

The Data (Use and Access) Bill¹

The **Supreme Court** ruling on 16 April 2025, that gender self-ID is not the law and the meaning of “sex”, “male” and “female” in equality law is biological, means there are many obligations on public bodies and employers that require them to record accurate information about biological sex.

The **Independent review of data, statistics and research on sex and gender** by Professor Alice Sullivan², found that the meaning of sex was no longer stable in administrative or major survey data. This instability was evident across key policy areas including health and justice and has led to widespread loss of data on sex, posing risks to some people, particularly within health and social care, and especially so in the case of minors. Sullivan made 59 recommendations, but importantly, recommended that data on biological sex should be collected as a default in all government data.

The Data Bill has had a first reading and was sent to the House of Lords, where it was substantially challenged in terms of the way it treated the category of sex.

Unless the Bill is amended to block inaccurate data about sex from passing through the new “information gateway”, it will introduce gender self-ID by the back door. If it is not amended to ensure everyone can verify their sex accurately, the government is likely to face a similar legal challenge, with consequent cost and delay, and the possibility of an embarrassing legal defeat.

The planned new law will create government-endorsed digital verification services so people can prove their identity and facts about themselves. It is expected to unlock billions of pounds of efficiencies in government spending and economic growth.

This law is not about ID cards. No new databases will be created; data will not be shared without consent. Information on a person’s sex may be required for access to a space, service or job, or for health. social care or safeguarding> In other situations (eg hiring a car) it is not needed at all.

The problem

Most public authorities (HM Passport Office, DVLA, NHS data, HMRC) record sex inaccurately. An estimated 100,000 people have the wrong sex recorded by at least one public authority. These will then feed through the information gateway to be used as “authoritative” verification.

The solution

There is currently one reliable source of sex data: the birth register (which is being digitised as part of the act). **The bill should be amended to restrict data on sex coming through the information gateway to accurate sources that comply with the Data Protection Act, and to lay out a plan for fixing corrupted data sources.**

One such amendment, NC21, was moved by MPs Dr Ben Spencer, Ben Obese-Jecty, Peter Fortune and Alan Mak. Data on biological sex can be rescued – if the government acts swiftly.

- 84% of UK residents were born in the UK. The birth register records their sex accurately and is being digitised. As soon as this is complete the new system will be able to verify sex.
- The other 16% will be able to verify their sex as soon as relevant departments and agencies fix their data-recording procedures. The NHS is most urgent. In the meantime

¹ Briefing by Sex Matters: <https://sex-matters.org/campaigns/digital-id-cant-be-gender-self-id/#updates>

² <https://www.gov.uk/government/publications/independent-review-of-data-statistics-and-research-on-sex-and-gender/review-of-data-statistics-and-research-on-sex-and-gender-executive-summary>

they will be in the same situation as now – when their sex matters, they will need to be asked and to give an accurate answer.

This approach would ensure minimum cost, no delay to the Bill's progress, and no immediate change to the authoritative data sources. Drivers' licences and passports can still be used for data other than sex. This digital solution balances transgender people's limited right to data privacy with the need for administrative coherence and accurate data on sex in situations where that is required. It is consistent with Article 8, the Data Protection Act and the Gender Recognition Act.