



THE GOVERNMENT REPLY TO THE FOURTH
REPORT FROM THE HOME AFFAIRS COMMITTEE
SESSION 2003–04 HC 130

Identity Cards

**Presented to Parliament by the Secretary of State
for the Home Department
by Command of Her Majesty
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HOUSE OF COMMONS HOME AFFAIRS COMMITTEE: Fourth Report of Session 2003-4

Identity Cards: The Government's response

Introduction

The Government welcomes the report of the Home Affairs Committee into both the principle behind the phased introduction of an identity cards scheme and the draft Identity Cards Bill which was published on 26 April. In formulating its proposals the Government has taken into account the comments made both by the Committee and by other interested organisations, as well as by members of the public. The debate has been wide-ranging, starting with the announcement in February 2002 of the original consultation paper on what were then called Entitlement Cards and culminating in the responses to the consultation paper which accompanied the draft Bill. We are pleased that so many people have responded and taken part in public debate and research.

It is some time since Ministers and officials gave evidence to the Committee and significant work has been carried out since then on all aspects of the proposals. The Government is now in a position to set out its latest proposals for the delivery of the UK identity cards scheme. This introduction, therefore, sets the up-to-date context in which the more detailed points made by the Committee are dealt with.

The aims of the programme remain the same:

- to tackle illegal working and immigration abuse;
- to disrupt the use of false and multiple identities by organised criminals and those involved in terrorist activity;
- to help protect people from identity fraud and theft;
- to ensure free public services are only used by those entitled to them;
- to enable easier and more convenient access to public services.

Establishing the most cost-effective, reliable and acceptable system to deliver these aims has been the focus of the Government's work. A successful system must be able to enrol individuals promptly and accurately and store their data securely to enable it to be used to verify that identity in a wide variety of situations. It must also gain the confidence of users of the scheme, both the organisations which verify identity and the card holders themselves. The Government has listened to reservations, taken advice and observed practice in other countries. The Home Office has appointed a development partner to advise on preparing for procurement of the various components of the scheme. This is a large, complex programme which will be carried out under UK Government and EU procurement rules. EU rules ask for requirements to be advertised in the Official Journal of the European Union (OJEU); the Government's requirements will therefore be published at this stage. At the same time, work is continuing on developing and refining the business case for the project, with the involvement of stakeholders from both within and outside Government.

The Government is now in a position to bring forward more specific proposals, which build on both the original statement in *Identity Cards: The Next Steps* which was published in November 2003¹ and the work which has been carried out subsequently. The essential elements of the scheme remain the same: the establishment of a new, secure register and biometric cards for British nationals resident in the UK and foreign nationals resident for more than three months. We have revised our proposals to concentrate on these elements and rationalised both the linkage with existing identity documents and the way in which the scheme will be delivered. The core elements of the scheme are, briefly, as follows:

¹ Cm 6020

- A single standardised identity card for all resident UK nationals would be issued alongside passports and possibly other documents in the longer term, as well as in its own right for those who wished it;
- Registration certificates and residence permits for foreign nationals would be issued, taking account of EU standards, but to the same level of security as the UK identity cards and as part of a single overall system for recording and verifying the identity of all legal residents;
- A single, standard verification service, operating online to achieve full security and ensuring a full audit trail of card use, with the alternative of a visual check for low value and low risk transactions;
- A simplified organisation structure for delivery – a new Executive Agency incorporating the functions of the United Kingdom Passport Service (UKPS) and working closely in conjunction with the Immigration and Nationality Directorate (IND) of the Home Office in respect of foreign nationals;
- An enhanced function for the proposed National Identity Scheme Commissioner who would be responsible for the oversight of the whole scheme.

Preliminary research suggests that a single, standardised identity card of the type proposed here is a clearer and simpler idea for the public to understand. It follows the approach used in most EU Member States, which is a point raised by the Committee in its report. The card for British nationals with their nationality on the face would be accepted as a travel document within the European Economic Area², like the cards which are routinely used within the EEA by nationals of Member States. A card which did not show nationality on the face would also be available for the small number of people for whom a card valid for travel within the EEA would not be necessary or appropriate³. The linkage to passport issue will ensure that the majority of the population could be registered in a manageable way as they renew their passports (80% of the adult population have a passport)⁴.

The establishment of an agency in this way would have several advantages. It would, for example, allow for simpler, clearer management accountability to Ministers and Parliament and draw on the existing skills and capability of the United Kingdom Passport Service and the Immigration and Nationality Directorate. It would also considerably reduce the risks and cost attaching to setting up and maintaining consistent standards across different agencies. And, most importantly, it would open up the possibility of offering a single point of contact for all applications.

Verification of identity is the key activity in the successful operation of the scheme: a card is intended to be used in transactions which require the satisfactory establishment of identity. A simplified verification service would enable organisations to adopt a consistent approach to checking identity, which should in turn lead to more efficient delivery of services and enhanced consumer confidence.

The Committee raised, at several points in its report, the issue of how exactly the card might be used by service providers. The examples of potential uses of the card given by other user Departments later in this response show that there is a wide range of possible applications – and further applications may of course arise in the future. Key to all of these is the ability of the system to enable

² This is the EU, plus Norway, Iceland and Liechtenstein. Swiss nationals also benefit from free movement rights within the EEA.

³ These would include, for example, those whose passports had been confiscated as a result of a Banning Order under Football-related legislation or as a condition of bail.

⁴ It is estimated that by 2008, 87% of the adult population will have a passport.

identity to be securely verified. These examples are of course not intended to be exhaustive, but they do show how the contexts in which the card is likely to be used relate to the stated aims of the scheme. Thus, for example, HM Customs and Excise sees a clear benefit for their enforcement activities against the use of stolen or forged documents if they are able to check an individual's biometrics against the information on the Register. The Immigration and Nationality Directorate of the Home Office likewise sees a role for identity cards in the context of combating illegal working.

Another area in which potential card users envisage significant benefits is in combating identity fraud. This is an increasingly serious problem, which, it is estimated, costs the UK economy £1.3 billion per annum. It is also a problem which impacts on many other areas. For example, secure verification of identity would help in tackling benefit fraud and fraudulent applications for, for example, student loans or grants. It is known that many people involved in serious organised crime and terrorism use fraudulent or multiple identities. The capacity to register one secure identity for all residents would disrupt much of their activity. The Home Office has been working with the financial sector on issues relating to identity fraud and is co-ordinating existing activity in both the public and private sectors to focus on reducing identity fraud and theft.

It is against this background that we now turn to a more detailed examination of the specific points raised by the Committee.

Conclusions and recommendations

The international context

1. While we can understand why the Government has proposed a combined passport and identity card, we regret that no analysis has been published of the costs and benefits of a free-standing identity card. (Paragraph 20)

Since the Government's first response to the Committee significant work has been done on options for cards. A free-standing identity card, as in most EU Member States, has been considered. As the Committee appreciates, analysis of particular options has not been published. However, when cost, implementation and risk considerations are assessed together, we now think the option of a free-standing card is more attractive, as we have explained in the introduction to this response. Nevertheless, we still believe that there is merit in linking the issuing of this card to existing identity documents, particularly passports.

2. We consider in detail later in this report the concerns raised in the United Kingdom over the Government's proposals. The international experience clearly indicates that identity cards and population registers operate with public support and without significant problems in many liberal, democratic countries. In a number of these, the holding and even carrying of the card is compulsory and appears to be widely accepted. However, each country has its own social, political and legal culture and history: the nature of each identity scheme and population register reflects those unique elements. We cannot assume that any particular approach can be applied successfully in the UK. Nor can we yet draw on any significant international experience of the use of biometrics on the scale that is proposed in the UK. (Paragraph 38)

The Government agrees with the Committee's view that the different circumstances in other countries make it unwise to assume that any particular approach can be imported into the UK, and that there is as yet little significant international experience of the use of biometrics on a similar scale and business environment to draw on.

However, the international community is increasingly moving towards the use of biometrics in travel and other identity documents to improve their security. In the EU particularly there are currently proposals to include biometrics in passports, visas and residence permits. Several EU Member States, for example Italy and France, either already include biometrics in their identity cards or have advanced plans to do so. In addition, the United States now requires all foreign visitors, including British citizens, to provide fingerprint biometrics on arrival in the US as part of the US VISIT system. The Government intends to be in the lead in the debate in the EU on improved security for travel and identity documents, and is actively involved in work within the EU. The United Kingdom Passport Service will start to issue passports with a facial image held in a chip from late 2005 onwards. We firmly believe that an EU-wide approach to document security and biometric identifiers will secure legitimate free movement rights and combat abuses.

Concerns of principle

3. An identity card scheme of the sort and on the scale proposed by the Government would undoubtedly represent a significant change in the relationship between the state and the individual in this country. International experience does not suggest that objections of principle are overwhelming, although the development of a biometric-based scheme does introduce new elements that have not been tested elsewhere. We do not, however, believe that an identity card scheme should be rejected on constitutional grounds alone. (Paragraph 59)

The Government welcomes this acknowledgement by the Committee that there are no compelling constitutional reasons for rejecting the introduction of identity cards. It is undoubtedly the case that many liberal democracies, including almost all of our EU partners, use identity cards. We are confident that, in the context of the need to demonstrate identity in many different day to day situations already, we are not imposing a step change in the citizen's relationship with the state, rather an improvement in the way in which it functions. We believe, along with a majority of the population of this country, that identity cards represent, not a threat to civil liberties, but a way of supporting and enhancing them, in the light of new challenges such as increased freedom of movement. There are many things which will not change with the introduction of identity cards; for example there will be no new powers for the police to demand identity cards, and existing entitlements, for example to health care, will not be affected. Nor will the introduction of identity cards affect the status of particular groups of foreign nationals. The position of Irish nationals resident in the UK will also be unaffected.

4. The test should be whether the measures needed to install and operate an effective identity card system are proportionate to the benefits such a system would bring and to the problems to be tackled and whether such a scheme is the most effective means of doing so. (Paragraph 60)

The Government agrees with this test, and believes that it is met by the scheme as proposed. Work is continuing with the aim of establishing the most effective means of implementing the scheme, in a way which will secure the benefits for individual citizens and society as a whole.

Practical concerns

5. The proposed system is unprecedentedly large and complex. It will contain sensitive personal information on tens of millions of individuals. Any failure will significantly affect the functioning of public and private services and personal and national security. Measures to ensure the integrity of the design, implementation and operation of the system must be built in to every aspect of its development. As we will remark at a number of points

throughout this report, the Government's lack of clarity about the scope and practical operation of the scheme, and the nature of the procurement process, does not give us confidence that this will be achieved. We will make recommendations for addressing this serious weakness later in the report. (Paragraph 64)

The Government agrees that measures to ensure the integrity of the design, implementation and operation of the system must be built in to every aspect. This is why the Home Office has established a team, from both within and outside Whitehall, with considerable expertise in the design and implementation of large-scale complex projects. However, the Government would not agree with the use of the word "sensitive" to describe most of the data to be collected and stored. Most of the data which will be held by the scheme is already public and is used routinely in everyday transactions, like opening a bank account or joining a library.

The Government is aware of the challenge presented by the scale of the identity cards scheme. It will be introduced in an incremental manner. This will include not only the incremental enrolment of the population, but also the incremental roll-out of verification technology which will permit the introduction and testing of new technology in a measured way. The Government agrees with the Committee that the scheme should be designed with care and with measures which ensure its integrity. However it would be premature for the Government to commit to a prescriptive, detailed definition of all parts of the scheme at this stage. The requirements specification phase of the scheme is underway and is committed to producing an out-put based requirement with the service levels necessary to ensure that the security, integrity and performance of the scheme meet the needs of public and private sector users and command the confidence of the general public.

Furthermore, the Government has maintained an open dialogue from the earliest stage of developing the proposals to inform the requirements analysis, particularly in the areas of new technology such as biometrics. We have also begun to develop and map out our procurement approach, which will be in accordance with the relevant EU Directives.

More detailed responses to the specific points raised by the Committee will be made later in this response as they arise.

Benefits and weaknesses of the Government's scheme

6. It is reasonable for the Government to have refined the aims of its scheme after a consultation exercise and development of proposals for its implementation. It has now set out its reasons for introducing identity cards, in its most recent document, *Legislation on Identity Cards: A Consultation*, which accompanied the publication of the draft Bill. (Paragraph 70)

The Government is pleased that the Committee has recognised the importance it places on consultation and that some of the changes it has made to its proposals came about as a result of its public consultation. One example of this is that the original term "Entitlement Card" was dropped in favour of "Identity Card" because the public showed a clear preference for the latter term.

7. However, many elements of the design of an identity card scheme, from the national register, to the design of the card and to its operational use, depend greatly on the precise purpose for which it is designed. Although some core functions are consistent and clear, the changing aims of the scheme do not give total confidence that the Government has arrived at a complete set of clear and settled aims for the card. The Government has not yet clarified how it intends to deal with some elements of the original proposals for entitlement cards, such as which services should be linked to the card and whether there

should be unique personal numbers across public services. We consider these issues further below, but it is clear that they are central to the functioning of the scheme. (Paragraph 71)

Work is continuing with stakeholders in the public sector on the issues raised by the Committee here. The aims of the scheme and their relation with the statutory purposes as set out in the draft Bill are considered in the response to point 8 below and as an introduction to the section on the draft Bill which begins at point 59.

8. The draft Bill might have been expected to clarify the Government's aims but we do not believe it has done so. It is essential that the Government explain its intentions on issues raised in this report before the Bill is published. (Paragraph 72)

The Government has been open about the aims of the identity cards scheme which it gave to the Committee in its original written evidence. They are:

- to tackle illegal working and immigration abuse;
- to disrupt the use of false and multiple identities by organised criminals and those involved in terrorist activity;
- to help protect people from identity fraud and theft;
- to ensure free public services are only used by those entitled to them;
- to enable easier and more convenient access to public services.

The aims of the scheme are not the same as the statutory purposes of the Register which are set out in clause 1(2) and which are given below. The Government believes that these purposes are clear. It intends, however, to reflect the aims of the scheme on the face of the Bill.

“1 (2) The Register is to be established and maintained for the following purposes only (“the statutory purposes”) -

- (a) providing a record of registrable facts about individuals in the United Kingdom;
- (b) providing a record of registrable facts about other individuals (living and dead) who have been in the United Kingdom, or who have applied to be entered in the Register;
- (c) facilitating the issue of cards containing information that may be used by an individual issued with one for establishing his identity, place of residence or residential status;
- (d) facilitating the provision of a service by means of which registrable facts about a registered individual may, with his consent, be ascertained or verified by other persons; and
- (e) enabling information recorded in the Register for any of the preceding purposes to be disclosed to persons in cases authorised by or under this Act.”

Illegal working and immigration abuse

9. Identity cards could make it easier for those seeking work to demonstrate their right to do so, and, by the same token, make it easier for the police to show that a company employing illegal labour had done so knowingly. (Paragraph 79)

We agree with the Committee's assessment. It is important that identity cards be seen as part of a package of measures to be used in tackling illegal working. We are working with the Immigration and Nationality Directorate to ensure that, for example, our proposals remain consistent with section 8 of the Asylum and

Immigration Act 1996 (see points 10 and 11 below), in order to ensure the greatest impact on illegal working. Section 8 was amended by section 147 of the Nationality, Immigration and Asylum Act 2002 which came into force in May 2004.

10. We believe that identity cards can make a significant contribution to tackling illegal working. However this will need to be as part of wider enforcement measures, including action against culpable employers. We repeat our recommendations that the Government should target employers who deliberately break the law and that the Proceeds of Crime Act should also be used to seize profits made from the employment of illegal labour. We welcome the steps the Government has taken so far, but to be fully effective there must be properly resourced enforcement of existing regulations. (Paragraph 80)

The Government agrees that, where appropriate, the Proceeds of Crime Act should be invoked to confiscate the profits made by those who exploit illegal migrant working. There are several ways in which the Act can be used for offences which, like the offence of employing illegal workers, are tried in the Magistrates' Courts. One is section 70 of the Act which allows the Magistrates' Courts to commit a convicted defendant to the Crown Court purely for confiscation proceedings. In addition, Part 5 of the Act provides for civil recovery of assets on a lower burden of proof, ie the balance of probabilities. There is also the possibility of taxation of illegally acquired wealth under Part 6 of the Act. The illegal working offence in section 8 was made triable either way by section 6 of the Asylum and Immigration (Treatment of Claimants) Act 2004 which came into force on 1 October 2004. In some cases employers may have committed other offences in the context of illegal working; for example prosecutions have been brought for forgery or facilitation.

Following the conviction of six rogue gangmasters in March 2004 for money laundering and using false documents and replica immigration stamps to provide illegal workers to farms and factories, the police are engaged in recovering up to £4 million under the Proceeds of Crime Act.

11. The Government must clarify what action will be expected from the employer, including whether presentation of a card by a job applicant is enough or whether an employer would have to check the biometrics or the authenticity of the card. If so, the Government needs to be clear how often this will be required and what access to biometric readers or the National Identity Register will be available to employers or other agencies. (Paragraph 81)

These matters will be clarified in due course. Any move to amend the relevant legislation - section 8 of the Asylum and Immigration Act 1996, or the associated legislation specifying which documents employers should check to establish a defence to a charge under section 8 and to avoid using illegal migrant labour - in order to reflect the introduction of identity cards would be preceded by extensive public consultation and discussion with groups representing employers and staff. This would need to address detailed issues such as the cost and availability of card readers and practice in respect of checks against the National Identity Register. Consultation with employers and other interested groups is already taking place to ensure that their needs are reflected in the design of the verification service.

12. We are concerned that the three-month period for EU nationals, or those claiming to be such, might constitute a significant loophole: it is difficult to see what would stop someone moving from job to job on false papers. The Government must bring forward proposals to deal with this loophole, as well as making a substantial commitment to robust enforcement of laws against illegal working. (Paragraph 82)

We believe that requiring all foreign residents here for more than three months to register on the scheme will be effective against the great majority of illegal working – when combined with robust enforcement of the law. We are aware that some purported EU nationals are not genuine and we are committed to taking enforcement action against them. However, many foreign nationals, from within and outside the EU, visit the UK for business or tourist purposes for periods of less than three months. The Government does not intend to oblige such short-term visitors to register with the identity cards scheme. For legal reasons, it is not feasible to require EU⁵ nationals to register until they have been in the UK for three months and intend to stay longer. EU Free Movement legislation provides that all Member States may require nationals of other EU states resident in their territory to register with the authorities “not less than three months from the date of arrival”. At the moment the UK issues cards to EEA nationals on a voluntary basis.

However, this does not mean that EU nationals on short visits to the UK will not be subject to identity checks. Existing UK border controls require all EU nationals to produce valid passports or national identity cards in order to enter the UK. The European Commission has proposed a Regulation on standards for security features and biometrics in EU citizens’ passports (6406/04), and EU Governments are considering parallel improvements to national identity cards. The Government firmly believes that an EU-wide approach to document security and biometric identifiers will secure legitimate free movement rights and combat abuses.

Non-EEA nationals will be issued after 3 months with the card version of the EU common format residence permit which will contain biometric identifiers. All foreign nationals who stay in the UK for less than 3 months will continue to use their national passports or identity cards for identification purposes.

The Immigration Service has increased enforcement activity against illegal working. In the financial year 2003/04 the Immigration Service reported carrying out 697 illegal working enforcement operations, as compared with 301 in 2002/03. This underlines our commitment to enforcing our laws on illegal migrant working.

13. It is also clear that the integrity of the UK system will be dependent on the integrity of the passport, asylum and visa regimes in other EU countries. In our visit to Germany we were told of a pilot scheme involving biometrics to prevent fraudulent asylum and visa applications. The Minister of State has set out the UK’s involvement in similar schemes. As part of the development of the identity card scheme, the Government should report regularly to Parliament on progress being made across the EU to tackle any weaknesses in other EU countries, and, in particular, those countries currently judged to be the least secure. (Paragraph 83)

The Government welcomes the Committee’s acknowledgement of the importance of common minimum standards across the EU. These standards already exist for visas and residence permits for third-country nationals, and these are currently being amended to make them more secure. Similarly, negotiations are taking place on regulations covering security features in EU passports.

Parliament debated the EU Justice and Home Affairs work programme, at the request of the House of Commons European Scrutiny Committee, on 14 October 2004. The issue of document security within the EU was highlighted as an important element.

⁵ The legislation applies to the European Economic Area as well as the EU.

14. We conclude that identity cards, by reducing the “pull factor” from work, and public services, could make a contribution to preventing illegal immigration, but only if the scheme is properly enforced and complemented by action on access to public services. (Paragraph 84)

The Government welcomes the Committee’s view that identity cards could help deter and prevent illegal immigration. Once the identity cards scheme is in place it will be easier to prevent those who are not resident here and not entitled to public services from accessing them. The use of identity cards will avoid unentitled access to public services, and will bring benefits both to those who legitimately access such services and to those who administer them. This is the subject of continuing work with our stakeholders who appreciate the value of a standardised, robust way of checking identity. (See, for example, the responses to points 19 and 25.)

The Government intends to ensure that there are sufficient resources within the identity cards scheme itself to give help to organisations which check identity and to forward queries to agencies responsible for enforcement.

Organised crime and terrorism

15. We understand that the contribution to fighting terrorism would be the ability to disrupt the use of multiple identity, identity fraud and related activities like money-laundering, and illegal migration by terrorists and their networks. While, of course, not all terrorists make use of activities based on false identities, and some will have legitimate national or international identity documents, we believe that effective action on identity would be a real and important contribution to restricting the ease with which terrorists can operate. (Paragraph 94)

The Government is pleased that the Committee recognises the value of identity cards in combating terrorism. This is something which is also high on the international agenda, particularly in the EU. The security of travel and identity documents was raised as an issue at the special Justice and Home Affairs Council held in Brussels after the Madrid bombings earlier this year. It will be one of the elements of the EU’s work over the next 5 years and will be a priority for the UK during its next Presidency in the second half of 2005.

16. We note, however, the real benefits of an identity card in fighting serious crime and terrorism are only likely to be achieved with a compulsory scheme covering all citizens and residents. It will also be dependent on the effective use of the scheme to check identities, an issue we discuss in the next sections. (Paragraph 95)

The Government would not disagree that the full benefit of the scheme will be realised only after it became mandatory. However, the benefits of a phased introduction of identity cards should not be minimised, as from the beginning biometrics will be registered as people renew their passports and possibly other documents. It is known that around 35% of those involved in serious organised crime and terrorism routinely use false or multiple identities. The use of a secure and unique biometric identifier will disrupt their activities by making it impossible for them to enrol more than once on the Register. In cases where the police and other enforcement agencies have the power to ask for evidence of identity, the ability to check against the Register will enable them to carry out a prompt and reliable check.

Identity fraud

17. We believe there is a danger that in many day-to-day situations the presentation alone of an identity card will be assumed to prove the identity of the holder without the card itself or the biometrics being checked, thus making possession of a stolen or forged identity card an easier way to carry out identity

fraud than is currently the case. The availability of readers of cards and biometrics, including to the private sector, is therefore a crucial factor. (Paragraph 99)

It should be recognised that we have the opportunity to build visual verification features into the card that will be extremely difficult to forge. However, we also acknowledge that for most checks, including all high value or high risk transactions, the card will need to be verified via a card reader with online verification to the National Identity Register. In both our technical and cost benefit analyses we remain aware of the need to consider the provision of such readers.

As the following examples show, our stakeholders are considering how to address this issue in the context of their planning for the introduction of identity cards.

HM Customs and Excise

HM Customs and Excise will in some circumstances require proof of identity and therefore forged or stolen identity cards would pose difficulties, in a similar way that forged or stolen passports currently pose problems. Having biometric readers would overcome this and the Department would need readers at points of entry and exit (i.e. ports and airports) and when arresting individuals. Having these readers could have a preventative impact, as criminals would be less willing to cross borders using forged or stolen identity cards, and a confirmatory impact, as officers of HM Customs and Excise would be able to verify identity.

Department for Work and Pensions

The Department for Work and Pensions already has robust procedures in place to establish the identity of customers and it is anticipated that it would use identity cards to maintain or even enhance that level of security. They would therefore anticipate having readers available for use in local offices and to ensure checking of cards at levels appropriate to the benefit or service being accessed. Work to establish the number of card and biometric readers DWP might need is ongoing at present.

Department for Education and Skills

Identity cards have the potential to help in the reduction of fraudulent claims for Higher Education student finance. The main categories of attempted fraud are: students applying for a student loan, but with no intention of studying (these may or may not use a false identity); international students who do not qualify under the residency requirements applying as home students to benefit from lower fees and obtain loans and grants; and students falsifying their examination results. Every year, UCAS identify a number of student applications to HE which “raise suspicion”, prompting them to undertake identity checks by asking to see additional documentation - usually the passport. The majority of suspect applications are from home students.

Department of Health

The Government agrees that credible processes for checking cards throughout the NHS will be important in ensuring that stolen or forged identity cards do not lead to widespread losses to the NHS. This will also contribute to the wider benefits of cards to society in terms of making identity fraud more difficult.

Private Sector

In many cases organisations in the private sector are used to carrying out identity checks in the context of employing foreign nationals. We are confident that they would welcome enhanced document security. It is of course for each organisation to decide what kind of equipment they might need, whether fixed or mobile. We

would anticipate a high demand for card readers, which should reduce the cost of an individual unit.

18. We think it would be likely that identity cards would help combat identity fraud, but only as part of a wider package of measures. The Government should be clearer both about how and when it expects the card and biometrics to be checked and about what levels of security are appropriate in different circumstances. (Paragraph 100)

The Government recognises that identity cards need to be part of a package of measures in combating identity fraud. One initiative which the Home Office has taken was to set up the Identity Fraud Steering Committee and Forum to lead a cross public-private sector work programme to tackle identity theft and identity fraud and share details about new initiatives. As part of this work, the Committee is involved in co-ordinating existing activity in the public and private sectors, and identifying new projects and initiatives to reduce identity fraud.

The introduction to this response refers to issues relating to card checks. There is more detail on security generally at points 39 and 46.

Entitlement to public services

19. Identity cards would make it easier to establish entitlement to public services. But the Government should take action now to ensure that measures to check identity are developed across public services prior to the introduction of the new card. (Paragraph 107)

The Government accepts the importance of checking identity. The following examples show how some Departments approach identity checks. The same issue in the context of the private sector is dealt with at point 27.

Department of Health

The Department of Health agrees that developing a culture of checking identity and entitlement as a matter of routine practice is very important. Last year the Government consulted on tightening up arrangements for access to free hospital care and amended regulations came into force in April 2004. To underpin those new regulations the Department issued much more prescriptive guidance and is concentrating on raising the profile of the charging regime and ensuring its implementation in all NHS trusts in England. NHS staff can also consult the central policy team if they have queries about the regulations. A further consultation on the possible introduction of charging arrangements into primary care closed on 13 August 2004.

Department for Work and Pensions

When an individual makes a claim to benefit they are required to provide sufficient information for their identity to be confirmed. The Department for Work and Pensions already has robust procedures in place to establish the identity of customers which currently involve individuals providing a number of documents. A single national standard of establishing identity that meets DWP standards and brings a new level of secure verification is seen as an important aid in the fight against fraud. DWP is currently examining how the identity card can both improve security and provide easier access to services.

Department for Education and Skills

Abuse of the post-16 education system is not a major issue, and we do not wish to deter young people from entering post-16 education. Identity cards would however help establish eligibility for post-16 learning by introducing a simple and consistent check on learner identity. National guidance for Further Education providers already exists for eligibility and funding purposes.

20. The Government should also review entitlements to public services across the board with the aim of rationalising and standardising them, since there does not appear to be a consistent set of principles underlining access to government services. (Paragraph 108)

The identity cards scheme will enable more consistent rules for identity checks to be developed across government services. Any move to rationalise eligibility rules would need wide consultation.

21. The existence within the United Kingdom of up to four different systems for checking entitlement to public services will be a possible cause of confusion, particularly where cross-border services are provided. The UK Government should liaise closely with the devolved administrations on these issues, both to avoid confusion and to learn from the experiences of the devolved administrations' own entitlement cards. (Paragraph 112)

The rigour of the application process and the uniqueness of the biometric will mean that, in time, the identity card will become the gold standard way of proving identity throughout the UK. We are clear that as well as providing a more convenient way for those entitled to services to access them, an identity card will also help to prevent unauthorised access to services. However, the use of cards for devolved services such as health and education is a matter for the devolved administrations, just as there are differences now. We are working with the devolved administrations to discuss how any potential differences would work in practice including the implications for cross-border services.

Easier access to public services

22. The Government's current proposals would improve access to public services to the extent to which this depends on identification. It is important to ensure that the convenience to the state of having a comprehensive system of identifying individuals and accessing data about them is accompanied by an increase in convenience to the individual. The benefits must not be entirely, or even predominantly, to the state. (Paragraph 118)

The Government agrees with this view. We believe that identity cards will enable faster and more convenient access to a wide range of services for all citizens and residents and will allow individuals to prove their identity quickly, safely and securely without having to produce numerous documents such as driving licences, utility bills or bank statements, most of which are not primarily designed to prove identity and which can reveal information not relevant to an identity check, for example how much they spend on that telephone service. There will also be a benefit for young people who will have a simple means of proving their age when making age-related purchases, without having to rely on the many, less secure, different forms of identity which are available to them now.

The ability to register and demonstrate one's identity securely will be of significant benefit in combating identity fraud and theft. It is estimated that this costs the economy £1.3bn per annum, and this does not of course take account of the full effect on an individual whose identity is stolen. Recording biometric information on the National Identity Register (NIR) and incorporating it into identity documentation would provide a unique link between the NIR, the identity card and the person to whom it is issued. This should help to ensure that once an individual has registered with the national identity cards scheme his or her identity is protected and cannot be stolen by fraudsters.

23. The Government has not developed coherent proposals for using the identity card in other ways to improve access to a wider range of services and information or to promote greater coherence across public services. As a result, citizens are still likely to be required to carry a wide range of cards and documents to use many local and national, public and private services. We believe that this is a missed opportunity. (Paragraph 119)

Responses to other points made by the Committee show how some Departments are planning to use the identity card. Additionally, as part of the programme's communications strategy, public awareness campaigns will be developed to raise awareness and understanding of the scheme. The key messages and information provided will need to set out the situations where cardholders can use their cards to prove their identity for different public and private services. The Government will continue to work on new opportunities to promote greater coherence across public services as the standard identity verification scheme develops.

Key issues

24. We note that at the moment there is very little clarity about the level and nature of checks that will be required and carried out, even though this is fundamental to the whole scheme. We recommend that the Government should provide estimates of the proportion of checks that would be biometric and therefore highest security. (Paragraph 125)

With the help of organisations expected to use the identity card, the Government is forming a model of the card's usage. The introduction refers, to the proposal to make online checks against the Register the norm, except in those low risk/low value cases where a visual check is judged to be sufficient. This, we believe, will ensure security and consistency and make the system easier to understand and to operate.

25. It is not clear that Government departments have identified how the operation of their services, or entitlement to them, need to be changed to make best use of an identity card system. (Paragraph 126)

The Government recognises the need for ongoing work on these issues. We are continuing to liaise with our stakeholders in other Government Departments as they take account of the introduction of identity cards in their business planning. The examples below give an indication of their thinking at this stage.

Department of Health

The Government has no plans to introduce primary legislation to change the legal basis for access to free NHS care; Ministers are confident that identity cards can contribute greatly to more effective enforcement of the existing arrangements, so there is no compelling reason to change the rules on entitlement on this account.

Department for Work and Pensions

The Department for Work and Pensions is currently conducting feasibility work to establish the full impact the introduction of a national identity card will have on their business processes and systems, and what the costs and benefits might be. This includes the impact on the Local Authorities who administer Housing Benefit and Council Tax Benefit on behalf of DWP. It is anticipated that this work will be completed by late Autumn.

Department for Education and Skills

As the Secretary of State for Education made clear in his evidence and witness statement, the introduction of a secure form of identification could reduce bureaucracy and administrative burdens in post-16 course registration, funding and training; it could also reduce identity and financial fraud in applications for funding. It could make the process of identification quicker and easier especially if combined with on-line enrolment and a unique learner number.

An identity cards scheme, fully enforced and including, as planned, the immigration status for foreign nationals could help the Department for Education and Skills and Local Education Authorities ensure that only those who were here

legally in the UK and met certain other residence criteria would receive financial support to engage in Higher Education. It could provide a quick and easy method of verifying identity and the immigration status of applicants for financial support. It could also help to prevent multiple applications for student support.

26. In most cases, identity cards will only be fully effective if complementary enforcement action can be taken. (Paragraph 127)

The Government accepts this view. We are working with bodies like the police and the Immigration Service to ensure that enforcement activities complement the use of identity cards. We will, for example, ensure that any amendments to section 8 of the Asylum and Immigration Act 1996, which deals with employers' obligations to check entitlement to work, take account of the development of identity cards. (See also the responses in the section on illegal working and immigration abuse (points 9-14).)

27. Finally, more could be done to check identities today and there is a danger that action will be delayed pending the introduction of an identity card. (Paragraph 128)

The Government agrees that checking of identity is important in many contexts. The introduction of identity cards will provide a consistent, secure means of doing this, but this of course does not, and will not, replace the need for service providers to be vigilant, and for public service providers to make checks on identity in advance of the introduction of identity cards.

In addition the Home Office is working with the financial services sector on issues relating to checking identity in the context of identity fraud reduction. This sector takes checking identity very seriously and it is the subject of guidance for firms to help them ensure that they know the identity of their customers. Under the Money Laundering Regulations 2003 (which replaced the 1993 Money Laundering Regulations with effect from 1 March 2004) there is a general legal obligation on financial services firms to verify their customers' identity. The Financial Services Authority (FSA) rules impose similar obligations. However, neither the Regulations nor the FSA rules specify exactly how identity verification should be undertaken. The financial services industry, through a Joint Money Laundering Steering Group (JMLSG) of some 16 trade associations, has over many years developed good practice guidance which outlines a variety of areas that can be used to identify an individual.

The FSA recognises that the present approach to identity in the UK can be improved. It has been leading a review involving all the key stakeholders and recently published a report on defusing the identity issue. The FSA expects this to result in the development of a simpler regime that will make the identification process more straightforward and less demanding for both firms and customers whilst enhancing its value in the fight against crime.

In the public sector it is also clear that checking identity is an important priority, and that other Departments are putting measures in place in advance of the introduction of identity cards. There are examples of this in the response to point 19 above.

Public support

28. It may be that citizens will choose to use identity cards voluntarily on an extensive basis. However, until identity cards are compulsory there should be realistic alternatives to their use in every case. There should also be effective restrictions on inappropriate demands for them. (Paragraph 133)

The Government intends that citizens and residents should not be disadvantaged in the first phase of the scheme if they do not have an identity card or indeed if their card has been lost or stolen. There is specific protection under clause 19 of

the draft Bill which prohibits requiring the production of an identity card (with no reasonable alternative means of proving identity offered) except where it is already compulsory for that person to be registered. Clause 19(3) makes clear that this may be enforced in the civil court, which could also assign liability for damages. It is intended that only those private sector organisations which are approved would be able to make checks against the National Identity Register. Approval would be removed if a particular business attempted to misuse the service, for example by making inappropriate demands on cardholders. In addition, clause 19 will be revised to cover not only inappropriate demands for identity cards, but also inappropriate demands for checks on the National Identity Register.

Foreign nationals who are in the country for less than 3 months are a particular category who will not be expected to have a UK identity card. They may continue to use their national passport or identity card for identification as they do now. If they do plan to stay longer than 3 months, they may register for a card earlier if they wish, although they will not be obliged to do so. Service providers may continue to use other acceptable forms of identity documentation.

The ‘voluntary’ stage

29. Given the Government’s decision to base identity cards on passports and driving licences, we believe the incremental approach to introduction is justified. We set out our concerns about the implications of this choice in paragraphs 19–20 above. (Paragraph 138)

The Government is pleased that the Committee recognises the value of an incremental approach to implementation. This will mean that the potential problems associated with a “big bang” approach will not occur and any initial problems can more easily be rectified. Public understanding and acceptability should also be easier to achieve with a phased approach to implementation, and with the rationalisation of the scheme described in the introduction.

Vulnerable groups

30. The effect of the identity card scheme on minorities, such as the elderly, the socially excluded and ethnic groups, is of the utmost importance. The Government should ensure that the scheme imposes no new disadvantages on these groups, and do so before it is implemented. (Paragraph 141)

The Government has already given a commitment to issuing cards at a reduced fee for vulnerable groups, including those on low incomes, and to looking at arrangements for the elderly. These arrangements could include a lifelong card for some elderly people, and non-biometric cards for some categories of frail or elderly residents.

In the report the Committee notes the concerns of some witnesses over the effects of any identity card system on vulnerable groups. They also quote the evidence of the Metropolitan Police that “the scheme could become compulsory prematurely for those disadvantaged members of society, because they would have to have an ID Card in order to access Social Security Benefits, etc.” (Paragraph 139).

The Government does not believe that this will be the case. On the contrary, the Government believes that the scheme will provide advantages as, for example, in time possession of an identity card would confirm an individual’s status in the UK and assist in accessing Social Security benefits. Possession of an identity card will help customers who have them to establish their identity quickly in face-to-face transactions, providing speedier access to services. However, none of the Department for Work and Pensions’ customers would be disadvantaged in their dealings with the Department during the take up period should they not have an identity card and entitlement to benefits would always remain subject to relevant conditions of entitlement.

The draft Bill is flexible enough to cater for special requirements in the applications procedure, including for those who may have difficulty in applying.

The Government is continuing to take steps to ensure that the needs of those who may find it difficult to participate in the scheme are taken into account fully. We are liaising with a wide range of stakeholders representing these groups to ensure that particular needs are realised and taken into account as the design of the scheme progresses.

The National Identity Register

31. We do not ourselves have the expertise to make judgements on the technical issues involved in setting up a national identity card system, but we have been struck by witnesses' insistence on the importance of the Government getting the structure right from the beginning and sticking to its decisions. We are concerned that the Government's approach has not taken into account the need to ensure adequate technical debate and public scrutiny of the design of the system. (Paragraph 144)

The Government also recognises the importance of getting the approach right from the start. To address this, we have a team from inside and outside Government, incorporating the necessary wide range of skills, working on the requirements of the scheme. We are also engaging independent advice from the scientific and technical community, as well as other disciplines relevant to this complex programme. We are engaging with the supplier market to ensure that we draw on the expertise and experience of those who will potentially be implementing the system (and have experience of similar projects elsewhere). Our programme plan envisages beginning the formal procurement exercise after the legislation receives Royal Assent to ensure that potential suppliers have a firm basis on which to proceed.

Architecture of the database

32. The structure of the database, and how to set it up and manage it, are among the most important choices the Government has to make. We are greatly concerned that the Government's procurement process appears to be taking these key decisions without any external reference or technical assessment, or broader public debate. We recommend the Government publishes details of consultations with any external bodies and also any technical assessments that have been undertaken. (Paragraph 147)

Technical specialists from our development partner are assessing implications around the design of the database. This is also an area where, once engaged in a formal procurement, we will be looking for proposals from suppliers, which we will in turn be evaluating rigorously. We will be able to make such assessments and evaluations public except where to do so would be inappropriate (for example, because of security or commercial considerations).

Access to the database

33. A balance needs to be struck between, on the one hand, protecting individuals from unnecessary access by public and private bodies to information held on them and, on the other, ensuring that users of the database have the information they need for the scheme to fulfil its purposes. Above all, it is important that the public should know who may be able to see information about them, and what that information is. (Paragraph 151)

The Government recognises that this balance needs to be struck. It is important to bear in mind, however, that when people use the term "access to the database" they generally mean the process by which identity information is confirmed via the verification service. Most transactions will simply be for the verification of the identity of the individual concerned; such transactions will

normally not do more than confirm the identity of the person or the validity of the card (or possibly both). Individual subject access rights under the Data Protection Act will apply.

Under clause 14, individuals may consent to public and private sector organisations confirming their identity using the National Identity Register. Before it is compulsory for that individual to register, public and private sector organisations must offer reasonable alternative means to prove identity. It is intended that only those organisations which have been approved would be able to make checks against the National Identity Register.

The organisations listed in clause 20 will have the power to request that information be provided without consent in accordance with their statutory purposes which are consistent with the purposes of the Register; they may request additional information to that needed for verification of identity, provided that this is in accordance with their statutory purposes, and allowed for under clause 20, such as national security or combating crime.

This is also considered at points 60 and 79.

‘Function creep’

34. Whatever the merits or otherwise of such developments [e.g. the establishment of a national fingerprint register], their potential should be recognised. It is essential that they do not develop incrementally or by executive action but are subject to full Parliamentary scrutiny. These issues are at least as significant as the decision to make cards compulsory. (Paragraph 158)

The statutory purposes of the Register are set out in clause 1(2) of the draft Bill. These set boundaries for its use. Registrable facts are defined in clause 1(4). Changes to the statutory purposes and registrable facts may only be made by primary legislation. Schedule 1 details the information which may be held in the Register; amendments to this information may be made by secondary legislation, but must be consistent with the statutory purposes and within the parameters of the registrable facts. The Government believes that this would provide the right level of Parliamentary scrutiny should any further administration propose changes to the content or uses of the National Identity Register.

35. In a similar way, identity cards are not planned to be a single card for all public services, but it clearly is possible, and perhaps desirable, for a successful identity card scheme to develop in this direction. But this should be a decision of Parliament, not of the executive. (Paragraph 159)

The function of the identity card scheme is to enable secure verification of identity. However, the Government agrees that the identity card scheme could, in principle, and with public acceptance, develop in this direction and that such a development should be a decision of Parliament. The draft Bill does not allow the National Identity Register to hold information that is outside the statutory purposes of the scheme. Therefore, without further primary legislation, we could not hold the information necessary for it to operate in the way envisaged by the Committee. However, there is potential for the identity card to be used to make it administratively easier to access public services, for example by swiping a card to pull up an individual’s details held on the service’s own database. Any such requirement to produce an identity card would require Parliamentary approval. If clause 15 of the draft Bill is used to make public services conditional on identity checks using the identity card, Parliament would have to approve these Regulations for each individual public service.

Information on the database

36. The functions of the Register entail establishing an individual's identity in a number of different circumstances. For some of these, such as interaction with local authorities, addresses may be necessary. There is therefore a case for including them in the National Identity Register. But to do so would have significant administrative and operational consequences, since the Register would need to be updated frequently; the extra work could lead to mistakes which would be disastrous if not properly handled. The Government should be more explicit about the case for including addresses and demonstrate that the advantages of doing so outweigh the problems that would be created. The Government should also clarify whether addresses would be only on the Register or whether they would be legible on the surface of the card itself. (Paragraph 163)

The Government's view remains that including, and updating, addresses on the Register is necessary for the operation of the scheme. The scheme is intended for those resident in the UK and addresses are necessary to establish someone's residential status. We agree with the Committee that in some transactions address details are necessary, and believe that the ability to check current addresses on a secure database is a far better way of establishing residence than requiring, for example, a utility bill to be produced. We believe, moreover, that this will benefit people who move frequently and who may otherwise find it difficult to access some services where, for instance, address details over several years are asked for. The need for capacity to update address, and other, information has been factored into the business case for identity cards and the requirement to provide a secure means for individuals to update their details will be part of the specification.

The issue of whether addresses should appear on the face of the card is a different one. The passport does not show address, whereas the driving licence, for example, does. Neither is necessarily an exact comparator for the identity card, and a decision has not yet been taken on this, though our emerging thinking is leaning towards not showing the address on the face of the card and only holding it on the National Identity Register.

37. In many parts of Europe, including Sweden and Germany, where there is a requirement to register addresses, it is a legal requirement for landlords to register their tenants. We recommend that this be adopted if the Government decides to include addresses, since it would help alleviate the problem of frequent changes of address. (Paragraph 164)

We believe that it should be the responsibility of the individual to keep their information up to date but it will be straightforward to them to do so. It is not necessarily helpful to compare systems across different countries which may have quite different legal systems and patterns of renting. Additionally we are not convinced that the burdens which this would impose on landlords would be matched by any corresponding benefits to citizens.

38. The nature of the individual number and its relationship to other identifying numbers used by the state are more decisions that are crucial for the design and development of the system. The Government must be clear and open about the issues involved and enable informed parliamentary and public scrutiny of any decisions. (Paragraph 167)

The Government agrees this is an important issue and refers the Committee to its response to points 41-44 below.

Biometrics

39. The security and reliability of biometrics are at the heart of the Government's case for their proposals. We note that no comparable system of this size has been introduced anywhere in the world. The system proposed would therefore be breaking new ground. It is essential that, before the system is given final approval, there should be exhaustive testing of the reliability and security of the biometrics chosen, and that the results of those tests should be made available to expert independent scrutiny, perhaps led by the Government's Chief Scientific Adviser. (Paragraph 175)

The scale and ground-breaking nature of the scheme in its use of biometric technology are clear. To ensure its success the Government will introduce the scheme incrementally and flexibly, and will also be conducting extensive testing of all aspects of the system prior to the scheme's introduction. Exhaustive testing of the reliability and security of the biometrics is only one element of what is needed. We are engaged in a series of trials and tests to establish our technical requirements in the field of biometrics. However, the reliability, security and accuracy of the biometrics and of the enrolment and verification processes rely as much on organisational, procedural and environmental issues as technical ones. In the key area of security the identity cards programme already has a framework for independent scrutiny from the Central Sponsor for Information Assurance (CSIA) and accreditation of all aspects of the scheme.

The Home Office's Chief Scientific Adviser is ensuring that the Identity Cards Programme has the best possible scientific advice. To underpin that advice, the Government's Chief Scientific Adviser will be chairing an external panel to provide systematic peer review of the scientific and technical advice provided to the Identity Cards Programme. This is in addition to the examination which has already taken place by the Home Office's Science and Technology Reference Group, made up of independent scientists, and the follow-up discussions with that Group's members which have been held with officials from the Identity Cards Programme.

Medical information

40. We agree with the BMA: it would not be either useful or appropriate to keep medical details on the Register. But it would be sensible for the identity card to be the mechanism that enables individuals to access their NHS records. (Paragraph 176)

Clause 1(4)(i) enables the National Identity Register to hold information recorded in the Register at the individual's request. This could include medical information. However, the draft Bill also gives the Secretary of State discretion to refuse to record voluntary information if he does not consider it practicable or appropriate to do so. Revisions to the Bill will narrow down this option of having facts registered on a voluntary basis.

The Government has made it clear that medical information would only be stored on the National Identity Register on a voluntary basis; in no sense would it be a substitute for the NHS Care Records Service, which is being rolled-out across England. The Government will explore how identity cards could be used to assure identity before allowing patients access to their records. However, there would be no question of other users of the Register, such as the police, being allowed routine access to medical records.

The Citizen Information Project and other Government databases

41. We doubt that the Citizen Information Project will provide “a strong and trusted legal basis for holding personal contact information” if the information on it has to be confirmed by another, separate identity card Register. There is a very large degree of overlap between the Citizen Information Project and the National Identity Register. The Registrar General mentioned the options of “comprehensive legislation to oversee information matching which in itself was conducted by individual agencies but which improves the quality of individual registers without actually going to the next step of creating a register” and of “common standards for register management in the British government”: each of these would be more worthwhile than the Citizen Information Project as it is currently planned. (Paragraph 185)

42. We are concerned by the proliferation of large-scale databases and card systems, since we have seen little to suggest that they are being approached in a co-ordinated way. While we have not taken detailed evidence on current proposals, other than the Citizen Information Project, we have the impression that each government department is continuing with its own project in the hope that it is not going to be significantly affected by other projects. The format of registration on different databases should be coherent and consistent. (Paragraph 186)

43. We believe that the Government must tackle this proliferation of databases, examining in each case whether the number, identifier or database is needed, what its relationship is to other existing or planned databases, how data will be shared or verified and other relevant issues. For this action to be effective, it must be co-ordinated at the highest levels of the Civil Service. (Paragraph 187)

44. We do not think that there should be a central database with all information available to the Government on it. But an identity card should enable access to all Government databases, so that there would be no need for more than one government-issued card. (Paragraph 188)

The Government welcomes the Home Affairs Committee's comments on the relationships between various database developments, including the National Identity Register, proposed as an integral part of the identity cards scheme and the Citizen Information Project (CIP). The CIP was established in order to explore the scope for efficiency savings for government through the use of shared contact information and we recognise that the Committee has made several significant recommendations to help achieve this.

During the course of his evidence to the Committee, the Registrar General for England and Wales, Len Cook, mentioned the range of possibilities for taking the work forward. The CIP feasibility study had considered the option of a stand-alone population register most closely. The current project definition phase has been exploring a range of options for delivering the project's aims. These include cost benefit analysis of potential business models and take account of on-going developments in related areas of work.

The Government accepts the need to avoid a proliferation of registers and recognises that improving both access to, and efficiency of, public services are important features of CIP and the Identity Cards Programme. The Government believes that the NIR has the longer term potential to fulfil some of the functions envisaged for the national population register. In the light of developments to the NIR, CIP is no longer actively exploring plans to develop a separate population register but rather will be exploring options to improve the quality and effectiveness of existing registers, including the possible use of personal reference numbers.

In addition we believe that the identity card will provide an opportunity for more joined up Government by providing a consistent and standard business key for future systems evolution.

Registration and enrolment

45. The integrity of the enrolment and registration processes are central to both the smooth running of the system and to its security. Without data of investigative or evidential quality, few of the objectives of the scheme can be achieved. Issues the Government must consider include: the number of mobile units to enrol the housebound, the elderly and those in remote locations; how sensitive the equipment is to the environment; the training of personnel; and the need to minimise opportunities for corruption and fraud. More study of these aspects is needed. (Paragraph 193)

The Government welcomes these comments and agrees that the integrity of the enrolment and registration processes is key to the success of the scheme.

We recognise that the first challenge relating to enrolment and registration is the overall integrity of the process of establishing on registration that the applicant is demonstrably who they claim to be. The processes to enable this to be done in the most secure and acceptable manner are under close scrutiny. The proposed biometric technology can only be used to guarantee certainty in subsequent identification when the initial identification and enrolment process is fully robust. The enrolment process must achieve the required levels of assurance to maintain public confidence, whilst achieving the levels of security, integrity and availability that the system as a whole demands. We recognise that confidence in the overall integrity and security of the enrolment data is key to public acceptability and the efficient use of the system by Government.

The number of mobile units is under review. We recognise the importance of keeping the data secure. It is our intention at this stage that the mobile service be widely available commensurate with the necessary safeguards to ensure that applicants' data remains secure and its integrity is guaranteed. The programme will build on the existing capabilities of the United Kingdom Passport Service and its programme of work on improving identity authentication and document security.

The need to minimise the potential for corruption and fraud is recognised. It is our intention to minimise and strive to eliminate identity fraud if at all possible. This is key to overall acceptability and confidence in the identity card scheme data. We are developing the necessary processes and procedures together with the necessary training to establish that enrolment is as sure and certain a process as possible. We are also aware of the need to provide sufficient resources at enrolment centres to ensure that the public receives a good service and that there is adequate oversight of the enrolment process to counter attempts to defraud the system. This will represent a balance between delivering consistent and acceptable customer service to all applicants and observing the most rigorous and stringent requirements of the legislation.

Cards

46. The type of card to be used is a decision of the same order of importance as the architecture of the database, since it has consequences for issues such as how the card will be used and the number of readers and the infrastructure needed, both of which have significant implications for costs. Some choices, such as the nature of the chip, seem to follow a decision to use the passport as an identity card (and therefore follow ICAO) rather than any independent assessment of what would be most appropriate for an identity card. We are concerned that the Home Office appears to be taking these key decisions without any external reference, technical assessment or public debate. (Paragraph 197)

As we have already said, the Government now proposes to issue identity cards to UK citizens alongside passports, and they will therefore not necessarily be based on ICAO⁶ standards. As biometrics are increasingly being used, or proposed, in different documents there are strong arguments for working towards compatibility so that the same readers could be used, for example, for reading both passports and identity cards. The Committee should note that the draft EU Regulation on passports requires compliance with the ICAO standard on machine-readable passports. There are efficiency savings in collecting biometrics to a single common standard for multiple documents, which may mean that we will use widely-agreed international standards.

The Government does not take key decisions without any external reference, technical assessment or public debate. The design assumptions are being used to test usage scenarios and are being evaluated against the design criteria. The objective of the current phase of the project is to arrive at a set of requirements which will inform the procurement phase, rather than a fully worked-out design for the scheme.

More specifically, the Home Office is establishing independent assurance for the whole programme, including the business case, technical and scientific requirements (including biometrics) and procurement. The aims of this programme assurance are to provide confidence to key stakeholders that the programme can deliver to time, cost and quality and that the overall benefits will be realised. The Identity Cards Programme team also have access to technical expertise both within and outside the Home Office.

There has been extensive public debate since the Government first consulted on identity cards. Much of this debate has been linked to the Committee's work. Stakeholder organisations have been consulted and Ministers and officials have taken part in discussions and conferences involving the IT industry and the financial services sector among others.

47. The Government's figures on how much cards would cost compare them to 10-year passports and driving licences. The Government has not, however, confirmed explicitly how long the validity of identity cards would be. It must do so before the Bill is published. (Paragraph 198)

It is the Government's intention that validity of the registration period for an identity card should be ten years. However, we need to complete our feasibility studies into the lifetime of the physical card (and its embedded chip) and the stability of biometric measures over such a time span before making a decision. This may mean that people receive a replacement card part-way through the 10 year period of registration. Also, the validity of a card issued to a foreign (i.e., non-EU) national would not be longer than the period for which they were given leave to remain in the UK. These technical factors are continuously evolving and it would be neither possible nor desirable to give a final and unequivocal answer at this stage.

Readers and infrastructure

48. We are deeply concerned that the Government has published so little information about the number, type, distribution and cost of card readers and the infrastructure necessary to support this. This information is not only essential to proper costing of the scheme, but also to an assessment of how effective the scheme will be. (Paragraph 201)

⁶ ICAO is the International Civil Aviation Organisation which sets internationally recognised standards for travel documents.

Since the publication of the report we have continued to work on the outline design of the scheme, including consideration of card readers and their supporting infrastructure. As we develop greater clarity in these areas, we are feeding them into the business case to make our cost estimates more rigorous. Cost estimates for readers have also been included in the work on benefits which we are carrying out with our stakeholders.

49. We are also concerned that the Home Office may be leaving it to other government departments, local government and the private sector to decide what level of investment to make in card readers and infrastructure. There is an obvious danger that each organisation will opt for a low level of security, relying on others to raise the level of security in the system as a whole. If this happens the value of the identity card system will be significantly undermined. We also expect the Home Office and other Departments to give at least broad estimates of the numbers of readers they expect to need of each type and what level of provision other organisations are expected to make. (Paragraph 202)

The Identity Cards Programme Team is working with other Departments to establish the appropriate level of investment in card readers and infrastructure. This work takes into account the requirements of those individual Departments in addition to the wider benefits of the scheme. The following paragraphs provide more detail relating to specific Departments.

Department of Health

The Government's National Programme for IT (NPfIT) is putting into place an infrastructure of card readers across the NHS, which will facilitate the checking of cards. The number of biometric readers will depend on business need, and will be identified locally.

HM Customs and Excise

HM Customs and Excise will invest fully to maximise the benefits that can be gained from having identity cards with biometric data. However, where economies of scale are possible, the Department will seek to take advantage of them. For example, at frontiers where more than one agency is operating, there would be obvious advantages to sharing the cost burden. HM Customs and Excise are working on broad estimates of the numbers of readers which would be required, but this will depend on the volume of readers which could be shared with other agencies. The Immigration and Nationality Directorate of the Home Office is also working on estimates of the numbers of readers it will require at ports and in other locations.

Department for Work and Pensions

At the hearing on 27 April Chris Pond, Parliamentary Under-Secretary of State, gave a broad estimate of the number of readers the Department for Work and Pensions will require (4,500) and in a further note sent after the hearing said that the estimate is a high-level assessment of the number of readers required, and will be refined as more work is undertaken on this issue. This is part of the costs and benefits work taking part at present. Once it is completed DWP will be in a position to provide more details.

Department for Education and Skills

The Department for Education and Skills already issues the Connexions Card free to those 16-19 year olds who want one. This will be funded through until 2008, and includes free card readers available to Schools and Colleges to record attendance where appropriate. There may be cost savings to be realised for identity cards by exploiting the existing infrastructure. Within the Further and Higher Education sectors there are approximately 4,000 providers (many with multiple sites) with 6 million learners.

The private sector too is concerned with the issue of verifying identity; businesses are unlikely to be content with a low level of security which could adversely affect their activities by making it harder to combat identity-related fraud. This is dealt with also in point 17 and in point 27. As we said in the latter, the financial services sector is one in which establishing identity is regarded as crucial, and the Home Office is working closely with this sector, both on current initiatives and on the future use of identity cards. The financial services sector is also investing heavily in Chip and PIN and card readers in the context of combating fraud.

Multiple cards

50. We support the issue of multiple identity cards to an individual in cases where there is a legitimate need, and welcome the Home Office's expression of flexibility on this issue. (Paragraph 203)

The Government recognises the need for flexibility where there is a genuine, legitimate need and will bear this in mind when decisions are taken in due course. In particular we believe that there may be a genuine need in cases where people are in the process of permanently changing their gender. This change is already recognised in the issue of passports and driving licences. Where a person did hold more than one card most of the underlying information, including the biometric information which is held on the Register, but which does not appear on the face of the card, will be the same.

Security

51. We believe that an identity card system could be created to a sufficient level of security. We stress, however, that the security of the system depends as much on using the proper procedures with the appropriate level of scrutiny to verify the card in use as it does on the integrity of the card issuing process or the identity register. (Paragraph 207)

The Government agrees with the Committee that an identity card system can be achieved securely and that it is a fundamental requirement. To achieve this we have formed a team of specialist security and process professionals from industry and government to drive the resilience and security aspects of the programme forward to deliver the levels of assurance required. We are confident that the principal mechanisms we need will be sufficiently diligent and robust to achieve confidence in their validity and the credibility of the scheme. These mechanisms are designed for the initial processes of identification which will establish, validate and authenticate an individual's unique identity profile before enrolment. It is only then, once enrolment has taken place, that we are proposing to apply the biometric technology to this established identity for future verification. The key security processes are not initially a matter of technology but are vested in thorough processes diligently applied in a sensitive manner.

To achieve the required levels of resilience and security against actual and perceived levels of threat we have followed the concept that security is an end-to-end process, holistically applied internally and externally to people, processes and technology in their widest sense in order to deliver the levels of availability, integrity, accountability and auditability required.

Costings

52. The Home Office have provided us with details of the assumptions on which their costings have been based, on a confidential basis. We are not convinced that the level of confidentiality applied is justified. Cost information is an essential element in determining the value for money of any project. It is of prime importance where expenditure is funded from the public purse and of particular relevance with regard to public sector IT projects which have a history of poor performance and cost-overruns. We are also concerned that the least robust cost

estimates appear to relate to the assumptions with the greatest cost-sensitivity, such as the length of enrolment time, the anticipated number of applications requiring further investigation, the cost of card production and the criteria for subsidised cards. Changes to any one of these factors could cause significant increases to the cost of the programme. (Paragraph 212)

The Government is preparing a revised cost model which takes into account the comments received during the consultation exercise, including the improved requirements and features which organisations would like to see in the scheme. The Government will make information on cost assumptions and estimates available as Parliament debates the substantive legislation. We must continue to ensure that we achieve value for money in the procurement and operation of the scheme and this must be taken into account in deciding what information can be made public.

53. The failure to attach a Regulatory Impact Assessment to the draft Bill, or to provide any detailed information on estimated costs and benefits, significantly weakens the basis for pre-legislative scrutiny and the public consultation exercise. This secrecy is all the more regrettable since the case for an identity card system is founded on whether its benefits are proportionate to the problems it seeks to address: a proper cost-benefit analysis is an indispensable element of this. The excuse of commercial sensitivity should not be used to avoid publishing a full Regulatory Impact Assessment with the Bill. (Paragraph 213)

Although the Committee expresses its disappointment that we did not include a Regulatory Impact Assessment (RIA) with the draft Bill, the consultation document made clear that it has always been our intention to publish Assessments as more specific decisions are taken. Unlike most legislation, the Bill would lead directly to contracts for the provision of various services needed to deliver the card scheme. We therefore need to ensure that any published RIA will not compromise our ability to secure value for money for the scheme. As we have already said, provided that we can be assured of this, our intention is to publish an RIA when the substantive Bill is introduced.

Procurement

54. We welcome the Home Office's efforts to overcome their record on IT procurement. We do not believe that it is impossible for them to deliver the project on time, to specification and to cost. (Paragraph 215)

55. But we are concerned about the closed nature of the procurement process which allows little public or technical discussion of the design of the system or the costings involved. We do not believe that issues of commercial confidentiality justify this approach. Any potential gains from competing providers providing innovative design solutions are likely to be more than offset by the unanticipated problems that will arise from designs that have not been subject to technical and peer scrutiny. (Paragraph 216)

We are pleased that the Committee accepts that we can deliver the project on time, to specification and to cost. We have already made early and extensive engagement with the supplier community, for example through conferences and workshops organised by Intellect (the IT Industry's Trade Association). We will also carefully evaluate alternative designs from potential providers. In accordance with best procurement practice, and in accordance with the Freedom of Information Act that will be in force in 2005, we plan to be very open about the procurement process except where to do so would not be in the public interest or would prejudice certain interests. Examples of where we might not disclose are where this could compromise the security of the scheme, or where it may damage the commercial interests of the Department or a supplier. The procurement will follow the relevant European Directives, and will as such be advertised in the Official Journal of the European Union (OJEU). We also plan

to give the wider market advance notice of the procurement through the issues of a Prior Indicative Notice (PIN) at the appropriate time. To add to the scrutiny already provided by the various Departmental bodies and the OGC Gateway process, we are also intending to engage an independent assurance function to oversee key aspects of the scheme.

56. Nor do we believe that the Government's OGC Gateway process has yet demonstrated the robust track record on procurement projects that would allow it to be relied upon for a project of this scale. (Paragraph 217)

The OGC Gateway process is just one of a number of mechanisms for assuring the project. For example, the Government is engaging an independent assurance function, which will sit alongside other internal controls.

The Gateway process is a series of reviews at strategic milestone points in the delivery of a procurement programme or project by a team of experienced and independent people. It does not guarantee success, but does reduce the risk of failure considerably by identifying omissions, making recommendations and, by viewing the whole life cycle, ensuring the project is on track to deliver. The reviewers are specifically picked for their skills relating to that project. The scale is not directly relevant as Gateway is designed to cover all projects whatever their size. A significant number of very large complex projects of the scale of identity cards have been reviewed and achieved improved chances of success.

57. The Home Office must develop an open procurement policy, on the basis of system and card specifications that are publicly assessed and agreed. The Home Office should also seek to minimise risk, including, as appropriate, by breaking the procurement process down into manageable sections. We have already recommended that the Chief Scientific Officer be invited to oversee the development of the biometric elements of the scheme. We recommend that individuals or groups with similar expertise be invited to advise on the scrutiny of other aspects of the scheme. (Paragraph 218)

As discussed above, the procurement will be as open as possible, subject to constraints such as security, value for money and the protection of the commercial interests of the Home Office and potential bidders. The procurement strategy is assessing how best to break the procurement down into manageable sections. Finally, again as stated above, we are engaging an independent assurance function to oversee key aspects of the scheme – including both procurement and technical issues.

Conclusions

58. Identity cards should not be ruled out on grounds of principle alone: the question is whether they are proportionate to the aims they are intended to achieve. Identity cards could make a significant impact on a range of problems, and could benefit individuals through enabling easier use of a range of public services. This justifies, in principle, the introduction of the Government's scheme. But the Government's proposals are poorly thought out in key respects: in relation to the card itself, to procurement and to the relationship of the proposals to other aspects of government, including the provision of public services. These issues must be addressed if the proposals are to be taken forward. It is important that the Government clarifies the purposes of the scheme and makes them clear through legislation. (Paragraph 219)

The Government welcomes the Committee's conclusion that the introduction of identity cards is justified in principle. This response has addressed the issues raised here, some of which will receive further comment on the next section on the draft Bill.

The draft Bill

Point 8

Point 8 of the Committee's report (below) deals with the draft Bill as a whole. The Government's response to this point will serve also as an introduction to the more detailed comments on individual clauses which follow.

The draft Bill might have been expected to clarify the Government's aims but we do not believe it has done so. It is essential that the Government explain its intentions on issues raised in this report before the Bill is published. (Paragraph 72)

As we said at point 8, the Government has been clear about the aims of the identity cards scheme which it gave to the Committee in its original written evidence. They are:

- to tackle illegal working and immigration abuse;
- to disrupt the use of false and multiple identities by organised criminals and those involved in terrorist activity;
- to help protect people from identity fraud and theft;
- to ensure free public services are only used by those entitled to them;
- to enable easier and more convenient access to public services.

The aims of the scheme are not the same as the statutory purposes of the Register which are set out in clause 1(2) and at point 8. The Government believes that these purposes are clear. It intends, however, to reflect the aims of the scheme on the face of the Bill.

59. The draft Bill gives the Government powers to require and register a wide range of information not obviously needed to establish identity. It gives a wide range of organisations access to that information and to the audit record of when and by whom the National Identity Register has been accessed, so giving information on key actions of individuals. While the draft Bill undoubtedly enables these actions to be taken in the fight against serious crime or terrorism, it allows for far wider access to the database than this justifies. In particular, given the lack of clarity about the aims of the identity card, to leave so much to secondary legislation is unacceptable. (Paragraph 222)

The legislation does not allow organisations to access information in the Register in the way which the Committee describes. Information will be provided to verify identity or the validity of a card. In the majority of cases we expect that this will be done with the consent of the individual concerned as authorised under clause 14 of the draft Bill. Clause 11 provides a power for the Secretary of State and designated documents authorities to require information for the purposes of verifying information to be placed, or which is currently placed, on the National Identity Register. This is specifically about ensuring the accuracy of the Register and it does not confer the power to share data for wider purposes. Neither does it allow the Secretary of State or a designated documents authority to request information that is not relevant for the purposes of validating the Register. The information that may be held on the Register itself must be within the statutory purposes of the Register.

However, clause 20 does allow for authorised provision of information without consent to specified bodies in accordance with their functions. There is no question of granting unlimited access to the contents of the Register. (Point 84 also deals with this issue.) The Government intends to make clear in the substantive Bill the difference between the limited information supplied with consent under clause 14 to verify identity and that which could be provided under

clause 20, for example to the police or security services, to combat crime or on grounds of national security.

60. It is unacceptable that basic questions about the degree of access to the National Identity Register should be left to secondary legislation. The Government must clarify what access will be given to public and private sector bodies, and under what circumstances. Once identity cards are compulsory, there is a significant danger that the concept of consent to disclosure of information will in practice be eroded, unless there are clear statutory safeguards against improper access to the Register. (Paragraph 224)

As has already been noted in the response to point 59 above, references to “access” are potentially misleading. Most transactions will simply be for the verification of the identity of the individual concerned; such transactions will normally not do more than confirm the identity of the person or the validity of the card (or possibly both). Under clause 14, individuals may consent to public and private sector organisations confirming their identity using the National Identity Register. Before it is compulsory for that individual to register, public and private sector organisations must offer reasonable alternative means to prove identity. It is intended that only those organisations which have been approved would be able to make checks against the National Identity Register.

The organisations listed in clause 20 will have the power to request that information be provided without consent in accordance with their statutory purposes which are consistent with the purposes of the Register; they may request additional information to that needed for verification of identity, provided that this is in accordance with their statutory purposes, and allowed for under clause 20, such as national security or combating crime.

61. We note that whilst a range of data might be required to verify an application, it is not necessary for all that data to be retained on the National Identity Register. They could either be returned or, if necessary for audit purposes, held on a separate database. The Bill should be amended to restrict data held on the register to that information required to establish identity once the card has been issued. (Paragraph 229)

The Government agrees that data which was required for verification purposes is still relevant for audit purposes and it will have to be kept for this. However, it may be feasible to hold some data separately in the way the Committee suggests.

The process of verification is of course different from the process of establishing identity when someone applies for a card. The National Identity Register is not necessarily a single database and we may well hold this data separately, but we do not want to make pre-emptive design decisions at this stage. It is at the application stage that evidence for the information to be retained may be required in the form of actual documents. These documents, passports, for example, would be returned to the individual as soon as registration has taken place, but for audit purposes we would want to retain some form of record, for example of the passport number and validity details.

62. The one exception would be information about immigration status. This is so central to the justification for the Bill that it would be useful and convenient to hold this on the central register. (Paragraph 230)

The Government is pleased that the Committee has recognised the importance of immigration data in this context. But we are not persuaded that such data is substantively different from the other types of data which we propose to hold on the Register. The function of the Register is to hold data needed for identification purposes; for those subject to immigration control their status is one piece of the necessary data, and is essential to one of the stated aims of the scheme which is to combat illegal immigration.

63. The purposes of the draft Bill as set out in Clause 1 are very broad and the list of registrable facts is longer than those the Home Office has said are necessary to establish identity. Both the purposes of the Bill and the registrable facts should be strictly limited to establishing identity and immigration status, so as to ensure that the provisions of the Data Protection Act cover the operation of the scheme effectively. (Paragraph 231)

64. It is not yet possible to be more precise about the list of registrable facts, because the aims of the scheme, and hence the requirements for information to be registered, are not sufficiently clear. As the Bill proceeds, the Government must set out its justification better. (Paragraph 232)

65. Clause 1 should set out the aims of the scheme. A possible formulation might be: “to enable an individual to identify himself in order to gain access to public and private services or when required to identify himself for the purposes of law enforcement”. Wording of this sort would establish a test against which the data to be stored and used could be tested. It would also guard against the type of function creep in which the state uses the register to identify individuals without amendment by Parliament. (Paragraph 233)

As has already been noted, the Government believes that the legislation should establish the statutory purposes of the scheme, and intends to set out the aims of the scheme more clearly on the face of the Bill. The Committee’s suggested formulation is similar to clause 1(2)(c) and 1(2)(d) in stating that the scheme is designed to enable an individual to establish “his identity, place of residence or residential status” and to facilitate “the provision of a service”. However the Government is concerned that the wording “...when required to identify himself for the purposes of law enforcement” may be taken as suggesting that the police and other law enforcement agencies should have the power to demand an identity card in any circumstances. The draft legislation proposes no new powers for the police and the Government does not intend to make carrying a card compulsory.

It is important to note that these registrable facts are listed in the draft Bill to set limits on the types of information which may be held on the Register and do not include sensitive personal information such as medical records, ethnicity or religious opinions. The Government is, however, confident that those registrable facts which are listed are those which are necessary to verify identity and residential status.

66. There should be explicit provision in the Bill that all access to the register must be recorded. (Paragraph 234)

The Government, as the Committee notes in paragraph 234 of its Report, has said that the intention of Schedule 1(9), which deals with records of access to the database, was not to allow for access to the database to be unrecorded. The Schedule sets out the information which may be recorded, and not all the information listed will need to be recorded in every case. Encouraging the majority of verification checks to be made online will mean that we will have a fuller picture of when and by whom someone’s identity was checked. A greater use of checking of biometrics against the Register will mean greater security and auditability for all online checks.

67. We support the provisions in Clauses 2(4) and 8(4) that enable registration of failed asylum seekers and other similar cases, but recommend that the Home Office clarify the purposes of these Clauses in the Bill. (Paragraph 235)

The Government is pleased that the Committee sees value in enabling under clause 2(4) the entry on the Register of those who have not applied or are not entitled to be entered and clause 8(4) allowing for identity cards to be issued to

individuals who are not eligible to be issued with one but whose registrable facts have been entered into the Register. The purpose of the clauses is to enable details to be registered either in advance of enrolment or in order to signal the presence in the country of someone who is not entitled to register. Failed asylum seekers fall into the second category; registering their details would mean that they would not be able to attempt to register in the future whilst still not eligible to do so. Examples of the second category are young people coming up to registration age, and British citizens living abroad who wish to return to take up residence in the UK. The Government believes that this purpose is clear, and would not wish to limit the applicability of the provisions in any way by specifying categories of cases on the face of the Bill.

68. Clause 3 provides an acceptable mechanism for amending the information required to be held on the Register, but only if the statutory purposes of the Bill are clarified as we recommend. (Paragraph 237)

The Government welcomes the Committee's endorsement of the provisions in clause 3. Clarification of the statutory purposes of the scheme is considered elsewhere in this response.

69. It is practical to allow some flexibility over precisely which documents are required at registration and that these should be set out in secondary legislation. But the Bill should state that only those documents that are reasonably necessary to establish identity may be required. There should be a right of appeal to the National Identity Scheme Commissioner. (Paragraph 239)

The documents that may be required are already limited by the provisions of clause 5(6) which ensure that an individual may only be required to provide the information required for the statutory purposes of the Register. This provision ensures that an individual cannot be asked for information which is not necessary for verifying their identity. The Government will look at the possibility of a role here for the National Identity Scheme Commissioner in the context of broadening the remit of the post.

70. The proposed penalties [for failing to register when required to do so and for failing to provide information] are reasonable given their purposes and existing penalties for similar offences. (Paragraph 244)

The Government is content with this assessment and believes that the penalties are fair and reasonable.

71. It is unlikely that if full Parliamentary procedures were followed the Government would, as it fears, be accused of "proceeding by stealth". The move to compulsion is a step of such importance that it should only be taken after the scrutiny afforded by primary legislation: the proposed "super-affirmative procedure" is not adequate. We would, however, support the inclusion in the Bill of powers to enable the Government both to set a target date for the introduction of compulsion and, if necessary, to require agencies and other bodies to prepare for that date. (Paragraph 248)

The Government notes the Committee's view, but does not believe that their proposal differs substantively from what is already proposed. We remain convinced that, because the move to compulsion is such a significant step to take, the principles behind it should be debated in Parliament when the legislation is introduced.

72. The Government should consider statutory provisions to ensure the integrity of the registration and enrolment system, as well as specific penalties for breaches of these provisions. (Paragraph 250)

The Government is aware of the importance of the integrity of the whole system, including the registration and enrolment process. This is why a new offence has been created of unauthorised disclosure of information (clause 29). This offence would apply at any point in the process of issuing cards or of maintaining the Register. Clause 30 introduces a new offence of providing false information. The Government believes that this package of measures will ensure the integrity of the system.

However, there are other, non-statutory measures which will also be taken, for example ensuring that staff training is rigorous and timely. The Government is considering appropriate measures .

73. It is reasonable to require individuals to report relevant changes in their circumstances, provided that the range of information they are required to update is not excessive and that they are able to check that the information held on them is accurate. We do not believe that there should be charges for updating information on the Register, since this would be likely to affect adversely the accuracy of the information held. (Paragraph 253)

The Government agrees with the principle that individuals should report relevant changes in circumstances to ensure the accuracy of the Register, provided that the range of information required is not excessive. Individual rights of subject access under the Data Protection Act will apply, so anyone wishing to check the accuracy of their details would be able to do so, subject to the exemptions in that Act. Whilst the draft Bill does provide a power to charge individuals for updating their information, no final decisions have yet been made. We would not wish, however, to dissuade individuals from updating their details and will consider carefully what charges, if any, would be appropriate.

74. We find it anomalous that failure to update a driving licence should be a criminal offence, especially when failure to update the National Identity Register will not, and we note that the Home Office does not know how many prosecutions there have been for failing to update a driving licence. This offence should be reviewed in the light of the proposed legislation on identity cards. (Paragraph 254)

The Government does not accept that the different status of the two penalties is an anomaly in the way the Committee describes it. All the offences relating to registering and updating the information in the Register attract civil penalties and we believe that it would be anomalous to create just one criminal offence in this context. The criminal offence of failing to update a driving licence should be seen in the context of road safety; it is important to ensure that information on those entitled to drive should be kept up to date. Figures for the number of prosecutions for failing to update driving licence details are not available because Home Office data aggregates several different driving-related offences into one field in the relevant database.

Reviewing this offence would be outside the scope of the identity cards project and there are no plans at present to do so.

75. Clause 11(1) could have significant implications for past and current employers, neighbours, landlords, family members and past spouses, all of whom might be required to assist in the identification of an individual. The Government should clarify the scope and limits of this clause on the face of the Bill. (Paragraph 255)

Clause 11(1) is intended to authorise the Secretary of State to obtain information necessary for the identification of an individual. Sub-clause (4) provides that the requirement may be imposed on any person specified for these purposes by an order made by the Secretary of State and approved by a resolution of both Houses of Parliament. Thus, no information could be obtained unless it was allowed for in an order, and the only information which could be required would be that relating to the identification of an individual. The Government does not intend these provisions to be applied to individuals in the way the Committee suggests. It is the mechanism by which the Secretary of State may obtain information from, for example, another Government Department or a Local Authority.

76. The practical application of Clauses 11 and 12 to socially excluded groups must be clarified as soon as possible. This should be done in such a way as to ensure that such groups are no further disadvantaged by the operation of the scheme. The Bill should contain legal duties on the Home Secretary to take into account special needs, such as health, in applying these clauses; and to establish a clear legal status in the primary legislation for those of no fixed abode. (Paragraph 256)

An identity cards scheme will bring clear benefits to the individual and will be an inclusive scheme. It will help establish identity and right to access services in a simple, easy and convenient way. The Government is committed to the scheme not disadvantaging those on low incomes and other vulnerable groups. As the scheme develops the needs of these groups are being considered. The Bill has therefore been drafted to ensure that there can be exceptions and exemptions for different circumstances (clause 38(4)). We will be looking at the application of clauses 10 and 11 to socially excluded groups, and the needs of these groups will be taken into account in the design of the scheme. The Government is not convinced however that it is appropriate to write this duty onto the face of the Bill regarding clauses 11 and 12. However, the draft Bill provides a power via regulations to define what is meant by where a person resides or his principal place of residence (clause 40). This allows flexibility in the scheme including for those individuals who are without a fixed place of abode.

77. We agree with the CRE that the Bill should be accompanied by a full Race Impact Assessment and that there should be a further Assessment at the time of the move to compulsion. (Paragraph 257)

In addition to the partial Race Equality Impact Assessment which accompanied the draft Bill, the Government intends to complete a further Race Equality Impact Assessment for the substantive Bill, taking into account further research.

Further assessments will follow during the development of the scheme, and will also be required in the event of a move to compulsion.

78. A reasonableness defence to the offences that might follow from Clause 13(1) should be included on the face of the Bill, rather than left to regulations. (Paragraph 258)

The Government will include a defence to this offence on the face of the Bill, by making clear that it shall only apply, for example, where it can be shown that an individual knows or suspects that a card has been lost or stolen.

79. The Bill should contain an explicit reaffirmation of the right of individuals to see both the data held on them and the audit trail of who has accessed those data and on what occasions, subject only to the national security and crime exemptions of the Data Protection Act. (Paragraph 259)

The Government accepts this recommendation. There was never an intention to remove any data subject rights under the Data Protection Act 1998, other than to data covered by existing Data Protection Act exemptions, and we will ensure that the Bill as published removes clause 14(4) which may have cast doubt on this.

80. It is reasonable that there should be the possibility of restricting releasable information in certain cases. We welcome the Home Office's readiness to consult on the issue. (Paragraph 260)

81. Earlier in this report, we referred to the different levels of security, from simple visual examination of the card to access to the National Identity Register, which the Home Office expects to be undertaken. Although it would not be possible to specify in detail all the circumstances in which different bodies might have access to the Register, we believe that the principle and tests of reasonableness should be placed on the face of the Bill. (Paragraph 261)

82. The Bill might also allow individuals to limit access to certain data under certain circumstances. For example, a citizen might choose that addresses could not be released to all those who access the Register. (Paragraph 262)

With the consent of the individual, organisations may make checks on the Register to verify identity. There is a power in clause 14(2) for the Secretary of State by regulations to make provision for how this consent is to be given and how applications for the verification service may be made.

The Government recognises the concerns of organisations and individuals who, for many reasons, might wish to limit the information that may be checked. The Government will examine the technical possibility of this as part of the work on considering how the verification service for identity cards might operate principally in an online mode in order to improve the security of the system and ensure a full audit trail of identity checks.

83. We welcome the provisions of Clause 19 prohibiting any requirement to produce an identity card before the move to compulsion. (Paragraph 264)

The Government welcomes the Committee's view on clause 19. We believe that it will ensure that no-one is disadvantaged because they, quite legitimately, do not have an identity card. Even after the scheme becomes mandatory, there will be some categories of people who will not have identity cards. An obvious example is foreign nationals who are staying in the UK for less than 3 months. Moreover, even after the scheme becomes mandatory, it will not be compulsory to carry the card or produce it on demand.

84. We are not opposed in principle to access to the database and to the audit trail without the consent of the individual concerned. But we are extremely concerned by the breadth of the provisions of Clauses 20 and 23 and particularly by Clause 20(2) which would allow nearly unfettered access to the security and intelligence agencies. At a minimum, disclosures without consent should be limited to cases of national security or the prevention or detection of serious crime. (Paragraph 269)

As we have stated in the response to point 59, clause 20 does allow for authorised provision of information without consent to specified bodies in accordance with their statutory purposes. As the Committee says, this is primarily in the context of national security or combating crime. However, there is no question of granting unlimited access to the contents of the Register.

Clause 20 makes it clear that information can only be provided for specified purposes and with the necessary authorisation and oversight. There could be no extension of this without Parliamentary approval.

85. It is not acceptable to have as broad a Clause as 20(5) simply because the Government is unclear about its objectives. (Paragraph 272)

This clause is designed to enable regulations to be made which will specify which Departments may seek provision of information from the Register and for which purposes. It is too early in the development of the Identity Cards Programme to be able to specify these in detail on the face of the Bill and it may be necessary to amend or add to these in regulations as the scheme is developed.

86. The Bill should have explicit data-sharing provisions to make clear the relationship between the National Identity Register and other official databases. Some of the proposed databases have no statutory basis—this is unacceptable and needs to be addressed in further legislation. (Paragraph 273)

The Government believes that the Bill does have explicit data-sharing provisions. Clause 11 of the draft Bill sets out in what circumstances the Secretary of State may require information to be provided by others for the purposes of validating the Register where no such powers already exist. Parliament will approve each requirement placed on an organisation to provide information, so the relationship between the National Identity Register and other official databases will always be clear.

87. It is reasonable for the scheme to be operated by an Executive Agency similar to the DVLA or UK Passport Service. But we reject the argument that since their operations are not overseen by a Commissioner, neither should those of an identity card agency. We believe that because the identity card scheme would directly affect the daily lives of millions of people, and routinely involve sensitive and often highly personal information, oversight of its operation is utterly different to that of the DVLA or UK Passport Service. The National Identity Scheme Commissioner should report directly to Parliament. He or she should have powers of oversight covering the operation of the entire scheme, including access by law enforcement agencies and the security and intelligence services. (Paragraph 276)

The Government welcomes the Committee's view that an Executive Agency is an appropriate form of governance for the identity cards scheme. We believe that both the UKPS and the DVLA are suitable comparators in this respect. We are not persuaded, as we have said before, that the information to be held in the Register can be considered sensitive. However, the Government has considered extending the remit of the National Identity Scheme Commissioner to cover oversight of the operation of the whole scheme. The Bill as introduced will, therefore, extend the remit of the National Identity Scheme Commissioner to cover oversight of the whole scheme, not just of issues relating to provision of information from the Register.

88. There are no provisions in Clause 27 to cover aiding and abetting the offences created, or conspiracy to commit them. It is possible that these can be dealt with through existing legislation, but we believe that it would be more sensible to cover them explicitly in the Bill. (Paragraph 277)

The Government considers that there is no need to create explicit offences of aiding and abetting or of conspiracy to commit the offences in clause 27 relating to the possession of false identity documents, because existing legislation already provides for this. The Accessories and Abettors Act 1861 makes it an offence to “aid, abet, counsel or procure the commission of any indictable offence.” Section 44 of the Magistrates Courts Act 1980 makes parallel provision for summary offences.

Section 1 of the Criminal Law Act 1977 has the effect that conspiracy to commit any offence is also an offence so no specific provision for this purpose is necessary.

Clause 32 of the draft Bill extends jurisdiction in respect of the section 27 offences by amending section 1(2) of the Criminal Justice Act 1993 to include the section 27 offences. Section 1(2) lists certain offences of dishonesty of which “a person...may be guilty if any of the events which are relevant events in relation to the offence occurred in England and Wales.” Section 1(3) similarly extends jurisdiction to conspiracy to commit any of the listed offences. There are parallel provisions to apply this in Northern Ireland in the Criminal Justice (Northern Ireland) Order 1996 (as amended).

89. We welcome the Home Office’s commitment to enabling complaints to be made about the operation of the scheme. The provisions to enable this must be effective, unbureaucratic and practical. (Paragraph 278)

The Government will bear this in mind when drawing up provisions for making complaints; it is in everyone’s interest for such provisions to be effective and practical and pose as little a bureaucratic burden as possible.

Overall conclusions

90. We believe that an identity card scheme could make a significant contribution to achieving the aims set out for it by the Government, particularly tackling crime and terrorism. In principle, an identity card scheme could also play a useful role in improving the co-ordination of and the citizen’s access to public services, although the Government has not yet put forward clear proposals to do so. We believe that the Government has made a convincing case for proceeding with the introduction of identity cards. (Paragraph 279)

The Government welcomes the Committee’s support for its proposals and is grateful for its work both in the inquiry into identity cards in general and in the pre-legislative scrutiny of the draft Bill.

91. However, the introduction of identity cards carries clear risks, both for individuals and for the successful implementation of the scheme. We are concerned by the lack of clarity and definition on key elements of the scheme and its future operation and by the lack of openness in the procurement process. The lack of clarity and openness increases the risks of the project substantially. This is not justified and must be addressed if the scheme is to enjoy public confidence and to work and achieve its aims in practice. (Paragraph 280)

The Government believes that its response, coupled with the revised Bill when it is introduced, will meet many of the Committee’s concerns. Some aspects of the scheme, in particular those which relate to specific details, like card design, will not be decided until later in the planning process. Consultation on these will continue. Key decisions such as the information on the card will require specific Parliamentary approval.

We are confident that the Bill as introduced will enable the aims of the scheme to be met and look forward to the process of making it law.



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