

Briefing for data bill: amendment NC21

Report stage – House of Commons 7th May 2025

This Data (Use and Access) Bill will introduce gender self-ID by the back door, even as the Supreme Court has confirmed that gender self-ID is not the law and that women's sex-based rights rely on clarity about the categories male and female.

This problem is serious, but can be solved. This briefing supports NC21 Directions to public authorities on recording of sex data moved by the Conservatives' shadow ministerial team – Alan Mak MP and Dr Ben Spencer MP – and Ben Obese-Jecty MP and Peter Fortune MP.

What is this about?

The Data (Use and Access) Bill will establish the legislative framework for **digital verification services (DVSs)**. These will enable people to prove who they are and **key facts about themselves** (“attributes”) using apps and online services that will carry a government **trustmark**.

The system relies on **public authorities** to provide **trusted and trustworthy information** to registered DVSs operating according to a new framework of rules via a new **information gateway**.

Sex (male or female) is a key fact about people. **Sex is not the same as gender identity.** It is data that is needed often, in situations such as healthcare, sport, single-sex services, safeguarding, consent and equality monitoring. **The legal and practical importance of sex data is indisputable, and has been confirmed by the recent Supreme Court judgment in *FWS v Scottish Ministers*.**

This DV system is designed to be **privacy-preserving and consent-based**, allowing people to remain in control of how their data is used. It does this by sharing **individual pieces of personal data accurately**, only with express user consent on each specific occasion. This differs from paper documents, which may reveal more information than is needed for a particular purpose.

For this system to succeed, trustmarked apps and services must be clear about the definitions of data. It must verify *only* information that is true, avoiding falsely “verifying” information that is wrong or unreliable.

When asked to verify someone’s sex, the information gateway and any data verification app should reliably respond with the person’s actual sex, not their gender identity. Otherwise the system is likely to be unlawful and to fail. It will be challenged in court, at the cost of millions of pounds in legal fees, and we think it’s clear it will also lose public trust and may never get off the ground.

Conversely, if the problem with sex data is solved for digital identities it will:

- enable everyone to accurately verify and share data on their sex where it is needed
- enable people to keep the data of their sex private when they do not need to share it (for example when proving their age)
- avoid mixing up gender and sex and accidentally “outing” or excluding transgender people because data from different sources doesn’t match.

A properly functioning system will support everyone’s rights: both sex-based rights for women (and men) and transgender people’s rights. **It will provide businesses, public bodies and the voluntary sector with the everyday clarity they need to operate lawfully, fairly and efficiently.**

What has caused the problem?

Many public bodies, including the NHS and the police, have **stopped collecting accurate data on sex**, often replacing it by self-declared gender identity or by a confused, undefined hybrid of gender identity and sex. This problem was comprehensively illustrated in the **Sullivan Review** of data, statistics and research on sex and gender.¹ **It is estimated that 100,000 people have their sex wrongly recorded in some records.**²

Public bodies that replace sex with gender identity are likely to be **breaching the Equality Act 2010** and the **Data**

¹ HM Government (2025). *Independent review of data, statistics and research on sex and gender.*

² Sex Matters (2024) *Sex and the Data Bill*

Protection Act and UKGDPR. The result is what computer scientists call “garbage in, garbage out” – poor-quality data inputs resulting in poor-quality data outputs.

Fixing this is urgent. Without immediate action, bad data from public authorities will flow through the new information gateway. **Good data and bad data** will get mixed together, and it will be impossible to use DVSs to provide accurate, verified information about a person’s sex.

The existing problem of bad data on paper documents will become much worse.

Whereas paper documents such as passports and driving licences reveal several pieces of information together, the digital system will allow people to verify individual attributes as freestanding facts. They will be able to “verify” their sex without revealing their name or any other personal information at the same time. This is by design: treating each piece of information separately preserves maximum privacy, passing only the information asked for and required on each occasion. However, when data on sex is false the result will be to enable fraudsters and predators. A man will be able to create a false online persona with a false name and picture of an attractive woman, as he can now – but then add a false “verification” of the sex of this persona (currently, he would have to show a document connected with his real name and photograph). This apparent “proof” that he is female, backed by the government, will help with “**catfishing**” (online sex-based deception for sexual or other fraudulent purposes).

The Trust Framework requires that data service providers follow a strict set of rules that requires them to treat **UK public authorities** as the most authoritative data source. The result will be that computer systems will, by design, overwrite information from other sources that is known to be true and accurate (such as information based on observation, personal history or a true declaration) with **unreliable and false information about individuals' sex provided by public authorities such as the DVLA or passport office.**

Businesses that are seeking clarity following the Supreme Court ruling will be denied any reliable source of data on sex, and will instead be provided with **false data “verified” as true.**

If this is allowed to happen (that is, if it is not stopped now at the design stage by the government or parliamentarians, or by a legal challenge) the ultimate costs will run into **billions.**

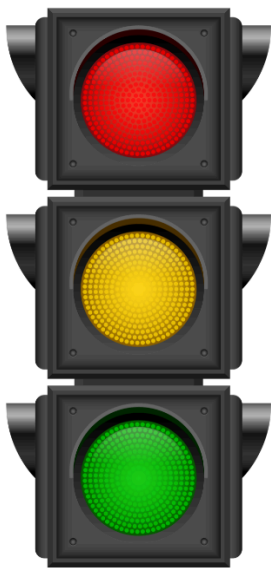
It is not good enough for the government to say that this bill does not need to solve the historic problem of bad sex data and that it can instead just reproduce it.

- The government has said that it supports the Supreme Court ruling and will implement it.
- The government has said it supports the findings of the Sullivan Review on sex data and will implement it.

- The Data Protection Act, UK GDPR and the Equality Act 2010 require that sex data is accurate.

There is a solution

If this problem is tackled now, it is neither intractable nor even expensive to solve. But if the government delays, it will rapidly become so.



STOP SPREADING BAD DATA

BRING PUBLIC DATA BACK IN LINE WITH THE LAW

USE TRUSTWORTHY DATA SOURCES ON SEX

sexmatters

NC21, moved by Alan Mak, Dr Ben Spencer, Ben Obese-Jecty, and Peter Fortune Mak, lays out a series of practical steps, starting with **restricting sex data coming through the information gateway to accurate sources that comply with the Data Protection Act**, and then over time **adding new data sources as they become reliable**.

<p>At the outset</p>	<p>Stop unreliable sources of sex data coming through the information gateway until the problem is solved.</p> <p>Clause 45, page 42, line 30, at the beginning insert— “Save in respect of data relating to sex”.</p>
<p>Within one month of passage of the Act</p>	<p>Establish a register of public authorities approved to act as sources of data relating to the attribute of sex for DVSSs. (4)</p> <p>Initially this will consist of just one source: the record of births held by the General Register Office. (5) and (6)</p>
<p>Within three months of the passage of the Act</p>	<p>Issue regulations relating to the code of practice for the information gateway that require public authorities to:</p> <ul style="list-style-type: none"> ● collect, process and retain sex data only where it is lawful to do so in accordance with data protection legislation. (1)(a) ● request and record sex data accurately, in terms of “Sex” (meaning “natal sex” or “biological sex”) or “Acquired Gender” under the Gender Recognition Act (the two definitions and datasets should not be mixed). (1)(b)

<p>Within three months of the passage of those regulations</p>	<p>Require relevant public authorities to align their sex data to the two possible definitions (i.e. either biological sex for everyone or additionally a field that records “acquired gender” for holders of gender-recognition certificates under the Gender Recognition Act). (1)(c)</p>
<p>Within 12 months of the regulations coming into force</p>	<p>Government to have conducted a review of the accuracy of sex data held by public authorities for the purpose of verification. (1)(d)</p>
<p>Within 18 months of these regulations coming into force</p>	<p>Public authorities to have taken reasonable steps to ensure that any data that is found to be inaccurate is rectified or erased. (1)(e)</p>
<p>As time goes on</p>	<p>Add additional public authorities to the register upon being satisfied that the data held by the relevant public authority in relation to sex is accurate. (7)</p>

Why support this amendment?

- ★ **It is a practical, step-by-step solution** that would ensure that sex data used in DVSs is accurate, and

compliant with the Data Protection Act 2018 and UKGDPR.

- ★ **It ensures that everyone is able to verify their sex** accurately and simply, resolving problems and enabling compliance with the Equality Act 2010 (including the public-sector equality duty) and other laws where sex matters.
- ★ **Transgender people will not be forced to “out” themselves in situations where no one’s sex data is needed** (such as hiring a car or renting a flat).
- ★ **It does not stop organisations recording “gender identity”** if they have a lawful reason to do so, and do not confuse it with sex.
- ★ **The DVS system is not delayed because of the historic problems with sex data** held by public authorities (data from HMPO and DVLA will still be able to be used, just not for sex).
- ★ **It puts in place a series of steps** to coherently and systematically rectify the problem of unreliable and inaccurate sex data, which will allow the data-protection rights of trans people to be considered while bringing data systems back into line with the law.
- ★ **It is a digital solution to an analogue problem.** It is a forward-thinking, human-rights-respecting way to grant transgender people privacy over their sex data where that data is not needed, without destroying the integrity of everyone’s sex records.

What are the good and bad data sources?

When you need an accurate answer to the question of **sex**. For example: for most everyday uses, for healthcare, for sexual and bodily consent, for safeguarding, for risk assessment, for single-sex services and facilities, for single sex employment.

The good data source for sex	Current unreliable data sources for sex
<p>The birth register (this is being digitised as part of this Act)</p>	<p>The NHS data spine mixes sex and gender self-ID (the sex recorded by a patient can be changed on request and a new NHS/ CHI number issued)</p> <p>HM Passport Office mixes sex and gender self ID (a person's recorded sex can be changed with a letter from a GP or, in the case of a "crossdresser", with a personal letter)</p> <p>DVLA mixes sex and gender self ID (the sex recorded can be changed on request)</p> <p>HMRC (may contain a mixture of sex, legally acquired gender and gender</p>

	self-ID) Other countries' records and ID systems (what purports to be “sex” may in fact be self-declared gender identity).
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When you need an accurate answer to the question of “acquired gender” under GRA 2004. For example: for marriage, for recording deaths.

The data sources
Gender-recognition registers (held by the registrars in England, Scotland and Wales) A gender-recognition certificate

Amendment NC21

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) collect, process and retain sex data only where it is lawful to do so in accordance with data protection legislation;

(b) request and record sex data accurately, in every circumstance where sex data is collected, in accordance with following category terms and definitions—

(i) "Sex" 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); and,

(ii) in addition, where it is lawful to do so in accordance with data protection legislation and the Gender Recognition Act 2004, "Acquired Gender" meaning male or female only, as recorded on a gender recognition certificate issued in accordance with the Gender Recognition Act 2004;

(c) have updated relevant organisation guidance to stipulate that, where sex data is collected, this must be done in accordance with the definitions set out by subsection (1)(b) within three months of these regulations coming into force;

(d) have conducted a review of the accuracy of data held in relation to the sex of data subjects to ensure that the data is accurate in recording sex at birth and, where relevant and collected lawfully, acquired gender as recorded on a gender recognition certificate within 12 months of these regulations coming into force;

(e) have taken every reasonable step to ensure that any data held in relation to the sex and, where relevant and collected lawfully, acquired gender as recorded on a gender recognition certificate of a data subject that is found to be inaccurate is rectified or erased within 18 months of these regulations coming into force; and

(f) have produced and submitted to the Secretary of State a report setting out the findings of its review in relation to the matters set out by subsection (1)(d) and, where relevant, a description of the steps taken to ensure that the data held by the relevant public authority is accurate within the definitions set out subsection (1)(b) with 18 months of these regulations coming into force.

(2) The Secretary of State may, on receipt of a report in accordance with subsection (1)(f) instruct a public authority to take any further remedial steps within a specified timeframe reasonably necessary to ensure the accuracy of the sex and acquired gender data held by the relevant public authority.

(3) 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.

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

(5) Until such time as a public authority is added to the register under subsection (3), persons providing digital verification services may only obtain data on the sex of an individual requesting the provision of digital verification services from the record of births held by the General Register Office in accordance with subsection (6).

(6) Information supplied by the General Register Office pursuant to subsection (5) must specify sex as recorded at birth, as well as any subsequent corrections to the register in the field marked "Sex".

(7) The Secretary of State may, from time to time, add public authorities to the register as under subsection (3) only upon being satisfied on the basis of a report issued under subsection (1)(f), or satisfaction of such further steps required by the Secretary of State under subsection (2) that the data held by the relevant public authority in relation to sex and, where relevant, acquired gender as recorded on a gender recognition certificate, as defined in subsection (1)(b), is accurate.”

Member's explanatory statement

This new clause requires the Secretary of State to issue regulations relating to the code of practice in section 49 requiring public authorities to record sex data in line with these regulations when data are collected.

Consequential amendments

Clause 45, page 42, line 30, at the beginning insert—
“Save in respect of data relating to sex,”

Clause 45, page 43, line 15, at end insert— 39 40
“‘gender recognition certificate’ means a gender recognition certificate issued in accordance with the Gender Recognition Act 2004.”

MPs who want more information should contact
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