

Rt Hon Peter Kyle MP
Secretary of State for Science, Innovation and Technology

18th May 2025

Dear Secretary of State

Thank you for your letter, dated 15th May 2025.

We are really pleased that the government has recognised (as Sir Patrick Vallance said on 13th May) that:

1. Accurate data is essential
2. Sex data should be accurate when processed by public authorities
3. Data must be accurate for its purpose and must not be misleading
4. Sex data as recorded on passports is not reliable to verify the fact of a person's sex.

We also welcome the government's recognition that:

5. It should be clear to digital verification service (DVS) providers what information shared with them by public authorities means.
6. When information is shared from public authorities to digital verification services, it will be clear what that information represents, including in relation to sex.

We support the goal, as set out in the long title of the bill, to develop digital verification services that will "allow people to **ascertain and verify facts** about themselves". However we would welcome significant reassurance that the government will take sufficient action to meet this goal.

There are three key problems with the reassurances in your letter:

1. You write: "**It is for public authorities to decide if they wish to share data, which data they wish to share and to ensure that data is accurate for the purpose for which it is being used.**" This surely misunderstands a key feature of the DVS system, namely to be privacy-protecting. Public authorities providing data through the information gateway **will not know** for what specific purpose a person's sex data is being requested by a DVS provider. All authorities will know is that the attribute is being requested, and that the person has consented for it to be shared with that provider.
2. **Your letter, at paragraph 4, appears to make a distinction between data on "sex" and "biological sex"**. That distinction does not exist. The two terms mean the same thing. This follows from nature and common law, and is reflected in both the judgment of the Supreme Court and the findings of the Sullivan Review, which the government has welcomed. A person's sex is fixed at conception and recorded at birth. The data recording their sex is therefore either accurate or inaccurate. If a dataset allows some people to be recorded as the wrong sex, then the whole dataset is unreliable as a source of sex data on anyone.

Sex Matters is a human-rights charity promoting clarity about sex in law, policy and language
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There is therefore no need to qualify the word sex in that paragraph with the descriptor “biological”, and to use a qualifier gives the false impression that there is somehow another version of sex, which is not biological.

- 3. You promise that people will still be able to verify their sex digitally “with the same level of accuracy and reliability that physical document checks provide”.** But the government has already recognised that there are already wide levels of inaccuracy in existing documents - for example that passports do not record accurate data on sex, and the SoS for Health has taken immediate first steps in response to the Sullivan Review to remedy the safeguarding risks of the NHS sex marker not being accurate.

Allowing the DVS system to use data from any unreliable sources to verify sex **means that it would breach data protection. It will also result in people being able to verify themselves as either sex at will as many people have different sexes recorded in different official records** – which Sir Patrick Vallance denied would be possible.

This issue is soluble, and the government has the opportunity to solve it now rather than leave the issue open to more years of muddle, confusion and misinterpretation, which will be harmful to trans-identified people and to women, and to trust in the new system. It requires identifying datasets that have muddled up sex and gender identity (such as data from HMPO and the DVLA) and those that have not (such as the birth register). Measures can be put in place to ensure only reliable datasets are used to verify sex within the DVS system. **Doing this is essential to ensure compliance with data protection and Article 8. it will avoid more years of unnecessary muddle**

A structured step-by-step approach is the best way to do this while also ensuring everyone’s human rights are respected. We are attaching a process based on Ben Spencer MP’s New Clause 21 that would achieve this.

Addressing the issue at the level of datasets would provide clarity to DVS providers, and would not result in “outing” individual transgender people when they are using the DVS system to prove their identity or other attributes such as their age or address. It would enable them, like everyone else, to share their sex accurately and with consent when that information is needed, and to keep it private when it is not.

If there is no amendment to the bill, something similar might be achieved by **secondary legislation** or by committing to **publishing a Supplementary Code** on accurate sex data, as provided for by Clause (29) of the bill.

Yours sincerely



Maya Forstater
CEO

Directions to public authorities on recording of sex data

(1) The Secretary of State must, within three months of the passage of this Act, issue regulations relating to the code of practice set out in section 49 of this Act which require public authorities to—

(a) **conduct and conclude, within 3 months of these regulations coming into force, a review of the definitions used in datasets relating to the attribute of sex** (which may have been termed “gender”) identifying datasets that record:

(i) “Sex” data accurately and lawfully meaning male or female only based on “sex at birth”, “natal sex” or “biological sex” (these terms carrying the same meaning and capable of being used interchangeably);

(ii) “Acquired Gender” meaning male or female by virtue of a gender recognition certificate issued under the Gender Recognition Act 2004

(iii) Mixed datasets which combine sex, acquired gender and/or gender identity data

(b) **publish, within 3 months of these regulations, a register of these datasets**, and keep it under annual review thereafter

(c) **publish a statement in a prominent place on their website, alongside the register, and in metadata attached to digital data feeds, identifying any mixed datasets and warning that they cannot be used to verify sex.**

(2) The Secretary of State must, within one month of the passage of this Act, **establish and maintain a register of public authorities approved to act as sources of data** relating to the attribute of sex for persons providing digital verification services.

(3) The register in subsection (2) must be published on the website of the Office for Digital Identities & Attributes or any successor body.

(4) The Secretary of State must **include in the DVS Framework** established under Section (28) directions that persons providing digital verification services may only treat data from public authorities as authoritative on sex if it comes from an authority included on the register in subsection (2). Sex data (including where marked as “gender”) from other public authorities should not be processed.

(5) The Secretary of State may, from time to time, add public authorities to the register as under subsection (2) only upon being satisfied on the basis of information published under subsection (1)