development of the evidence needed to provide support to these populations. This is a positive step forward for Scotland.

You raise concerns around the National Records of Scotland's response to an FOI regarding the process of developing the sex and transgender status/history questions for Scotland's Census 2021. Question development is part of a multistage process that the National Records of Scotland undertook for the Census 2021 questionnaire. This questionnaire design process can be split into three main parts; topic consultation, follow-up stakeholder work based on those consultations and question development.

Designing a questionnaire for a national census is a complicated process as it needs to be able to be completed for everyone regardless of the age or background and without the aid of an interviewer to provide support. In addition, topics can be asked about in varying degrees of detail depending on the required data, and questions can be asked in different ways which can often lead to very different responses. Furthermore, questions asked earlier in a questionnaire may influence how people respond to later questions and people may be influenced by answering similar questions in previous censuses or other surveys. For all of these reasons, it is essential that the development of the questions and questionnaires for the census follow a robust analytical process that is widely tested to ensure that it delivers high quality data to meet user needs.

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The question development work for the 2021 Census was based on the results of topic consultation and stakeholder consultation, as well as taking into account what has worked well/not well before and international best practice (including working with the Office of National Statistics and the Northern Ireland Statistics and Research Agency). The wording of all the questions (including the sex and transgender status/history questions) were then subject to a programme of testing including public acceptability testing, cognitive testing, and quantitative testing. The results of this testing and the question development were published alongside the *Plans for Scotland's Census* in September 2018 (<https://www.scotlandscensus.gov.uk/plans-scotland's-census-2021>).

Follow-up events were then held in November 2018 with stakeholders, which allowed the National Records of Scotland to update users on their on-going programme of question and outputs development, and to seek feedback on the proposed questions and outputs from the questions discussed in the publication. Discussions also took place around definitions, guidance and privacy.

These events were publicised through stakeholder lists, the Census newsletter and on the Census website:

<https://www.scotlandscensus.gov.uk/news/2021-question-development-update>
<https://www.scotlandscensus.gov.uk/news/2021-questions-and-outputs-events>
<https://www.scotlandscensus.gov.uk/news/2021-questions-and-outputs-events-0>
<https://us5.campaign-archive.com/?u=125b618892d1abff1ec00914b&id=b003fc8b5b>
<https://us5.campaign-archive.com/?u=125b618892d1abff1ec00914b&id=be8edec2f7>

In addition to this, during the passage of the Bill, additional consultation was undertaken with various groups (including the ones that you highlighted in your letter) on the transgender status/history question and the different versions of the sex question that National Records of Scotland was considering. For example, it was asked whether the sex question should be binary or non-binary and whether it should be self-identified or based on biological sex. This consultation focussed on which question should be asked, privacy and concerns around the guidance rather than the wording of the questions themselves.

Whilst the official process of question development was completed by 1 October 2018, National Records of Scotland continued to consult with stakeholders (*Annex A*) on the questions throughout the rest of 2018 and 2019, as highlighted by the engagement described above.

As a result of all of this feedback, National Records of Scotland are now doing further question development work and will be testing questions and associated guidance over the coming months. The exact details of what is being tested is still under discussion but National Records of Scotland will be writing to those who provided evidence during the Stage 1 passage of the Act, or who have contacted National Records of Scotland directly, to ask whether they would like to discuss the questions and guidance the questions to be tested. The further robust evidence which comes out of the planned testing will help all of us understand how people interpret and respond to different sets of questions and guidance.

Regarding the points you raise around the development and testing of the transgender status/history question in particular, the question development took place between January 2017 and September 2018. In August 2018, the National Records of Scotland tested two

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versions of the question to see if the inclusion of a definition of 'trans' was acceptable and beneficial to respondents. Following this testing, the National Records of Scotland decided to include the definition of 'trans' in the question and to also include a write-in box.

Individuals and organisations who attended the three Census 2021 Question and Outputs events (which were open to the public) in 2018 were able to view the currently proposed wording of the question. The organisations that have viewed the wording are the Equality Network, Scottish Trans Alliance, Stonewall, LGBT Youth Scotland, Population and Migration Statistics (PAMS) user group, MBM Policy and DSD Families.

Whilst there have been no changes to the proposed wording of the question since September 2018, National Records of Scotland are currently liaising with ONS, who have received further stakeholder feedback on the terminology used in the question, and they are currently re-considering the wording of the question for the Census in Scotland, including as part of the engagement that I have described. Once completed, National Records of Scotland will update the Committee of any proposed changes as a result of this consideration ahead of the session on 12 September, although of course, the final question is a matter for the Scottish Parliament.

I will write to you separately on the National Records of Scotland current plans for testing and to clarify the Scottish Government's position on the sex question.

I do hope you have found this helpful and I look forward to working with the Committee on the Census subordinate legislation to ensure we have a Census in 2021 for everyone in Scotland.

Kind regards
Fiona Hyslop

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