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Dear Michael,

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT BILL: PSC REGISTER

I would like to thank you again for your contributions to the Report stage debates on the register of people with significant control ('PSC register') on 9th March.

I undertook to write to you as to whether a public interest test will be available to challenge applications for protection of an individual's information from public disclosure, and whether we will publish a broad list of categories under which protection may be granted.

As you are aware, our intention is to allow protection from public disclosure of information in exceptional circumstances, where an individual is at serious risk of violence or intimidation. We have thought carefully about how prescriptive regulations on this point should be, following consultation on the protection regime generally and the question of eligibility specifically. That discussion paper, and our proposed next steps, may be found here: <https://www.gov.uk/government/consultations/company-ownership-and-control-discussion-paper-on-a-public-central-register>.

On balance, we are not minded to set out categories of risk in the secondary legislation. This is because we could not possibly account for every eventuality, and the very real harm resulting from overly narrow legislative provision in this area is clear.

I hope I may however reassure you by noting that every applicant will need to provide evidence that supports the grounds on which their application is made. This will be assessed by the registrar, who may seek input from another authority – such as the police – in making a decision. The potential for abuse will therefore be very low, and we intend to provide clear guidance in due course on the operation of the regime.

As I said during Committee debates, given the circumstances in which protection will be granted I do not think it would ever be in the public interest to override the registrar's decision outside the parameters of the formal appeal process.

As a result, we do not intend to make provision in secondary legislation allowing third parties to challenge the registrar's decision. That is not however to say that a person could not bring a judicial review if they felt the registrar's decision had been unlawful – although it is difficult to see how this would work in practice, given the applications and supporting evidence must necessarily remain confidential.

I would however note that, as it is an offence to provide false information to the registrar, any allegation about a false application would be carefully examined and could result in criminal proceedings against the individual in question.

Finally, as I said in response to one of Lord Borwick's questions on the protection regime during Report debates, I do intend the statutory review of the PSC register to consider the impact and efficacy of the protection regime as a whole. That will provide an appropriate point to determine whether any changes to the secondary legislation are required.

I hope this information is helpful. I am sending a copy of this letter to Lord Stevenson of Balmacara, Lord Mendelsohn and Lord Popat and placing copies in the House Libraries.

Warm regards

Lucy

BARONESS NEVILLE-ROLFE DBE CMG