CONFIDENTIAL

10 DOWNING STREET

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1262

FILE TITLE: I.D. Cards

SERIES: Home Affairs

PART: 4

PART BEGINS: 8 Nov 2003

PART ENDS: 30 April 04

CAB ONE

Part

Closed

Labour Administration

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PART CLOSED

DATE CLOSED	30 April 04

Series : **HOME AFFAIRS**

File Title : **IDENTITY CARDS**

Part : **4**

Date	From	To	Subject	Class	Secret
10/11/2003	DoT	HO	ID Cards Announcement	R	
11/11/2003	odpm	HS	DA Clearance for ID Cards Announcement	U	
17/11/2003			ID Card Narrative - undated	R	
19/11/2003	PD(JR)	D/C	ID Cards Programme Board	U	
03/12/2003	Cab Off	Cab Off	ID Cards Project Board	U	
04/12/2003	HO	PD(EM)	access to the natinal identity register	U	
19/12/2003	EU/PS	PM	An EU ID card	C	
23/12/2003	EU/PS	HO	ID Cards EU Angle	C	
17/02/2004	FCO	HO	UK participation in discusstion on EU ID documents	R	
24/02/2004	HS	DPM	Identity Cards	C	
03/03/2004	HOC - Leader	DPM	Seeking policy clearance for criminal offences, penalties and civil san	U	
04/03/2004	AG	DPM	RE : Identity cards	U	
04/03/2004	AG	DPM	Re : Identity cards	U	
08/03/2004	ss/dti	DPM	Identity Cards	C	
08/03/2004	DoH	DPM	Idenity cards	R	
09/03/2004	HMT	DPM	Identity cards - proposed draft bill	U	
10/03/2004	FCS	DPM	ID Cards - Policy Clearance for Sanctions	C	
11/03/2004	PD(WP)	PM	Identity Cards	R	
11/03/2004	SS/NIO	DPM	Identity Cards	U	
12/03/2004	DCA	HS	Identity cards	U	
12/03/2004	SS/WAP	DPM	Identity Cards	R	
16/03/2004	HOL	DPM	Identity cards	U	
18/03/2004	CO	DPM	Identity cards	C	
24/03/2004	HO	DPM	Identity cards	R	
01/04/2004	HS	DPM	Identity Cards - Points Arising from DA Meeting	R	
02/04/2004	HS	SS/DCA	Identity Cards	R	
02/04/2004	SS/MOD	DPM	Identity Cards - Points Arising from DA Meeting	R	
06/04/2004	ss/dti	DPM	Idenity Cards - Points Arising From DA meeting	R	
06/04/2004	SS/DCMS	DPM	DA - Identity Cards	R	
07/04/2004	SS/DCA	DPM	Identity Cards - Points Arising from DA Meeting	R	
08/04/2004	MS/DPMO	DPM	DA - Identity Cards	R	
15/04/2004	HS	LPS	Publication of draft identity cards bill	R	
16/04/2004	SS/DoT	DPM	Identity Cards: Follow-up to DA	R	
17/04/2004	SS/DCMS	DPM	Publication of Draft Identity Cards Bill	R	
20/04/2004	NIO	DPM	Identity Cards	R	
21/04/2004	PD(WP)	PM	Idenity Cards - Crime Prevention and Practical Issues	R	
21/04/2004	HOC - Leader	HS	ID Cards	R	
22/04/2004	ms/cabinet office	DPM	Publication of draft Identity Cards Bill	R	
22/04/2004	DfT	HS	Publication of draft identity cards bill	R	
22/04/2004	ss/dfes	DPM	DA Committee Clearance to the contents of the consultation paper ac	U	
22/04/2004	SS/DoH	DPM	Identity House	R	
22/04/2004	SS/WAP	DPM	Publication of Draft Identity Cards	C	
22/04/2004	odpm	DPM	Clearance to publish the Draft Identity Card Bill	R	
22/04/2004	HMT	DPM	Identity Cards - Publication of Draft Bill	U	
23/04/2004	MS/DTI	DPM	The Draft Identity Cards Bill	U	
23/04/2004	HOC - Leader	HS	Draft Identity Cards Bill	R	
26/04/2004	HS	PM	Draft Identity Cards Bill and Consultation Paper	U	
26/04/2004	FCO	HO	Publication of Draft Identity Cards Bill - Set-up Costs	U	
30/04/2004	DPM	HS	Identity Cards - Points arising from DA Meeting	C	
30/04/2004	PM	HS	ID Cards	U	

10 DOWNING STREET
LONDON SW1A 2AA

THE PRIME MINISTER

HOME SECRETARY

I was very pleased with how smoothly the ID Cards announcement went on Monday. Implementation will be challenging but we now have a firm foundation upon which to build.

This is a tribute to the excellent work you and your officials have done over the past year. I should be particularly grateful if you could pass on my thanks to the team.

Tony

30 April 2004

Top: PD(GOP) PD(KEG) PD(GR)

CONFIDENTIAL - COMMITTEE MEMBERS ONLY

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8604
Fax: 020 7944 8621

The Rt Hon David Blunkett MP
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

30 April 2004

Dear David

IDENTITY CARDS – POINTS ARISING FROM DA MEETING

Following our DA meeting to discuss ID cards on 30 March, your letter to me of 1 April sought policy approval for the details of the "super-affirmative" procedure that you proposed should precede a move to a compulsory scheme. You proposed a number of steps, including laying before Parliament a report which set out the Government's proposal on compulsion and which covered the triggers agreed by Cabinet last November. You proposed a full day's debate in both Houses on an amendable motion that Parliament should agree the proposal in the report. If the vote were won, you proposed that Government should lay a sixty-day affirmative resolution order to enable the move to compulsion. These steps would be set out on the face of the Bill, except for the guarantee of a full day's debate on the amendable motion, which you undertook instead to emphasise in Parliament and in press lines when the draft Bill was published. Finally, you proposed that the draft Bill should make clear that production of an ID card could not be made mandatory for access to public services and social security benefits prior to the compulsory stage of the scheme. This letter gives you DA clearance for the proposals in your letter, subject to the points recorded below.

My Private Secretary also wrote to Private Secretaries of DA members on 1 April about three issues that had not been discussed at the DA meeting on 30 March because of time constraints. These were covered in your letters to me of 24 February and 24 March. The first was that the consultation document accompanying the draft Bill should float the case for an executive agency to manage the scheme, but that the Government should not rule out alternative arms length governance options and

SKP 5/5/04

should take firm decisions in the light of response to the consultation document. The second was for a civil offence of failing to keep personal details up to date.
The third was that law enforcement and security agencies should be able to access data on the National Identity Register under the arrangements you outlined in your letter to me of 24 March. DA colleagues have confirmed that they are content. You may therefore take it that you have clearance for these proposals.

Replies to your letter of 1 April were received from Geoff Hoon (2 April), Patricia Hewitt (6 April), Tessa Jowell (6 April), Charlie Falconer (7 April), Nick Raynsford (8 April), John Reid (13 April), Alistair Darling (16 April) and Jack Straw (19 April).

Patricia noted that the "super-affirmative" process leading to compulsion would be preceded by a decision in Cabinet that would include considering the benefits and costs of a move to compulsion. She considered that the proposal was a sensible compromise, and that it would enable Parliament to see the case for compulsion. She also welcomed your confirmation that the Bill would contain provisions ensuring that commercial organisations could not make their services conditional on production of an ID card before the second, compulsory phase of the scheme.

Charlie was broadly content, but noted that it was not clear from your letter what the effect of an amendment on the motion on the report would be, or how the Government would proceed if the motion were amended. He also noted that in announcing the commitment to a debate in both Houses, it would be important not to upset the sensibilities of the House of Lords, who determined their topics for debate themselves.

Nick also welcomed the confirmation that the private sector would not be able to demand an ID card alone before phase two of the scheme. He noted that this would avoid any negative impact on socially excluded groups. He also noted that the Home Office would need to fund any new burden on local authorities to avoid further pressure on Council Tax rises. He suggested that the first step was to produce a robust assessment of costs for local authorities, in consultation with other government Departments and the Local Government Association.

John commented that the Government should encourage the private sector to make appropriate use of ID cards during the first phase of the scheme, as this would help drive up the numbers of people registering for a card, thereby increasing public acceptability.

Alistair and Jack both welcomed your assurance that there would be provisions in the Bill to prohibit both public sector and private sector organisations making the use of the card mandatory for their services before Government and Parliament had made it compulsory to register. Alistair was content with the proposal in your letter to me of 24 March that his officials and your should work together to ensure that the provisions of the Identity Card Bill did not undermine existing criminal penalties in the Road Traffic Act in respect of driving licences.

No other DA colleagues replied. You may therefore take it that you have DA clearance for your proposals, subject to taking account of the points recorded above.

I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

JOHN PRESCOTT

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon Tony Blair MP
Prime Minister
10 Downing Street
LONDON
SW1A 2AA

26 APR 2004

Dear Tony,

DRAFT IDENTITY CARDS BILL AND CONSULTATION PAPER

1. I am pleased to attach the government's draft Identity Cards Bill which was published today. Because I want there to be a wide public debate on the draft Bill, I am publishing with it a consultation document which explains the provisions in terms which the general public and interested organisations may find easier to understand than the text of the draft Bill itself. As with the previous consultation paper I will ensure wide distribution to MPs, interest groups and the general public. The paper concentrates on the main provisions in the Bill and also has a section on issues which are not covered in the Bill, the most important of which is governance arrangements. I have decided not to repeat in the consultation paper the policy rationale for the scheme as this has already been clearly set out in "Identity Cards - The Next Steps" (Cm 6020). I have however included some text on new developments since last November for example, the European Commission's proposal for harmonised security features including biometrics in passports and the US decision to fingerprint all arrivals at US ports from September this year.

2. The main points on which the consultation paper will seek views are:

(i) proposals for the statutory purposes and contents of a National Identity Register and provisions in the Bill to prevent 'function creep';

(ii) proposals for the issue of ID cards and designation of existing documents such as passports and residence permits as ID cards;

(iii) data sharing powers to ensure that adequate background checks are carried out before people are issued with an ID card;

(iv) disclosure of information from the National Identity Register for the prevention and investigation of serious crime and on grounds of national security along with oversight arrangements;

(v) criminal offences and civil penalties relating to the scheme;

(vi) wider identity fraud offences relating to being in possession or control of false identity documents which was agreed by DA last year as part of a wider counter-terrorism package but could not be included in the Criminal Justice Act 2003;

(vii) the power to set a date when it would become a compulsory requirement to register and the 'super-affirmative' process which we agreed would be necessary before such a provision could come into effect;

(viii) the power to make regulations on the use of the card scheme, where existing powers relating to the service concerned are not adequate, including safeguards to prohibit mandatory production for access to public services and for private sector services in stage one of the scheme;

... 3. I am also attaching the Q&A brief and the Press Notice for your information. I am grateful for your cooperation during the preparation of this publication and look forward to the public debate on the substance of the draft Bill and the issues contained in the consultation paper.

Best wishes,

DAVID BLUNKETT

5385aa

MATRIX + PR
- I.D Cards

26 April 2004

Foreign & Commonwealth Office

London SW1A 2AH

JR

cc: JPO
KeG
CS

Dear Nicola,

Publication of Draft Identity Cards Bill – Set-Up Costs

Thank you for your letter of 23 April clarifying the set up costs for identity cards. I am grateful for the confirmation that the Home Secretary's letter of 24 March stands, and therefore that the Home Office will cover the FCO's set-up costs, regardless of the outcome of your spending bid. You will understand that we are only able to agree to proceed on the basis that the Home Office will provide our funding.

I am copying this letter to Kate Gross (No10) and Mark Bowman (HMT).

Yours ever,

pp (Jonathan Sinclair)
Private Secretary

Ms Nicola Thomas
PS/Home Secretary

CNO - Restricted 2 of 29

(not for ATX)

cc: JR

VHeg

dti

Gerry Sutcliffe MP
MINISTER FOR EMPLOYMENT RELATIONS, COMPETITION AND CONSUMERS

23rd April 2004

Rt. Hon. John Prescott
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

Dear John,

Patricia has seen David Blunkett's letter of 15 April seeking clearance from LP Committee to publish the Draft Identity Cards Bill and clearance from DA Committee to the contents of the consultation paper to accompany the draft Bill.

As Patricia is currently overseas, she has asked me to respond.

As you know, ensuring that access to public and private services cannot be made conditional upon production of an ID card during the voluntary phase of the scheme is an issue of great concern.

Patricia and I are very pleased that the consultation document and Bill make clear that the possibility of requiring ID cards to be produced during the voluntary phase remains open (where public services are chargeable). We are grateful to David for agreeing to explicit consultation on the point of how consumers who do not have an ID card can enforce their right not to be discriminated against by the private sector.

Clearly the acceptability of the card to the public will be critical to the success of the scheme. We are very much looking forward to learning consultee's views.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours sincerely,

SCMyers

pp **GERRY SUTCLIFFE**
Approved by the Minister and signed in his absence

Department of Trade and Industry

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RESTRICTED – POLICY - CMO

LEADER OF THE HOUSE OF COMMONS

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

Our Ref: LP2875

23 April 2004

Dear Home Secretary,

DRAFT IDENTITY CARDS BILL

Thank you for your letter to John Prescott of 15 April, copied to me, seeking LP clearance to publish the draft Identity Cards Bill on 26 April, and DA clearance to the contents of the consultation paper which will accompany the draft Bill.

Paul Boateng, Paul Murphy and Douglas Alexander replied. All were content for the draft Bill and consultation paper to be published. Paul Boateng welcomed your proposal to include in the Bill a "super-affirmative" procedure for any Parliamentary decision on compulsion; a block on manadatory requirements in relation to public services in the first phase of the scheme; and reserve powers to prevent private services from imposing mandatory requirements. He noted the importance of ensuring the consultation document as well as the Bill were drafted in such a way as to leave the technical options for card schemes open, and welcomed your commitment to further work on a Regulatory Impact Assessment. Paul Murphy supported your approach to devolution issues, particularly the creation of a power to allow the Northern Ireland Assembly to set regulations to require cards to access services, and the proposal that the database should be able to record more than one nationality. He would welcome the development of at least one type of card which did not show specific nationality information on its face. Douglas expressed surprise that no RIA had been circulated. He noted that his officials were working with yours and hoped that an RIA would be made available alongside consultation on the draft Bill.

You may take it that you have LP clearance to proceed with publication of the draft Bill as you propose, subject to DA agreement to the policy set out in the consultation paper.

I am copying this letter to the Prime Minister, members of LP Committee, and to Sir Andrew Turnbull and First Parliamentary Counsel.

PETER HAIN
(Approved by the Leader and signed in his absence)

The Rt Hon David Blunkett MP
Secretary of State for the Home Department

1. RK
2. Ev

14

WP

cc KEG
JR

RESTRICTED - POLICY - CMO

Department for **Transport**

From the Secretary of State

Great Minster House
76 Marsham Street
London SW1P 4DR

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Web site: www.dft.gov.uk

Our Ref: AD/006402/04

22 APR 2004

The Rt Hon David Blunkett MP
Home Secretary
50 Queen Anne's Gate
LONDON
SW1H 9AT

Dear David

PUBLICATION OF DRAFT IDENTITY CARDS BILL

Thank you for your letter of 15 April to John Prescott enclosing the draft of a further Consultation Paper and a draft Bill on identity cards.

I note that these documents put on record the super affirmative resolution procedure we agreed at our meeting on 30 March. That is important as we should not move to the compulsory, second stage of this scheme without a reasoned report to both Houses and a substantial debate.

The Consultation Paper mirrors the previous Next Steps document in confining the information about costs to the likely effect of increased charges for passports and driving licences. These are very broad forecasts and cannot, at this stage, have any regard at all to prices tendered by contractors. The outcome could move in either direction by a considerable margin. I trust we could review decisions for the shape, chosen technology and timing of this scheme if, as often happens with large projects, later estimates of cost lead to charges significantly greater than the £73/£77 now quoted.

Subject to that, I am content with publication of these documents.

I am copying this letter to the Prime Minister, members of DA and LP Committees, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours

ALISTAIR DARLING

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

WR
KC ICEK
OR

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

22 April 2004

Dear John,

IDENTITY CARDS – PUBLICATION OF DRAFT BILL

I have seen David Blunkett's letter of 15 April asking for final policy clearance to publish the draft Identity Cards Bill and supporting consultation document.

2. I very much welcome the Home Secretary's agreement to include in the Bill a "super-affirmative" process for any Parliamentary decision on compulsion; a specific block on mandatory requirements in relation to public services during the first, voluntary stage of the scheme; and reserve powers to prevent private services from imposing any similar mandatory requirements. I am happy to give policy clearance for the Bill on this basis. The supporting consultation document will of course need to fully reflect DA agreement on these points.

3. In addition, I believe it will be important to ensure that the consultation document is carefully drafted – as is the Bill – to keep technical options open, for example in relation to the number and type of biometrics to be recorded, the precise form of the card, and the underlying numbering system. This will enable effective decisions to

be taken at a later stage, once the necessary assessment work has been completed.

4. I understand that these points are now being worked into the consultation document by officials.

5. Finally, I welcome the Home Secretary's commitment to further work up a Regulatory Impact Assessment to reflect consideration of the regulatory burden on business. This is clearly an area in which a full assessment will be needed. I should note that, since the Budget, all proposals which have a major impact on business must have a regulatory impact assessment agreed with the RIU and approved by the Panel for Regulatory Accountability.

6. I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

PAUL BOATENG

RESTRICTED - POLICY - CMO

Copy 15

Office of the Deputy Prime Minister
Creating sustainable communities

The Rt Hon Nick Raynsford MP
Minister for Local and Regional Government

Office of the Deputy Prime Minister
26 Whitehall, London SW1A 2WH

Tel: 020 7944 3013 Fax: 020 7944 4539
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Deputy Prime Minister
26 Whitehall
London SW1A 2WH

1. PR
2. file

WP (not for NTX)

cc: KEG
JR

22 APR 2004

Dear John

I am writing in response to the Home Secretary's letter of 15 April seeking clearance for the draft Identity Cards Bill and consultation paper from DA and LP colleagues. I respond now on behalf of the Office to both Committees and so also send this letter to Peter Hain and LP colleagues.

I am content to give clearance to publication of the draft Identity Card Bill and accompanying consultation document subject to the following two points.

Firstly, I note that the draft Bill attached to the Home Secretary's letter does not fully reflect his agreed position with Patricia Hewitt, that the draft Bill should include provisions to prohibit the private sector from demanding an Identity Card during a voluntary phase. I wrote supporting this agreement and continue to regard it as important that we avoid unnecessarily impacting on those in socially excluded groups who are the least likely to hold a card. Therefore, I feel it is important this is reflected in the draft Bill

However, David has since suggested including a further clause in the draft Bill which would place such a prohibition on the private sector and has agreed this is to be an issue for specific consultation. I continue to have reservations around whether the clause as drafted is the best mechanism to achieve this prohibition on private sector use of the card as this does not go so far as to make this a criminal offence in itself or impose any civil penalty for breach. This would instead place the onus on the individual to take forward any action against a company themselves, which will be particularly problematic for those in socially excluded groups who can find it most difficult to access the legal system. As it will be those in these groups who are the most unlikely to hold a card this would exacerbate any problems experienced by them.

However, I am content for publication to go ahead on condition that this new clause is consulted on in the draft Bill and that the issue of prohibiting private companies from requiring an Identity Card in the voluntary phase is a specific issue on which we seek views in the consultation paper. I ask that David's officials work with mine in making the necessary drafting changes to accommodate this.

I note here that although I have given my agreement for publication on this basis, as it will be a useful way of developing our thinking, this does not represent a view as to how I would expect this issue to be dealt with in a final Bill. Also, I expect David's officials to work with mine and those at the DTI to look at this issue further, taking into account the views received during the consultation period.

Secondly, I again highlight the issue of raising the expectation that local authorities will be able to accommodate the use of the Identity Card when they provide services. This may not be the case when the Identity Card scheme rolls-out and the Home Office must be careful to avoid raising the public's expectation that they will be able to do so, otherwise a New Burden will be realised which must be funded by the Home Office. I believe my officials have offered some useful drafting comments to be included in the consultation paper.

I am copying this letter to the Prime Minister, Peter Hain, members of DA and LP Committees, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

WP
cc HEG
JR

DWP Department for Work and Pensions

Richmond House
79 Whitehall
London
SW1A 2NS
Telephone
020 7238 0800
Email
ministers@dwp.gsi.gov.uk
www.dwp.gov.uk

From the Secretary of State for Work and Pensions

RESTRICTED – POLICY

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

22 April 2004

Dear John,

Publication of Draft Identity Cards Bill

1. I am writing in response to David Blunkett's letter of 15th April in which he requested LP Committee clearance to publish the draft Identity Cards Bill on 26th April, and DA clearance for the Consultation Paper which will accompany the draft Bill.

2. I am broadly content with the contents of the Consultation Paper and with the main points as highlighted at paragraph 4 of David's letter. My officials continue to work closely with their Home Office colleagues and are providing detailed comments.

3. I am pleased to see the inclusion of powers within the draft Bill to allow DWP access to the National Identity Register in circumstances where an individual has not given his/her consent. Such powers are fundamental to the application of ID Cards to combating benefit fraud. This, alongside the potential for improving access to services, is one of the main reasons for DWP support for the overall ID Card scheme.

4. I am, however, slightly concerned about paragraph 2.19. The

wording of this suggests that the recording of biometrics could take place at local convenient centres, such as "a local job centre". There is an important point of definition here which needs to be made clear. I do not envisage that mainstream Jobcentre Plus offices could carry out this function. However, certain of our outlets form part of a network of National Insurance number allocation / interviewing sites - and these may be suitable for such a purpose. Officials are looking into the potential synergy between this service provision and ID Card registration. In the meantime, I feel that as it stands the reference to job centres is misleading, and should be removed.

5. Work continues on the identification number which will form an essential part of an individual's entry on the National Identity Register. The National Insurance number does have a number of advantages as a potential candidate here. However, I am also aware of the Home Office preference for a completely new number, and that officials continue to consider the ramifications of these alternatives. I am pleased to see that the Consultation Document is sufficiently open-ended in respect of this issue and does not make any definite commitments one way or the other. This should allow sufficient time for the issues to be fully explored.

6. I am copying this letter to the Prime Minister, DA and LP Committee members, Jack Straw, Hilary Benn, First Parliamentary Counsel and to Sir Andrew Turnbull.

Best wishes,

Andrew.

ANDREW SMITH

RESTRICTED - POLICY

From the Secretary of State for Health

DH Department of Health

Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 3000

WP
cc: KEY
OR

IMC: 32357

The Rt Hon. John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

22 April 2004

Dear John,

IDENTITY CARDS

I have seen David Blunkett's letter of 15 April, requesting LP clearance to publication of a draft Bill on ID cards and DA clearance to the publication of a consultation paper setting out the background to, and provisions of, the draft Bill. David's officials have helpfully shared previous drafts of both the Bill and the consultation document with my officials and I have no comments to make at this stage on either of the drafts attached to his letter. I very much welcome making the Bill available in draft form in this way, which will undoubtedly facilitate a sensible and informed public debate over the use of ID cards. I can confirm that I am content with David's proposals.

I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever,

John

JOHN REID

Sanctuary Buildings Great Smith Street Westminster London SW1P 3BT
tel: 0870 0012345 dfes.ministers@dfes.gsi.gov.uk
Rt Hon Charles Clarke MP

WP
cc: ICE
JP

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

22 April 2004

Dear John

DA COMMITTEE CLEARANCE TO THE CONTENTS OF THE CONSULTATION PAPER ACCOMPANYING THE DRAFT IDENTITY CARDS BILL

I am writing in response to the Home Secretary's letter to you of 15/4, seeking DA clearance to the contents of the Consultation Paper accompanying the draft identity cards Bill

I am content to give clearance to the consultation paper which will accompany the Draft Bill.

I am copying this letter to the Prime Minister, Members of DA and LP Committees, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever

Charles Clarke

1. fr
2. fic

29

RESTRICTED – POLICY - CMO

CabinetOffice

Douglas Alexander MP
Minister for the Cabinet Office and
Chancellor of the Duchy of Lancaster

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WP
cc: DM
KEG

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

22 April 2004

Dear John –

PUBLICATION OF DRAFT IDENTITY CARDS BILL

I have seen the letter from David Blunkett, dated 15 April, seeking DA and LP agreement to publish the draft Bill. I am writing as Minister with responsibility for Better Regulation.

I agree that the draft Bill should be published for consultation. However, the proposal will have a significant impact on business and, given our recent commitment to strengthening the scrutiny of major regulatory proposals, it is surprising that no assessment of the overall impact has been completed.

I understand that my officials have been in touch with yours, about preparing a RIA in support of enabling powers or where some of the information is commercial in confidence, and hope that one can be made available alongside consultation on the draft Bill.

INVESTOR IN PEOPLE

I am copying this letter to the Prime Minister, Charlie Falconer, members of LP and DA, the devolved administrations and Sir Andrew Turnbull.

Yours ever

DOUGLAS ALEXANDER

1. PR
2. FILE

Top: PJD(cs)
cc JP
JR
KEG

RESTRICTED – POLICY – CMO

HOUSE OF COMMONS
LONDON SW1A 0AA
THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

Our Ref: LP2875

21 April 2004

Dear David,

ID CARDS

Thank you for copying me into your letter of 15 April to John Prescott.

I am content with your proposal for publication of the Draft Identity Cards Bill on 26 April together with the accompanying consultation document. Whilst it is important we progress this policy soon in the way you describe, I feel it is equally important that we have a "core message" associated with the publication and which could also form part of an introduction to the Consultation Document and the statement to the House.

This should explain:

- the overall political purpose of introducing ID cards,
- the context (including that the US and other countries are going to require biometrics),
- in simple terms the way it will work (specifically covering the "family" of compatible cards issues described in paragraphs 2.16-21.8)
- the cost issues covered in paragraph 3.18 making sure it is widely understood that the total will be only marginally more than acquiring a new passport or driving licence and presumably less than it would have been to separately acquire both.

This "core message" could also be incorporated in letters to backbench colleagues and Constituency Labour Parties. Although the policy will I believe in the end prove popular it is important it is launched with real clarity.

I am copying this letter to the Prime Minister.

Yours ever,

PETER HAIN

The Rt Hon David Blunkett MP
Secretary of State for the Home Department

Sup 22 Hou

From: William Perrin
Date: 21 April 2004

PRIME MINISTER

cc: Jonathan Powell;Ivan Rogers;Sally Morgan;Pat McFadden;David Hill;Justin Russell;Kate Gross;Ben Wilson;

IDENTITY CARDS – CRIME PREVENTION AND PRACTICAL ISSUES

I attach two short plain English documents with useful contextual information on ID Cards.

Annex A – a list of real crimes that could have been averted had biometric id been in widespread use. I commissioned this from the Home Office.

Annex B - You have correctly stressed that practical implementation issues are the biggest obstacle to ID Cards. I attach a straightforward list of what they are – they boil down to making sure that:

biometrics work on a very large scale – we have a 10,000 person trial in hand

we can painlessly enrol 60 million people in seven-odd years

best practice in programme management is applied, learning from all the mistakes we have made in the past.

I hope this is helpful.

WILLIAM PERRIN

Conqueror

Annex A

IDENTITY FRAUD / THEFT CRIMES

£1m Scam Plan

One fraudster, who was eventually prosecuted and imprisoned, almost succeeded with an intricately planned £1m scam.

Having sat 28 driving tests across the country, obtaining different identity documents from each, and registering on the electoral roll for a variety of rented properties, he was able to open multiple bank accounts. A biometric would have stopped him taking more than one test. He cycled money between these accounts for several years, building up a healthy transaction history. This then enabled him to obtain multiple loans and credit. He was on the point of absconding with £1m when his actions were detected by the UK Fraud Advisory service CIFAS.

Identity Hijacking - Victim loses UK Property

Over a period of 2 - 4 years, fraudsters targeted two UK nationals who were working abroad, and stole personal documents with a view to hijacking their victims' identity. **A biometric prevents impersonation.** The fraudsters attempted to infiltrate their victims' finances, which were held in the UK, and remove funds from their bank accounts, pension funds and life assurance policies.

Security mechanisms in place between account holder and customer, where the customer had to prove their identity, have thwarted account take over efforts by fraudsters in some cases. But they are not effective in every situation. **In one case, one of the victims lost his UK home after the fraudsters, posing as the victim, instructed an estate agent and solicitor to sell the property.**

Credit Card Fraud - Use of false documents

Through mail interception, fraudsters redirect their victims' mail and through impersonation **collect new credit cards from banks using a variety of false identity documents. Victims have been known to suffer losses from £10,000 to £100,000 as a result of the consequential crimes committed by fraudsters**. It is reportedly common for several fraudsters to use the same false passport/identity document to conduct as many criminal acts as possible on the same day before the false document is detected. **A biometric prevents impersonation and an ID card can also be barred immediately when it is reported stolen.**

This is a form of organised crime that can involve fraudsters taking over several individual or company accounts with money being moved quickly from one account to another.

Identity theft - 2 years to reclaim damaged identity

After being turned down for a mortgage, a man contacted a credit reference agency because he believed that he had been a victim of fraud. **On receipt of his credit file, he noticed 16 fraudulent entries recorded against the previous address, which he had vacated 3 months ago.** He raised queries with the companies concerned and provided supporting documentation such as tenancy agreements, to aid the inquiry. **For large financial transactions, using ID cards will become the norm – a biometric prevents impersonation.**

A fraudster had used the victim's identity to open a large number of new financial facilities in a relatively short period of time and defaulted on repayment for them. This particular case of damaged credit history **took 29 working days to rectify and required liaison between the credit reference agency, the victim and the various financial institutions. Once an individual's credit rating is destroyed, it takes on average, 2 years to repair.**

Electoral Register Fraud Ring

A leading credit reference agency reported that 10 individuals had tried to create new identities by using false documents to place themselves on the local electoral register. The fraudsters submitted forged birth certificates, letters from their local authority, telephone and utility bills, in an attempt to prove their identity. **A biometric would have prevented duplicate entries for the same person.**

All 10 fraudsters requested that their enrolment records should be backdated to 1994 and wanted a copy of 'their' up to date credit file. Three months after these false applications were made, individuals using the same identities and addresses, made 9 fraud attempts on providers of financial services. These attempts were detected at the application stage because of the CIFAS warnings.

How will Identity cards help?

A biometric only allows one shot at an identity. If you have an existing identity it should be impossible to obtain another one falsely where an ID Card check is required. Identity cards could allow financial institutions, legal practitioners, estate agents and other companies such as Royal Mail who carry out high value, sensitive or personal transactions to confirm their customers' identity with a high degree of assurance. **Fraudsters would not therefore be able to impersonate their victims by intercepting and using copies of letters or by using other paper documents such as utility bills that are currently used to prove identity**.

Even if identity cards are lost or stolen, then security features such as the biometric identifier would stop them from being used by other people or fraudsters to collect victims' credit cards from banks, open fraudulent accounts or create new identities by

- establishing false historical footprints with credit reference agencies as illustrated in the above case studies.

conqueror

Annex B

ID Cards – Practical issues to be worked through

Work with Development Partner over the rest of 2004

- Need to establish the reliability of biometric technology, especially in high volume use
- Need to develop reliable revised business processes, eg front office routines
- Need to devise an organisation for the delivery of the whole Identity Cards Scheme including setting up the National Identity Register, front office network, the links to existing documents and verification arrangements eg a network of card readers and supporting processes
- Prepare a robust business case in preparation for a Gateway 1 review.

Major Milestones

- December 2004 solution and business case fully defined - Gateway 1
- March 2005 procurement specification prepared - Gateway 2
- Spring 2005 royal assent to legislation
- March 2006 contract signature - Gateway 3; a year is needed for procurement for a programme of this size and complexity.
- March 2007 begin high volume trials
- March 2008 ready for initial public launch - Gateway 4
- Post 2008 complete phased launch of family of cards

Phasing Issues

- No big bang is intended. We are planning for progressive implementation of scheme, so need to assess level of card penetration over time.
- Work is needed on which application and delivery channels will be open and when
- Choices are still to be made about priorities for implementation, eg which cards in the family and which target audiences first
- Currently planning for early implementation for foreign nationals
- But there are difficult issues in relation to EU citizens, because EU arrangements are posited on the validity of one member state's identity documentation in another. Work needed to get our view in the ascendent in Brussels. Discussions in hand with European Secretariat.
- Need to make sure that identity verification capabilities are in step with the roll out of the card; less work done on this to date than delivery issues.

COPY 1

MATRIX

WP:
[redacted]
JR.
HEG:
[redacted]

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

20 April 2004

Dear John,

IDENTITY CARDS

I have seen David Blunkett's letter of 15 April seeking LP consent to publish the draft Identity Cards Bill and DA consent to the contents of the draft consultation paper.

I am happy to confirm that I am content on both counts. I am particularly grateful to David for accommodating various devolution issues, including the creation of a power to allow the Assembly to set regulations to require presentation of cards to access services. Whether or not they choose to avail of the power would, as David says, be a matter for them.

I am happy too with David's proposal that the database should be able to record more than one nationality. This would accommodate the people of Northern Ireland who may be British or Irish or both, and also the many other residents in the UK who have dual nationalities. I note that the question of what information should appear on the face of the card has not yet been agreed. Nationality information will continue to be sensitive in Northern Ireland. I think it would be essential to have at least one type of card available that did not show specific nationality information on its face – especially if production of a card were ever to become mandatory to access services in either the public or private sectors.

INVESTOR IN PEOPLE

I am copying this letter to the Prime Minister, members of DA and LP, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever,

Paul

RT HON PAUL MURPHY MP
Secretary of State for Northern Ireland

INVESTOR IN PEOPLE

Department for Culture, Media and Sport
Rt Hon Tessa Jowell MP
Secretary of State

2-4 Cockspur Street
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www.culture.gov.uk

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Copy 26

RESTRICTED – POLICY - CMO

1 Pr
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C04/00447/MK

WP
JR
ICEK

Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
26 Whitehall
London
SW1A 2AU

17th April 2004

Dear John

PUBLICATION OF DRAFT IDENTITY CARDS BILL

I have seen the Home Secretary's letter to you of 15 April about the publication of the Draft Identity Cards Bill.

This is to confirm that I fully support his proposals for both publication of the Bill and the consultation paper.

I am copying this letter to the Prime Minister, members of DA and LP Committees, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours

Tessa.

TESSA JOWELL

POSITIVE ABOUT DISABLED PEOPLE

INVESTOR IN PEOPLE

1 PR
2. GLe

29

Department for
Transport

RESTRICTED – CMO

From the Secretary of State

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

OUR REF: AD/005674/04

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

16 APR 2004

WP
cc: JR
KeG

Dear John

IDENTITY CARDS: FOLLOW-UP TO DA

I am grateful to the Home Secretary for his letter of 1 April and, in particular, I welcome his assurance that there will be provisions in the Bill to prohibit both public sector and private sector organisations making the use of the card mandatory for their services before the Government and Parliament have made it compulsory to register.

I am also content with the proposal in his letter of 24 March that our officials should work together to ensure that the provisions of the Identity Card Bill do not undermine the existing criminal penalties in the Road Traffic Act in respect of driving licences.

I am copying this letter to the Prime Minister, other members of DA, and Sir Andrew Turnbull.

Yours ever

Alan

ALISTAIR DARLING

LPR
2. FILE

(1)
Top: PD(WP)
" PD(JR)
PD(KEG)
PD(CS)

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

Dear John

PUBLICATION OF DRAFT IDENTITY CARDS BILL

Summary

15 APR 2004

I am seeking clearance from:

(i) LP Committee to publish the Draft Identity Cards Bill on 26 April;

(ii) DA Committee to the contents of the consultation paper which will accompany the draft Bill.

I am sure that colleagues will appreciate the importance of publishing the Bill as soon as practicable. The Home Affairs Select Committee inquiry on the policy of introducing an identity cards scheme is drawing to a close and I would like to give the Select Committee the maximum time possible to consider the draft Bill before the summer recess. I would also like to ensure that we have a wide margin between the publication date and the purdah period for the European and local elections. This means that I need to ask for clearance more quickly than usual. I hope that my previous three letters to DA and our discussions on 30 March have helped to facilitate clearance. I would be grateful for clearance by 22 April to allow for publication on the 26th.

Background

2. Cabinet agreed to the publication of a draft Bill last November and this was included in the Queen's Speech. I have previously written to DA, most recently on 1 April following the meeting of the Committee on 30 March. I am now writing further to those letters and the responses I have received. Earlier drafts of the Bill have been circulated between our officials and the complete draft is attached to this letter.

SKP 16/4/04

(vii) the power to set a date when it would become a compulsory requirement to register and the 'super-affirmative' process which we agreed would be necessary before such a provision could come into effect;

(viii) the power to make regulations on the use of the card scheme, where existing powers relating to the service concerned are not adequate, including safeguards to prohibit mandatory production for access to public services and for private sector services in stage one of the scheme;

(ix) proposals on the application of the draft Identity Cards Bill and the use of identity cards in Scotland, Wales and Northern Ireland;

(x) options for a governance structure for the identity cards scheme.

5. During the previous consultation exercise we built up a wide range of contacts with key stakeholder groups. This means we do not need as lengthy a consultation period as last time. The consultation period will therefore be 12 weeks, in line with Cabinet Office guidelines. I will also commission qualitative and quantitative research during the consultation period to ensure that we have a properly representative sample of the public's views.

Territorial extent and devolution

6. We have kept in close touch with the devolved administrations as this policy has developed over the last two and a half years. The Bill will provide for the National Identity Register to be established and for ID cards to be issued on a UK-wide basis. The information which the Register needs to record to function effectively includes information on nationality and immigration status, matters which are reserved to Westminster. The main areas of the Bill where specific provision is made for the devolved administrations are:

(i) the power for Secretaries of State to make regulations about identity checks for public services. This power will not apply in Scotland. In order for the scheme to be used in this way in Scotland, an Act of the Scottish Parliament would need to be passed to give equivalent powers to the Scottish Ministers. I have accommodated Rhodri Morgan's request that the power will apply to Wales but that any regulations will be laid before and approved by the Assembly. I have also included Paul

8. The draft Bill is consistent with the positions we reached in the Next Steps document and in subsequent discussions. The Bill therefore places no obligations on the private sector or the voluntary sector to make use of the card scheme. I therefore do not propose to publish a regulatory impact assessment (RIA) with the draft Bill as this will:

(i) raise concerns that the Government had a hidden agenda beyond what is included in the Bill;

(ii) compromise our contractual discussions with potential suppliers. I have only provided detailed cost and benefit information to the Home Affairs Select Committee in strict commercial confidence so I cannot then agree to publish similar information as part of the consultation on the draft Bill.

9. I have set out in Annex C of the consultation paper the areas where there may in future be RIAs and explained why the draft Bill does not include specific provisions. An RIA has been prepared which looks ahead to a time when checking a card would be usual practice for employers and the financial services industry. The costs and benefits in the document are consistent with the business case agreed at official level during the DA and Cabinet discussions last year and my officials will continue to work with colleagues in the Cabinet Office to develop it further.

10. During the consultation exercise, I will continue to engage with employers' organisations and trade unions. I want to move the debate beyond issues of principle and as part of the ongoing work on the RIA seek more detailed views from employers on the costs and benefits of different types of card check.

European Convention on Human Rights

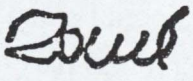
11. The draft Bill is compatible with the ECHR. Identity card schemes – both compulsory and voluntary – have operated in many countries which are signatories to the Convention for generations. What is often overlooked in discussions about this subject is that our proposals also include some measures which enhance individual privacy such as protecting people from identity theft and making it a criminal offence to disclose information held on the scheme

15. LP Committee is invited to agree that, subject to any minor or drafting amendments agreed with Parliamentary Counsel that the Draft Identity Cards Bill should be published on 26 April with a 12 week consultation period.

16. DA Committee is invited to agree to the publication of the consultation paper alongside the draft Bill.

17. I am copying this letter to the Prime Minister, members of DA and LP Committees, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best Wishes



DAVID BLUNKETT

Draft Identity Cards Bill

ECHR MEMORANDUM

Introduction

1. This memorandum sets out the consideration of any issues under the European Convention on Human Rights (ECHR) which it is thought may arise in connection with clauses in the draft Identity Cards Bill.

Summary

2. The draft Bill covers:

- Registration, including the establishment of the National Identity Register, its contents and how information is recorded in it (clauses 1-7)
- Issuing and renewal of ID cards or documents which can act as ID cards (clauses 8-10)
- Maintaining the accuracy of the Register (clauses 11-13)
- General requirement for a person to consent to disclosure of information (clause 14)
- Required identity checks for public services (clauses 15-18)
- Disclosure of information without consent (clauses 19-23)
- The National Identity Scheme Commissioner (clauses 24-25)
- Criminal offences (clauses 26-31)
- Civil penalties (clauses 32-35)
- Supplemental eg power to set fees (clauses 36-40)
- Schedules governing the contents of the National Identity Register and repeals.

Consideration

Articles 6 & 7 of the ECHR

3. Article 6 guarantees a right to a fair trial in the determination of a person's civil rights and obligations or any criminal charge. Article 7 guarantees no punishment without law.

Criminal offences

4. The draft Identity Cards Bill includes provisions for the criminal offences and civil sanctions required to make the scheme effective. Clause 26 creates new criminal offences related to possessing false identity documents and mirrors existing offences contained in the Forgery and Counterfeiting Act 1981. Clause 28 creates a new criminal offence of unlawful disclosure of information held on the National Identity Register. Clause 29 creates a new offence of providing false information. Clause 30 increases the maximum penalty for an offence under section 3 of the Computer Misuse Act 1990 in so far as it applies to the National Identity Register. Clause 13(7) makes it an offence to fail to notify of an invalid card and/or surrender an ID card.

5. The offences do not rely on a reverse burden of proof. There is no retrospective creation of offences and existing rights of appeal in criminal cases apply. However, the offence of unauthorised disclosure attracts a defence (clause 28(3)) under which a person may show that he believed, on reasonable grounds, that he had lawful authority to make the disclosure in question. We believe that this

defence is necessary to protect employees involved in making any of the disclosures without the registered individual's consent which are authorised under clauses 19 and 22. We believe that any interference with article 6 caused by this defence is proportionate and necessary to protect anyone charged with this offence. We do not believe that there are any other implications relating to criminal offences under Human Rights legislation.

Civil penalties

6. The draft Identity Cards Bill includes provisions for a process of civil penalties regarding compulsory registration and notifying changes of circumstances. The draft Bill sets out in 6(4), 6(5), 9(3) and 12(6) the circumstances in which a person may be liable to a civil penalty.

7. Where civil sanctions apply, the draft Bill provides a route of objection to the Secretary of State and/or an appeal to the courts by an individual objecting to the imposition of the penalty. Clauses 32 to 34 set out the steps to be taken if the recipient of the notice objects. The recipient may choose to issue a notice of objection to the Secretary of State, appeal to the court or both. Clause 35 establishes a code of practice setting out the matters to be considered when determining the amount of civil penalty under the Bill.

8. The use of a civil financial penalty to enforce a scheme is in line with other European systems and the safeguards of the right of appeal and a code of practice ensure that there are no implications under Human Rights legislation.

Article 8 of the ECHR

9. Article 8 provides a right to respect for private and family life. There shall be no interference with this right except in accordance with the law and that which is necessary for certain specified reasons.

10. The combination of greater global mobility and advancing technology is making it increasingly difficult to protect and authenticate people's identity. The introduction of an identity cards scheme is a key part of the Government's strategy to contain the threats from illegal migration and working, organised crime and terrorism, identity theft and fraud, and fraudulent use of public services. We believe that these threats are sufficient grounds for introducing an identity cards scheme, especially when considering trends over the next 10-20 years for example in the ease and lower cost of travel.

11. We consider that certain provisions in the draft Bill <u>enhance Article 8 rights</u> by helping to protect a person's identity from identity theft and fraud and assert his rights to reside lawfully in the UK. An identity card with a biometric unique to that person will give an ability to confirm their identity to a very high degree of assurance. Further privacy enhancing measures in the draft Bill include:

Disclosure of information with consent

12. In general the identity checks offered by the scheme operate by consent of the person registered (clause 14). Clause 14 ensures that the disclosure regime is properly regulated and the Secretary of State is under no obligation to disclose information even where consent has been given. If an organisation to which information was disclosed misused the information it received, clause 14 allows the Secretary of State to refuse further disclosures to that organisation.

New criminal offences of unauthorised disclosure of information and tampering with the National Identity Register

13. It will be a criminal offence for a person involved in the administration of the scheme to disclose information without authorisation (clause 28). There is also a risk that a person might attempt to tamper with the contents of the National Identity Register for example changing someone's details and arranging for the issue of a 'false' card with the changed details. This is also an offence and the maximum penalty set out in the draft Bill is 10 years imprisonment.

Specific exclusion of compulsion to carry

14. Under clause 6 it may be compulsory for an individual to register however the draft Identity Cards Bill specifically excludes the possibility of making regulations that mandate the carrying of cards (15(3)). Clause 15(3) provides that regulations could not be made under the draft Bill requiring the carrying of a card or its production on demand other than as a condition of providing public services.

15. Where the draft Bill interferes with the rights under Article 8, we consider that this is necessary and proportionate given the Government's policy objectives for the scheme summarised in paragraph 10 above. An identity cards scheme, fully enforced, would provide more effective internal controls because every individual in the UK legally for longer than a specified period would have a document that proved who they were and, if a foreign national, their immigration status. A card scheme would also disrupt the use of false and multiple identities by terrorist organisations. Serious and organised crime also misuse identities, for example in money laundering or in drugs and cigarette smuggling.

16. The specific areas where the draft Bill interferes with Article 8 rights are:

- The recording of personal information both on the National Identity Register and on ID cards and the requirement that registered persons notify any prescribed changes
- The need to verify information on the Register by reference to data held by other persons about registered individuals which may have been provided by the individuals for other purposes
- Allowing regulations to make the provision of public services conditional on identity checks and thus requiring a person to provide personal information in situations where this had previously not been the case
- Allowing for the disclosure of information on the Register without the consent of the registered individual
- Compelling registration, subject to further Parliamentary approval.

Information held on the register

17. The information and the purposes for which it is recorded are set out in the draft Bill (clause 1 and schedule 1). The information held on the Register is limited to basic personal information with the exception of biometric information and information necessary to ensure the proper administration of the scheme. Biometric information is an important privacy safeguard, helping to guard against identity theft or misuse. Additional categories of information cannot be stored in the Register unless Parliament passes further primary legislation thus providing an important safeguard against any encroachment on the right to privacy.

Data-sharing to verify information on Register

18. Clause 11 deals with the provisions necessary to permit data to be shared with the Secretary of State for the purposes of verifying information to be placed or

which is currently placed on the National Identity Register. The potential interference with the rights under Article 8 comes from the use of information given for one purpose being used for another ie verifying the accuracy of the Register. This is a necessary interference as it is in the interests of the good administration of the scheme that accurate information is recorded to prevent identities being stolen or misused. Conducting thorough background checks via these powers will make it much harder than at present for someone to steal or misuse another's identity. The provisions are proportionate as the powers are strictly limited to the purpose of ensuring the accuracy of the Register. They do not confer the power to share data for wider purposes. This limitation on the scope of the data-sharing powers and the need for parliamentary consent by affirmative resolution in each case provides sufficient procedural safeguards to meet the requirements under Article 8.

Notification of changes affecting the accuracy of the Register

19. There is a requirement for a person issued with an ID card to notify every prescribed change in circumstances which affects the accuracy of his entry in the Register. This is necessary to ensure that the information is accurate. Without such a provision, a person's identity might become more at risk of abuse if out-of-date information is held about them. Failure to comply with these provisions would incur a civil penalty (see 6-8 above). Similar provisions exist for current 'identity documents' such as driving licences and passports. The requirement is therefore proportionate and clause 12 also provides for regulations to be made which will ensure that it will be clear for example as to how long a person has before notifying any prescribed changes.

Power to make public services conditional on identity checks

20. There is no automatic requirement to produce a card for access to public services and each requirement requires authorisation by Parliament and only after consultation with those affected (clause 17). Provision is also made in clause 16 to regulate the disclosure arrangements.

Disclosure without consent

21. The provisions for disclosure without consent (clauses 19, 20 and 23) provide for disclosure of information from the Register to certain specified authorities for certain specified purposes relating chiefly to national security and the prevention and detection of crime. There is also provision for a Commissioner to provide oversight of these provisions and to report on them annually. We believe that such disclosure without consent is justified as the circumstances are strictly defined and are for purposes that are specified within Article 8.

Compulsion to register

22. Clause 6 provides a power to set a date in the future when registration will be required. As set out in *Identity Cards: the next steps* (Cm 6020), the Government would only move to compulsion when it was confident that the conditions were right. Both compulsory and voluntary identity cards schemes operate in countries which are signatories to the European Convention on Human Rights. Some European States make registration mandatory and apply sanctions to failure to carry. We are confident that a requirement for all citizens and legal residents to register does not breach the provisions of Article 8, nor does it risk a challenge under Article 14 (non-discrimination) because the requirement to register will be a general one.

Home Office
15 April 2004

REVISED DRAFT

Home Office

LEGISLATION ON IDENTITY CARDS:

A CONSULTATION

Identity Cards Legislation Workstream

15th April 2004

Contents

Executive Summary

1. Introduction:

   - The consultation on identity cards legislation;
   - The need for legislation

2. Proposals for legislation on identity cards:

   - Scope of the Identity Cards Bill;
   - National Identity Register;
   - Issue of ID cards and designation of existing documents as ID cards;
   - Data sharing powers;
   - Disclosure of National Identity Register information;
   - Criminal offences and other sanctions;
   - Identity fraud;
   - Compulsion;
   - Requirements to use identity cards;
   - Devolution.

3. Wider issues not included in the draft legislation:

   - Programme management;
   - Governance and the issuing process;
   - Police powers;
   - Costs, fee levels and technical specification;
   - Citizen Information Project;
   - Biometrics
   - International developments.

ANNEXES

Annex A Identity Cards Bill draft clauses

Annex B Explanatory notes on the draft clauses

Annex C Regulatory and Race Equality Impact Assessments

Annex D The principles of the Data Protection Act 1998

Executive summary

1. The Government announced on 11th November 2003 its proposal to build the base for a compulsory national identity cards scheme. This was set out in Identity Cards: The Next Steps (Cm 6020). The Government is now seeking, through this consultation, comments on a proposed Identity Cards Bill that would establish the legislative framework for the incremental introduction of this scheme.

2 This consultation paper explains (at Chapter 1) the need for new legislation. New legislation is required to establish a clear legal foundation for what is a major policy development and also to provide a statutory basis for spending public money on setting up the scheme and charging the fees required to recover the cost of issuing cards. The legislation will also ensure that organisations issuing cards have powers to conduct more rigorous checks on applicants so as to guard against identity fraud. It will provide safeguards for individuals who are issued with identity cards to ensure that their information is held securely as well as introducing new offences on the possession of false or improperly obtained identity documents.

3. The draft Bill is an enabling measure. It will set out a clear framework for the identity cards scheme, which will cover everyone aged 16 or over who is legally resident in the United Kingdom for 3 months or more. As with any project of this size and complexity there is a great deal of development work to be done before it is possible to finalise all the operational details, including the precise technical arrangements for recording biometric identifiers such as facial image, finger scans and iris images, which will provide a way of uniquely confirming the identity of cardholders. Accordingly, many of the detailed provisions (such as fee levels or the procedure for making an application) are not yet settled and will be laid out later in Regulations.

4. The 40 draft clauses and 2 schedules for the Identity Cards Bill are printed at Annex A. Annex B includes explanatory notes on the draft clauses and Annex C provides information on the regulatory and race impact assessments. Annex D sets out how the draft Bill complies with the principles set out in the Data Protection Act 1998.

5. The main features of the draft Identity Cards Bill are as follows (a fuller summary can be found in Chapter 2 of the consultation paper):

- Setting up a National Identity Register that will include all the identity information held on those individuals who have been registered and issued with an identity card;
- Establishing powers to issue identity cards including "plain" cards as well as a power to designate existing documents (such as passport or driving licence cards) as identity cards;
- Data sharing powers to ensure that the issuing authority is able to check the details provided by an applicant against information already held on other databases. This provision will ensure that biographical checks can

be made against other government databases to confirm the applicant's identity and guard against fraud;

- Providing reassurance that disclosure of information from the National Identity Register without the individual's consent will not be allowed, apart from in specified exceptional circumstances, such on grounds of national security or for the prevention or investigation of crime;
- Establishing new criminal offences for the possession of false identity documents. These will cover offences relating to the new identity card as well as existing identity documents that are false or have been improperly obtained;
- Powers to set a date when it would become compulsory to register and be issued with a card (but not compulsory to carry a card which is specifically prohibited in the draft Bill). This provision could be brought in only once the initial stage of the identity cards scheme was in place and following a vote in both Houses of Parliament on a detailed report which sets out all the reasons for the proposed move to compulsion;
- A provision that would enable regulations to be made, once it was compulsory to register and hold an identity card, to make it a requirement to provide proof of identity by the production of an identity card to access public services.

6. There are a number of wider issues mentioned in the consultation paper (at Chapter 3) that do not require legislation and so are not covered in the draft Bill. These include the arrangements for the organisational structure and governance of the card issuing process as well as details that will be set out in regulations such as the technical specification for cards. The paper also explains the proposed incremental approach for building towards a compulsory national identity cards scheme - as originally set out in "Identity cards: the Next Steps" – first building on existing identity documents, and only once the conditions are right moving to the second stage of the scheme in which it would be compulsory to register. The paper also sets out some of the reasons for introducing identity cards, and reports on relevant international developments relating for example to the inclusion of biometrics on passports.

7. Chapter 4 of the paper lists the consultation points. Comments are sought on the draft legislation from individuals and organisations. The House of Commons Select Committee on Home Affairs will, in addition, be carrying out formal pre-legislative scrutiny of the draft bill. The Government will take full account of all comments on the draft Identity Cards Bill before it takes a decision to introduce substantive legislation on identity cards into Parliament which would be once parliamentary time allows.

8. Any comments should be sent by Tuesday 20th July 2004 to: -

Robin Woodland
Legislation Consultation
Identity Cards Programme
Home Office
3rd Floor
Allington Towers

19 Allington Street
London SW1E 5EB

9. Comments may also be sent by fax to: 020 7035 5386 or by e-mail to: - identitycards@homeoffice.gsi.gov.uk including the words "consultation response" in the subject title.

1. Introduction:

The consultation on Identity Cards legislation

1.1 The Government is proposing to build the base for a compulsory national identity cards scheme and announced on 11th November 2003 its decision to introduce an identity cards scheme on an incremental basis. A summary of the proposals was set out in Identity Cards: The Next Steps (Cm 6020) published on the same day. It was announced subsequently in the Queen's speech at the opening of Parliament on 26th November 2003 that a draft Identity Cards Bill would be published during 2004. **This paper now sets out for consultation the Government's plans for legislation on identity cards and includes the text of draft clauses of an Identity Cards Bill.**

1.2 The Government is convinced that a national identity cards scheme will bring major benefits, but given the size and the complexity of introducing a national identity cards scheme there will be no "big bang" approach. There are a number of practical issues that can only be resolved in the years ahead and it has therefore been decided that it would be best to proceed by incremental steps with the introduction of the first identity cards, on current plans, starting in 2007-08.

1.3 Although a decision has already been made on the principle of introducing identity cards, the Government has made clear that it wishes to consult on the details of proposed legislation. Comments are therefore now sought from organisations as well as from individuals on the scope and contents of the draft legislation.

1.4 The House of Commons Home Affairs Select Committee is carrying out an inquiry on all aspects of identity cards. In addition the Committee has been invited to undertake formal pre-legislative scrutiny of the draft Identity Cards Bill. This is expected to include taking evidence on the Government's legislative proposals before publishing the Committee's own views on the draft legislation.

1.5 The draft clauses for the Identity Cards Bill are attached at Annex A, together with a draft set of explanatory notes on the clauses at Annex B. Annex C discusses the issues which will affect any regulatory impact assessments on how the scheme might be used. It also includes a discussion of the main factors to consider in the race equality impact assessment. Annex D sets out how the draft Bill complies with the principles established in the Data Protection Act 1998.

The need for legislation

1.6 The reason for introducing legislation on identity cards now is to ensure that there is a clear legal basis for such a major policy development. Whilst the costs of the identity cards scheme will be recovered from fee

income, there needs to be a statutory basis for spending public money on establishing the scheme. Legislative powers are also needed to be able to set the fees required to recover the cost of issuing cards and to ensure that organisations issuing cards have powers to conduct more rigorous checks on applicants to guard against identity fraud.

1.7 The draft Bill sets out a legal framework for the scheme and enshrines certain key protections (e.g. against "function creep" or unauthorised access to the National Identity Register database) in primary legislation.

1.8 The Bill proposed is an enabling measure that will set out a clear framework for the identity cards scheme. Many of the detailed provisions (for example the level of fees and the exact process needed to make an application) will be set out in Regulations later, rather than in the Bill itself. Establishing these arrangements in Regulations is not simply a matter of convenience or timing, but is necessary so that details of processes such as changes to fees or application forms can be amended over the life of the scheme.

1.9 Similarly, detailed arrangements for issuing cards will not be set out in the draft Bill, in order to allow potential suppliers of systems for issuing identity cards the freedom to propose innovative and flexible solutions, within the clear legal framework we have set out, thereby ensuring value for money.

1.10 There will of course be an opportunity for further scrutiny of the detailed provisions at a later stage. Regulations made under the Bill will be laid before Parliament and where there are any important issues to be decided the regulations will be debated in Parliament and approved formally by a resolution of both the House of Commons and the House of Lords.

1.11 We will proceed in two stages. The first stage, now that the Office of Government Commerce (OGC) has confirmed that the programme is ready to proceed, is to publish draft legislation to enable the scheme to be introduced and pave the way for the establishment of more reliable means of proving people's identity. This will include: _

(i) establishing a National Identity Register;
(ii) proceeding towards more secure passports and driving licences based on biometric technology – with personalised, specific identifiers;
(iii) for those who do not need a passport or driving licence and choose to take it up, making available a voluntary plain identity card. This would not, of course, become compulsory (or be mandatory for access to services) until the appropriate further Parliamentary decision – see below;
(iv) introducing mandatory biometric identity documents for foreign nationals coming to stay in the UK for longer than 3

months. For nationals from countries in the European Economic Area[1] (EEA) this will be done in a way which is fully compatible with European law.

1.12 If the conditions were right, this first stage phased roll-out could then be followed by the Second stage, a move to a compulsory card scheme in which it would be compulsory to have a card – though not to carry one – and to produce a card to access public services in ways defined by those services. In the case of those services for which the devolved administrations have responsibility, decisions on production of a card to access those services would be a matter for them.

1.13 The move to compulsion would require full debate and a vote in both Houses of Parliament. Clearly the Government would only take this step after a rigorous evaluation of the first stage, when it was confident that everything was in place to enable the scheme to work successfully, that its benefits outweighed any costs and risks and that it was fully affordable within future agreed spending plans. In particular, we would want to be confident that: -

- roll out during the first phase has already delivered significant coverage of the population;
- there is clear public acceptance for the principle of a compulsory ID card which would be used to access free public services. This would already have included a scheme of charges based on cost recovery and subsidy for those on low incomes; use of the card for access to free public services would not prevent people without cards from accessing emergency services, and those on low incomes and other vulnerable groups would not be disadvantaged;
- the scheme would make a further significant difference to tackling fraudulent access to free public services, and to tackling illegal working at an acceptable compliance cost to business; and
- the technology is working and public services have implemented the technology and business changes necessary to take full advantage of the scheme.

1.14 Before any move could be made to the second stage of the identity cards scheme (when it would become compulsory to register and be issued with a card), the Government would produce a report setting out its case for the move to compulsion and covering all relevant aspects of the proposal. This report would be laid before Parliament to allow for a period of considered reflection and would then be put before both Houses inviting them to debate and approve the Government's proposition in the report. If the report were approved the Government

[1] The European Economic Area (EEA) comprises the 25 EU member states following enlargement on 1st May 2004 together with Norway, Iceland and Liechtenstein. Although not a member of the EEA, similar rights of free movement apply to nationals of Switzerland.

could then lay an order for further parliamentary approval to set a date when it would become compulsory to register.

1.15 Details of the specific consultation points on the draft Identity Cards Bill and where to send comments are set out in Section 4 (paragraphs 4.6 to 4.12) and **all comments are requested to arrive by Tuesday 20th July 2004**. [*12 weeks from date of publication*].

2. Proposals for legislation on identity cards:

Scope of the Identity Cards Bill

2.1 Proposals for legislation are set out in the draft Identity Cards Bill at Annex A. The draft Bill will provide the legislative framework to enable a National Identity Cards scheme to be established so that individuals can easily prove their identity including their nationality and immigration status. It does so by establishing the National Identity Register and defining as an "ID card" for the purposes of the Bill a card which is either designated as such or is issued by the Secretary of State and links to an individual's entry on the Register.

2.2 The Bill will: -

- establish a database - the National Identity Register, which will hold identity details of those people registered and issued with a card;
- specify information that may be recorded in the register (including the biometric data) and the safeguards to ensure this is only available to those with lawful authority;
- provide data-sharing powers to conduct thorough background checks on applicants for identity cards so as to make sure that the details they have provided are correct;
- establish powers to issue identity cards. This includes designating existing documents (which could include passport cards, residence permits for foreign nationals, and photocard driving licences) as part of the identity cards scheme. It also includes the power to issue 'plain' biometric identity cards;
- enable regulations to be made that will specify how an application for an identity card should be made and the information that must be produced to support an application;
- set out the safeguards to protect an individual's data and define the exceptional circumstances in which specified security and intelligence agencies and law enforcement agencies could have information disclosed from the register without an individual's consent;
- provide safeguards over "function creep" in terms of information that may be held on the card or the register;
- enable public and private sector organisations to verify a person's identity by checking a card against the National Identity Register, with the person's consent, to validate identity and residential status before providing services;
- create new criminal offences around the misuse of identity cards and other identity fraud issues and provide a civil penalty for failure to notify changes affecting the accuracy of an individual's entry on the Register ;
- include enabling powers so that in the future regulations can be made relating to the use of the card scheme; and

- provide a power to set a date when the scheme would become compulsory with a requirement to register and be issued with a card and a civil penalty for failure to register.

2.3 The Bill will provide enabling powers to establish the identity cards scheme. Many of the detailed arrangements for the card scheme will be determined as the identity cards programme proceeds and the systems for issuing identity cards are designed and procured. These detailed arrangements will be set out in regulations made using secondary legislation provided for in the Identity Cards Bill. This would include the exact format of applications and the levels of fees to be charged.

National Identity Register

2.4 The draft Bill at Clauses 1-3 establishes a National Identity Register. This will hold all the information held about those people who have registered and been issued with an identity card.

2.5 It will be a new register that will be created as people apply for identity cards. It will not be simply a revised or updated version of existing databases, for example of persons issued with passports or driving licences.

2.6 Clause 1(2) sets out the statutory purposes of the Register. It makes clear that the register is to provide a record of "registrable facts" about the identity of individuals who are resident in the United Kingdom or have applied to be entered on the register. This will facilitate the issue of identity cards as well as providing a system for verification of the identity of registered people with their consent. Disclosure of information otherwise from the register will be strictly controlled. Unlike, for example electoral registers, the National Identity Register will not be open for any general access or inspection.

2.7 "Registrable facts" include, as spelt out at Clause 1(3), identity information, such as names, date of birth, place of residence, other or previous addresses, nationality and, where relevant, immigration status and conditions of stay in the United Kingdom. It will also include an audit log of when information on the register has been accessed. Although there are no plans for it at this stage, the Bill would also allow voluntary information, recorded at the individual's own request. The government would need to decide whether to bring this facility into effect and would specify the type of voluntary information that might be included if it was likely to be of benefit to cardholders (for example emergency information such as blood group or organ donor status).

2.8 In order to clarify and set out clear limits for the information to be held on the Register, Clause 3(1) specifies that apart from technical and administrative data, the information that will be held on the National Identity Register must be as specified in the draft Bill at Schedule 1. It

includes both information that is likely to be printed on the face of an identity card (e.g. name or date of birth) together with other information (such as a PIN or audit log) that would be held on the database but not shown on the card.

2.9 The Schedule lists the categories of information that may be held on the Register, although not every item listed need be included when the Register is established. The Schedule includes the following information: -

Personal information

- a person's full name and other names which he or she currently or has previously used (e.g. a stage name or maiden name);
- date and place of birth;
- gender;
- address, this will include the person's principal residence together with any other addresses at which they reside.

Identifying information

- a photograph;
- fingerprints or other biometric information such as an iris image;

Residential status

- nationality (if a person holds dual nationality, such as British and Irish, it would be possible for both to be recorded);
- for foreign nationals, immigration status

Personal reference numbers

- each person will have a "national identity register number" together with other relevant reference numbers recorded (e.g. national insurance number or existing passport number);

Record history

- previous details (e.g. earlier names or addresses) will be held on the register;

Registration history

- details of previous identity cards or registration applications made by an individual will be retained on the register.

Validation information

- information about any background evidence or document checks carried out to confirm identity or to reconfirm it when re-registering;

Security information

- security information such as an individual's personal identification number (PIN) or a password or other information that enables a person to identify themselves remotely would be held on the register.

Access records

- there would be an "audit log" held on the register of each occasion when an individual's identity record has been checked.

2.10 The draft Bill at Clause 3(4) –(6) provides that the list of information in the Schedule may only be added to or amended by laying an order before Parliament that would be subject to the affirmative resolution procedure – that is it would need to be debated and approved by both Houses of Parliament. Any such changes would also need to be

consistent with the statutory purposes of the Register and the definition of "registerable facts" in Clause 1(3). This means that categories of information that are not related to establishing identity, such as criminal convictions or medical conditions, could not be added by regulations.

2.11 Anyone entered on the register must be aged 16 or over and must be resident in the United Kingdom for a minimum period, which is intended to be 3 months. Although both the age limit and the qualifying period of residence could be varied by regulations. Most people will be entered on the register because they apply for one of the "family" of identity cards. However, the Register will be more than just a database of people holding identity cards. Entries will be held on people who make an application for an identity card whether or not that application is granted and the Register will also be able to hold information if it is available about people who have not applied for an identity card (e.g. illegal entrants) as well as people who are no longer resident in the United Kingdom.

2.12 Comments are invited on the proposals for a National Identity Register as set out in Clauses 1-3 of the Draft Bill.

Issue of ID cards and designation of existing documents as ID cards

2.13 The draft Bill at Clause 8(1) provides that an ID card may be a card which is issued to an individual by the Secretary of State (these are what have been described as "plain" cards) or a card which forms part of or is issued with a "designated document" and which shows, records or stores identity information.

2.14 The term "ID card" used in the draft Bill therefore covers any card that may be designated as one of the "family" of identity cards including a plain identity card.

2.15 The process of designation means that it is not necessary to specify on the face of the bill exactly which cards will become ID cards. It also will be possible to phase in the scheme by designating different categories of card at different times. This is consistent with the Government's intention to adopt an incremental approach to the introduction of identity cards.

2.16 The "family" of compatible identification cards could include: -

- a passport identity card (valid for travel and issued to British citizens);
- a driving licence photocard;
- a residence permit card for foreign nationals;
- a special residence permit (or "registration certificate") card for European Economic Area (EEA) nationals;
- a "plain" identity card available for those who do not qualify for or do not wish to have one of the other cards.

2.17 It is intended that most people will obtain a card when they first obtain or renew either their driving licence or their passport, and their new document will double as an ID card. If they hold both a passport and a driving licence they will be able to use both documents as an ID card. Once a document such as a passport has been designated as an ID card, this will be the only form in which it will be available– i.e. there will be no "non-ID card" variants. It would undermine confidence in the system if there were to be identity documents available, on demand, at different levels of security. Nevertheless, the process for issuing the ID card versions of designated documents will take full account of applicants' individual circumstances. Thus it could be decided to make less rigorous checks on certain applicants (for example the very elderly), but that would be within the scope of the identity cards scheme.

2.18 For those that do not qualify for or wish to obtain an ID card as part of a designated document, stand-alone 'plain' ID cards would be available. For foreign residents – including European Economic Area nationals – the card is likely to take the form of a residence permit card.

2.19 When applying for an ID card, it will be necessary to make a personal application so that a biometric can be recorded. This is likely to be at a convenient local centre – this could be either an existing public office such as at a local job centre or at a newly created enrolment centre. Applicants will be asked to bring along existing identity documentation, which will be checked for authenticity and validity. A digital photograph will be taken and biometric information such as finger scans and/or iris images will be recorded. It will be within the scope of the identity cards scheme to have special arrangements to make enrolment checks less rigorous on certain applicants (for example the very elderly).

2.20 The precise arrangements for making an application for an ID card as well as the design of the cards themselves will be decided as the identity cards programme progresses following further preparatory work and testing of different options. These arrangements are therefore not spelt out on the face of the draft bill. Rather provision is included for the detailed arrangements to be set out in Regulations. Clause 5(3) of the draft bill makes clear that an application for registration and thus issue of an ID card must be accompanied by information to be prescribed and Clause 5(4) enables further information to be requested in order to verify the information the applicant has already provided.

2.21 Clause 8(8) allows the format of an ID card and the way in which information is to be recorded on it to be specified in regulations, but these would be subject to the affirmative resolution procedure and so would need to be approved formally by both Houses of Parliament. Agreeing the format of the cards is best left to regulations so that this can be set nearer to the time of the introduction of the cards scheme. Regulations can also be amended to provide necessary improvements and to ensure that there is linkage with the format of documents

designated as ID cards as these may already be determined by EU or international standards. Fees for ID cards will also be established by regulations made under Clause 36 of the draft Bill.

2.22 Clause 12 of the draft Bill provides a power to make Regulations concerning how changes which might affect the accuracy of the Register must be notified. This will be used to require people who are registered to notify important changes, such as changes to their name, address or nationality. Clause 12(6) makes anyone who fails to follow such a requirement liable to a civil penalty not exceeding £1000. This is a lesser penalty than applies currently to holders of driving licences, who may be liable to criminal proceedings for failure to notify changes of address etc. However, the more serious criminal sanction for driving licences is justified as it is particularly important, in order to enforce road traffic law and to trace drivers involved in accidents, that the police are able to rely on DVLA and DVLNI to have up-to-date information on the addresses of drivers.

2.23 Comments are invited on the proposals for the issue of ID cards and designation of existing documents as ID cards as set out in Clauses 4-5, 8-10 and 12 of the Draft Bill.

Data sharing powers

2.24 The "Identity Cards: the Next Steps" document made clear that applications for one of the family of identity cards will require checks to be made against other databases. This would be in addition to enabling the National Identity Register to confirm, with an individual's consent, the identity information provided by an organisation wishing to verify the identity of a person who has produced an identity card.

2.25 Data sharing would help establish that an application for a card is genuine. The data-sharing gateways established for this purpose will be used only when processing applications for cards or related purposes (e.g. when issuing a replacement) to ensure that the person, who applies to register and to be issued with an identity card, is the person he or she claims to be. They do not confer any general power to share data for wider purposes than set out in the draft Bill.

2.26 The Cabinet Office study on Identity Fraud (published in July 2002) recommended that existing procedures for issuing driving licences and passports should be strengthened and recommended greater use of biographical checks on applicants. These checks could, for example, confirm that a person had been known by a certain identity and lived at known addresses for a number of years. This information will be much more difficult for a fraudster to know, to change, or to fabricate and will guard against completely bogus identities. It will also add an additional layer of checking rather than relying simply on documents which can be stolen or forged.

2.27 The most effective way of confirming this biographical information is to check some of the information provided by applicants with information held on a range of Government and private sector databases. Most people will be familiar with checks being made against other databases, with their consent, when they apply for financial services such as insurance or credit cards.

2.28 However, in the case of an application for an identity card there will be no question of withholding consent to such checks. The draft Bill provides therefore at Clause 11 data-sharing gateways to allow, and to place a duty on, controllers of other databases to provide information needed to verify an individual's application.

2.29 The databases that could be checked would include public sector bodies (such as the National Insurance, Child Benefit or DVLA databases) as well as private sector organisations (such as credit reference agencies or banks). Information requested would be restricted to that needed to confirm the identity of an individual who has made an application to register. Confidential information relating to the particular service and not relevant to checking identity would not be accessible. Thus the National Identity Register would be able to seek confirmation of names, dates of birth or addresses held on, say, the National Insurance database, but not information that was not needed to confirm identity such as the level of National Insurance contributions paid by an individual. Particular data sharing gateways can therefore only be established with the consent of Parliament and for the limited purpose of validating information on the Register.

2.30 The Secretary of State (or a body appointed on his behalf) would hold and administer the National Identity Register and be responsible for ensuring that any data sharing was carried out in accordance with the law. In order to allow for testing of the identity cards scheme in advance of the first cards being issued, the draft Bill allows for these data sharing powers to be piloted or tested in advance of the identity cards scheme.

2.31 As a clear statement of the importance with which the Government views the integrity of the National Identity Register, it has been decided to introduce at Clause 28 (1) a specific criminal offence if anyone involved in the operation of the register or the identity cards system discloses any information without lawful authority.

2.32 Comments are invited on the proposals for data sharing of information that needs to be checked in order to issue identity cards as set out in Clause 11 of the Draft Bill.

Disclosure of National Identity Register information

2.33 There will be an exception to the general bar on disclosing information from the Register as the disclosure of information to the police and

security and intelligence agencies will be allowed for specified purposes and subject to a threshold test and independent oversight.

2.34 There will be a general power to disclose information about an individual held on the Register to the security and intelligence agencies for their statutory purposes such as on the grounds of national security.

2.35 Law enforcement agencies including Customs and Excise and the Inland Revenue will be able to seek disclosure of information from the register for specified purposes e.g. for the prevention or investigation of crime. This will also apply to the Immigration Service which, as a part of the Secretary of State's department, does not need to be named on the face of the Bill. Disclosure will also be allowed in prescribed cases to other Secretaries of State such as the Department for Work and Pensions for example to help investigate benefit fraud. For these groups, disclosure of "audit trails" of card usage is permitted in cases of serious crime. The definition of serious crime is based on that used in the Regulation of Investigatory Powers Act 2000 and requires that: -

a) it involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose, or
b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.

A similar definition of serious crime applies in Scotland.

2.36 In addition the Police and Immigration Service will have a power to check a person's biometric against the National Identity Register if it has not been possible to identify them otherwise. There will also be a power to check a fingerprint found at the scene of a crime against the Register should it be technically feasible to do so. This would be only where checks against police fingerprint databases have proved fruitless.

2.37 There will have to be appropriate authorisation of any requests for disclosure from the Register and the draft Bill allows for different procedures to apply depending on the sensitivity of the information being disclosed.

2.38 The draft Bill provides at clauses 24 and 25 for oversight of the procedures for disclosing personal information from the National Identity Register. This would be by establishing a "National Identity Scheme Commissioner". For clarity the draft Bill provides for a new person to undertake these functions though in practice they might be carried out by inviting existing bodies to undertake them.

2.39 Comments are invited on the proposals for disclosure of information from the National Identity Register without consent for purposes such

as the prevention and investigation of crime and on grounds of national security as set out in Clauses 19-23 of the Draft Bill and also on the options for oversight in Clauses 24 and 25.

Criminal offences and other sanctions

2.40 Clauses 26-31 of the draft Bill establish new offences relating to the identity cards scheme as well as wider offences relating to "identity documents" more generally.

2.41 Clause 26 establishes two levels of seriousness of offences of possession of a false identity document. The more serious (at Clause 26 (1) and (2)) is where it can be shown that a person knows or believes that the document they hold is false or was improperly obtained, or relates to someone else, or they have machinery or apparatus for making false identity documents. These offences would be liable to a maximum term of 10 years imprisonment.

2.42 The lesser offence at Clause 26(3) is where it can not be proven that the person was aware of the nature of their false document. This would make it an offence without reasonable excuse to have a false or improperly obtained document, or one that relates to someone else, with a maximum penalty of 2 years imprisonment.

2.43 Clause 28 makes it an offence for any person to disclose information from the Register without lawful authority. Clause 29 makes it an offence to provide false information when making an application to be entered on the register or providing information to secure another person's application. This offence has a maximum penalty of 2 years imprisonment. Clause 30 extends the Computer Misuse Act of 1990 to make it an offence, with a maximum penalty of 10 years imprisonment, to tamper with the National Identity Register, including creating a false or bogus entry on the Register.

2.44 Clauses 32-25 of the draft bill set out the procedures for civil penalties that may be applied for example for failing to notify changes affecting the accuracy of the register under Clause 12 or failure to register when required to do so once Clause 6 of the Bill is brought into effect. It also sets out the procedures for giving notice of a civil penalty and for resolving disputes and dealing with appeals against the imposition of a civil penalty.

2.45 Comments are invited on the proposals for offences and civil penalties relating to identity cards as set out in Clauses 26-35 of the Draft Bill

Identity fraud

2.46 In July 2002 the Cabinet Office published "Identity Fraud: A Study". Identity fraud has been recognised as an important and growing problem which costs the UK economy an estimated £1.3bn per annum.

The study complemented the consultation carried out by the Home Office on entitlement cards. One of the study's conclusions was that the creation of a single document could be beneficial in replacing the present 'mosaic' of documents used to establish identity if accompanied by much more secure processes for the issue and use of the document.

2.47 Alongside the work on identity cards, the Home Office is leading on work with both public and private sector organisations to implement measures against identity fraud that can be put in place in advance of an identity cards scheme. Examples of early progress on this include aligning the penalties for making fraudulent applications for passports and driving licences in the Criminal Justice Act 2003 and setting up, in December 2003, a UK Passport Service database of lost and stolen passports.

2.48 The criminal offences in Clauses 27 and 28 of the draft Bill have been drafted to provide that new offences should not apply just to ID cards issued under the Identity Cards Bill but also will apply to other identity documents. These include UK passports, immigration documents and driving licences whether or not they have been yet designated as ID cards. It also covers driving licences, passports or identity cards issued by other countries.

2.49 It is intended that these provisions should be brought into force as soon as practicable after the Identity Cards Bill receives Royal Assent in order to provide an immediate and stronger deterrent to the possession of any false or improperly obtained identity documents.

2.50 Comments are invited on the proposals for criminal offences relating to wider identity fraud as set out in Clauses 26-27 of the Draft Bill.

Compulsion

2.51 The Government has made clear that it is planning to build the base for a compulsory national identity cards scheme, but that this will be in two stages. The first will be linked to the designation of existing documents (such as passport or driving licence photocards) as ID cards. The second would involve a move to compulsion once the initial stage has been rolled out to a significant coverage of the population and the Government is satisfied that the conditions set out in "Identity cards: the Next Steps" were met.

2.52 The draft Bill provides for the second, compulsory, stage of the identity cards scheme at Clause 6 by establishing a power to make it a requirement to register. This power would enable a date to be set at which point it would become an obligation to register. However, this will only be brought into force at a later date once the initial stage of the identity cards scheme has been successfully completed and following a debate and Vote in both Houses of Parliament. Regulations made

under this section would be subject to the affirmative resolution procedure but, in addition, the Bill provides that the government could not table these regulations until it has published a full report that has been approved by both Houses of Parliament. The Government's report would set out its case for the move to compulsion and cover all relevant aspects of the proposal. This report would be laid before Parliament to allow for a period of consideration before both Houses were invited to debate and approve (with the possibility of amendment) the Government's proposition in the report.

2.53 Once introduced the requirement would be to register and thus to provide the information necessary for the issue of an identity card. There will not be a requirement to carry an identity card and once registered there will be no automatic obligation to use the card that has been issued e.g. to access public or private services where evidence of identity is needed. However, once it has been made a requirement to register, it will be possible for individual services to establish their own procedures which could include making regulations requiring that an identity card must be produced to establish the identity of an applicant for that service.

2.54 Not only would the requirement to register be brought into force at a later date, but it will be possible for it to be phased in by specifying which groups of individuals will be required to register and setting a date in the future by which this must be completed. This means that it would be possible, for example, to require all people within a particular age band to register and to set a clear timetable for doing so.

2.55 Once the requirement to register is in place it would not become a criminal offence to fail to register and there would be no question of individuals being fined by the courts or imprisoned as a result of a failure to register.

2.56 The draft Bill provides that a civil penalty may be applied of up to £2,500 if someone fails to register when required to do so. Such penalties would not be automatic and it would therefore be possible to exercise discretion as to when any penalty should be applied and also what action to take to recover any penalty if it is not paid. Any debts incurred as a result of unpaid penalties could be enforced through the civil courts.

2.57 Experience suggests that in other countries with compulsory card schemes it is more likely to be the inconvenience of not having a card that encourages people to obtain one, rather than any theoretical risk of a penalty.

2.58 Comments are invited on the power to set a date when it would become a compulsory requirement to register as set out in Clauses 6 and 7 of the Draft Bill.

Requirements to use identity cards

2.59 The identity card scheme will immediately provide a more convenient way for people to show their identity when accessing public or private sector services if they choose to do so. Until it becomes compulsory to register the identity card would not be the only way of proving identity. In the "Next Steps" paper it was made clear that it would not be mandatory to use an identity card to help verify entitlement to services during the first stage of the scheme, in effect before it was compulsory to register for a card. The draft Bill makes this prohibition clear.

2.60 Following a move to the second stage of the scheme when it would be a requirement to register and obtain a card it would be possible to make regulations that would make use of the card compulsory to access certain public services. This would further help prevent unauthorised and fraudulent access to those services. However, when the scheme becomes compulsory there would be no automatic requirement for an identity card to be produced to access public services. There would need to be a separate decision for each service. All the key Government departments (Health, Education etc.) already have powers that would allow them to make regulations to specify how their services could use an identity cards scheme.

2.61 In addition the draft Bill includes at Clauses 15-18 an order making power which would provide by regulations when an identity card may be required to access a particular service. However, it can be used only in cases where it was clear that that there are no or insufficient powers already in place to make regulations for a particular service or circumstance.

2.62 There are further limits on how this power can be used, for example it will not be possible to use the power to make it compulsory to carry a card. Also in making regulations under this power, the Government would have to explain why existing powers to make regulations about that service were inadequate. Regulations under this power would be made by affirmative order and published in draft for consultation prior to being laid.

2.63 The Bill would not automatically require the production of a card for any service. Parliament would have to agree revised regulations for each service. Regulations made under this new power would be laid by the responsible Secretary of State and so the Government and Parliament would always be in control of the rules for how the card scheme would be used by public services.

2.64 It is not intended to inhibit voluntary use of the card in either the public or private sector. In many instances businesses already insist on production of "photo-ID" and they will continue to be free to decide what measures they put in place to counter the risk they face of identity fraud.

2.65 However, it is intended to establish an accreditation scheme so that only those private sector organisations that have been approved (which might include banks, building societies or airlines) would be able to make checks on the National Identity Register on the validity of cards or the registered details. Accreditation would be removed if a particular business attempted to misuse the service.

2.66 Verification of identity will be done by matching an individual cardholder with one or more of the components of the system:

- The data printed on the face of the identity card;
- The data stored on the identity card's chip;
- The data stored on the National Identity Register.

2.67 The Scheme will be flexible in offering different levels of card check to suit the particular transactions and the needs of accredited card checkers. For example:

- retailers or licensees wanting to check proof of age might just check the person against the photograph on the card and the date of birth;
- banks or building societies might check a person's biometric (using a card reader) and verify this against the National Identity Register before opening an account;
- employers might confirm a cardholder's immigration status by way of an automated telephone check of the National Identity Register.

2.68 Public and private sector organisations' verification checks of cards will not give access to the contents of the database or the details of the biometric. They will simply confirm identity and other relevant details (e.g. immigration status to show that the cardholder could be employed lawfully). An online verification of the holder's biometric would confirm that the person presenting the card was the person to whom it had been issued in a similar way that a retailer can seek on line authorisation of a transaction with a credit or debit card without being told what is the cardholder's credit limit or bank balance.

2.69 We anticipate that over the period when the identity cards scheme is being introduced and the National Identity Register established, developments in technology will make sophisticated card readers more readily available. Banks and other financial institutions, as well as the retail sector, increasingly make use of such technology to read smart cards. The Home Office is engaged in discussions with stakeholders about the way in which card readers could best be deployed. Discussions will continue with Department of Work and Pensions, the DTI, as well as the Local Government Association and organisations including the CBI and the TUC.

2.70 The National Identity Register will hold individuals' confirmed identity information securely and an audit of checks made of entries on the Register (whether or not via an ID card) will be held on the database to

comply with the Data Protection Act. Disclosure of the details of a person's entry on the register and audit log records will not be possible without his or her consent other than to law enforcement agencies and the security and intelligence services when investigating serious crime and matters of national security. There will be strict controls and independent oversight of these arrangements.

2.71 Comments are invited on the power to make regulations on the use of a card, where existing powers relating to the service concerned are not adequate, as set out in Clause 15-18 of the Draft Bill.

Devolution

2.72 The identity cards scheme is intended primarily as a United Kingdom wide measure to help deter and control illegal immigration by helping to establish the nationality and immigration status of UK residents which is why the "registerable facts" which need to be held in the Register include nationality and immigration status. Immigration and nationality are matters specifically reserved in the Scotland Act 1998 (Schedule 5 Part II B6) and have not been devolved in relation to Wales or Northern Ireland. This includes British citizenship, the status of people in the United Kingdom who are not British citizens, free movement within the European Union and European Economic Area (EEA) and the issue of passports or other travel documents.

2.73 The identity cards scheme will be a United Kingdom wide scheme. This will be in exactly the same way as the issue of British passports and residence documents for EEA and foreign nationals resident in the UK is a UK Government responsibility carried out by the Home Office. Accordingly, the registration of individuals on the National Identity Register and the issue to them of identity cards will be matters reserved to the United Kingdom government irrespective of whether a person resides in England, Scotland, Wales or Northern Ireland.

2.74 This would also include the second stage of the scheme when it would become compulsory to register and be issued with an identity card. There will, however, be a number of practical issues, which have been the subject of ongoing discussions with the devolved authorities. For example, the issue of driving licences is reserved in the Scotland Act, (Schedule 5 Part II E1) but is operated separately in Northern Ireland. The intention is that the substantive legislation should allow the driving licence in both Great Britain and in Northern Ireland to serve as one of the "family" of identity cards but bringing the Northern Ireland driving licence into the scheme would require discussion with any devolved authority in Northern Ireland.

2.75 Criminal offences relating to documents or a database that operate on a UK-wide basis, i.e. identity cards and the National Identity Register, apply throughout the UK including in Scotland.

2.76 However, there are some exceptions in the draft Bill where territorial extent varies. The order making power in Clause 15(1) enables Departments to make regulations linking production of an identity card with access to its services where such a power does not currently exist. This clause does not extend to Scotland. Clause 1(3) of the draft Bill makes clear that any use of the Register and card scheme for devolved matters (as opposed to the establishment of the Register and the issuing of cards) is prohibited. The Scottish Parliament would have to pass its own enabling legislation if the Register and card scheme were ever to be used in Scotland. Similarly a requirement to use an identity card to access public services that have been devolved in Wales or Northern Ireland would be a matter for the National Assembly for Wales or for any devolved authority in Northern Ireland as appropriate. However in these cases the enabling measures to make such measures are included in the draft Bill as the devolution arrangements for Wales and Northern Ireland are different from Scotland.

2.77 There is also a power in the Bill to disclose information on the National Identity Register to law enforcement agencies. For Scottish forces this would be only for reserved matters, for example investigating terrorist crimes. Examples where the police would have powers in the rest of the UK but not in Scotland would be when investigating serious criminal offences which are not reserved such as murder or other crimes of violence.

2.78 Comments are invited on the proposals on the application of the draft Identity Cards Bill and the use of identity cards in Scotland, Wales and Northern Ireland.

3. Wider issues not included in the draft legislation:

Programme management

3.1 The Government is determined to ensure that the Programme to develop a national identity cards scheme is managed to the highest standards, and that the major business change and information technology challenges are dealt with effectively. An interdepartmental Identity Cards Programme Board has, therefore, been set up, under the chairmanship of the Home Office, to co-ordinate and drive forward the Government's proposals for the development of a national identity cards scheme.

3.2 The Board is chaired by John Gieve, Permanent Secretary at the Home Office, and includes the Home Office senior responsible owner, Helen Edwards, together with senior representatives of the main Departments and Agencies involved in the delivery of the Identity Cards Programme. These include the Department for Transport, Department for Work and Pensions, Office of the Deputy Prime Minister, Foreign and Commonwealth Office, Inland Revenue, Office for National Statistics, UK Passport Service and Home Office Immigration and Nationality Directorate.

3.3 The Identity Cards Programme will be subject to continuing external review by the Office for Government Commerce (OGC) Gateway process. The key phases of the programme are: -

- a programme definition phase, focusing on the design of the scheme, feasibility, procurement requirements and legislation, running from early 2004 to 2005;
- a procurement phase, focusing on procuring the delivery partners who will implement the scheme, starting in 2005, and ending on the signing of contracts with delivery partners in 2006;
- an implementation phase, from 2006 to 2007;
- a volume end-to-end testing phase, from 2007;
- on current plans leading to the first cards being issued towards the end of 2007-08.

Governance and the issuing process

3.4 Decisions on governance for the identity cards issuing process are important but will not require any specific legislation unless it is decided to establish a separate organisation in statute (for example a non-departmental public body) to be responsible for the identity card scheme. It is proposed that after the consultation on draft legislation the Government should decide whether a good case has been made for having any type of arms length governance structure and, if so, whether it would require legislation. Accordingly, the Government invites comments on the options for a governance structure for the identity cards scheme.

3.5 There are a number of possible governance options, including maintaining the scheme within a central Department such as the Home Office, an Executive Agency, a non-Departmental Public Body or a Non-Ministerial Department. Only some of these options require any specific legislation.

3.6 How the scheme will be governed is a key question for the Identity Cards Programme Board. The governing authority is likely to have such functions as:

- oversight of the scheme;
- setting the standards for enrolment and card issuing;
- regulation to ensure consistency between different cards designated as identity cards;
- establishing security specifications for documents and systems;
- owning and having accountability for the information on the National Identity Register;
- authorising disclosure of information held on the Register, for example to the police investigating serious crimes.

3.7 We have not closed off any options nor decided finally whether there should be a governance structure established in legislation. However, the Government's preferred option at this stage is an Executive Agency with its powers delegated from the Home Secretary. This would not require legislation and so there are no clauses on governance in the draft Bill.

3.8 The preferred option of an executive agency was reached after considering the following criteria: -

- Maintaining standards for identity cards – an ability to set clear rules in order to maintain the required technology, security and service levels;
- Public confidence – clear lines of accountability through Ministers to the public and Parliament;
- Enforcement mechanisms – an ability to direct those involved in any part of the card issuing process to comply with standards; and
- Financial implications – ability to set, charge and account for fees.

3.9 Decisions on the type of governing authority are separate from decisions as to the organisational structure and whether one or a number of different agencies will be involved in the processes for issuing identity cards. Many of the processes (e.g. card manufacture) may be contracted out to the private sector, as they have been for passports, but no decisions have yet been taken. The process for issuing identity cards will involve a number of separate functions such as:

- identity enrolment;
- identity maintenance;
- identity verification;
- card manufacturing; and

- processing payments.

3.10 Decisions on who will undertake these functions and whether some processes will continue to be carried out by existing agencies have yet to be taken.

3.11 Views are invited on options for the governance arrangements for the scheme.

Police powers

3.12 There will be no change to police powers relating to stop and search and the Government has made clear that it will not be a requirement to carry an identity card or to produce a card to a police officer on demand.

3.13 But ID cards will be useful for the police and for law-abiding citizens. Existing police powers to require drivers to produce their driving licence (which we intend to designate as an ID card) on demand or within 7 days at a police station will remain. Also if someone has been arrested existing powers will allow the police to take reasonable steps to identify them. This currently includes powers to take fingerprints. If it were not possible to identify an arrested person otherwise it is intended that a check could be made on the person's biometric against the National Identity Register.

3.14 As at present with existing documents, people will be free to produce an identity card on a voluntary basis (if they have one) to a police officer or to any other official as a means of establishing their identity. Many people will find no problem with this and indeed will find it useful to be able to identify themselves reliably in this way. The intention is that people will be able to have their biometrics checked against the database even in the absence of a card on a voluntary basis in order to be able to demonstrate their identity if, for example, they are stopped by the police.

Costs, fee levels and technical specification

3.15 The draft Identity Cards Bill does not lay down the detailed specification for identity cards or the detailed arrangements for making applications. These will be set out later in Regulations.

3.16 The Government's intention is that cards will be issued free to 16 year olds, and reduced-fee cards will be available to those on low incomes. Everyone else will pay a standard charge. The charge will be an increase on the fee for a passport and driving licence or just a straight fee for the plain Identity Card. People who have both a passport and a driving licence would only pay the uplift once (i.e. it would not apply to both documents). Building on existing systems will give more

opportunities for keeping additional costs down as some of the activities needed for the Identity Cards Scheme are already carried out by agencies like DVLA and the UK Passport Service as part of their current procedures.

3.17 Most people will join the scheme when they apply for or renew their driving licence or passport for which charges are already levied. The minimum charge to obtain a 10-year passport from UK Passport Service is £42 and the full cost of obtaining an initial 10-year driving licence from DVLA is £38. In practice the cost that many people currently pay for these documents is around £8-£10 higher when taking account of the cost of photographs and services that check that forms have been completed correctly and the right documentation enclosed. These costs would be included in a national identity cards scheme.

3.18 If the Government did not implement a scheme which covered everyone but concentrated purely on implementing more secure passports and driving licences including biometrics, initial estimates suggest that the 10 year cost of passports would rise to around £73 and driving licences to around £69. Under the national identity cards scheme, our best initial estimates are that: -

- a 10 year plain identity card would cost most people in the order of £35;
- a combined passport/identity card would cost £77; and
- a combined driving licence/identity card would cost £73 (though holders of both driving licence and passport cards would only pay the full cost for the first one they renewed).

In other words the estimated additional cost per person of the scheme is around £4 per person spread across 10 years.

Citizen Information Project

3.19 Alongside work on Identity Cards the government is considering options for developing a population register to include the whole UK population. This exercise, the Citizen Information Project (CIP), is a cross-cutting government initiative designed to support more efficient, responsive and personalised public services. Such a population register would contain basic contact information for everyone in the UK drawn from existing administrative records. Preliminary studies indicate that its creation could lead to significant cost and efficiency savings in delivering public services and improvements in the quality of those services. There are also substantial potential statistical benefits in such a system that would benefit the development of and evaluation of evidence-based policy making. On 6 January 2004 the Registrar General published a summary of the findings of a feasibility study on the Citizen Information Project - for further information go to: http://www.statistics.gov.uk/registration/cip.asp.

3.20 The Government also announced that it had commissioned further detailed development work to be carried out over the next 18 months

by a team based within the General Register Office - part of the Office for National Statistics (ONS). This further stage will include work on the draft legislation needed to establish a population register and create the conditions to allow it to operate. In addition to setting out the role of the body charged with operating the population register, the legislation would also introduce concrete safeguards for the public concerning the use of these data to be enshrined in law that is compliant with data protection and privacy laws. This stage will also include public consultation to explore the issues around public acceptability of the proposal.

3.21 The National Identity Register and a population register are separate proposals, and they serve different purposes. The Identity Cards initiative and the CIP are working closely together to ensure coherence and to eliminate unnecessary duplication. Although the successful implementation of a population register should enable the issuing of identity cards to be streamlined, making it quicker and easier to establish eligibility, its main aim is to improve the delivery of wider government services. Where the population register becomes aware of a change in individual circumstances that has been recorded by other government databases in the course of day to day service delivery, this information would be able to flow across Government to help ensure that other services continue to be directed towards to the correct person. These issues will be explored in the next stage of development of a population register, and be part of its legal framework. The Government is open to the possibility of including provisions relating to the creation and operation of a separate Population Register within the Identity Cards legislation but this depends on the progress of CIP development work when the Identity Cards Bill is introduced.

Biometrics

3.22 There will be close work across Government to develop effective technology for the identity cards programme, and especially for biometrics. A biometric is a unique identifying physical characteristic. Examples include facial recognition, iris patterns and fingerprints. There is close co-operation between projects to include biometrics on identity cards and passports and immigration developments including Application Registration Cards issued to asylum seekers.

3.23 The UK Passport Service has been supporting the work of the International Civil Aviation Organisation (ICAO) to develop international standards for biometric deployment. ICAO nominated facial recognition as the primary biometric for travel documents with fingerprint (and possibly iris pattern) as secondary but not mandatory. In line with ICAO recommendations, a biometric British passport is to be introduced that will deploy contactless integrated circuit media (i.e. a computer chip) of sufficient capacity to facilitate storage of the facial image and at least one additional biometric identifier. A contactless chip includes an aerial

to allow close proximity readings, i.e. without being swiped through a reader. Modern contactless chips are paper-thin and therefore particularly suited to being incorporated in passport books or passport identity cards.

3.24 The Home Secretary also announced on 11 November 2003 that the UK Passport Service (in collaboration with DVLA, the Immigration and Nationality Directorate, and the Home Office Identity Cards Programme) will be running a biometric enrolment trial. The trial will evaluate issues around biometric recording using facial recognition, iris pattern and fingerprint. Over six months it will enrol 10,000 volunteers using several locations (including mobile units) to ensure a representative coverage of the population.

3.25 Personal attendance to enrol the biometric will be necessary for each identity card applicant. Recording biometric information will take place at local, convenient access points and will help to ensure that an identity record is associated with information unique to that person. The biometric information can be stored securely on a chip on the card as well as on the National Identity Register. The uniqueness of biometric information will help prevent people's identities being stolen and also will confirm securely a person's identity when a card is checked and deter fraudsters from attempting to register more than one identity.

International developments

3.26 We cannot stay aloof from a range of wider developments internationally. International travel has increased dramatically over the past 50 years. Nearly 90 million passengers arrive each year at United Kingdom ports and, although most of these are returning residents or genuine visitors, the task of controlling immigration is becoming much harder.

3.27 Terrorist atrocities in the United States on 11September 2001 and elsewhere have shown a pressing need to improve the security of international travel on top of existing controls on immigration. This has included the use of biometrics as a way of identifying individuals more securely. The United States has introduced a biometric system known as "US VISIT". It requires finger scan biometrics as well as a digital photograph and is used to verify an individual's identity, link their entry to previous visits as well as providing a way of checking people in and out of the country reliably.

3.28 The European Union has recently considered Regulations on common standards for biometric security features to be included in common format visas and residence permits for foreign, i.e. non-EU, nationals. Agreement has now been reached on these measures but (at the time of publication) they have yet to be adopted formally. However, the special European Council held following the Madrid bombings has

given added emphasis to the need to improve the security of travel documents.

3.29 Since January 2002, the Immigration and Nationality Directorate of the Home Office has been issuing Application Registration Cards to asylum seekers and their dependants. These cards incorporate photographs and fingerprint biometrics. In addition since July 2003 fingerprints and photographs have been taken from all visa applicants for United Kingdom visas at our visa issuing post in Sri Lanka and this is being extended to visa applicants in East Africa.

3.30 As well as the benefits the identity cards scheme will bring, our active plans for biometric identity cards will ensure that the United Kingdom can exercise real influence in the international debates on standards. Taken together, all these factors make the time right now for the United Kingdom to develop its own identity cards scheme incorporating biometric technology.

4. Conclusion and summary of consultation points

Summary of consultation points

4.1 There are a number of specific consultation points that we have highlighted in this paper and these are summarised here for convenience. The specific consultation points are on: -

1) proposals for a National Identity Register as set out in Clauses 1-3 of the Draft Bill (paragraph 2.12);
2) proposals for the issue of ID cards and designation of existing documents as ID cards as set out in Clauses 4, 5, 8-10 and 12 of the Draft Bill (paragraph 2.23);
3) data sharing of information that needs to be checked in order to issue identity cards as set out in Clause 11 of the Draft Bill (paragraph 2.32);
4) disclosure of information from the National Identity Register for the prevention and investigation of serious crime and on grounds of national security as set out in Clauses 19-23 of the Draft Bill and also on the options for oversight in clauses 24-25 (paragraph 2.39);
5) criminal offences and civil penalties relating to identity cards as set out in Clauses 26-35 of the Draft Bill (paragraph 2.45);
6) wider identity fraud issues as set out in Clauses 26-27 of the Draft Bill (paragraph 2.50);
7) the power to set a date when it would become a compulsory requirement to register as set out in Clause 6-7 of the Draft Bill (paragraph 2.58);
8) the power to make regulations on the use of a card, where existing powers relating to the service concerned are not adequate, as set out in Clauses 15-18 of the Draft Bill (paragraph 2.71);
9) proposals on the application of the draft Identity Cards Bill and the use of identity cards in Scotland, Wales and Northern Ireland (paragraph 2.78);
10) options for a governance structure for the identity cards scheme (paragraph 3.11).

4.2 In addition the Government invites any wider comments on its legislative proposals for identity cards.

4.3 The purpose of this consultation is to help the Government to introduce the legislation that will enable the identity cards scheme to be introduced in the most effective way. The Bill has been drafted on the basis that all the practical issues outstanding will be resolved as part of the identity cards programme and that the Government will reserve until later a final decision on the timing of a move to compulsion.

Next steps

4.4 The Government will take full account of all comments on the draft Identity Cards legislation including any recommendations from the Home Affairs Committee.

4.5 Once the Government has taken stock of these comments following this consultation, it intends introducing a substantive Bill on Identity Cards as soon as Parliamentary time allows. This would be based on the draft Bill at Annex A to this paper, but with any changes or additions needed to take account of this consultation as well as any further developments of the Identity Cards Programme.

How to submit comments and closing date

4.6 This consultation is being carried out in line with the Government's six consultation criteria. These are that we will: -

1) Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation;
2) Be clear about what the proposals are, who may be affected, what questions are being asked and the timescale for responses;
3) Ensure that the consultation is clear, concise and widely accessible;
4) Give feedback regarding the responses received and how the consultation process influenced the policy;
5) Monitor the department's effectiveness at consultation (including through the use of a designated consultation co-ordinator);
6) Ensure the consultation follows better regulation best practice.

4.7 If you have any complaints or comments about the consultation process, you should contact the Home Office consultation co-ordinator:

Pio Smith
Consultation Co-ordinator
Performance and Delivery Unit
Better Government Team
9th Floor, South
Home Office
50 Queen Anne's Gate
London SW1H 9AT

pio.smith31@homeoffice.gsi.gov.uk

4.8 Copies of this consultation paper and previous documents on identity cards are available on the identity cards website at : -
www.identitycards.gov.uk

4.9 Comments are invited on both the general scope of the legislation proposed as well as any detailed drafting points on the clauses of the draft Identity Cards Bill.

4.10 All comments received on the consultation paper may be published unless the person or organisation making them asks specifically that

they should not be published. Responses to the consultation may also (subject to any requests for confidentiality) be passed on to the Home Affairs Committee in the context of their pre-legislative scrutiny of the draft Bill. Anyone wishing their comments to be taken into account by the Committee should be aware that they are working to a much tighter timetable so that they can submit their considered views as part of this consultation. The Committee will also issue its own invitation to submit written evidence on the draft Bill.

4.11 Any comments should be sent to: -

Robin Woodland
Legislation Consultation
Identity Cards Programme
Home Office
3rd Floor
Allington Towers
19 Allington Street
London SW1E 5EB

Comments may also be sent by fax to: 020 7035 5386 or by e-mail to: - identitycards@homeoffice.gsi.gov.uk If commenting by e-mail please include the words "consultation response" in the subject title.

4.12 **All comments should be submitted to arrive no later than Tuesday 20th July 2004**. [*12 weeks from date of publication*]

Annex A

Identity Cards Bill draft clauses

[to be added – complete draft of Bill (Print 5) provided by Parliamentary Counsel on 14 April].

Annex B

Explanatory Notes on the draft clauses

INTRODUCTION

1. These explanatory notes relate to the draft Identity Cards Bill as published for pre-legislative scrutiny and wider public consultation on 26 April 2004. They have been prepared by the Home Office in order to assist the reader of the draft Bill and to help inform debate on it. They have not been signed off by Parliamentary Counsel.

2. The notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. In July 2002, the Government launched a consultation on Entitlement Cards and Identity Fraud (Cm 5557). The consultation period lasted until 31st January 2003. A summary of findings from the consultation exercise was published on 11th November 2003, *Identity Cards* (Cm 6019). The detailed Government's response to the Consultation Points was placed on the Home Office website.

4. At the same time as publication of the findings, the Government announced its decision to build a base for a compulsory national identity cards scheme. The *Identity Cards: the next steps* (Cm 6020) document set out in more detail how the Government would proceed. The draft Identity Cards Bill gives effect to the Government's proposals for the introduction of identity cards throughout the United Kingdom as set out in *Identity Cards: the next steps.*

5. The draft Identity Cards Bill was published on 26 April 2004 alongside a consultation paper on the legislation (Cm XXX). Responses to the consultation were requested by 20 July 2004.

6. There is currently no legislation providing for UK identity cards. The main features of the legal framework needed to introduce identity cards are:
   - the creation of a National Identity Register of basic personal information;
   - a family of ID cards based on designated identity documents and new types of identity card;
   - data-sharing powers for card issuing organisations to verify data supplied by an applicant to process applications for cards;

- disclosure of National Identity Register information to law enforcement and security agencies without consent in specified circumstances;
- criminal offences and civil sanctions required to make the scheme effective;
- enabling organisations to use the card to facilitate provision of services by allowing identity to be verified; and
- the power to set a date in the future when registration for an identity card will be compulsory subject to a special super-affirmative process.

OVERVIEW OF THE STRUCTURE

7. The draft Bill is in ten parts –
   - Registration
   - ID cards
   - Maintaining accuracy of Register etc.
   - Required identity checks
   - Disclosure of information recorded in Register
   - National Identity Scheme Commissioner
   - Offences
   - Civil penalties
   - Supplemental
   - Schedules

TERRITORIAL EXTENT AND TERRITORIAL APPLICATION

8. The Identity Cards scheme needs to operate on a UK-wide basis if it is to be an effective immigration control measure. Immigration is a reserved matter and people legally resident throughout the UK for longer than a specified period would therefore be eligible for an ID card under the scheme. If registration is made compulsory this would be established under the ID Cards Bill as an immigration measure, and would be applicable throughout the UK.

9. The legislation will allow the devolved administrations in Wales and Northern Ireland to make production of an ID card a condition of providing a public service, but it would be a matter for the authority which is responsible for a particular service to decide whether, and if so, how to link that service to a card scheme. These order making powers to make production of a card or other identity evidence, or to provide for checks on the Register, as a condition of being provided public services does not apply to Scotland on non-reserved matters.

10. Legislation for identity cards will require the creation of new offences. Criminal offences in Scotland are devolved, however where criminal offences relate to documents or a database that operate on a UK basis, this is reserved. Clause 19(3) excludes disclosure for the prevention or

detection of crime committed in Scotland that relates exclusively to matters which are not reserved.

TERRITORIAL APPLICATION: WALES

11. The National Assembly for Wales may make regulations under:
    - 15(1), the power to make public services conditional on identity checks; and
    - 16(1) the power to provide for checks on the Register

    where the provision of that public service is the responsibility of that Assembly.

COMMENTARY ON CLAUSES

Registration

Clause 1: The National Identity Register

12. This clause establishes the National Identity Register for the identity cards scheme and sets out the purposes of the Register.

13. Subsection (2) provides that the Register is only for specified purposes, the "statutory purposes". These specified purposes consist of recording personal information about categories of individuals, issuing cards, facilitating provisions of services by allowing identity to be verified, and allowing disclosure of information in certain circumstances.

14. Subsection (3) makes clear that where use of the Register or card is exclusively within the devolved competence in Scotland, then the provisions of this draft Bill will not apply. The Register or card cannot be used in Scotland for purely devolved purposes unless the Scottish Parliament consents by way of an Act of the Scottish Parliament. For example, where this draft Bill provides a power to make provision of public services conditional on an identity card, for those public services which are devolved (e.g. health and education), regulations may not be made in Scotland under the draft Identity Cards Bill.

15. Subsections (4) to (6) give further explanation of what is meant by personal information. This, in particular, means name, date and place of birth, nationality, immigration status, address, biometric records of unique physical characteristics, information included at his request; and retaining historical records of this personal information.

16. Biometric information is defined in Schedule 1 in relation to an individual as the identifying physical characteristics. Examples include iris patterns and fingerprints. This schedule also includes other information which may be held on the Register as explained in paragraph 23. Clause 3 ensures that only this information set out in Schedule 1 may be held on the

Register. Parliamentary consent is required to add further information to that schedule.

Clause 2: Individuals entered in Register

17. This clause sets out who may be entered on to the Register and the Secretary of State's duty to make arrangements to enable these entries to be made.

18. Subsection (2) sets out who is entitled to be entered on the Register, these are individuals over the age of 16 who have been, currently are, or are proposing to be resident in the UK for longer than a specified period. Subsection (3) sets out who may not be registered. The age at which a person is entitled to be registered may be variable by secondary legislation as provided for in subsection (7). In general, an entry on the Register must be made if an application is made and the person is entitled to be entered (subsection (1)).

19. Subsection (4) provides that in some circumstances, a person who has not applied or is not entitled may be entered into the Register. For example, a failed asylum seeker may have his information including biometric data retained on the Register so that if he applies to stay in the UK via another route, his previous status as a failed asylum seeker will be recorded.

20. Subsection (5) allows the information held on the Register to be corrected.

21. Subsection (6) provides for every person registered on the National Register to be assigned a unique number, the National Identity Registration Number to be attached to the information recorded about an individual. The format of the National Identity Registration Number is to be specified in Regulations. Other personal reference numbers may be recorded on the Register as provided for in Schedule 1, paragraph 4.

Clause 3: Information recorded in Register

22. Clause 3 sets out the information that may be recorded in the Register.

23. Subsection (1) provides that information may be recorded only if it is included in Schedule 1, if it is otherwise necessary for the administration of the scheme, or if it provided for in subsection (2). So, for example, the information held by the scheme could not be amended to include criminal records without further primary legislation as recording previous criminal convictions is not within the statutory purposes of the scheme or the definition of registrable facts. Schedule 1 may be amended by secondary legislation following a resolution in both Houses of Parliament, providing it is consistent with the statutory purposes of the scheme (subsections (4) to (6)).

24. Subsection (2) enables other information to be recorded if an individual has asked for it to be included and the Secretary of State agrees. For example, an individual may ask for emergency contact details to be included on the Register.

25. Subsection (3) allows information to be kept for as long as it necessary to meet the statutory purposes, which in practice is likely to be held indefinitely on the Register. This will make verification of individuals easier by ensuring an audit trail of changes is made, so a person changing information held on the Register to avoid detection would be identified. This would also enable the Register to retain information of individuals who had died or left the country and prevent fraudulent use of these identities.

Clause 4: Designation of documents for purposes of registration etc. [j003A]

26. Clause 4 provides for the Secretary of State to have the power to designate documents for the purposes of this draft Bill. For example, if it is decided that passports should be part of the ID cards scheme, the Secretary of State would have to introduce an order to Parliament designating the passport.

27. Subsection (2) provides that the Secretary of State may only designate documents if they are issued under an enactment or which a Minister of the Crown is authorised or required to issue, for example passports or residence permits. This means that only Government or the devolved authorities may issue an ID card, although it does not prevent other organisations from being involved in the issuing process.

Clause 5: Applications relating to entries in Register [j004]

28. Clause 5 sets out how an application for entry to the Register should be made.

29. The identity cards scheme involves the issuing of an ID card to every person registered as entitled to remain in the United Kingdom for longer than a specified period. A number of different documents will be capable of qualifying as an ID card. These other cards will be designated as ID cards by the Secretary of State. "ID cards" in this draft Bill is used as the generic family name and is defined under Clause 8. "ID cards" include documents designated as ID cards and new types of card issued.

30. Subsection (1) provides that an application can be made by either applying for an existing designated document or else by being submitted directly to the Secretary of State.

31. Under subsection (2), if an application for a designated document is submitted, then the application must also include one of the following:
    - an application to be entered in to the Register;
    - confirmation that the individual is already registered and confirming his entry;
    - Confirmation that the individual is already registered and notifying changes to his entry

For example, if the passport were designated, an individual in applying for a passport as his first ID card must at the same time include an application to be entered in the Register. In practice, information on the passport application form is likely to include all the information needed to create an entry on the Register or to verify an existing entry. If an individual was applying for one of the new forms of ID card, the application can be made directly to the Secretary of State issuing that ID card or to an authority nominated by the Secretary of State.

32. Subsection (3) provides that an application for registration or confirmation of entry should be accompanied by such information as may be prescribed by the Secretary of State. The information required may vary for different categories of person. For example, third country nationals may be required to provide information regarding their immigration status.

33. Under subsection (4) the Secretary of State may make further requirements of applicants in order to verify information to be entered on the Register and keep that information up to date, for example, in cases of doubt or suspected fraud.

34. Subsection (5) expands on what an individual applying for an ID card may be required to do under subsection (4). This includes attendance in person, being photographed, fingerprinted, allowing other biometric information to be taken, or providing any other information that may be required by the Secretary of State. The meaning of "biometric information" and "fingerprint" is the same as that provided in paragraph 2 of Schedule 1 and any amendments to that Schedule will modify subsection (5).

35. Subsection (6) ensures that further information may not be requested by the Secretary of State unless it is for the statutory purposes of the scheme. This is to ensure that there is no expansion in the scope of information held on the Register without the consent of Parliament.

Clause 6: Power of Secretary of State to require registration [j004ZA]

36. This clause provides a power to require an individual to apply to register. The ID cards scheme will be introduced in two stages. Initially the cards will be introduced by means of the designation of existing documents as ID cards and the introduction of new forms of ID card. There would be no compulsion to obtain any particular type of ID card under this draft Bill in the initial stages. If the conditions were right, it is then intended to make registration for an ID card compulsory. See Cm 6020, *Identity Cards: the next steps.*

37. Foreign nationals could be required to obtain a document such as a residence permit by amendments to Immigration Rules rather than under any power under this draft Bill. However, under this draft Bill, the residence permit would have to be designated before it could be a requirement to obtain a residence permit.

38. Subsection (1) provides a power for the Secretary of State to make registration compulsory. This compulsory duty is to register, rather than to hold, keep or produce on demand any ID cards that may be issued. This subsection provides the facility to phase in the compulsory registration, for example so that different categories of persons are required to register by different dates. It may be, for instance, that people over a certain age may initially or permanently be excluded from the requirement to register. It might also be compulsory, for example, for a third country national to register before such time as the scheme becomes compulsory for everyone entitled to be registered.

39. Subsection (2) ensures that in making registration compulsory, the order to do so may include an obligation on individuals to apply for registration in accordance with clause 5. The order will also set a future date by when people included in the order should have made an application (subsection (3)).

40. Subsection (4) provides that the maximum penalty for failure to register when required to do so or contravening a requirement under 5(4) (i.e. not providing the information necessary to register) in connection with an obligation under clause 6 would be a civil penalty of up to £2, 500.

41. Subsection (5) provides that a person who contravenes a requirement imposed under clause 5(4) other than in connection with an application under clause 6, is liable to a civil penalty up to £1,000. This penalty is for those people who are required to and do register but then fail to provide the information required to keep the Register up to date.

42. Where an individual fails to satisfy his obligation under subsections (2) and (3), he is liable for a further civil penalty not exceeding £2,500 in respect of each time the Secretary of State gives him notice requiring him to make an application and he fails to do so before the set deadline.

Clause 7: Procedure for orders under s6 [j004ZAA]

43. This clause sets out the procedures for the "super-affirmative" process which would apply to compulsory registration. This means that if the Government decides that it wishes to make registration compulsory it must proceed in the following stages:

- The Government must publish in a report its reasons for wanting to make registration compulsory, including a proposal for how compulsion will operate (subsection (2)(a) and (b));
- Both Houses of Parliament must debate and vote on the proposal and they may modify the proposal (subsection (2)(c);
- The Government would lay an order consistent with the proposal approved by both Houses using the affirmative order procedures (subsection (1) and subsection (2)(d);
- If the Government was not content with the proposal as modified by Parliament, it must start the process against with a fresh report and

proposal if it decides to make the case again for a move to compulsion (subsection (3));

- If the Government wishes to make changes to the compulsion order which do not have the effect of "increasing" the degree of compulsion, for example, lowering the age beyond which it would not be compulsory to register, it does not need to go through the "super-affirmative" process again (subsection (4)).

44. Subsection (5) sets out how the calculation should be made of the 60 days required between the laying and approving of the draft.

45. Subsection (6) defines the term compulsory registration.

ID cards

Clause 8: Issue of ID cards [j004A]

46. This clause sets out the procedure for issuing ID cards.

47. Subsection (1) explains that an ID card is a card which holds personal information as recorded on the National Identity Register as well as data enabling the card to be used for obtaining access to the individual's entry on the Register, for example, a personal identification number. This may be a designated document or a new card issued as an ID card.

48. Subsection (2) establishes that cards will contain data which is legible on the face of the card itself and data contained in the card. It ensures that the card must only hold specific information as set out in Regulations.

49. This subsection also provides that the ID card will have a limited validity. Different validity periods may be specified for different categories of person, for example, an elderly person's registration may remain valid for the rest of his life without the need for reconfirmation, whereas a foreign national's may be linked to the length of authorised stay.

50. Subsection (3) requires that except in prescribed cases ID cards must be issued to individuals who are entitled and whose personal information has been entered on to the Register. However, there are special cases where someone who does not meet the entitlement criteria may be issued with an ID card (subsection (4)). For example, it may be that an individual could not provide all the prescribed information but we would still want to issue a card as long as the Secretary of State was satisfied as to his identity.

51. Subsection (5) provides that an ID card will only be issued once an application has been made and sufficient information has been provided for the individual to be entered on the Register or an existing entry is confirmed. In practice, the application form for a designated document will contain the information required to make an entry on the Register or confirm that entry.

52. Under subsection (6) where an existing document is designated as an ID card, the document may only be issued if an application for an ID card in the manner prescribed has also been included. Where an application is made under clause 6 (compulsory registration), the application must be included in the prescribed manner.

53. Where a person has already registered, when applying for another designated document a subsequent application for an ID card would not be necessary, providing the individual could confirm that he had registered and any of his registered details were updated as appropriate. In practice, the application form for a designated document will contain the information required to make an entry on the Register or confirm that entry.

54. Subsection (7) ensures that any other application for an ID card must be in the prescribed manner, and should be made to the Secretary of State or in certain circumstances to the designated documents authority and with the prescribed information.

55. In the case of a designated documents authority, an application may in certain circumstances be made separately from any application for the designated document. This allows a designated documents authority to issue an ID card that is not part of or issued with a designated document.

56. Regulations specifying the information that may be recorded in or on an ID card or the form in which the information is to be recorded needs the agreement of Parliament via affirmative resolution.

Clause 9: Renewal of ID cards for those compulsorily registered [j004AA]

57. This clause provides for the renewal of cards for those individuals who are required by clause 6 of the draft Bill to be entered into the Register.

58. Subsection (2) makes it a requirement for individuals whose card will expire in the prescribed period or whose card has already expired to apply for an ID card in the prescribed manner and within the prescribed period.

59. Subsection (3) gives the Secretary of State the power to require an individual applying for an ID card under this clause to do certain things so that the Secretary of State can verify the information provided and ensure the accuracy of the Register. Subsection (4) sets out what these requirements might be and includes personal attendance, the recording of biometric information, being photographed and providing such other information as may be required. "Biometric information" and "fingerprint" have the same meaning as provided in Schedule 1, paragraph 2. Powers to amend that schedule include a power to make consequential amendments to subsection (4).

60. Failure to renew is liable to a civil penalty not exceeding £1,000 (subsection (3)).

Clause 10: Functions of persons issuing designated documents [j004B]

61. A designated documents authority is an issuer of ID cards including standalone ID cards, ID cards issued with a designated document or issued as part of a designated document. This clause sets out how common standards will be set for all designated documents authorities.

62. Subsection (1) requires that a designated ID card may only be issued if the designated documents authority is satisfied that:
    - an application satisfies the requirements under this Bill; and
    - the Secretary of State has considered and disposed of so much of the application as required to make or confirm an entry in the Register

    so that a designated documents authority cannot issue a designated document (e.g. a residence permit) unless satisfied with those parts of the application that relate to the entry on the Register.

63. Subsection (2) requires that a designated document may only be issued if the designated document or the ID card issued with it or as part of it satisfies the prescribed requirements in relation to that individual, for example, that it records prescribed information on the face of the card.

64. Subsection (3) sets out in more detail the requirements that may be made on designated documents authorities, regarding:
    - how applications are made for entry on the Register;
    - how applications to be issued with ID cards are made to them whether they be stand-alone, containing or issued with a designated document; and
    - how applications should confirm an individual's entry to the Register.

65. Subsection (4) requires those issuing designated documents to notify the Secretary of State where a designated document is modified, suspended or revoked; or required to be surrendered. For example, if a passport is designated as an ID card, and is subsequently required to be surrendered for bail purposes, the National Identity Register will need to be informed to "disable" the surrendered ID card.

Maintaining accuracy of Register etc.

Clause 11: Power to require information for validating Register [j004C]

66. This clause deals with the provisions necessary to permit data to be shared with the Secretary of State for the purposes of verifying information to be placed or which is currently placed on the National Identity Register where no such powers already exist. 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 to request information that is not relevant for the purposes of validating the Register. Under this draft Bill, Parliament will have to approve each "gateway" via an affirmative order.

67. Subsection (1) places a duty on a person to provide information to the Secretary of State for the purposes of verifying an individual's entry to the Register. Subsection (2) extends this obligation to disclose specified information to those bodies given the function of issuing cards, the designated document authorities. This obligation is mandatory (subsection (3)) and over-rides other obligations under which the person may hold that information.

68. Subsection (4) sets out that the requirement may be imposed on any person specified for the purposes in an order. This could include for example, private sector organisations, local government or central government. The order making provision to require information is subject to the affirmative resolution procedure (subsection (6)).

69. Subsection (5) provides a power that orders to require a person to provide information may be enforced via court proceedings.

Clause 12: Notification of changes affecting accuracy of Register [j005]

70. This clause sets out how changes in circumstances should be notified in order to maintain the accuracy of the Register.

71. Subsection (1) places a person registered under a duty to notify the Secretary of State of any change in his circumstances that may be prescribed, for example this might be change of address or change of name, and notify the Secretary of State of every error in the information held about him that he is aware of. This will enable the Register to maintain accurate information. The notification procedures are to be set out in Regulations (subsection (2)).

72. Further information may be required to verify the information that may be entered as a consequence of the notification or to ensure that the entry is up to date (subsection (3)). This requirement to provide further information may include personal attendance, being photographed, allowing biometric information to be recorded or otherwise providing information. Again "fingerprint" and "biometric information" is as defined in paragraph 2 of Schedule 1 and the power to modify that Schedule includes a power to make consequential amendments to this subsection (4). The information that may be required may only be required if it is consistent with the statutory purposes (subsection (5)).

73. Subsection (6) provides that the maximum penalty for failure to provide details of prescribed changes is a civil penalty of £1,000.

74. Section 99 (4) of the Road Traffic Act provides for a criminal offence where the holder of a driving licence fails to update changes to the name or address on a driving licence. This offence is unchanged by the provisions of this draft Bill [and will have precedence if the driving licence becomes a designated document].

Clause 13: Invalidity and surrender of ID cards [j006]

75. This clause covers invalidity and surrender of ID cards.

76. Subsection (1) provides that Regulations can prescribe the manner in which the fact that an ID card has been lost, stolen, damaged or destroyed must be reported. If a card was issued based on inaccurate information, requires modification or has been lost, stolen, damaged or destroyed, then it may be cancelled (subsection (2)).

77. Subsection (3) provides that if an individual is in possession or an ID card which does not belong to them, without the individual's consent or permission from the Secretary of State, he must surrender it. Where such a card exists, the Secretary of State may require the person to surrender the card within such period as he may specify (subsection (4)).

78. It is an offence not to surrender in these circumstances and this offence is liable to imprisonment or a fine or both (subsections (6) and (7)).

79. Subsection (8) ensures that where there is an obligation to surrender a designated document, the ID card that has been issued with it must also be surrendered. For example, if a passport is a designated ID card, any obligation to surrender a passport also includes an obligation to surrender the ID card part of the passport as well as the booklet.

Clause 14: Disclosures with consent of registered individual [j006C]

80. This clause enables the provision of an identity verification service with the consent of the individual.

81. Subsection (1) gives the Secretary of State the power to disclose information recorded in any entry providing the individual has consented to his details on the Register being checked or the application is made by a person who has been authorised by the individual to make the application for disclosure.

82. Subsection (2) provides a power to make regulations prescribing how this authority is to be given, the persons who can and in what circumstances an application may be made and how an application can be made. These regulations may include that to make an application for the disclosure of information, the applicant must first register certain details with the Secretary of State (subsection (3)).

83. The Secretary of State may refuse to disclose information even where the consent of the registered person has been given (subsection (4)). For example, if an organisation had misused disclosed information (e.g. passing it without proper authorisation to a third party), the Secretary of State may refuse to disclose any further information to that organisation.

Required identity checks

Clause 15: Power to make public services conditional on identity checks [j006A]

84. Identity Cards – the next steps (Cm 602) sets out two objectives for the use of identity cards in relation to public services. These were to simplify checks on eligibility for services and to reduce fraudulent use of services. This clause provides a power to make this link between the identity cards scheme with the provision of public services in cases where existing powers may be deficient. Subsection (5) defines what is meant by the provision of a public service. This is broadly defined and is not restricted to what might be commonly understood as "public services" such as the NHS. For example it would also cover the registration of sex offenders since that is provided for under an enactment.

85. Subsection (1) provides a power to make regulations which allow or require a person who provides a public service to make it a condition of providing the service that an individual produces an ID card and/or other evidence of his registrable facts.

86. Subsection (2) ensures that regulations made under subsection (1) cannot make it mandatory to produce an identity card or information which can be verified against the National Identity Register in order to receive payments provided under legislation or any service provided free of charge before it is compulsory for that individual to register (under clause 6). This means that we cannot make it mandatory to produce a card, for example to access social security benefits or free NHS treatment, until it is compulsory for the individual to register.

87. Subsection (3) specifically excludes the possibility of the carrying of cards being made compulsory. This includes both the carrying of a card and its production on demand other than on condition of providing public services.

88. Subsection (4) provides that the powers under this clause do not extend to public services, which are exclusively within the devolved competence of Scotland. If the Scottish Parliament wishes to make production of a card a condition of provisions of its services, it would first have to pass an Act of the Scottish Parliament to remove the "lock" in clause 1(3).

89. Subsection (6) defines what is meant by an application for the provision of a public service.

Clause 16: power to provide for checks on the Register [j006AZA)

90. This clause provides a power to enable checks to be made of information recorded in the Register by people providing public services.

91. Subsection (1) provides a power to disclose to a person providing a public service for which regulations under clause 15 have been made or which any other legislation makes it a condition to produce an ID card or any other evidence of registrable facts recorded on the Register, information recorded in the Register. This must be for the purposes of ascertaining or verifying information of an individual applying for the public service.

92. Disclosure must be in accordance with regulations made under clause 18.

93. Subsection (3) ensures that this power does not extend to Scotland the powers of disclosure under this clause for matters which are devolved. If the Scottish Parliament wishes to pass equivalent legislation to make regulations about identity checks, it would have to remove the "lock" in 1(3). The Scottish Parliament would also have the power to define what is meant by "public service" for the purposes of required identity checks in its legislation.

Clause 17: procedures for regulations under ss. 15 and 16 [j006AA]

94. This clause sets out the procedure for making regulations under clauses 15 and 16, including how this will apply to devolved administrations.

95. Subsection (1) sets out who may make regulations under clauses 15 and 16. Where provisions of public services are the responsibility of the National Assembly for Wales, only that Assembly may make regulations under clauses 15 and 16. Where the provision of public services is transferred to Northern Ireland, then the First Minister and Deputy First Minister only may make regulations. Where this power is not exercisable by any other person, the Secretary of State may make regulations.

96. Subsection (2) provides that Regulations made under clause 15 or 16 must be made by affirmative resolution in both Houses if reserved and in the case of regulations in Northern Ireland, laid before and approved by the Northern Ireland Assembly.

97. Under subsection (3), before any regulations are laid before Parliament, the Northern Ireland Assembly or the National Assembly for Wales steps must be taken for ensuring that members of the public are informed and consulted in the proposal. Subsection (4) provides that this must include the reasons for the proposal and why existing provisions are not sufficient.

98. Subsection (5) requires consultation with interested parties, for example the providers of a public service, under any regulations made under this draft Bill if there is an equivalent requirement in other legislation to consult these interested parties.

Clause 18: Regulations about identity checks [joo6B]

99. This clause sets out how regulations about identity checks under clause 16 should be made.

100. Subsection (1) provides that regulations under clause 18 may specify the manner in which checks of the Register are made and the manner in which a disclosure is made.

101. Subsection (2) provides that an application for disclosure may be made dependent on the applicant registering with the Secretary of State as may be prescribed.

102. The regulations are subject to an affirmative resolution. Before any regulations are laid, the Secretary of Sate must take steps to ensure that members of the public are informed and consulted on any proposals.

Disclosure of information recorded in Register

Clause 19: Disclosures without consent of registered individual [j006D]

103. This clause provides the power to disclose specified information held on the Register to specified persons for specified purposes without the consent of the registered person. Subsection (1) provides a power for this disclosure so long as it is authorised in this clause and clause 23 is complied with.

104. Subsection (2) provides that information may be disclosed to specified bodies for their statutory purposes.

105. Subsection (3) provides a power to disclose information not specified within paragraph 9 of Schedule 1 to a Chief Officer of police, for police purposes as set out in subsection (3). This excludes crimes that relates exclusively to non-reserved matters in Scotland. Paragraph 9 of Schedule 1 concerns information about how a card is used or a Register entry is accessed as opposed to the "static" information held on the Register, such as place and date of birth, about the registered person.

106. A similar power is provided in subsection (4) for the disclosure of information to the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, except that falling within paragraph 9 or Schedule 1 for the purposes set out in subsection (4).

107. Where information does not fall within paragraph 9 of Schedule 1, disclosure of that information is permitted if it is made to a prescribed officers of the Secretary of State in order to carry out any of the Secretary of State's functions. This allows for the disclosure of information to other parts of Government which are the responsibility of a Secretary of State, e.g. to the Department for Work and Pensions. As social security benefits are in Northern Ireland are not the responsibility of a Secretary of State when devolution is in operation, specific provisions need to be made. Subsection (6) enables the disclosure to extend to prescribed officers of

the Department for Social Development in Northern Ireland in connection with social security benefits or national insurance numbers, which are a transferred matter.

108. Where disclosure of information is made for any of the purposes specified in sections 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (disclosing information for the purposes of criminal investigations or proceedings overseas), it is authorised under this section but only subject to clause 23. This subsection (7) deals with disclosing information for the purposes of overseas criminal proceedings.

109. Disclosure of information falling within paragraph 9 of Schedule 1 is authorised if it is to certain prescribed persons or is made for purposes authorised by subsection (7) and for the purposes connected with preventing or detecting serious crime.

110. "Serious crime" is defined as crime that (a) involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose, or (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more. In these cases, specified organisations may also have disclosed to them information held in paragraph 9 of Schedule 1 on access records.

111. Subsection (9) extends disclosure of information to a designated documents authority if the disclosure is made for any purposes connected with powers of duties by virtue of this draft Bill or those in relation to the issue or modification of designated documents.

Clause 20: Supplemental provisions for s. 19 [j006DZA]

112. Subsection (1) defines terms used in clause 19.

113. Subsections (2) defines detection with reference to existing legislation. Subsection (3) allows the Secretary of State to prohibit the disclosure of information on the Register in overseas proceedings as specified in section 18 of the Anti-terrorism, Crime and Security Act 2001.

114. Subsection (4) makes sure that any changes authorised by Parliament to the Schedule specifying what can be held on the Register are reflected in what can be disclosed under section 19.

Clause 21: Disclosures for the purpose of correcting false information [j006DA]

115. This clause provides a power to disclose information from the Register to a person or organisation who has supplied information to help verify an entry in the Register where information provided proved to be inaccurate.

116. Subsection (1) sets out these circumstances in which disclosure under this clause applies. Subsection (2) provides a power to disclose to the person providing the information any discrepancies between it and the information recorded on the Register, providing clause 23 is complied with.

117. Subsection (4) defines what is meant by providing information about an individual for verification purposes.

Clause 22: Power to authorise other disclosures without consent [j006E]

118. This clause provides that the Secretary of State may make a disclosure of information without consent in any circumstances where an order has been made specifying or describing the information, to a person so specified or described, for purposes so specified or described and any requirements under section 23 are complied with. This order is subject to an affirmative resolution procedure.

Clause 23: Rules for making disclosures without consent [j006F]

119. Subsection (1) provides that a disclosure of biometric information under clauses 19 to 22 may only be authorised where the Secretary of State is satisfied that it was not reasonably practicable for the person to have obtained the information by another means. For example, if fingerprint information is recorded on the Register, the police would first have to search their own fingerprint records before resorting to the Register.

120. Subsections (2) to (4) allow the Secretary of State to make regulations imposing requirements before any disclosure is made, restricting those who may be authorised to act on his behalf in connection with the making of such a disclosure and providing who a disclosure may be made instead of a person specified under clauses 19 to 22.

National Identity Scheme Commissioner

Clause 24: Appointment of Commissioner [j006G]

121. This clause establishes a Commissioner to oversee the practice of disclosure of information held on the Register.

122. The Prime Minister is under the duty to appoint a National Identity Scheme Commissioner under subsection (1). Subsection (2) sets out the functions of the Commissioners.

123. It is the duty of every official in the Secretary of State's department to provide the information the Commissioner requires to carry out his function (subsection (3)).

124. In order to be appointed as Commissioner, a person must hold or have held high judicial office. The Commissioner should hold office in accordance with the terms of his appointment and provisions should be made for him to be paid such allowances as the Treasury may determine out of money provided by Parliament.

125. Under subsection (6) the Secretary of State is under a duty, after consultation with the Commission, and subject to the approval of the Treasury as to numbers, provide the Commissioner with such staff as the Secretary of State considers necessary for the carrying out of the Commissioners functions.

Clause 25: Reports by the Commissioner [j006H]

126. Under subsection (1) the Commissioner is under a duty to report each year to the Prime Minister, who is himself under a duty to lay before Parliament that report subject to certain exceptions set out in subsection (4) and following the procedures in subsection (5).

127. There is also provision for the Commissioner to report at any other time regarding any matter related to the carrying out of his functions.

Offences

Clause 26: Possession of false identity documents etc. j008

128. This clause creates new criminal offences related to possessing false identity documents and mirrors existing offences contained in the Forgery and Counterfeiting Act 1981.

129. Subsection (1) sets out the circumstances under which a person is guilty of an offence where he has knowledge or belief that a document is either false, has been improperly obtained, or that relates to someone else.

130. Subsection (2) makes it illegal to make, or possess equipment used for making, false identity documents. Subsection (4) sets out the maximum penalties for such offences.

131. Subsection (3) sets out the circumstances under which a person is guilty of an offence irrespective of whether he knew or believed that a document was false, improperly obtained or related to someone else and irrespective of any intent to use the document. It will be necessary to show that the defendant had no reasonable excuse for possessing the document. This subsection also criminalises the possession of equipment used for making false identity documents irrespective of intent to use such equipment. Subsection (5) sets out penalties for such an offence.

132. Subsection (6) defines what is meant by "false" and limits this definition to this clause. Subsection (7) defines what is meant by "improperly obtained" and "making" a false identity document. Subsection (7) makes clear the "identity document" is defined in clause 27.

Clause 27: Identity documents for the purposes of s. 23 [j008A]

133. Subsection (1) defines what is meant by an "identity document". This list may be amended by an affirmative resolution (subsections (4) and (5)).

134. Subsection (2) defines what is meant by an "immigration document".

135. Subsection (3) defines what is meant by a "UK driving licence".

Clause 28: Unauthorised disclosure of information [j009]

136. This clause creates a new criminal offence of unlawful disclosure of information held on the National Identity Register.

137. Subsection (1) sets out the circumstances under which a person is guilty of such an offence.

138. Subsection (2) defines what is meant by "lawful authority" for the purposes of the draft Bill.

139. Subsection (3) states that a person has a defence if he can show on reasonable grounds that he believed he had lawful authority to disclose the information.

140. Subsection (4) sets out the maximum penalties for the offence.

Clause 29: Providing false information [j010]

141. This clause creates a new offence of providing information in order to falsify information on the Register or obtaining a false ID card.

142. For the purposes of this clause, false is defined in Clause 39, subsections (1) and (2) set out the circumstances under which a person is guilty of such an offence. Subsection (3) sets out maximum penalties for such an offence.

Clause 30: Tampering with Register [j011]

143. This clause deals with cases where someone modifies information held on the Register to falsify it. This would already be an offence under the Computer Misuse Act 1990, however it would only attract a maximum

penalty of 5 years. As making a false entry on the Register is the equivalent of making a false ID card, the maximum penalty in these circumstances is increased to 10 years in line with the penalty for the false ID card offence in clause 26.

Clause 31: Consequential amendments relating to offences [j011A]

144. Subsection (1) makes the offences under clause 26(3), 28 and 29 arrestable. Subsection (3) extends this to Northern Ireland.

145. Subsection (2) extends the usual jurisdiction of the courts in England and Wales. Subsection (4) extends the usual jurisdiction of the courts in Northern Ireland.

Civil penalties

Clause 32: Imposition of civil penalties [j012]

146. This clause sets out the way in which civil penalties under the ID cards scheme will operate.

147. Where the Secretary of State is satisfied that the person is liable to a civil penalty as set out in the draft Bill, the Secretary of State may issue in the prescribed manner a notice to the defaulter, setting out why the penalty is being imposed, the amount of the penalty, the date by which the penalty must be paid, how payment should be made, setting out the steps the defaulter may take if he objects and finally explaining the powers to enforce the penalty (subsection (3)).

148. The date by which the payment must be made cannot be less than 14 days after the notice is issued (subsection (4)).

149. The penalty imposed by this clause, must be paid in the manner described by the notice and if it is not paid, the amount is recoverable by the Secretary of State via the civil courts. When recovering the penalty no question may be raised as to whether the defaulter was liable to the penalty or as to the amount of the penalty.

Clause 33: Objection to penalty [j013]

150. Clause 33 sets out the steps to be taken if the recipient of the notice objects.

151. A recipient of a notice may give notice to the Secretary of State that he objects to the penalty. This must include what he objects to and why. This "notice of objection" must be made in the prescribed manner and before a date to be prescribed (subsections (1) and (2)).

152. If this procedure is complied with, the Secretary of State will determine whether or not to: cancel the penalty; reduce it; increase it; confirm it (subsection (3)). The Secretary of State must not enforce a penalty of which he has received a notice of objection, until he has considered the objection.

153. This notification of outcome must be given in the prescribed manner, by a prescribed date or if the objector agrees by a longer period.

154. If, after consideration, the Secretary of State increases the penalty, a new notice must be issued under clause 32. If the penalty is reduced, the objector must be notified accordingly.

Clause 34: Appeals against penalties [j014]

155. This clause sets out the process of appealing against penalties. A person does not have to object to a penalty under clause 33 before making an appeal to the court under this clause.

156. The grounds of the appeal are set out in subsection (1). Subsection (2) ensures that there will be a time limit to any appeal.

157. The appeal will be a re-hearing of the decision of the Secretary of State to impose a penalty (subsection (4)). Under subsection (5) the court may consider all matters it considers relevant

158. The Court may decide to cancel the penalty, reduce the penalty or uphold the penalty under subsection (3).

159. Subsection (7) specifies which courts may hear an appeal.

Clause 35: Code of practice on penalties [j015]

160. This clause sets out the provisions relating to the code of practice on penalties.

161. The Secretary of State has the duty to issue a code of practice setting out the matters that will be considered when determining the amount of a civil penalty. He must have regard to the code when imposing a penalty or considering a notice of objection. A court must also have regard to the code when determining any appeal.

162. Before issuing the code, a draft must be laid before Parliament. It then comes into force as specified by the order.

Supplemental

Clause 36: Fees etc [j007]

163. This clause makes provision for the payment of fees.

164. Subsection (1) enables fees to be set for:
- applications;
- modification of an entry;
- issue of ID cards;
- applications for disclosure of any part of the information contained on the Register;
- making of such a disclosure;
- applications for confirmation of any information recorded; and
- the issue of such a confirmation.

165. This provides that fees can be set for any new ID card. The fee setting powers in existing legislation governing designated documents remain unchanged. However, subsection (2) allows for the fees for designated documents to cover the costs of issuing the ID card with or as part of the designated document.

Clause 37: Orders and regulations [j9Sis]

166. This clause provides how Orders and Regulations should be made. In general this will be through a negative resolution procedure.

167. Subsection (4) enables provisions to be varied for different cases, with exemptions and exceptions. For example, regulations may allow fees to be set at different levels for different cases, so that those on low incomes may be charged a lower fee.

Clause 38: Expenses of Secretary of State [j9exp]

168. This clause deals with how expenses of the Secretary of State should be paid.

Clause 39: General interpretation j9interp

169. This clause provides for interpretation of defined terms in the draft Bill.

Clause 40: Short title, repeals, commencements and extent [j9SC&E]

170. The draft Bill may be cited as the draft Identity Cards Bill 2004.

171. This clause allows the preceding provisions of the draft Bill to be brought into force by order made by the Secretary of State.

172. This clause enables the draft Bill to be extended to Northern Ireland.

Schedule 1

173. Schedule 1 sets out the information that may be recorded in the Register. This includes:

- personal information – names, date and place of birth, gender, addresses;
- identifying information – photograph, fingerprint, other biometric information;
- residential status – nationality, entitlement to remain, terms and conditions of that entitlement;
- personal reference numbers – for example the National Identity Registration Number and other government issued numbers, and validity periods of related documents;
- record history – historical information previously recorded, audit trail of changes and date of death;
- registration history – dates of application, changes to information, dates of confirmation, information regarding other ID cards already issued, details of counter-signatures.;
- validation information – information provided for any application, modification, confirmation or issue and other steps taken in connection with an application or entry, details of any requirement to surrender;
- security information – personal identification numbers, password or other codes, and questions and answers that could be used to identify a person seeking access; and
- access records – the audit trail of when an entry was accessed and by whom, disclosure, steps taken to modify, issuing, cancelling or requiring surrender of a card and who undertook these.

Schedule 2

174. Repeals can be found in Schedule 2 to the draft Bill.

175. The effect of the repeals are to remove passports and documents that can be used instead of passports in (s5 (5) (f) of the Forgery and Counterfeiting Act 1981) and immigration documents (s 5 (5) (fa) of the FCA which is to be inserted by clause 3 of the Asylum and Immigration (Treatment of Claimants etc) Bill 2004 so that offences relating to false passports, documents that can be used instead of passports and immigration documents will be dealt with under clause 26.

FINANCIAL EFFECTS OF THE BILL

176. Our current estimate is that the set-up costs for the identity cards scheme will be around £186 million. These initial start up costs will be met from Departmental budgets.

177. The expectation is that, when the scheme is established, overall running costs will be covered by overall charges for the application and issue of cards and for identity verification services provided by the scheme.

178. Under the national identity cards scheme, our best estimate at this stage is that:

(i) A 10 year plain identity card would cost most people in the order of £35;

(ii) A combined passport/identity card would cost £77, and a combined driving licence/identity card would cost £73.

179. These charges would be able to fund free cards for all 16 year olds and a reduced charge of £10 for those on low incomes.

180. The cost assumptions and cost estimates which have been used in the preparation of the Home Office's business case have not been placed in the public domain for reasons of commercial confidentiality. These estimates have been benchmarked with reference to comparable projects. Work is now being progressed to test the cost assumptions through modelling, trials and feasibility studies.

EFFECTS OF THE BILL ON PUBLIC SERVICE MANPOWER

181. It is likely that there will be an additional staffing requirement for the introduction of a new identity cards scheme, primarily for the recording of biometric information. A capability analysis is currently under way with potential public sector deliver partners to establish the most cost efficient way of delivering this (and other) elements of the scheme, drawing as much as possible on existing resources. The programme of feasibility studies will also contribute to the evaluation of the requirements for additional staffing. No decisions have been taken as to whether any additional manpower will fall within the public sector.

182. Any additional staffing costs when the scheme is operational will be met from charges.

SUMMARY OF THE REGULATORY IMPACT ASESSMENT

183. The draft Bill imposes no regulations on any private sector or voluntary organisations, neither does it mandate which public sector organisations will be involved in the issuing of cards. There is therefore no meaningful regulatory impact assessment which can be published at this stage. This is discussed further in Annex C.

ECHR

184. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement of the compatibility of the provisions of the Bill with the Convention (as defined by

section 1 of that Act). The statement has to be made before second reading.

185. The Government does not believe that there is anything in the draft Bill that conflicts with the Convention and will prevent such a statement being made.

COMMENCEMENT

186. Arrangements to be confirmed.

Annex C

Regulatory and Race Equality Impact Assessments

Regulatory Impact

1. The draft Bill imposes no regulations on any private sector or voluntary organisations, neither does it mandate which public sector organisations will be involved in the issuing of cards. It is not therefore appropriate to publish a regulatory impact assessment for the scheme.

2. As more specific decisions are taken on how the scheme will be delivered and used, regulatory impact assessments will be published. It is envisaged that over time this would include:

(i) the impact on employers of using the scheme for checking eligibility for employment. As stated above there is no provision in the draft Bill which requires such checks or provides for secondary legislation to be made requiring such checks. The relevant powers already exist under section 8 of the Asylum and Immigration Act 1996, though the Government will not consider laying new orders under this Act to take account of the identity cards scheme until closer to the date of implementation of the scheme. If revised regulations are laid, these will be subject to a regulatory impact assessment and full consultation with employers. However the Government will continue its discussions with employers' organisations and trade unions to ensure that employers' needs are taken into account during the design of the scheme;

(ii) the impact on the financial services industry. A large proportion of losses to the economy due to identity fraud fall on the industry. Checks of the card scheme will benefit the industry however there is no requirement in the draft Bill for such checks and the draft Bill requires that all checks made by private sector organisations can only be made with the consent of the individual card holder;

(iii) impact on any private sector organisations affected by Clause 11. This provision in the Bill places organisations prescribed by the Secretary of State under a duty to provide information to help ensure the accuracy of information on the Register. It is possible that as the scheme is designed, requirements for private sector organisations to provide information may be identified. However it is likely that in most cases, these organisations will be in the business of providing such information, for example as credit reference agencies and therefore the issue of a regulatory burden will not arise. As the draft Bill provides for each "data sharing gateway" established under these provisions to be approved by Parliament, if in certain circumstances there is a regulatory impact on the organisation or sector concerned this will be assessed when the regulations are being developed.

Race equality impact

3. This assessment has been produced in accordance with obligations for developing new policy under the:

- general duty to eliminate unlawful discrimination; and promote equality of opportunity, and good relations between persons of different racial groups which is set out in section 71(1) of the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000;
- specific duties in particular to assess and consult on the likely impact of its proposed policies on the promotion of race equality; to publish the results of such assessments and consultation; and to monitor policies for any adverse impact on the promotion of race equality which are set out in secondary legislation under the amended Race Relations Act;
- the Home Office Race Equality Scheme (in which the Home Office has set out how it intends to comply with the general and specific duties);
- Commission for Racial Equality (CRE) statutory code of practice, and non-statutory CRE guidance.

General principles of the scheme

4. The draft legislation and the administration of the scheme is bound by the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. Therefore, the scheme must have due regard to the elimination unlawful racial discrimination, the promotion of equal opportunities and good relations between people from different racial groups.

5. The identity cards scheme will be an inclusive scheme, designed to cover everyone who has the right to be in the United Kingdom. It will show that everyone belongs to our society whether they were born here, have chosen to make their home here or are just staying for a while to study or work. It will help people prove their identity to access services such as free health treatment or benefits and give everyone confidence that legal migration will not result in increased fraudulent use of hard-pressed public services. If our communities have confidence in our immigration controls, they will be more welcoming of new arrivals, helping to promote a more cohesive society.

6. The identity cards scheme itself is non- discriminatory as it is intended to cover everyone in the United Kingdom for longer than a specified period (3 months). The scheme will not, in general, require people to obtain a specific, additional document as it will be designed to make use of existing documents that will be designated as identity cards. Most members of the identity cards "family" will be enhanced versions of existing identity documents which are very widely held familiar documents that are already used as proof of identity.

Issues Identified for Impact Assessment

7. In preparing issues to be taken into account, we have taken the views of some members of the Race Equality Advisory Panel and other interested groups/ individuals, including the CRE, via two workshops, as well as views expressed by the general public and other organisations during the course of the consultation period and in the intervening period.

8. We have also drawn on the results of focus group work and polling of black and minority ethnic groups, as summarised in **Identity Cards- A Summary of Findings from the Consultation Exercise on Entitlement Cards and Identity Fraud". CM 6019**. This is very much a partial impact assessment intended to identify issues which need to be studied in more depth during the 12- week consultation period on the draft Bill. The main issues which need to be considered in the race equality impact assessment are:

(i) the use of the card scheme by the Police

(ii) how the general administration of the scheme will need to take account of the specific needs of black and minority ethnic groups

(iii) use of the scheme in relation to public services and employment.

It should be noted that in the research during the consultation exercise, the concerns of members of the black and minority ethnic groups largely mirrored those of the white population eg whether the scheme would hold personal information securely. Concerns over the potential discriminatory effects of the scheme were secondary.

Police use of the scheme

9. The draft Bill makes no changes to police powers and there is a specific prohibition on introducing regulations which would require a card to be carried at all times. The police generally have no powers to require a person to provide them with information about their identity. Police already have the power to stop and search members of the public under a number of pieces of legislation. Under section 25 of the Police and Criminal Evidence Act 1984, a constable may arrest a person on suspicion of committing an offence, which would not normally be subject to powers of arrest, if the identity of the person cannot be readily ascertained or there are reasonable grounds for doubting whether the name and address provided by the person are genuine. There are equivalent powers in Northern Ireland and similar powers in Scotland under the Article 27 of the Police and Criminal Evidence Act (Northern Ireland) Order 1989 and the Criminal Justice (Scotland) Act 1980 respectively.

10. The draft Bill specified the information which may be recorded on the National Identity Register. It does not allow for the recording of ethnicity. The Register will hold individuals' confirmed identity information securely and an audit of checks made of the Register whether via an ID card or otherwise will

be held on the database to comply with the Data Protection Act. Disclosure of the details of a person's entry on the register and audit log records will not be possible without his or her consent other than as authorised under specific provisions in the draft Bill. There will be strict controls and independent oversight of these arrangements.

11. The draft Bill also provides for oversight of the practical operation of the procedures for disclosing personal information from the National Identity Register (see 2.38).

12. However, the real concerns expressed in consultation thus far relate to how the police will use the scheme in practice. There were fears that the police will interpret the legislation around identity cards in a way that will discriminate against minority ethnic groups, with a strongly held view that the police will stop a disproportionately high number of black and Asian people and demand sight of the identity card even though the draft Bill provides no such powers.

13. The Government's aim is to ensure that officers have the confidence to use their powers effectively to tackle crime, whilst promoting confidence in the use of the powers amongst all members of the community, and keeping the bureaucratic burden to a minimum. The introduction of identity cards will provide a means of reinforcing awareness of the scope of police powers both to officers and the general public.

Administration of the Scheme

14. The application process will need to take account of the different languages spoken in the United Kingdom and must be equally accessible to all applicants. It is very important that applying for a card is easy and sensitive to the needs of all groups within the United Kingdom.

15. The information to be specified in the draft Bill includes the name, address, date and place of birth and nationality of those registered as well as such biometric data as may be prescribed. In the case of third country nationals, details of any limitations on the right to remain in the United Kingdom and any limitations on the right to work will be included. A head and shoulders photograph will be included on the face of the card. This has raised the issue of religious head coverings, particularly for Moslem women and Sikh men.

16. Nationality will be included. As stated above, ethnicity will not be recorded on the Register or on the face of the card. There was a concern that the place of birth appearing on the face of the card could lead to discrimination but this information is already required on passports and driving licences.

17. The level of information to be held on the National Identity Register and on the face of the card will not be significantly more than that recorded now

for the issue of passports. Regulations around the requirements for the type of photograph will be in line with those currently in place for passport and driving licence photographs. Sikhs are permitted to have photographs whilst wearing the Turban for inclusion in British passports and that is also the case for photo driving licenses. The UKPS exercises its discretion and respect religious sensitivities as far as possible. However the overriding rule (set by international standards) is that the applicant's photo should show a full face and that all features should be clearly distinguishable.

18. At some DVLA offices, Moslem women are offered a facility to go to a private office and reveal their face to a female member of staff so that their face can be matched against their photograph. The operation of the identity cards scheme will include guidance along these lines to ensure discretion and sensitivity.

Access to Services and Employment

19. The Race Relations (Amendment) Act 2000 extended the scope of the Race Relations Act 1976 to cover the way public authorities carry out all their functions. It has a wide definition encompassing a person or organisation carrying out functions of a public nature including functions or services carried out by private or voluntary organisations under a service level agreement. The Secretary of State and the designated documents authorities involved in running the scheme will therefore be bound by the amended Act. Similarly providers of public services who might use the scheme for identity checks are already bound by the amended Act. There is therefore no need for the draft Bill to make explicit provision for compliance with the Act.

20. The Bill would not automatically require the production of a card for any service and there will be no link between the compulsion to register on the National Identity Register and a compulsion to produce the card to access any particular services.

21. There is no requirement on employers to check an identity card in the draft Bill (see paragraph 2 above). In any case, many employers already see it as best practice to check and record forms of identification when employing someone to ensure that they comply with existing legislation.

22. There are concerns that requiring the production of a card to access services increases the risk of potential discrimination. People from black and minority ethnic groups might be asked to provide the card as proof of identity more frequently than white people which is some cases might lead to people being denied access to services to which they are entitled if they cannot produce their card.

23. There were concerns that the cards will be used detrimentally due to institutional racism existing in public and private service authorities, particularly where there was a reliance on discretion. A view expressed was that, in this context, a compulsory scheme would be less discriminatory as everyone would be able to produce a card.

24. The Government accepts that a compulsory scheme would be less discriminatory but there are other factors which need to be satisfied before the scheme could be made compulsory. The draft Bill provides for a 'super affirmative' process before compulsion could be introduced.

25. As with police forces, the education and training of public service administrators will be an important part of the implementation and development of the scheme. It is intended to establish an accreditation scheme so that only those private sector organisations that have been approved (including banks, building societies or airlines) would be able to make checks on the National Identity Register on the validity of cards or the registered details. Accreditation could be removed if a particular business attempted to misuse the service.

Annex D

The principles of the Data Protection Act 1998

1. This Annex shows how the draft Identity Cards Bill complies with the principles of the Data Protection Act 1998. The lawfulness test in the Act would be met by entering the scheme in primary legislation as set out in the draft bill.

The First Principle: Personal data shall be processed fairly and lawful and in accordance with certain prescribed conditions.

The Second Principle: Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

2. Clause 1 of the Bill sets out the statutory purposes of the National Identity Register which is at the heart of the Identity Cards Scheme. It also specifies the information which can be held by the scheme. The Bill therefore makes clear the information about individuals which may be held by the scheme, the purposes for which this information is held and to whom the information may be disclosed. Schedule 1 of the Bill specifies in more detail the information which may be held by the scheme. None of this information falls within the category of sensitive personal data as defined by the Act. The Bill also makes provision for a national identity registration number in Clause 2. This number will be treated as a general identifier as defined by the Act.

The Third Principle: Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

3. The government believes information, which will be recorded by the scheme as, set out in Clause 1 and Schedule 1 of the draft bill, is consistent with the third principle. This information is required to determine a person's identity and residential status in the UK. The Bill does not allow information additional information such as criminal convictions to be recorded by the scheme though does make provision for additional voluntary information. Where there are provisions to request further information from applicants for example to check the validity of their entry on the Register, the draft Bill limits this additional information to that which is consistent with the statutory purposes.

The Fourth Principle: Personal data shall be accurate and, where necessary, kept up to date.

4. The scheme will comply with the fourth principle mainly through its operational procedures rather than via statute. However, there is an important statutory provision in the draft Bill which will help to ensure compliance with the fourth principle by ensuring that details are kept up to date. Clause 12 of the Bill places an obligation on individuals

registered with the scheme to notify prescribed changes which affect the accuracy of the register.

The Fifth Principle: Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

5. Information on people registered in the scheme will need to be kept indefinitely. This includes information on people who leave the United Kingdom and people who have died in order to ensure that their identities are not misused by third parties.

The Sixth Principle: Personal data shall be processed in accordance with the rights of data subjects under the Act.

The Seventh Principle: Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

The Eighth Principle: Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

6. People registered on the scheme would have subject access rights under the Data Protection Act 1998. In addition the government will investigate whether it would be possible for a card holder to use his card securely to access his own record on the National Identity Register, to avoid the usual authorisation process and cost involved in applying for subject access. The government will have to be satisfied that this could be achieved without compromising personal information, for example that another person could not use a stolen card to view another person's record on the National Identity Register.

7. The government has a great deal of experience in administering large databases of personal information – including where they are administered by a third party under contract. The government does not envisage any problems in the scheme complying with the requirements of the Seventh Principle. The draft Bill includes new criminal sanctions, making it an offence for a person to disclose information on the National Identify Register without lawful authority. The maximum penalty for this offence is two years imprisonment a fine or both. In addition the Bill also makes it an offence to tamper with the contents of the National Identity Register. This is set out in Clause 30 of the Bill and the proposed maximum penalty is ten years.

8. The draft Bill does not allow for the transfer of any data on the National Identity Register to other countries or territories. Disclosure of

information for the purposes of overseas proceedings is allowed by virtue of the Anti-Terrorism, Crime and Security Act 2001. However the draft Bill ensures that such disclosures must follow the general disclosure regulations defined by the Bill. In addition the power of the Secretary of State to refuse disclosure which is also a provision of the Anti-Terrorism, Crime and Security Act 2001 also applies to disclosures from the Register.

C MD

Draft Identity Cards Bill

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DRAFT

OF A

BILL

TO

Make provision for a national scheme of registration of individuals and for the issue of cards capable of being used for identifying registered individuals; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Registration

1 The National Identity Register [j001]

(1) It shall be the duty of the Secretary of State to establish and maintain a register of individuals (to be known as "the National Identity Register").

(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.

(3) The establishment and maintenance of the Register for those purposes does not authorise—

(a) the use in or as regards Scotland of the Register or of a card issued in accordance with this Act, or

(b) the disclosure in or as regards Scotland of information recorded in the Register,

except in relation to a matter or for purposes outside the legislative competence of the Scottish Parliament or in accordance with an Act of that Parliament.

(4) In this Act "registrable fact", in relation to an individual, means—

(a) his identity;

(b) where he resides in the United Kingdom;

(c) where he has previously resided in the United Kingdom;

(d) the times at which he was resident at the different places in the United Kingdom where he has resided;

(e) his current residential status;

(f) residential statuses previously held by him;

(g) information about occasions on which information recorded about him in the Register has been accessed or disclosed; and

(h) information recorded in the Register at his request.

(5) In this section references to an individual's identity are references to—

(a) his full name;

(b) other names by which he is or has previously been known;

(c) his date and place of birth and, if he has died, the date of his death; and

(d) physical characteristics of his that are capable of being used for identifying him.

(6) In this section "residential status", in relation to an individual, means—

(a) his nationality;

(b) his entitlement to remain in the United Kingdom; and

(c) the terms and conditions of that entitlement.

2 Individuals entered in Register [j002]

(1) An entry must be made in the Register for every individual who—

(a) is entitled to be entered in it; and

(b) applies to be entered in it.

(2) The individuals entitled to be entered in the Register are—

(a) every individual who has attained the age of 16 and, without being excluded under subsection (3) from an entitlement to be registered, is residing at a place in the United Kingdom; and

(b) every individual of a prescribed description who has resided in the United Kingdom or who is proposing to enter the United Kingdom.

(3) Regulations made by the Secretary of State may provide that an individual residing in the United Kingdom is excluded from an entitlement to be registered if he is—

(a) residing in the United Kingdom in exercise of an entitlement to remain there that will end less than the prescribed period after it was acquired; or

(b) an individual of a prescribed description who has not yet been resident in the United Kingdom for the prescribed period.

(4) An entry for an individual may be made in the Register (whether or not he has applied to be, or is entitled to be, entered in it) if information capable of being recorded in an entry for him is otherwise available to be recorded.

(5) The Secretary of State—

(a) may at any time modify the Register for the purpose of correcting information entered in it that he is satisfied is inaccurate; but

(b) is not, by virtue of any provision of this Act, to be under a duty to correct such information unless he is so satisfied.

(6) An entry in the Register consisting of all the information recorded about an individual must be given a unique number, to be known as his National Identity Registration Number; and that number must comply with the prescribed requirements.

(7) The Secretary of State may by order modify the age for the time being specified in subsection (2)(a).

3 Information recorded in Register [j003]

(1) The only information that may be recorded in the Register is—

(a) information the inclusion of which in an individual's entry is authorised by Schedule 1;

(b) information of a technical nature for use in connection with the administration of the Register;

(c) information of a technical nature for use in connection with the administration of arrangements made for purposes connected with the issue or cancellation of ID cards; and

(d) information recorded in the Register in accordance with subsection (2).

(2) Information about an individual must be recorded in his entry in the Register (whether or not it is authorised by Schedule 1) if—

(a) he has made an application to the Secretary of State requesting the recording of the information as part of his entry;

(b) regulations made by the Secretary of State do not exclude it from the information that may be the subject of such a request; and

(c) the Secretary of State considers that it is both practicable and appropriate for it to be recorded in accordance with the applicant's request.

(3) Information, once entered in the Register, may continue to be recorded in the the Register for so long as it is consistent with the statutory purposes for it to be so recorded.

(4) The Secretary of State may by order modify the information for the time being set out in Schedule 1.

(5) The Secretary of State may make an order under this section adding information to the information that may be recorded in the Register only if he considers that it would be consistent with the statutory purposes for the additional information to be so recorded.

(6) The Secretary of State must not make an order containing (with or without other provision) any provision for adding information to the information that may be recorded in the Register unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

4 Designation of documents for purposes of registration etc. [j003A]

(1) The Secretary of State may by order designate a description of documents for the purposes of this Act.

(2) The only documents that may be the subject of an order designating a description of documents for the purposes of this Act are—

(a) documents that a person has a power or duty to issue by virtue of provision made by or under an enactment; or

(b) documents which a Minister of the Crown is authorised or required to issue otherwise than by virtue of provision so made.

5 Applications relating to entries in Register [j004]

(1) An application by an individual to be entered in the Register may be made either—

(a) by being included in the prescribed manner in an application for a designated document; or

(b) by being submitted in the prescribed manner directly to the Secretary of State.

(2) Where an application to be issued with a designated document is made by an individual, the application must do one of the following—

(a) include an application by that individual to be entered in the Register;

(b) state that the individual is already entered in the Register and confirm the contents of his entry;

(c) state that the individual is entered in the Register and confirm the contents of his entry subject to the changes notified in the application.

(3) Where an individual makes—

(a) an application to be entered in the Register, or

(b) an application which for the purposes of this Act confirms (with or without changes) the contents of his entry in the Register,

the application must be accompanied by the prescribed information.

(4) Where an individual has made an application falling within subsection (3)(a) or (b), the Secretary of State may require him to do such one or more of the things specified in subsection (5) as the Secretary of State thinks fit for the purpose of—

(a) verifying information that may be entered in the Register about that individual in consequence of that application; or

(b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register.

(5) The things that an individual may be required to do under subsection (4) are—

(a) to attend at a specified place and time;

(b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded;

(c) to allow himself to be photographed;

(d) otherwise to provide such information as may be required by the Secretary of State.

(6) Regulations under this section must not require an individual to provide information to another person unless it is information required by the Secretary of State for the statutory purposes.

(7) In this section "biometric information" and "fingerprint" have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (5).

6 Power of Secretary of State to require registration [j004ZA]

(1) The Secretary of State may by order impose an obligation on individuals of a description specified in the order to be entered in the Register.

(2) An order under this section may impose an obligation on individuals required to be entered in the Register to apply in accordance with section 5 to be so entered.

(3) An order which imposes an obligation to make such an application must set out—

(a) the time when the requirement to make the application arises; and

(b) the period after that time within which the application must be made.

(4) An individual who—

(a) contravenes an obligation imposed on him by provision made under subsections (2) and (3), or

(b) contravenes a requirement imposed on him under section 5(4) in connection with an application made in pursuance of such an obligation,

shall be liable to a civil penalty not exceeding £2,500.

(5) An individual required to be entered in the Register by virtue of this section who contravenes a requirement imposed under section 5(4) otherwise than in connection with such an application shall be liable to a civil penalty not exceeding £1,000.

(6) An individual who has contravened an obligation imposed on him by provision made under subsections (2) and (3) and on whom a penalty has been imposed under subsection (4) in respect of that contravention shall be liable to a further civil penalty not exceeding £2,500 in respect of each subsequent occasion on which—

(a) a notice is given to him by the Secretary of State requiring him to make an application to be entered in the Register; and

(b) he fails to do so within the period specified in the notice.

7 Procedure for orders under s. 6 [j004ZAA]

(1) The Secretary of State must not make an order containing (with or without other provision) any provision for compulsory registration unless—

(a) a draft of the order has been laid before Parliament and approved by a resolution of each House; and

(b) each of the resolutions for approving the draft was agreed more than 60 days after the day on which the draft was laid before the House in question.

(2) No draft order containing provision for compulsory registration is to be laid before Parliament unless—

(a) the Secretary of State has prepared and published a report containing a proposal for the making of such provision;

(b) the report sets out the Secretary of State's reasons for making the proposal;

(c) the report has been laid before Parliament and each House has approved the proposal contained in the report, either with or without modifications; and

(d) the draft order gives effect to the proposal so far as approved by both Houses.

(3) An approval given in either House satisfies the requirements of subsection (2)(c) only if it was given in that House on the first occasion on which a motion for the approval of the proposal was made in that House by a Minister of the Crown after—

(a) the laying of the report; or

(b) if more than one report containing that proposal has been laid before that House, the laying of the one laid most recently.

(4) The Secretary of State must not make an order which—

(a) contains (with or without other provision) any provision that he is authorised to make by section 6, but

(b) is not an order containing provision for compulsory registration,

unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(5) In reckoning a period of 60 days for the purposes of subsection (1), no account shall be taken of a day for which—

(a) Parliament is dissolved or prorogued; or

(b) the House in question is adjourned as part of an adjournment of more than four days.

(6) References in this section to provision for compulsory registration are references to any provision that the Secretary of State is authorised to make by section 6 the effect of which is to impose an obligation to be entered in the Register on individuals not subject to such an obligation.

ID cards

8 Issue etc. of ID cards [j004A]

(1) For the purposes of this Act an ID card is a card which is issued to an individual by the Secretary of State, or as part of or together with a designated document, and which does one or both of the following as respects that individual—

(a) records registrable facts about him that are recorded as part of his entry in the Register;

(b) contains data enabling it to be used for facilitating the making of applications for, and the disclosure of, information recorded in a prescribed part of that individual's entry in the Register.

(2) An ID card issued to an individual—

(a) must record only the prescribed information;

(b) must record prescribed parts of it in an encrypted form; and

(c) is valid only for the prescribed period.

(3) Except in prescribed cases, an ID card must be issued to an individual if he—

(a) is entitled to be entered in the Register or, by virtue of section 6, is required to be so entered; and

(b) is an individual about whom the prescribed registrable facts have been entered in the Register.

(4) In prescribed cases, an ID card may be issued to an individual who—

(a) is not required to be issued with one; but

(b) is an individual about whom the prescribed registrable facts have been entered in the Register.

(5) An ID card relating to an individual is not to be issued except on an application made by him which either—

(a) accompanies an application made by him to be entered in the Register; or

(b) in the prescribed manner confirms (with or without changes) the contents of an entry already made in the Register for that individual.

(6) An application for the issue of an ID card to an individual must be included, in the prescribed manner—

(a) in every application made by him to be issued with a designated document; and

(b) in every application made by him in accordance with provision made under section 6.

(7) Other applications for the issue of an ID card—

(a) may be made only in the prescribed manner;

(b) may be made to the Secretary of State or, in prescribed cases, to a designated documents authority; and

(c) must be accompanied by the prescribed information;

and regulations for the purposes of paragraph (b) may authorise an application to be made to a designated documents authority separately from any application to that authority for the issue of a designated document.

(8) The Secretary of State must not make regulations containing (with or without other provision) any provision for prescribing—

(a) the information to be recorded in or on an ID card, or

(b) the form in which information is to be recorded in or on such a card,

unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

9 Renewal of ID cards for those compulsorily registered [j004AA]

(1) This section applies where an individual—

(a) is required, by virtue of section 6, to be entered in the Register; and

(b) is so entered.

(2) If the individual—

(a) holds a valid ID card that is due to expire within the prescribed period, or

(b) does not hold a valid ID card,

he must apply for one within the prescribed period.

(3) Where an individual applies for an ID card in pursuance of this section, the Secretary of State may require him to do such one or more of the things specified in subsection (4) as the Secretary of State thinks fit for the purpose of—

(a) verifying information provided for the purposes of the application; or

(b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register.

(4) The things that an individual may be required to do under subsection (3) are—

(a) to attend at a specified place and time;

(b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded;

(c) to allow himself to be photographed;

(d) otherwise to provide such information as may be required by the Secretary of State.

(5) An individual who contravenes a requirement imposed under subsection (2) or (3) shall be liable to a civil penalty not exceeding £1,000.

(6) In this section "biometric information" and "fingerprint" have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (4).

10 Functions of persons issuing designated documents [j004B]

(1) A designated documents authority must not issue a designated document to an individual unless the authority is satisfied—

(a) that the requirements imposed by or under this Act in relation to the application for the issue of that document to that individual have been complied with; and

(b) that the Secretary of State has considered and disposed of so much of that application as relates to the making or confirmation of an entry in the Register.

(2) Where the designated documents authority then issues the designated document to that individual, it must ensure that the document contains, or is issued with, an ID card satisfying the prescribed requirements in relation to that individual.

(3) Regulations made by the Secretary of State may impose requirements regulating how designated documents authorities handle—

(a) applications to be entered in the Register that are made to them;

(b) applications to be issued with ID cards that are made to them (whether or not as part of an application for a designated document); and

(c) applications made to them that confirm (with or without changes) an individual's entry in the Register.

(4) Regulations made by the Secretary of State may also require designated documents authorities to notify the Secretary of State where a designated document that contains, or was issued with, an ID card—

(a) is modified, suspended or revoked; or

(b) is required to be surrendered.

Maintaining accuracy of Register etc.

11 Power to require information for validating Register [j004C]

(1) Where it appears to the Secretary of State that a person on whom a requirement may be imposed under this section has in his possession information about an individual that could be used for verifying—

(a) something recorded in that individual's entry in the Register,

(b) something provided to the Secretary of State or a designated documents authority for the purpose of being recorded in an entry about that individual in the Register, or

(c) something otherwise available to the Secretary of State for being so recorded,

the Secretary of State may require that person to provide him with the information.

(2) Where it appears to a designated documents authority—

(a) that a person on whom a requirement may be imposed under this section has in his possession information about an individual who has applied to the authority for the issue or modification of a designated document or of an ID card, and

(b) that the information could be used for verifying something that is recorded in that individual's entry in the Register or has been provided to that authority for the purpose of being recorded in an entry about that individual in the Register,

the authority may require that person to provide it with the information.

(3) It shall be the duty of a person who is required to provide information under this section to comply with the requirement.

(4) A requirement may be imposed under this section on any person specified for the purposes of this section in an order made by the Secretary of State.

(5) The power of the Secretary of State to make an order specifying a person as a person on whom a requirement may be imposed under this section includes power to provide that that person's duty to comply with a requirement so imposed is owed to the person imposing it and is enforceable by the person imposing it in civil proceedings—

(a) for an injunction;

(b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988 (c. 36); or

(c) for any other appropriate remedy or relief.

(6) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

12 Notification of changes affecting accuracy of Register [j005]

(1) An individual to whom an ID card has been issued must notify the Secretary of State about—

(a) every prescribed change of circumstances affecting the information recorded about him in the Register; and

(b) every error in that information of which he is aware.

(2) A notification for the purposes of this section must be given—

(a) in the prescribed manner; and

(b) within the prescribed period after the change of circumstances occurs or he becomes aware of the error.

(3) Where an individual has given a notification for the purposes of this section, the Secretary of State may require him to do such one or more of the things falling within subsection (4) as the Secretary of State thinks fit for the purpose of—

(a) verifying the information that may be entered in the Register about that individual in consequence of the notified change or for the purpose of correcting the error; or

(b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register.

(4) The things that an individual may be required to do under subsection (3) are—

(a) to attend at a specified place and time;

(b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded;

(c) to allow himself to be photographed;

(d) otherwise to provide such information as may be required by the Secretary of State.

(5) Regulations under this section must not require an individual to provide information to another person unless it is information required by the Secretary of State for the statutory purposes.

(6) An individual who contravenes a requirement imposed on him by or under this section shall be liable to a civil penalty not exceeding £1,000.

(7) In this section "biometric information" and "fingerprint" have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (4).

13 Invalidity and surrender of ID cards [j006]

(1) Regulations may require an individual to whom an ID card has been issued to notify the Secretary of State, and such other persons as may be prescribed, if the card is—

(a) lost;

(b) stolen;

(c) damaged; or

(d) destroyed.

(2) The Secretary of State may cancel an ID card if it appears to him—

(a) that it was issued in reliance on inaccurate or incomplete information;

(b) that a change of circumstances requires a modification of the information recorded in or on it; or

(c) that it has been lost, stolen, damaged or destroyed.

(3) A person who is knowingly in possession of an ID card without either—

(a) the lawful authority of the individual to whom it was issued, or

(b) the permission of the Secretary of State,

must surrender the card as soon as it is practicable to do so.

(4) Where it appears to the Secretary of State that a person is in possession of—

(a) an ID card issued to another, or

(b) an ID card that has expired or been cancelled or is otherwise invalid,

the Secretary of State may require that person to surrender the card within such period as he may specify.

(5) Where an ID card has to be surrendered under subsection (3) or (4), it must be surrendered—

(a) to the Secretary of State; or

(b) in the case of a card issued by designated documents authority, either to the Secretary of State or to that authority.

(6) A person who contravenes a requirement imposed by or under—

(a) any regulations under subsection (1), or

(b) subsection (3) or (4),

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) shall be liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale, or to both;

(b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both;

but, in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (a) to 51 weeks is to be read as a reference to six months.

(8) Where—

(a) a designated document has been issued with an ID card; and

(b) an obligation to surrender the designated document, or otherwise to deliver it, to any person is imposed on the person with possession of it,

the obligation to surrender or otherwise to deliver the designated document includes an obligation to surrender or to deliver the ID card.

(9) References in this section to a card being damaged include references to anything in or on it becoming unreadable or otherwise unusable.

Consent to disclosures from Register

14 Requirement for consent of registered individual [j006C]

(1) The Secretary of State may make a disclosure of information recorded in an individual's entry in the Register if—

(a) an application for the disclosure is made to him by a person who has the authority of that individual to make the application; or

(b) that individual otherwise consents to the making of the disclosure.

(2) The Secretary of State may by regulations make provision as to—

(a) how an authority for the purposes of subsection (1)(a) is to be given;

(b) the persons by whom, and the circumstances in which, an application for those purposes may be made; and

(c) how such an application is to be made.

(3) Those regulations may make it a condition of making an application for the disclosure of information that the applicant has registered prescribed particulars about himself with the Secretary of State.

(4) The Secretary of State is to be under no obligation, in any circumstances, to make a disclosure under this section in response to an application to him to do so.

Required identity checks

15 Power to make public services conditional on identity checks [j006A]

(1) Regulations may make provision allowing or requiring a person who provides a public service to make it a condition of providing the service to an individual that the individual produces—

(a) an ID card;

(b) other evidence of registrable facts about himself; or

(c) both.

(2) Regulations under this section may not allow or require the imposition of a condition on—

(a) the entitlement of an individual to receive a payment under or in accordance with any enactment, or

(b) the provision of any public service that has to be provided free of charge,

except in cases where the individual is of a description of persons who, by virtue of section 6, are required to be entered in the Register.

(3) Nothing in this section authorises the making of regulations the effect of which would be to require an individual—

(a) to carry an ID card with him at all times; or

(b) to produce such a card otherwise than for purposes connected with an application by him for the provision of a public service, or with the provision of a public service for which he has applied.

(4) Regulations under this section may not allow or require the imposition of a condition in or as regards Scotland on the provision of a public service except where the provision of that service is outside the legislative competence of the Scottish Parliament.

(5) References in this section and in sections 16 and 17 to the provision of a public service are references to—

(a) the provision of any service to an individual by a public authority (within the meaning of section 6 of the Human Rights Act 1998 (c. 42));

(b) the exercise or performance in relation to an individual of any power or duty of a Minister of the Crown, the Treasury or a Northern Ireland department; or

(c) the doing by any other person of anything in relation to an individual which that person is authorised or required to do for purposes

connected with the carrying out of any function conferred on him by or under an enactment.

(6) References in this section to an application for the provision of a public service include references to any claim, request or requirement for the provision of the service.

16 Power to provide for checks on the Register [j006AZA]

(1) Regulations may make provision authorising the disclosure to a person who provides a public service in respect of which—

(a) a condition is imposed under section 15, or

(b) a condition for the production of an ID card, or of evidence of registrable facts, or both, is imposed by or under any other enactment,

of information recorded in the Register that he requires for the purpose of ascertaining or verifying registrable facts about an individual who has applied for the provision of the service.

(2) Regulations under this section may not authorise a disclosure to be made otherwise than in accordance with regulations made by the Secretary of State under section 18.

(3) Regulations under this section may not authorise the disclosure in or as regards Scotland of any information except in relation to a matter or for purposes outside the legislative competence of the Scottish Parliament.

(4) References in this section to the provision of a public service are to be construed in accordance with section 15(5).

17 Procedure for regulations under ss. 15 and 16 [j006AA]

(1) The power to make regulations under section 15 or 16 shall be exercisable—

(a) in relation to the provision of public services for which the National Assembly for Wales is responsible, by that Assembly;

(b) in relation to the provision of public services in Northern Ireland so far as the provision of those services is a transferred matter (within the meaning of section 4(1) of the Northern Ireland Act 1998 (c. 47)), by the First Minister and the deputy First Minister, acting jointly; and

(c) so far as not exercisable by any other person under paragraph (a) or (b), by the Secretary of State.

(2) Regulations containing (with or without other provision) any provision the making of which is authorised by section 15 or 16 must not be made by the Secretary of State or the First Minister and deputy First Minister unless a draft of the regulations—

(a) in the case of regulations made by the Secretary of State, has been laid before Parliament and approved by a resolution of each House; and

(b) in the case of regulations made by the First Minister and deputy First Minister, has been laid before and approved by the Northern Ireland Assembly.

(3) Before—

(a) draft regulations under section 15 or 16 are laid before either House of Parliament or the Northern Ireland Assembly, or

(b) regulations under that section are made by the National Assembly for Wales,

the person proposing to make the regulations must take such steps as that person thinks fit for securing that members of the public likely to be affected by the regulations are informed about the matters mentioned in subsection (4), and for consulting them about it.

(4) Those matters are—

(a) the reasons for the making of the regulations; and

(b) why reliance is not being placed on powers conferred otherwise than by this Act.

(5) Where—

(a) a power to impose the conditions for the provision of a public service is exercisable under any enactment not contained in this Act, and

(b) that power is exercisable only after consultation with such persons as may be specified or described in that enactment,

the power under section 15 or 16 to impose a condition for the provision of that service or to make provision in relation to such a condition is to be exercisable only after consultation with the persons so specified or described.

(6) References in this section to the provision of a public service are to be construed in accordance with section 15(5).

18 Regulations about identity checks [j006B]

(1) The Secretary of State may by regulations make provision as to—

(a) the manner in which applications for disclosures authorised under section 16 must be made; and

(b) the information that may be disclosed in response to such an application and the manner in which it may be disclosed.

(2) Those regulations may make it a condition of making an application for the disclosure of information, that the applicant has registered prescribed particulars about himself with the Secretary of State.

(3) The Secretary of State must not make regulations containing (with or without other provision) any provision that he is authorised to make by this section unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

(4) Before draft regulations under this section are laid before either House of Parliament, the Secretary of State must take such steps as he thinks fit for securing that—

(a) members of the public in the United Kingdom are informed about the reasons for the proposal to make the regulations; and

(b) for consulting them about it.

Disclosure of information recorded in Register

19 Disclosures without consent of registered individual [j006D]

(1) The Secretary of State may make a disclosure of information recorded in an individual's entry in the Register without that individual's consent if—

(a) the disclosure is authorised by this section; and

(b) any requirements imposed in relation to the disclosure by or under section 23 are complied with.

(2) A disclosure of information is authorised by this section if it is—

(a) a disclosure made to the Director-General of the Security Service for purposes connected with the carrying out of any of that Service's functions;

(b) a disclosure made to the Chief of the Secret Intelligence Service for purposes connected with the carrying out of any of that Service's functions;

(c) a disclosure made to the Director of the Government Communications Headquarters for purposes connected with the carrying out of any of the functions of GCHQ;

(d) a disclosure made to the Director General of the National Criminal Intelligence Service for purposes connected with the carrying out of any of that Service's functions; or

(e) a disclosure made to the Director General of the National Crime Squad for purposes connected with the carrying out of any of that Squad's functions.

(3) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a chief officer of police—

(a) in the interests of national security;

(b) for purposes connected with the prevention or detection of crime; or

(c) for purposes specified by order made by the Secretary of State.

(4) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to the Commissioners of Inland Revenue or the Commissioners of Customs and Excise—

(a) in the interests of national security;

(b) for purposes connected with the prevention or detection of crime;

(c) for purposes connected with the prevention, detection or investigation of conduct in respect of which the Commissioners have power to impose penalties, or with the imposition of such penalties;

(d) for the purpose of facilitating the checking of information provided to the Commissioners in connection with anything under their care and management, or with any other matter in relation to which the Commissioners have duties under any enactment;

(e) for purposes connected with any of the functions of the Commissioners of Inland Revenue in relation to social security benefits, national insurance contributions or national insurance numbers; or

(f) for other purposes specified by order made by the Secretary of State.

(5) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a prescribed officer of the Secretary of State's department for purposes connected with the carrying out of any of the Secretary of State's functions.

(6) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a prescribed officer of the Department for Social Development in Northern Ireland for purposes connected with any of the functions of that Department in relation to social security benefits in Northern Ireland, or in relation to national insurance numbers.

(7) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section (so far as it is not otherwise authorised by subsections (3) to (6)) if it is made—

(a) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (criminal proceedings and investigations); and

(b) otherwise than in connection with crime in or as regards Scotland in relation to a matter within the legislative competence of the Scottish Parliament.

(8) A disclosure of information falling within paragraph 9 of Schedule 1 is authorised by this section if—

(a) it is made to a person to whom disclosures may be made by virtue of any of subsections (3) to (6) or is made as mentioned in subsection (7); and

(b) it is made for the purpose connected with preventing or detecting serious crime.

(9) A disclosure of information to a designated documents authority is authorised by this section if it is made for any purposes connected with the exercise or performance by the authority of—

(a) any of its powers or duties by virtue of this Act; or

(b) any of its other powers or duties in relation to the issue or modification of designated documents.

20 Supplemental provisions for s. 19 [j006DZA]

(1) In section 19 and this section—

"chief officer of police" means—

(a) the chief officer of police of a police force maintained for a police area in England and Wales;

(b) the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77);

(c) the Chief Constable of the Police Service of Northern Ireland;

(d) the Chief Constable of the Ministry of Defence Police;

(e) the Chief Constable of the Civil Nuclear Constabulary;

(f) the Chief Constable of the British Transport Police.

"crime" means any crime within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) of that Act) other than crime in or as regards Scotland in relation to a matter within the legislative competence of the Scottish Parliament;

"detecting", in relation to crime or serious crime, is to be construed in accordance with subsection (2);

"GCHQ" has the same meaning as in the Intelligence Services Act 1994 (c. 13);

"serious crime" means crime that is serious crime within the meaning of the Regulation of Investigatory Powers Act 2000 (see section 81(2) and (3) of that Act);

"social security benefits in Northern Ireland" means benefits payable under enactments relating to social security in Northern Ireland or under the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)).

(2) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (c. 23) (which defines detection) applies for the purposes of section 19 as it applies for the purposes of the provisions of that Act that are not in Chapter 1 of Part 1 of that Act.

(3) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (restriction on disclosure of information for overseas purposes) shall have effect in relation to a disclosure by virtue of section 19(7) as it applies in relation to a disclosure in exercise of a power to which section 17 of that Act applies.

(4) The power to make consequential provision in connection with a modification of Schedule 1 by an order under section 3(4) includes power to make consequential modifications of any reference in section 19 to paragraph 9 of that Schedule.

21 Disclosures for the purpose of correcting false information [j006DA]

(1) This section applies where—

(a) information about an individual has been provided for verification purposes (whether under section 11 or otherwise) to the Secretary of State or to a designated documents authority; and

(b) it appears to the Secretary of State that the information was false in one or more particulars.

(2) The Secretary of State may, without the individual's consent, disclose to the person who provided the false information—

(a) the respects in which it is false; and

(b) what is in fact recorded in that individual's entry in respect of the matters to which the false information related.

(3) A disclosure under this section is subject to compliance with any requirements imposed in relation to the disclosure by or under section 23.

(4) The reference in this section to providing information about an individual for verification purposes is a reference to providing information about that individual that is required by the Secretary of State or a designated documents authority for verifying—

(a) something recorded in that individual's entry in the Register,

(b) something provided to the Secretary of State or a designated documents authority for the purpose of being recorded in an entry about that individual in the Register, or

(c) something otherwise available to the Secretary of State for being so recorded.

22 Power to authorise other disclosures without consent [j006E]

(1) In a case where there is no authorisation under section 19 or 21 for the making of a disclosure, the Secretary of State may nevertheless make a disclosure of information recorded in an individual's entry in the Register without that individual's consent if—

(a) the information is of a description specified or described in an order made by the Secretary of State;

(b) the disclosure is made to a person so specified or described;

(c) the disclosure is made for the purposes so specified or described; and

(d) any requirements imposed in relation to the disclosure by or under section 23 are complied with.

(2) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

23 Rules for making disclosures without consent [j006F]

(1) The Secretary of State may make a disclosure under sections 19 to 22 of information falling within paragraph 2 of Schedule 1 only if he is satisfied that it would not have been reasonably practicable for the person to whom the disclosure is made to have obtained the information by other means.

(2) The Secretary of State may by regulations make provision—

(a) imposing requirements that must be satisfied before a disclosure is made under any of sections 19 to 22; and

(b) restricting the persons who may be authorised to act on his behalf for or in connection with the making of such a disclosure.

(3) Those regulations may include provision—

(a) requiring a disclosure to be made to a person only where an application for it has been made by or on behalf of that person;

(b) specifying or describing the persons who may make applications on that person's behalf; and

(c) imposing other requirements as to the manner in which such applications must be made.

(4) The Secretary of State may also by regulations provide that a disclosure that may be made to a person specified in or under any of sections 19 to 22 may be made instead to a person who—

(a) is authorised by the specified person to be a recipient of such disclosures;

(b) holds such office, rank or position as may be specified in the regulations; and

(c) is under the direction or control of the specified person, or is otherwise answerable or subordinate to him, in respect of any of his duties as a person holding that office, rank or position.

National Identity Scheme Commissioner

24 Appointment of Commissioner [j006G]

(1) The Prime Minister must appoint a Commissioner to be known as the National Identity Scheme Commissioner.

(2) It shall be the function of the Commissioner to keep under review the exercise by the Secretary of State of his powers under this Act to disclose information recorded in the Register without the consent of the individual to whom it relates.

(3) It shall be the duty of every official of the Secretary of State's department to provide the Commissioner with all such information (including information

recorded in the Register) as he may require for the purpose of carrying out his function under this Act.

(4) A person is not to be appointed as the Commissioner unless he holds or has held high judicial office (within the meaning of the Appellate Jurisdiction Act 1876 (c. 59)).

(5) The Commissioner is to hold office in accordance with the terms of his appointment; and there shall be paid to him out of money provided by Parliament such allowances as the Treasury may determine.

(6) The Secretary of State—

(a) after consultation with the Commissioner, and

(b) subject to the approval of the Treasury as to numbers,

must provide the Commissioner with such staff as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.

25 Reports by Commissioner [j006H]

(1) As soon as practicable after the end of each calendar year, the Commissioner must make a report to the Prime Minister about the carrying out of the Commissioner's functions.

(2) The Commissioner may also, at any other time, make such report to the Prime Minister on any matter relating to the carrying out of those functions as the Commissioner thinks fit.

(3) The Prime Minister must lay before Parliament a copy of every annual report made to him under subsection (1).

(4) If it appears to the Prime Minister, after consultation with the Commissioner, that the publication of a particular matter contained in an annual report would be contrary to the public interest or prejudicial to—

(a) national security,

(b) the prevention or detection of crime,

(c) the economic well-being of the United Kingdom, or

(d) the continued discharge of the functions of any public authority (within the meaning of section 6 of the Human Rights Act 1998 (c. 42)),

the Prime Minister may exclude that matter from the copy of the report that he lays before Parliament.

(5) Where a matter is excluded under subsection (4) from a copy of an annual report laid before Parliament, the Prime Minister must, when he lays that copy of the annual report, also lay before Parliament a statement that a matter has been excluded from the report under that subsection.

Offences

26 Possession of false identity documents etc. [j008]

(1) It is an offence for a person to have in his possession or under his control—

(a) an identity document that is false and that he knows or believes to be false,

(b) an identity document that was improperly obtained and that he knows or believes to have been improperly obtained, or

(c) an identity document that relates to someone else,

with the intention of using it for establishing registrable facts about himself, or of allowing or inducing another to use it for establishing, ascertaining or verifying registrable facts about himself or about any other person (with the exception, in the case of a document within paragraph (c), of the individual to whom it relates).

(2) It is an offence for a person to make, or to have in his possession or under his control—

(a) any machine or other apparatus which, to his knowledge, is or has been specially designed or adapted for the making of false identity documents, or

(b) any article or material which, to his knowledge, is or has been specially designed or adapted to be used in the making of false identity documents,

with the intention that he or another will make a false identity document and that the document will be used by somebody for establishing, ascertaining or verifying registrable facts about a person.

(3) It is an offence for a person to have in his possession or under his control, without reasonable excuse—

(a) an identity document that is false;

(b) an identity document that was improperly obtained;

(c) an identity document that relates to someone else; or

(d) any machine or other apparatus, article or material which, to his knowledge, is or has been specially designed or adapted for the making of false identity documents or to be used in the making of such documents.

(4) A person guilty of an offence under subsection (1) or (2) shall be liable, on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.

(5) A person guilty of an offence under subsection (3) shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum, or to both;

(c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

but, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (b) to twelve months is to be read as a reference to six months.

(6) For the purposes of this section—

(a) an identity document is false only if it is false within the meaning of Part 1 of the Forgery and Counterfeiting Act 1981 (c. 45) (see section 9(1) of that Act); and

(b) an identity document was improperly obtained if false information was provided, in or in connection with the application for its issue or an application for its modification, to the person who issued it or (as the case may be) to a person entitled to modify it;

and references to the making of a false identity document include references to the modification of an identity document so that it becomes false.

(7) In this section "identity document" has the meaning given by section 27.

27 Identity documents for the purposes of s. 26 [j008A]

(1) In section 26 "identity document" means any document that is, or purports to be—

(a) an ID card;
(b) a designated document;
(c) an immigration document;
(d) a United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77));
(e) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation;
(f) a document that can be used (in some or all circumstances) instead of a passport;
(g) a UK driving licence;
(h) a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom.

(2) In subsection (1) "immigration document" means—

(a) a document used for confirming the right of a person under the Community Treaties in respect of entry or residence in the United Kingdom;
(b) a document which is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom; or
(c) a registration card (within the meaning of section 26A of the Immigration Act 1971);

and in paragraph (b) "immigration functions" means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).

(3) In that subsection "UK driving licence" means—

(a) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988 (c. 52);
(b) a licence to drive a motor vehicle granted under Part 2 of the Road Traffic Act (Northern Ireland) 1981 (S.I. 1981/154 (N.I. 1));
(c) a document issued as a counterpart with a licence falling within paragraph (a) or (b).

(4) The Secretary of State may by order modify the list of documents in subsection (1).

(5) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by subsection (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

28 Unauthorised disclosure of information [j009]

(1) A person is guilty of an offence if, without lawful authority, he discloses information which is or has become available to him by reason of his holding an office or employment the duties of which relate, in whole or in part, to—

(a) the establishment or maintenance of the Register; or

(b) the issue, modification, cancellation or surrender of ID cards.

(2) For the purposes of this section a disclosure is made with lawful authority if, and only if—

(a) it is authorised by or under this Act or any other enactment;

(b) it is made in pursuance of an order or direction of a court or of a tribunal established by or under any enactment;

(c) it is made in pursuance of a Community obligation; or

(d) it is made for the purpose of performing the duties of an office or employment of the sort mentioned in subsection (1).

(3) It is a defence for a person charged with an offence under this section to show that, at the time of the alleged offence, he believed, on reasonable grounds, that he had lawful authority to make the disclosure in question.

(4) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

29 Providing false information [j010]

(1) A person is guilty of an offence if, in circumstances falling within subsection (2), he provides false information to any person —

(a) for the purpose of securing the making or modification of an entry in the Register;

(b) in confirming an entry in the Register; or

(c) for the purpose of obtaining for himself or another the issue or modification of an ID card.

(2) Those circumstances are that, at the time of the provision of the information he—

(a) knows or believes the information to be false; or

(b) is reckless as to whether or not it is false.

(3) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum, or to both;

(c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

but, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (b) to twelve months is to be read as a reference to six months.

30 Tampering with Register [j011]

(1) In section 3 of the Computer Misuse Act 1990 (c. 18) (unauthorised modification of computer material)—

(a) in paragraph (b) of subsection (7) (penalty for offence on conviction on indictment), at beginning insert "subject to subsection (8)"; and

(b) after that subsection insert the subsection set out in subsection (2) of this section.

(2) The inserted subsection is—

"(8) Where an offence under this section is committed wholly or partly in relation to any contents of a computer that consist of the National Identity Register or any part of it, subsection (7)(b) above shall have effect as if for 'five years' there were substituted 'ten years'."

31 Consequential amendments relating to offences [j011A]

(1) In Schedule 1A to the Police and Criminal Evidence Act 1984 (c. 60) (arrestable offences), at the end insert—

"Identity Cards Act 2004

28 An offence under—

(a) section 26(3) of the Identity Cards Act 2004 (possession of false document etc.);

(b) section 28 of that Act (disclosure of information on National Identity Register); or

(c) section 29 of that Act (providing false information)."

(2) In section 1(2) of the Criminal Justice Act 1993 (c. 36) (Group A offences in respect of which jurisdiction is extended for some purposes in relation to conduct outside England and Wales), after paragraph (c) insert—

"(ca) section 26 of the Identity Cards Act 2004;".

(3) At the end of Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (offences for which an arrest may be without a warrant), insert—

(l) An offence under—

(i) section 26(3) of the Identity Cards Act 2004 (possession of false document etc.);

(ii) section 28 of that Act (disclosure of information on National Identity Register); or

(iii) section 29 of that Act (providing false information)."

(4) In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (which makes corresponding provision for Northern Ireland in relation to conduct outside Northern Ireland), after sub-paragraph (c) insert—

"(ca) section 26 of the Identity Cards Act 2004;".

Civil penalties

32 Imposition of civil penalties [j012]

(1) This section applies where the Secretary of State is satisfied that a person ("the defaulter") is a person who is liable under this Act to a civil penalty not exceeding a specified amount.

(2) The Secretary of State may, by a notice given to the defaulter in the prescribed manner, impose on him a penalty of such amount, not exceeding the specified amount, as the Secretary of State thinks fit.

(3) A notice imposing such a penalty must—

(a) set out the Secretary of State's reasons for deciding that the defaulter is liable to a penalty;

(b) state the amount of the penalty that is being imposed;

(c) specify a date before which the penalty must be paid to the Secretary of State;

(d) describe how payment may be made;

(e) explain the steps that the defaulter may take if he objects to the penalty; and

(f) set out and explain the powers of the Secretary of State to enforce the penalty.

(4) The date for the payment of a penalty must be not less than 14 days after the giving of the notice imposing it.

(5) A penalty imposed in accordance with this section—

(a) must be paid to the Secretary of State in a manner described in the notice imposing it; and

(b) if not so paid by the specified date, is to be recoverable by him accordingly.

(6) In proceedings for recovery of a penalty so imposed no question may be raised as to—

(a) whether the defaulter was liable to the penalty; or

(b) the amount of the penalty.

(7) Sums received by the Secretary of State in respect of penalties imposed in accordance with this section must be paid into the Consolidated Fund.

33 Objection to penalty [j013]

(1) An individual to whom a notice under section 32 has been given may give notice to the Secretary of State that he objects to the penalty on one or both of the following grounds—

(a) that he is not liable to it;

(b) that the amount of the penalty is too high.

(2) The notice of objection—

(a) must set out the grounds of the objection and the objector's reasons for objecting on those grounds; and

(b) must be given to the Secretary of State in the prescribed manner and within the prescribed period after the giving of the notice imposing the penalty.

(3) The Secretary of State must consider a notice of objection given in accordance with this section and may then—

(a) cancel the penalty;

(b) reduce it;

(c) increase it; or

(d) confirm it.

(4) The Secretary of State must not enforce a penalty in respect of which he has received a notice of objection before he has notified the objector of the outcome of his consideration of the objection.

(5) That notification of the outcome of his consideration must be given, in the prescribed manner—

(a) before the end of the prescribed period; or

(b) within such longer period as he may agree with the objector.

(6) Where, on consideration of an objection, the Secretary of State increases the penalty, he must give the objector a new penalty notice under section 32; and, where he reduces it, he must notify the objector of the reduced amount.

34 Appeals against penalties [j014]

(1) A person on whom a penalty has been imposed under section 32 may appeal to the court on one or both of the following grounds—

(a) that he is not liable to it; or

(b) that the amount of the penalty is too high.

(2) An appeal under this section must brought within such period after the giving of the notice imposing the penalty to which it relates as may be specified by rules of court.

(3) On an appeal under this section, the court may—

(a) allow the appeal and cancel the penalty;

(b) allow the appeal and reduce the penalty; or

(c) dismiss the appeal.

(4) An appeal under this section shall be by way of a rehearing of the Secretary of State's decision to impose the penalty.

(5) The matters to which the court may have regard when determining an appeal under this section include all matters that the court considers relevant, including—

(a) matters of which the Secretary of State was unaware when he made his decision; and

(b) matters which (apart from this subsection) the court would be prevented from having regard to by virtue of rules of court.

(6) An appeal under this section may be brought in relation to a penalty irrespective of whether a notice of objection under section 33 has been given in respect of that penalty and of whether there has been an increase or reduction under that section.

(7) In this section "the court" means—

(a) in England and Wales or Northern Ireland, a county court; and

(b) in Scotland, the sheriff.

35 Code of practice on penalties [j015]

(1) The Secretary of State must issue a code of practice setting out the matters that he will consider when determining the amount of a civil penalty under this Act.

(2) The Secretary of State must have regard to the code when—
(a) imposing a civil penalty under this Act; or
(b) considering a notice of objection under section 33.

(3) The court must have regard to the code when determining any appeal under section 34.

(4) Before issuing the code, the Secretary of State must lay a draft of it before Parliament.

(5) A code issued under this section does not come into force until the time specified by order made by the Secretary of State.

(6) The Secretary of State may from time to time—
(a) revise the whole or a part of the code; and
(b) issue the revised code.

(7) Subsections (4) and (5) apply to a revised code as they apply to the code first issued under this section.

Supplemental

36 Fees etc. [j007]

(1) The Secretary of State may by regulations specify fees, of such amounts as he thinks fit, to be paid to him in respect of each of the following—
(a) applications made to him for an entry to be made in the Register, for the modification of an entry or for the issue of an ID card;
(b) the making or modification of entries in the Register;
(c) the issue of ID cards;
(d) applications for the disclosure to any person of the whole, or a part, of the information contained in any one or more entries in the Register;
(e) the making of such a disclosure;
(f) applications for the confirmation of any information by reference to information recorded in the Register;
(g) the issue of such a confirmation.

(2) Every power conferred by or under an enactment to fix or impose fees in respect of—
(a) an application for a designated document, or
(b) the issue of a designated document,
includes power to fix or impose fees in respect of anything done by virtue of this Act in connection with such an application, or with the issue of such a document.

(3) Fees received by the Secretary of State by virtue of this section must be paid into the Consolidated Fund.

37 Orders and regulations [j9SIs]

(1) Every power conferred by this Act on the Secretary of State or the National Assembly for Wales to make an order or regulations is a power exercisable by statutory instrument.

(2) The power of the First Minister and deputy First Minister acting jointly to make regulations under section 15 or 16 is a power exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(3) Subject to subsection (5), a statutory instrument containing an order or regulations made by the Secretary of State under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subject to subsection (5), every power conferred by this Act on any person to make an order or regulations includes power—

(a) to make different provision for different cases;

(b) to make provision subject to such exemptions and exceptions as that person thinks fit; and

(c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit.

(5) Subsection (3) does not apply to a statutory instrument which—

(a) comprises an order under section 40 bringing a provision of this Act into force; or

(b) makes provision by reference to which a draft of the order or regulations contained in the instrument is required to have been laid before Parliament and approved by a resolution of each House;

and subsection (4) does not apply to the power to make an order under section 40 bringing a provision of this Act into force.

38 Expenses of Secretary of State [j9exp]

There shall be paid out of money provided by Parliament—

(a) any sums authorised or required to be paid by the Secretary of State for or in connection with the carrying out of his functions under this Act; and

(b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

39 General interpretation [j9interp]

(1) In this Act—

"card" includes a document or other article, or a combination of a document and an article, in or on which information is or may be recorded;

"the Commissioner" means the National Identity Scheme Commissioner appointed under section 24;

"contravention" includes a failure to comply, and cognate expressions are to be construed accordingly;

"designated document" means a document of a description designated for the purposes of this Act by an order under section 4;

"designated documents authority" means a person with the power or duty to issue a designated document;

"document" includes a stamp or label;

"enactment" includes—

(a) a provision of any Northern Ireland legislation; and

(b) enactments passed or made after the passing of this Act;

"false", in relation to information, includes containing any inaccuracy or omission that results in a tendency to mislead;

"ID card" is to be construed in accordance with section 8(1);

"information" includes documents and records;

"issue", in relation to a document or card, and cognate expressions are to be construed in accordance with subsection (2);

"modification" includes omission, addition or alteration, and cognate expressions are to be construed accordingly;

"prescribed" means prescribed by regulations made by the Secretary of State;

"place of residence" and "resides" are to be construed subject to any regulations under subsection (3);

"the Register" means the National Identity Register established and maintained under section 1;

"registrable fact" has the meaning given by section 1(4);

"statutory purposes" means the purposes specified in section 1(2).

(2) References in this Act to the issue of a document or card include references to its renewal, replacement or re-issue (with or without modifications).

(3) The Secretary of State may by regulations make provision for the purposes of this Act as to the circumstances in which a place is to be regarded, in relation to an individual—

(a) as a place where he resides; or

(b) as his principal place of residence in the United Kingdom.

40 Short title, repeals, commencement and extent [j9SC&E]

(1) This Act may be cited as the Identity Cards Act 2004.

(2) The enactments in Schedule 2 are repealed to the extent shown in the second column of that Schedule.

(3) This Act (apart from this section) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.

(4) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 3

INFORMATION THAT MAY BE RECORDED IN REGISTER [J003S]

Personal information

1 The following may be recorded in an individual's entry in the Register—

(a) his full name;
(b) other names by which he is known;
(c) his date of birth;
(d) his place of birth;
(e) his gender;
(f) the address of his principal place of residence in the United Kingdom; and
(g) the address of every other place in the United Kingdom where he has a place of residence.

Identifying information

2 (1) The following may be recorded in an individual's entry in the Register—

(a) a photograph of his head and shoulders;
(b) his fingerprints;
(c) other biometric information about him.

(2) In this paragraph—

"biometric information", in relation to an individual, means data about his external characteristics, including, in particular, the features of an iris or of any other part of the eye; and

"fingerprint", in relation to an individual, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of any of his fingers.

Residential status

3 The following may be recorded in an individual's entry in the Register—

(a) his nationality;
(b) his entitlement to remain in the United Kingdom; and
(c) the terms and conditions of that entitlement.

Personal reference numbers etc.

4 (1) The following may be recorded in an individual's entry in the Register—

(a) his National Identity Registration Number;

(b) the number of any ID card issued to him;
(c) any national insurance number allocated to him;
(d) the number of any immigration document relating to him;
(e) the number of any United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77)) that has been issued to him;
(f) the number of any passport issued to him by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation;
(g) the number of any document that can be used by him (in some or all circumstances) instead of a passport;
(h) the number of any identity card issued to him by the authorities of a country or territory outside the United Kingdom;
(i) any reference number allocated to him by the Secretary of State in connection with an application made by him for permission to enter or to remain in the United Kingdom;
(j) the number of any work permit (within the meaning of the Immigration Act 1971) relating to him;
(k) the number of any designated document which is held by him and is a document the number of which does not fall within any of the preceding sub-paragraphs;
(l) the date of expiry or period of validity of a document the number of which is recorded by virtue of this paragraph.

(2) In this paragraph "immigration document" means–
(a) a document used for confirming the right of a person under the Community Treaties in respect of entry or residence in the United Kingdom;
(b) a document which is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom; or
(c) a registration card (within the meaning of section 26A of the Immigration Act 1971);

and in paragraph (b) "immigration functions" means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).

Record history

5 The following may be recorded in an individual's entry in the Register–
(a) information falling within the preceding paragraphs that has previously been recorded about him in the Register;
(b) particulars of changes affecting that information and of changes made to his entry in the Register;
(c) his date of death.

Registration history

6 The following may be recorded in an individual's entry in the Register–
(a) the date of every application for registration made by him;
(b) the date of every application by him for a modification of the contents of his entry;

(c) the date of every application by him confirming the contents of his entry (with or without changes);

(d) particulars (in addition to its number) of every ID card issued to him;

(e) whether each such card is in force and, if not, why not;

(f) particulars of any other individual who has countersigned an application by the individual in question for an ID card or a designated document, so far as those particulars were included on the application.

Validation information

7 The following may be recorded in the entry in the Register for an individual–

(a) the information provided in connection with every application by him to be entered in the Register, for a modification of the contents of his entry or for the issue of an ID card;

(b) the information provided in connection with every application by him confirming his entry in the Register (with or without changes);

(c) particulars of the steps taken in connection with any application mentioned in paragraph (a) or (b) or otherwise for identifying the applicant or for verifying the information provided in connection with the application;

(d) particulars of any other steps taken or information obtained (otherwise than in connection with an application mentioned in paragraph (a) or (b)) for ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register;

(e) particulars of every notification given by that individual for the purposes of section 12;

(f) particulars of every notification given by that individual for the purposes of regulations under section 13(1);

(g) particulars of any requirement by the Secretary of State to a person to surrender an ID card issued to that individual.

Security information

8 The following may be recorded in the entry in the Register for an individual–

(a) a personal identification number to be used for facilitating the making of applications for, and the disclosure of, information recorded in his entry;

(b) a password or other code to be used for that purpose;

(c) questions and answers to be used for identifying a person seeking to make such an application or to apply for or make a modification of that entry.

Access records

9 The following may be recorded in the entry in the Register for an individual–

(a) particulars of every occasion on which a person has accessed the individual's entry and of the person who accessed it;

(b) particulars of every occasion on which information contained in the individual's entry has been disclosed and of the person to whom it was disclosed;

(c) particulars of every step taken on such an occasion for modifying the individual's entry, for issuing or cancelling an ID card issued to him or for requiring the surrender of such a card;

(d) information for identifying the person who took any such steps on such an occasion.

SCHEDULE 2

Section 40

REPEALS [REPEALSCHEDULE]

Short title and chapter	*Extent of repeal*
Forgery and Counterfeiting Act 1981 (c. 45)	In section 5— (a) subsection (5)(f) and (fa); and (b) subsections (9) to (11).
Asylum and Immigration (Treatment of Claimants, etc.) Act 2004	Section 3.

2. RR
2. file

Office of the
Deputy Prime Minister
Creating sustainable communities

The Rt Hon Nick Raynsford MP
Minister for Local and Regional Government

Office of the Deputy Prime Minister
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Rt. Hon John Prescott MP
Deputy Prime Minister
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London SW1A 2WH

WP

cc REG
JR

RESTRICTED – COMMITTEE MEMBERS ONLY

08 APR 2004

Dear John

I am writing in response to David's letter of 1 April. I confirm that DA Committee agreed in principle that the draft Bill should include a power to make Identity Cards compulsory by order, subject to an enhanced affirmative resolution procedure.

I also note the outcome of the Home Secretary's discussions with Patricia. I support a provision being included in the Bill which would mean the private sector could not require an Identity Card during service provision in a voluntary phase and that other forms of identification must continue to be accepted. This will avoid any negative impact on socially excluded groups who may wish to access such services but who will be amongst those most unlikely to hold a card during a voluntary phase.

Finally, we need to recognise that even as ID Cards are rolled out during the voluntary phase people may need, and will certainly expect, to use the card as a form of identification. As front-line providers of many services local authorities will be one organisation where this expectation will fall.

We need to clearly understand if there will be costs associated with this expectation and if a New Burden is realised then it is essential the Home Office fund this to avoid further pressure on Council Tax rises. Alternatively local authorities may not invest in the necessary equipment and as a result undermine public acceptance of the scheme as individuals will be in the position of holding a card but being unable to use them.

A robust assessment of the cost implications for local authorities, produced in consultation with OGDs and the Local Government Association, must continue to form part of the business case for the scheme. I understand that our officials are meeting soon to discuss this further.

I am copying this letter to the Prime Minister, members of DA Committee, Peter Hain, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

RESTRICTED COMMITTEE MEMBERS ONLY

WP
cc JR
KEG
1 Agreed
2. file

MATRIX

From the Secretary of State and Lord Chancellor
The Right Honourable Lord Falconer of Thoroton

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7210 8380
Fax 020 7210 8597

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitchall
London SW1A 2WH

7th April 2004

Dear John,

IDENTITY CARDS- POINTS ARISING FROM DA MEETING

I have received the Home Secretary's letter to you of 1 April summarising the points arising from the DA meeting on 30 March. I am broadly content with his letter, but I have two minor points I wish to raise.

Firstly, he mentions in it the 'super-affirmative' process to be set out in the Bill. Whilst I am broadly content with this approach I am concerned that is not clear from his letter what the effect of an amendment on the motion on the report would be, or how we would proceed from that eventuality.

Secondly, I agree that we should commit ourselves to debate in both Houses. But we need to make that commitment in a way that does not upset the sensibilities of the House of Lords- it is for them to determine what they debate.

Yours

Charles

Justice, Rights and Democracy

Copied to DA Committee members, the Prime Minister, Jack Straw Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Department for Culture, Media and Sport
The Rt Hon Tessa Jowell MP
Secretary of State

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Rcd 8/4

COPY NO.: 21

1. PR
2. HC

RESTRICTED – COMMITTEE MEMBERS ONLY

C04/00234/DC

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

6th April 2004

WP

cc KEG
GR

Dear John

DA – IDENTITY CARDS

I have seen David Blunkett's letter of 1 April following our very useful further discussion on identity cards on 30 March.

It is my view that David's suggestions about the way forward reflect the debate we had and represent a very good compromise. I am therefore happy to support the proposals.

I am copying this letter to the Prime Minister, members of the DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours

Tessa.

TESSA JOWELL

POSITIVE ABOUT DISABLED PEOPLE

INVESTOR IN PEOPLE

RESTRICTED – COMMITTEE MEMBERS ONLY

copy no 10
rec'd 8/4

1. JR
2. Mike

dti

6 April 2004

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

The Rt Hon John Prescott MP
Deputy Prime Minister and
First Secretary of State
26 Whitehall
LONDON
SW1A 2WH

WP
cc KEG
JR

Dear John,

IDENTITY CARDS – POINTS ARISING FROM DA MEETING

I have read with interest David Blunkett's letter to you of 1 April on this subject.

I think David has reached a sensible compromise on the many difficult issues that were remaining. I am happy to support what he has proposed.

The five steps leading to Parliamentary approval to compulsion, after a decision in Cabinet that will include looking at benefits and costs, should provide Parliament with adequate chance to see the case for compulsion and influence the results. I am grateful to David and his colleagues for finding this way through.

I am also grateful that, following discussions with me, David has confirmed that the Bill will allow for provisions so that commercial organisations cannot demand an identity card alone before the compulsion order is made. This should provide a useful check on the private sector moving ahead of public acceptance.

I am copying this letter to the Prime Minister, member of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnball.

Best wishes,

Patricia

PATRICIA HEWITT

Department of Trade and Industry

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RESTRICTED – PERSONAL

File

MINISTRY OF DEFENCE
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E-mail: defencesecretary@defence.mod.uk

SECRETARY OF STATE

MO 21/8/5C
MST 2/1/2

2 April 2004

WP

cc MR

Dear John,

IDENTITY CARDS – POINTS ARISING FROM DA MEETING

I have seen David's letter of 1 April concerning the mechanisms by which we will introduce identity cards on a compulsory basis in due course. I am content to give policy approval for the process which David has proposed.

I am copying this letter to the Prime Minister, Members of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours sincerely,

Geoff

GEOFFREY HOON

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State

02072733965 - POLICY

WP File

cc JR
HEG
TR
JPS

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon Lord Falconer of Thoroton QC
The Department of Constitutional Affairs
Selbourne House
54-60 Victoria Street
LONDON
SW1E 6QW

02 APR 2004

Dear Charlie

IDENTITY CARDS

Thank you for your letter of 12 March.

I am pleased that you are content to give policy approval for the criminal offences and civil sanctions to be included in the draft Bill and that you are content for discussions on the funding applications to proceed at official level. I have asked my officials to make contact with yours in order to take this matter forward.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,

David

DAVID BLUNKETT

Not for Attx

HOME AFFAIRS
Identity Cards

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

01 APR 2004

Dear John

IDENTITY CARDS - POINTS ARISING FROM DA MEETING

Summary

I am very grateful to you and colleagues for the constructive discussions we had on the compulsion provision for the draft identity cards Bill on 30 March. At the meeting I agreed to write to colleagues setting out the precise detail of what was agreed.

2. We decided on a form of 'super-affirmative' process which will be clearly set out in the Bill. It will require the Government to publish its case for a move to compulsion and ensure detailed Parliamentary scrutiny of the proposal. Parliament will be able to amend the Government's proposals not merely be presented with a 'take it or leave it' option.

3. Reaching agreement on compulsion to register also means that I can offer a further safeguard on the face of the Bill on use of the cards scheme. We will be able to prohibit in law the mandatory use of the cards scheme to access public services and social security benefits in advance of it being compulsory to register. We agreed this as a principle in the Next Steps document, but now we have the means to have a statutory safeguard.

4. I would be grateful for confirmation of policy approval by 8 April.

Consideration

Compulsion to register

5. A decision to move to compulsion must be one taken by Cabinet at the appropriate time. When this happens, I propose that there should be five steps leading to final Parliamentary approval. These are:

(i) The Government would produce a report setting out its case for the move to compulsion, covering all relevant aspects of the 'triggers' agreed by Cabinet last November. The report would contain the Government's specific proposition eg 'we propose that the scheme be compulsory for all people aged under 80 from 1 January 2014'.

(ii) The report would be laid before Parliament to allow for a period of considered reflection. At the same time, a substantive amendable motion would be put before both Houses inviting them to approve the Government's proposition in the report. I will give an undertaking that there would be a full day's debate in each House on the motion.

(iii) If the votes on the substantive amendable motion were approved, only then could the Government lay an order to make the scheme compulsory. The compulsion order would have to be consistent with the motion(s) approved by both Houses.

(iv) The compulsion order would be an affirmative order and would be laid for 60 days before the formal votes in both Houses.

(v) Should the order be negated, then the process of producing a further report would have to be repeated from step (i).

6. I propose to set out on the face of the Bill that the Government would produce a report and go through these steps. I would have liked to see the guarantee of a full day's debate in both Houses at step (ii) also on the face of the Bill. However Parliamentary Counsel's advice is that an Act of Parliament should not dictate proceedings in either or both Houses of Parliament eg by specifying that there should be a debate or seeking to set out how long it will last. I will therefore take every opportunity to emphasise that a full day's debate in both Houses is the Government's undertaking, both in Parliament and in the press lines to take when the draft Bill is published. This will leave people in no doubt as to the Government's intentions.

Use of the card scheme

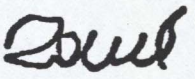
7. We did not get round to discussing the reserve order making power on use of the card scheme at the meeting. In my letter of 24 March, I said that in lines to take and the consultation paper which will accompany the draft Bill, I

would repeat the reassurance given in the Next Steps document that it would not be mandatory to use the cards scheme to help verify entitlement to services during the first stage of the scheme, in effect before it was compulsory to register for a card. As we have reached agreement that compulsion to register will be included in the Bill, I can offer a further measure of reassurance. I will put on the face of the Bill that no regulations under this order making production of a card mandatory for UK citizens to access public services and social security benefits could be made unless the compulsion to register provision has been approved.

8. Following discussions with Patricia I will ensure that the Bill allows for provisions so that commercial organisations cannot demand an identity card alone as the only means of identification before the compulsion order is made.

9. I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,



DAVID BLUNKETT

(1)

Top: PJD(KEG)

cc PJD(JR)

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

24 MAR 2004

Dear John

IDENTITY CARDS

Summary

I have now seen the replies to my letter of 24 February. I am grateful to colleagues for their support for the criminal and civil sanctions necessary to make the scheme effective and for the good progress that the identity cards programme is making. I appreciate also the concerns raised in the correspondence, which I hope this reply addresses.

2. I have considered the views taken by colleagues around the decision to move to compulsion. In my view the key to this issue is that we must be explicit that this is a decision for Cabinet and then Parliament which would only be taken after the detailed conditions set out in the triggers had been met. I would be very happy to look with colleagues at how we might best achieve this. I have reconfirmed my commitment to prohibiting the mandatory use of the card by any public sector bodies before the scheme becomes compulsory. There were also other issues raised around use of the card, governance options, the schedule of information held on the Register, disclosure from the Register, fees, costs, the relationship between ID cards penalties and other offences and future design work to which this letter replies. The potential extra costs to the court system is being resolved bilaterally between myself and Charlie.

5382db

SKP 25/3/04

3. With the clarifications and additional assurance I have set out, we can sustain the support for the scheme both with the general public and the Party. We will be discussing the ID cards policy at the National Policy Forum in July under the theme of 'Building Sustainable Communities', which deals with justice, security and community issues.

I know that you have decided to hold a DA meeting to discuss these issues further. I hope that this letter will provide useful information for such a discussion.

Consideration

Compulsion

4. I appreciate the concerns raised regarding compulsion and its handling. In the paper agreed by DA which was published alongside my statement to the House on 11 November 2003 (Identity Cards – The Next Steps CMD 6020) we agreed that a move to compulsion would require 'full debate and a vote in both houses of Parliament'. My view is that this refers to the affirmative resolution procedure and I would be very happy to discuss with colleagues how best we can provide re-assurance – including on the face of the Bill – that this step would only be taken after the various trigger conditions we set out in the document had been met.

5. I believe that this affirmative order making power has to be included in the draft Bill linked to a requirement to register (not to carry an ID card). I do not think that this will reduce public support for the scheme. On the contrary, without at the very least having the debate over compulsion during the pre-legislative scrutiny, we risk leaving ourselves open to accusations of proceeding by stealth by saying nothing about compulsion now whilst having already announced our decision to build a base for a compulsory scheme. Equally if we did not say anything about a move to compulsion we would, in effect, be legislating for little more than the introduction of a scheme to include biometrics in passports.

6. When publishing the draft Bill, I intend to repeat the assurances we agreed in the drafting of the Next Steps document that there are certain factors which we would need to assess before deciding on whether and when to set a date for compulsion. We would want to be confident that:

(i) roll out during the first phase had already delivered significant coverage of the population;

(ii) there was clear public acceptance for the principle of a compulsory ID card – paid for via charges with a subsidy for those on low incomes - which would be used to access free public services;

(iii) use of the card for access to free public services would not prevent people without cards from accessing emergency services, and those on low incomes and vulnerable groups would not be disadvantaged;

(iv) the scheme would make a further significant difference to tackling fraudulent access to free public services, and to tackling illegal working at an acceptable compliance cost to business; and

(v) the technology was working and public services had implemented the technology and business changes necessary to take full advantage of the scheme.

As I have said, I think it would be helpful if we could look at how best to provide the reassurance that these triggers need to be met before any decision is taken by Cabinet and Parliament to move to compulsion.

How the card will be used

10. An identity card scheme will immediately provide a more convenient way for those entitled to services to access them. If we eventually move to a compulsory scheme, and if, after that, the relevant steps were taken to make use of the card compulsory to access certain public services, it would also further help prevent unauthorised and fraudulent access to those services. In the Next Steps paper, I offered the reassurance that it would not be mandatory to use the cards scheme to help verify entitlement to services during the first stage of the scheme, in effect before it was compulsory to register for a card. I intend to repeat this reassurance when the draft Bill is published both in the public lines and in the consultation paper which will accompany the draft Bill.

11. All the key departments already have powers which would allow them to specify how their services could use an identity cards scheme. The order making powers which are proposed to be included in the Identity Cards Bill would be used only in cases where it was subsequently discovered that there were no or insufficient powers already in place to make regulations for a particular service or circumstance. Subject to Counsel's views on how this can best be achieved, I will place limits on how this power can be used, for example it must not be possible to use the power to make it compulsory to carry a card.

12. The Bill would not automatically require the production of a card for any service, Parliament would have to agree revised regulations for each service. Regulations made under this new power would be laid by the responsible Secretary of State and so the Government and Parliament would always be in control of the rules for how the card scheme would be used by public services. Following Paul Murphy's comments, I will extend this order making power to Northern Ireland. This would not compel the use of the card in any circumstance and any decision on using this power would rest with the devolved Assembly when devolution is restored.

13. There have been some suggestions that we should inhibit private sector use of the card. I have no intention of introducing compulsion by the back door

by insisting that organisations like the banks use identity cards in the first phase of the scheme. However, there is a strong case that the Government should not be overregulating the private sector by telling them what identity documents they may request. Private sector organisations should be free to decide what measures they put in place to counter the risk they face of identity fraud. It would be contradictory for the Government to be pressing some private sector organisations, such as banks, to tighten their identity requirements further to comply with money laundering regulations, yet to restrict their use of the best way to counter such fraud, namely via the card scheme. In any case, the private sector will not make people use the card if that will damage their business and there would be little business justification for the private sector to insist on the production of a card until such time as the coverage of the population had reached a critical mass.

Disclosure from the Register

14. Information held on the National Identity Register will be held in confidence unless there are strong reasons for disclosing it. In some circumstances the legislation will permit the Secretary of State to disclose specified information held on the Register without the consent of the registered person.

15. Disclosure to law enforcement and security agencies was agreed in Next Steps. I propose to put this into effect by allowing for the disclosure of information to the Security and Intelligence Agencies for their statutory purposes. We would also allow for disclosure to the police and Customs, though in these cases more sensitive types of access (e.g. placing someone on a watch-list so that there would be an alert when a card was checked on-line) would be subject to a serious crime threshold test. 'Serious crime' is already defined in statue as an offence which:

(i) involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or

(ii) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.

16. I have received strong and well argued representations that the DWP and the Inland Revenue should also be mentioned on the face of the Bill for the purposes of the prevention, investigation, detection and prosecution of benefit and tax fraud. I am therefore proposing that DWP and the Inland Revenue would have access on the same terms as the police and customs. This means that they would be able to obtain disclosure of basic details relating to an individual for their statutory purposes, but more sophisticated access only in cases where the benefit and tax frauds met the definition of serious crime.

7. There would be independent oversight of the disclosure of information from the identity cards scheme to ensure that the scheme and safeguards are operating in accordance with the law and to act as a point of appeal against an inappropriate or unlawful disclosure of information.

18. My officials have already circulated to yours copies of the draft instructions for the disclosure arrangements, and copies of the formal instructions to Parliamentary Counsel will be circulated shortly.

Information held by the scheme

19. Data held on the National Identity Register will be basic identity information and we have committed to setting this out in statute. There are arguments in favour and against the level of detail provided in the schedule of information on the National Identity Register as defined in the current draft of the Bill. However, given the likely allegations of scope and function creep that privacy campaigners will make, I believe that it is tactically better to publish a list in more detail and then possibly cut it back for the substantive Bill, rather than vice versa. I think this is the more open and transparent approach. It is also important to note that the schedule defines what could be held on the Register not what will be held so it does not presume a particular technical solution.

Governance

20. I have not closed my mind to other governance options for the scheme than an Executive Agency. We know that some, for example the Information Commissioner, will press for a statutory NDPB. However, I think we should not over-complicate the issue for the purposes of the consultation document. My proposal is to float the option of an Executive Agency then after the consultation we can decide whether a good case has been made for having any type of arms length governance structure and, if so, what form it should take.

Fees

21. The powers proposed in the draft Identity Cards Bill will give us a great deal of flexibility over the fee structure for the cards scheme. Counsel has confirmed that the clauses in the draft Bill allow us to set fees to recover all the costs of the scheme via fees and to charge different fees within the overall scheme. We will not have to make firm decisions now on the precise details of the fee structure.

Costs

22. I can confirm that I am not asking other departments to submit bids for the set-up costs set out in the business case.

Relationship between ID cards penalties and other offences

23. I have proposed a civil penalty for failing to keep details registered with the scheme up to date. We were definite in our discussions last year that we did not want to have identity card 'martyrs' going through the criminal courts. It is clear that the road safety benefits justify the retention of the existing criminal sanction for failing to keep driving licence details up to date. In practice, criminal prosecutions are very rare and the maximum financial penalty would be the same in both cases. I propose to await the results of the consultation to gauge whether there is any public confusion over the civil penalty. In the meantime, officials will continue to be kept in close touch with the drafting of the Bill to ensure that none of the provisions in the Identity Cards Bill cut across existing sanctions.

Design work

24. I acknowledge that there is a need for further detailed design work and welcome the close work across Government to achieve this. An inter-Departmental Programme Board has been established, chaired by my Permanent Secretary to take forward this work. We have had a successful OGC Gateway 0 review in January and the OGC review team confirmed that the ID Cards programme is ready to proceed.

25. I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,

DAVID BLUNKETT

IR email 26/3
to PSDPA

ID CARDS

Sally Morgan suggested to Joan that the DPM might find it helpful to have a summary of the PM's thinking on this issue ahead of the DA meeting that he is chairing on Tuesday to agree the draft ID cards Bill, due to be published before Easter.

Using secondary legislation to move to compulsion in the future

The PM agrees with DB that an affirmative resolution procedure is the best way to deliver this and believes this should be included in the draft bill. Like DB he had understood the wording agreed by Cabinet colleagues in November ["full debate and a vote in both houses of Parliament"] to have meant this sort of procedure. It is helpful that DB has offered to debate further the trigger conditions which would be required before this secondary legislation could be taken forward – including possibly including them on the face of the bill. It might be helpful if the DPM could establish from colleagues in advance of DA whether such an approach might reassure them. The PM thinks that if these conditions are met (which, in any event is unlikely to be until 2010), then the second stage move to compulsion will be fairly straightforward for the public and the House.

Reserve power in Bill to mandate use of card for access to public services

The PM is keen on the use of an ID card to access public services. He welcomed the proposal to subsidise the card for vulnerable groups and those on low incomes. Given that most public services already have powers which could enable the use of a card to be made mandatory, he is content for a reserve power to go into the Bill as a backstop for those services where these powers don't exist. DB's letter of 24 March repeats his reassurance that there will be no move towards making production of an ID card mandatory for access to any particular service until we have moved to the second stage of compulsory registration for all citizens. This should be sufficient to reassure Cabinet colleagues.

Disclosure to law enforcement and security agencies, DWP and IR

The PM regards these powers as essential if we are to maximise the benefits of the ID card in combating fraud and serious crime. The protections that DB is offering – restricting access to those cases involving 'serious crime' – seem more than adequate.

Top: PD (KEG)
PD (GR)
CS

CabinetOffice

Rt Hon Ian McCartney MP
Minister without Portfolio

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18 March 2004

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2AS

Dear John,

IDENTITY CARDS

I have seen a copy of David Blunkett's letter to you of 24 February about the identity cards programme

David's proposals for criminal offences and sanctions associated with the national ID cards scheme are sensible.

On a general point, I would like to re-emphasise that the 'Next Steps' document needs to be fully considered by colleagues before we proceed with a draft bill. Specifically, we should make it absolutely clear that ID cards can only become compulsory by means of primary legislation. Furthermore, we need much more clarity on the question access to services. I could not agree to any proposal to make possession of an ID card - for which we will be expecting the citizen to pay - mandatory for access to those public services that we hold axiomatically to be free at the point of use.

I am copying this to the Prime Minister, Peter Hain, members of DA and LP committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Rt Hon Ian McCartney MP

SKP 19/3/04

The Rt Hon The Baroness Amos

Mcd 16/3

File

REG

IC JR UDP FRO

The Leader of the House of Lords

The Rt. Hon. John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

16th March 2004

Dear John,

IDENTITY CARDS

David Blunkett's letter of 24th February to you sought policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I have also seen the subsequent letters from Patricia Hewitt (8 March) and Jack Straw (10 March). Whilst I was happy to give policy clearance to the measures David proposed, my recollection of last year's discussion is the same as Patricia's and Jack's; and I agree with them about the need to ensure that the draft Bill is in line with what colleagues agreed.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the Commons, members of DA Committee, Hilary Benn, First Parliamentary Counsel and to Sir Andrew Turnbull.

Yours ever,

Valerie

VALERIE AMOS

02072108362

WP.

JR
CC KDG
WP
JR

From the Secretary of State and Lord Chancellor
The Right Honourable Lord Falconer of Thoroton

The Department for Constitutional Affairs
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8

The Rt Hon David Blunkett MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

12th March 2004

Dear David,

IDENTITY CARDS

Thank you for your letter of 5th March.

I am grateful that you accept in principle that Magistrates Courts Committees should have access to the National Identity Register in the same way as other law enforcement agencies. I understand your reasons for not naming the Courts on the face of the Bill and agree that we need to develop a proper assessment of costs and benefits. I also have no problem with your suggestion that it would be for DCA to meet the costs of such items as the link between the Courts IT systems and the NIDC Register, as this is clearly an area where we would benefit.

On the wider cost issue – the potential burden falling to the Courts system from creation of new criminal and civil offences and penalties – I note your suggestion about bidding in SR2006. However, I am not in a position to commit my Department to making bids in future spending reviews, particularly as any decisions on how we bid then will be dependant on the outcome of SR2004. SR2004 will determine DCA's future baseline and we cannot pre-empt the position before decisions on this have been made later this year.

On this basis I must reserve the right to return to you to discuss transfers of funding to meet extra costs falling on DCA and my agreement to proceed in principle is on this condition. I note that, in respect of CPS prosecution costs arising from the new ID

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card offences, that Harriet Harman has indicated a similar position in her letter of 4 March to John Prescott.

In the interim, as I suggested in my earlier letter, our officials should get together to discuss the detailed financial implications, so that we can assess materiality – potential numbers and costs - and provide a basis for sensible long-term financial planning;

Copies of this go to recipients of your letter.

From the Secretary of State
for Work and Pensions

DWP Department for Work and Pensions

Richmond House
79 Whitehall
London
SW1A 2NS
Telephone
020 7238 0800
Email
ministers@dwp.gsi.gov.uk
www.dwp.gov.uk

RESTRICTED – POLICY

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

12 March 2004

WP
cc: JR
KeG
GN
RB
CS

Dear John,

IDENTITY CARDS

1. I am writing in response to David Blunkett's letter of 24th February 2004 concerning the National Identity Cards Scheme.

2. I am in general agreement with the contents of the letter and have noted the outcome of the Office of Government Commerce Gateway Zero Review; the proposed criminal offences, penalties and civil sanctions; and on the references to the draft Bill.

3. I am content with the data sharing proposals outlined at Items 4 & 5 of Annex B on the understanding that DWP is now listed as one of the organisations under item 5 (Disclosure of National Identity Register information to certain law enforcement agencies). Correspondence between officials has confirmed that this is the case. It will of course be important to check the draft provisions when available to make sure that they are sufficient.

RESTRICTED - POLICY

4. I am copying this to recipients of David's letter

Best wishes,

Andrew

ANDREW SMITH

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

SECRETARY OF STATE
FOR
NORTHERN IRELAND

KEG
JR
WP
JHo
MR

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

Dear John,

11 March 2004

IDENTITY CARDS

I have seen David Blunkett's letter of 24 February, reporting progress with the development of arrangements for the National Identity Cards Programme, and seeking clearance for the creation of new penalties.

Bearing in mind the points in my earlier correspondence, I am happy to support the proposed offences, penalties and civil sanctions and for them to extend to Northern Ireland.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever,

Paul

RT HON PAUL MURPHY MP
Secretary of State for Northern Ireland

INVESTOR IN PEOPLE

From: **William Perrin**
Date: **11 March 2004**

PRIME MINISTER

cc: **Ivan Rogers**
Jonathan Powell
Sally Morgan
Pat McFadden
Justin Russell
Clare Sumner
Kate Gross

IDENTITY CARDS

You should be aware of discussion on ID Cards. The Home Secretary has written to colleagues (attached) on a draft Bill that for publication in late April. The Foreign Secretary, Chief Secretary, SOS for Trade and Industry, Leader of the House and the SOS Transport have concerns on key points (letters attached).

The Deputy Prime Minister has called a meeting of DA, likely to be 29 March concerned by disagreement on three key issues:

- Using secondary (rather than primary) legislation to bring in compulsory possession in the future
- Powers to mandate ID Cards to access public services
- Detail on access by the security services to the underlying database

The secondary legislation issue is the biggest bone of contention. Home Office claim that they have sufficient policy clearance from November when the following was published:

> '..The move to compulsion would require full debate and a vote in both houses of Parliament.'

The clearance process at the time was unconventional. The DPM and colleagues do not think regard this text as an agreement to compulsion by secondary legislation and they see the DB letter as a bounce. DB is concerned that DA will push him off track for his draft Bill and could re-open the internal debate.

Key Cabinet members are annoyed at being bounced by DB's letter, and it is unlikely that anything he can say in writing will satisfy colleagues. The DPM has strong views on the need for a DA meeting.

It is likely that DB will seek to talk to you about this. The central principle of a card with a future move to compulsion is now agreed and public. There does not appear to be a strong public backlash. **I have consulted Sally, Ivan and Justin: their view is that Cabinet is becoming increasingly intolerant of DB bounces, especially on an issue that has had so much energy invested in it. This is not the right moment for you to intervene to stop a DA meeting, should DB ask.** Do you agree?

Yes but I'm with him on the substance. People with ~~ID~~ cards.

WILLIAM PERRIN

conqueror

From the Secretary of State

Department for **Transport**

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
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Web site: www.dft.gov.uk

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

WP

cc: KeG ✓
JR
MEL
SF
CS

IDENTITY CARDS

I have seen David Blunkett's letter dated 24 February about progress on ID Cards.

I welcome the close working which the Home Office has developed with my Department and the progress which is being made, as evidenced by the OGC Gateway O review. At the same time, I think we all recognise that there is a huge amount of detailed design work to be done before we can be wholly confident about precisely what can be delivered, over what timescale and at what cost.

It is important that the Home Office make prudent provision in their financial plans for the additional costs likely to fall on my and other Departments involved in the programme.

I welcome the proposal to publish a draft Bill for discussion. I agree that it would be inappropriate to legislate for a NDPB.

I am content with most of the proposals for offences and penalties. But I need to put down a marker about the need for great caution where potential differences emerge between new proposals for ID card offences and penalties and existing equivalents in relation to driving licences. For example, I am not clear why failure to keep personal details up to date should be a civil offence when it is a criminal offence in relation to driving licences: the discrepancy could lead to pressure to reduce the sanction in

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11 MAR 2004 15:36 FROM DFT TO 902078399044 P.02/03

relation to driving licences, which would run counter to our efforts to improve compliance and enforcement. The fact that something is a criminal offence does not remove all discretion about enforcement: but in our experience, it is a helpful backstop and does encourage the police and the courts to take the issue rather more seriously than they might otherwise do.

I think this example illustrates the need for great care in looking for the potential interactions between the proposed ID card scheme and the existing provisions in motoring law.

I would therefore be grateful if my officials could continue to be kept very closely in touch with the Bill as drafting progresses.

Finally, I share the concerns expressed by a number of colleagues on the highly sensitive issue of how, at a later stage, Parliament might be invited to agree to a compulsory scheme. Technically of course, the affirmative resolution procedure would suffice, if we take the necessary powers now. However I think there will be a widespread feeling that a change of this significance and sensitivity will need a far fuller debate and much closer scrutiny at the time. I would prefer to recognise this now and make it clear in the draft Bill that we envisage further primary legislation if and when we reach that stage.

Similarly, I share the preference for an explicit commitment that we will not allow production of an ID card as such to be a mandatory requirement for access to individual public or private services in advance of the scheme itself becoming compulsory.

I am copying this letter to the Prime Minister, Jack Straw, Peter Hain, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

ALISTAIR DARLING

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

COPY

1. JR
2. file.

Kea

cc: JR
MR
GH
CS.

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

24 FEB 2004

Dear John

IDENTITY CARDS

Summary

I am writing:

(i) to inform colleagues on the outcome of the Office of Government Commerce (OGC) Gateway Zero review of the Identity Cards Programme;

(ii) to seek policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme;

(iii) to update colleagues on how the position documented in Identity Cards: The Next Steps (CM 6020) will be expressed in the draft Bill and to explain how I intend to seek views on the governance arrangements for the scheme when consulting on the draft Bill.

2. I would be grateful for policy clearance on the criminal offences, penalties and civil sanctions by 9 March. I will be providing colleagues with regular written progress reports on the Identity Cards Programme.

OGC Gateway Zero review

3. We explained in Next Steps that we would not publish draft legislation for the Identity Cards Scheme until the Office of Government Commerce had confirmed, by means of a Gateway 0 Review, that the programme was ready to proceed. That review took place at the end of January by a team fully independent of the Home Office. The team has said that in their view the Gateway 0 preconditions have now been satisfied and have confirmed that the Identity Cards Programme is ready

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4. As is normal, the Gateway Reviewers made a number of recommendations that they wished to see carried out before the next review (Gateway 1). These recommendations will be taken forward with the Programme Board chaired by my Permanent Secretary and on which there are senior representatives from the departments likely to be involved in the delivery of the Identity Cards Programme. In the meantime, and on the basis of the successful outcome of the Gateway Zero Review, we will proceed towards publication of the draft Bill as originally agreed.

Criminal offences and penalties

5. The Next Steps document was silent on the criminal offences and other sanctions which will be necessary to ensure that the scheme works effectively. The list of offences and other sanctions I propose is included at Annex A. Colleagues will recall that the scheme will largely be built around issuing more secure versions of existing documents such as passports and residence permits. There will need to be a plain form of identity card for those people who do not hold existing documents. Most of the offences merely ensure that there are equivalent offences for the 'plain card' as for existing documents. For example I recommend that the maximum penalty for making a fraudulent application for a plain card should be the same as that which applies for a passport and a driving licence and that the offence should be arrestable. Cases of forging a card or possession or use of a false card can be prosecuted under the Forgery and Counterfeiting Act 1981, Scots common law or a new offence of a person being in possession without reasonable cause of false identity documents or documents which are not his own. DA agreed to the new false documents offence last year as part of a package of counter-terrorism measures and I would like to include it in the Identity Cards Bill.

6. I also recommend that there should be specific criminal offences for:

(i) unauthorised disclosure of information by people administering the scheme. This will send an important message that the Government is determined to ensure that people's information is properly protected. I have concluded that the similar offence which exists under the Data Protection Act 1998 is too loosely drafted and that the maximum penalty of an unlimited fine is insufficient. The offence I propose is similar to the penalty which applies for unauthorised disclosure of tax records and would have a maximum penalty of 2 years' imprisonment;

(ii) creating a false entry on the National Identity Register or amending details on the Register such as to make an entry false. False entries could allow false cards to be issued which to all intents and purposes will appear genuine. As with (i) above this offence will give the public confidence that we will not tolerate abuses of the scheme by those administering it. The Computer Misuse Act 1990 has an offence which we could use, however the maximum penalty under this Act is 5 years. It would be inconsistent to have a maximum penalty for creating a false Register entry of 5 years when – via an existing offence in the Forgery and Counterfeiting Act 1981 - the maximum penalty for forging a

card would be 10 years. My preferred solution is to retain the Computer Misuse Act offence but ensure that a maximum penalty of 10 years would apply for offences involving the National Identity Register. There is a precedent for this approach in the Customs & Excise Management Act 1979 Schedule 1 in relation to the importation of controlled drugs;

(iii) failure to surrender a card should be an summary-only offence. The offence would apply where the card-holder failed to surrender a card which was no longer valid. For example an executor who had a card of a deceased person in his position would be under a duty to surrender it. This offence would not apply to people failing to show a card on request to a police officer. As I stated in the Next Steps document, I am not proposing any police powers or new sanctions in this area;

(iv) there will be a duty on people registered under the scheme to keep their personal details up to date. In the case of driving licences it is already a criminal offence to fail to notify the DVLA (or DVLNI in Northern Ireland) of such changes and I do not propose any changes to the arrangements for driving licences. However I am not persuaded that we need similar criminal sanctions for failing to keep registered details up to date for other types of identity document which might form part of the scheme for example passpcrts. I recommend a civil financial penalty for these cases which has the advantages of giving card-issuing organisations greater discretion in whether to apply the penalty and not criminalising the failure to keep registered details up to date. If we decided to proceed to stage two of the scheme where it would be compulsory to register and obtain a card, I would also like to use a civil financial penalty as a sanction rather than a criminal offence.

7. I will be writing separately to Jack McConnell to see whether he would prefer the option of establishing equivalent offences in Scots Law either via his own legislation or a Sewel motion. In most cases there is also the option of relying on Scots common law offences.

Draft legislation

8. I have attached at Annex B the contents of the draft Bill and how each provision in it relates to the Next Steps publication. It sets out the requirements for an affirmative order before we move to stage two – compulsion and requiring the card to access public services. As discussed above, only the criminal offences and civil penalties were not included in the Next Steps document. Copies of the instructions and relevant policy papers are being circulated to your officials. I am grateful for the contributions we have received to date.

9. One issue which was discussed at the Programme Board was whether we should establish a body at 'arms length' from the Secretary of State to set and enforce standards for the issuing of cards, for example to ensure that the plain form of identity card has the same level of identity checks as the passport card. While we need to do some more detailed work on this, I am not persuaded of

the need to legislate for an 'arms length' body such as an NDPB. I believe that any such body should take the form of an executive agency – either an existing agency which will also be a card issuer or a separate agency which sets and enforces standards on the card issuers. As an agency does not require legislation, there will be no draft clauses on which to consult but the consultation paper which will accompany the draft bill will explain the issues and invite comments on our proposal.

10. I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,

David

DAVID BLUNKETT

ANNEX A – CRIMINAL OFFENCES AND CIVIL SANCTIONS FOR THE NATIONAL IDENTITY CARDS SCHEME

This table lists the criminal offences and civil sanctions necessary for the proper administration of the scheme. The amendment to s5(5) of the Forgery and Counterfeiting Act 1981 is necessary to include the driving licence in the list of instruments to which some of the offences in the Act apply. An amendment may also be necessary to s9 to clarify that a false document includes a genuinely issued document which was obtained using false details or another person's details as well as a document which has been forged or altered.

Offence or sanction	**Legislation**	Maximum Penalty	
		Summary	**Indictment**
Criminal offences			
Being in possession or control of "false documents" without reasonable cause	New offence Plus Amendments to s 5 (5) Forgery and Counterfeiting Act (FCA) 1981 and s 9 FCA 1981.	6 months or a fine or both	2 years
Unlawful disclosure of information held on the National Identity Register by a person involved in its administration	New offence	6 months or a fine or both	2 years
Obtaining a card fraudulently	New offence	6 months or a fine or both	2 years
Using a card fraudulently where there is intent to induce someone to accept it as genuine and in so doing to cause prejudice.	Existing offence under FCA s 3	6 months or a fine or both	10 years
Using a card fraudulently where there is knowledge or belief that the document is false.	Existing offence under s5(2) FCA	6 months or a fine or both	2 years

Fraudulently altering a card	Rely on s 1 FCA and amending s 5 (5) FCA 1981.	6 months or fine or both	10 years
Create a false entry or amend details to make an entry false on the National Identity Register.	Amend penalty under Computer Misuse Act 1990 for application to National Identity Register only	6 months or a fine or both	10 years
Failure to surrender a card when required to do so.	New offence (summary only)	6 months or a fine or both	N/A
Civil sanctions		Penalty	
Failure to inform National Identity Register of change to registered details	New civil financial penalty Retain existing criminal sanction (£1000 fine) for driving licences s9 Road Traffic Act 1988	£1,000	
Failure to register during stage two of the scheme (or for certain classes of foreign nationals during stage one)	New civil financial penalty	£2,500	

ANNEX B – PROVISIONS IN THE DRAFT BILL

The following table lists the main provisions in the draft Bill, relates them to the statements made in Identity Cards: The Next Steps and summarises the provisions.

Ref	Subject Heading	Next Steps Reference	Summary
1	National Identity Register	Paragraph 3 ...we will publish draft legislation... This will include: (i) establishing a National Identity Register; Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme. It will be built from scratch as people are issued with identity cards and not rely solely on other sources of data which may have historical or other errors Paragraph 23 Only Parliament would be able to change the statutory purposes of the scheme or The information which could be held by the scheme. Paragraph 24 Data held on the National Identity Register will be basic identity information – such as name, address, date of birth, gender, immigration status and a confirmed biometric – and this will be set out in statute.	Define the statutory purposes of the Register Power to initiate and specify the process of registration Maintenance of the Register Establishing a National Identity Registration Number Information content of the Register and rules for amending or adding content
2	Criminal Offences and Civil Sanctions	No reference, see paragraphs 5-7 of this letter and Annex A.	Establish criminal offences relating to fraudulent applications for and use of a card

Ref	Subject Heading	Next Steps Reference	Summary
			Establish an offence of being in possession or control of false identity documents Establish offences for any person involved in the administration of the scheme to disclose information without authorisation or for criminal proceedings and of making false entries on the National Identity Register
3	Identity Cards	Paragraph 3 ...(ii) proceeding towards more secure passports and driving licences based on biometric technology – with personalised, specific identifiers; (iii) for those who do not need a passport or driving licence and choose to take it up, making available a voluntary plain identity card... (iv) introducing mandatory biometric identity documents for foreign nationals coming to stay in the UK for longer than 3 months. Paragraph 16 ...(ii) linking more secure passports and perhaps eventually driving licences to the scheme on a compulsory basis... Paragraphs 18-22 discuss the charging structure for cards.	Establish the legal basis for the plain card Establish powers for the Home Secretary to designate existing documents as acceptable forms of identity card and to designate organisations to be card issuers Establish powers to set fees for cards and to charge on a discretionary basis for access to the Register Establish powers to set validity periods for cards and entries on the Register Establish powers to specify application processes for cards Power to allow for a person to have multiple registrations eg for witness protection purposes Powers governing revocation and surrender of a card Powers to specify the format of

Ref	Subject Heading	Next Steps Reference	Summary
			identity cards including what is displayed on the face of the card and what is encoded.
4	Data sharing powers	Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme..... before an entry is confirmed, it will be checked against other databases such as passports, driving licences and immigration records.	Powers for card issuing organisations to access data collected for other purposes and held by other agencies in order to process applications for cards ie to perform 'historical footprint' checks. Powers to ensure lawful exchange of information between the National Identity Register and information held by card issuing organisations.
5	Disclosure of National Identity Register information to police, Security Service etc	Paragraph 25 The police and other organisations will not have routine access to data stored on the National Identity Register. However there are strong arguments for giving them such access to help fight serious crime and terrorism. Such access will be set out in statute and there will be independent oversight of the arrangements as there is at the present time.	Powers for law enforcement and security agencies to access the Register without consent in specified circumstances Powers to ensure that there is independent oversight of the disclosure arrangements and independent investigation of complaints.
6	Access to Services	Paragraphs 1 & 2 ...we face growing threats to the security and prosperity of British citizens from...fraudulent access to public services...The Government has decided to begin the process of introducing a national identity cards scheme as a key part of a comprehensive strategy to contain these threats and ensure more reliable means of authenticating people's identity. Paragraph 3	Power to allow an organisation to make regulations on access to its services where none currently exists so that requirements to produce an identity card can be on a statutory basis.

Ref	Subject Heading	Next Steps Reference	Summary
		...If the conditions were right...could then be followed by a move to a compulsory card scheme in which it would be compulsory...to produce a card to access public services in ways defined by those services. Paragraph 6 ...It will help people prove their identity to access services... Paragraph 9 Across public services there are already many situations in which statutory services require an individual to produce proof of identity,...An identity card which was a recognised Government-confirmed proof of identity, would mean that an individual would not need to provide many different cards or pieces of paper, and would combat impersonation and identity fraud... A card would not be mandatory for verification of entitlement to services in the voluntary phase until the appropriate further Parliamentary decision on a move to compulsion. Paragraph 23 The legislation will allow the cards scheme to be used by any service – public or private – to establish identity with the consent of the card-holder, but with strict limits on the information available.	
7	Compulsion	Paragraph 3 ...If the conditions were right, this first stage phased roll-out could then be followed by a move to a compulsory card scheme in which it would be compulsory to have a card – though not to carry one... The	Power to set a date by affirmative order by which it would become compulsory to register and obtain a card Establish a general civil financial

Ref	Subject Heading	Next Steps Reference	Summary
		move to compulsion would require full debate and a vote in both houses of Parliament. Paragraph 17 ...While if we proceeded to stage two of our proposals, it would eventually become compulsory for everyone to have an identity card, it would not be compulsory to carry an identity card.	penalty for failing to register which would only be enacted should the compulsory power be invoked
8	Territorial and consequential amendments	Paragraph 3 ...In the case of those services for which the devolved administrations have responsibility, decisions on production of a card to access those services would be a matter for them.	To set out which parts of the Act apply in the devolved areas To set out any consequential amendments to other legislation eg Road Traffic Acts

There are other provisions which could be highly beneficial in combating identity fraud which are not strictly required for the identity cards scheme. For example:

(i) legislating for some data sharing gateways in advance of the introduction of the scheme, for example between DVLA and the UK Passport Service to counter identity fraud in the shorter term and to allow FCO to issue passports abroad with the same standard of background identity checks as UKPS;

(ii) giving UKPS and DVLA prosecution powers which was a recommendation of the Cabinet Office identity fraud study. The agencies are currently considering whether this is necessary and will seek approval of Ministers separately if they conclude that there is a case for such powers.

I do not propose to include these in the draft Bill but would like to return to them when the substantive Bill is introduced.

CONFIDENTAL – COMMITTEE MEMBERS ONLY

dti

8 March 2004

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Copy No 27
C. Britton

2645

Dear Deputy Prime Minister,

IDENTITY CARDS

David Blunkett's letter of 24th February seeks policy clearance on a range of issues, including for the creation of a range of criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I agree that the criminal offences and measures David proposes are necessary if the scheme is to work effectively and so I am content to give them policy clearance.

I was however, concerned to see that David is proposing to include powers in the Bill to make ID cards compulsory at a later date by means of an affirmative SI as well as powers to allow an organisation to make regulations on access to its services so that, effectively, access to public services could be made conditional upon production of an ID card. Implementation of such a measures could, in the case of certain public services, make possession of an ID card effectively compulsory.

You will remember that we and colleagues debated these issues fully late last year and reached agreement on the way forward along lines different to those David is proposing here Since my views and concerns remain unchanged, I should prefer that the agreement we were all able to reach together should stand.

Department of Trade and Industry

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I also noted David proposes to make provisions to allow law enforcement and security agencies to gain access to the ID card database. While I agree that there may well be cases where this would be justified, I should welcome a little more detail about what is proposed before giving final agreement.

Finally, David mentions in his letter the fact that instructions to Counsel and relevant policy papers are being circulated at official level. I am most grateful that David is ensuring that we receive as much warning as possible of the proposals he is planning to make, particularly as I understand that many Departments have concerns about certain aspects of them. I will ensure my officials work closely with David's so that we are in a position to respond quickly when David seeks formal policy clearance.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours sincerely,

pp **PATRICIA HEWITT**
Authorised by the Secretary of State
and signed in her absence

Sharpe Dale - Cabinet Secretary's Office -

From: Stansfield Michael - Leader of the Commons -
Sent: 04 March 2004 14:13
To: LeaderC - DA
Cc: Newman James - Leader of the Commons -
Subject: Identity Cards (HO) - IM2036

IM2036-National Identity Card ...

This document has been distributed for your information. Thank you.

Top: BOLKED
cc PD (JR)

FCS/04/045

DEPUTY PRIME MINISTER

ID Cards – Policy Clearance for Sanctions

1. I have seen a copy of David Blunkett's letter of 24 February to you, which seeks DA policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme and updates colleagues on the progress of the work on the scheme.

2. I welcome the proposals for criminal offences relating to the unauthorised use of information by people administering the scheme, and agree in principle that certain proportionate penalties and civil sanctions will be necessary to ensure that the scheme works effectively.

3. I should like to emphasise that the ID card scheme must be designed in a way that is compatible with our obligations under international law, in particular EU law. This is particularly important given that the scheme will be mandatory for some groups of foreign nationals before it becomes compulsory for UK citizens. I understand that the provisions relating to the proposals on civil sanctions (failure to inform of change to registered personal details and failure to register) will be drafted to meet these concerns and to allow for proportionate enforcement.

4. I have also just seen Patricia Hewitt's letter to you of 8 March. I share her view – set out in her last paragraph of page one of the letter – about the need to ensure that the draft Bill is in line with what colleagues

SKP 10/3/04

earlier agreed. I do not have the minutes of our discussions to hand, but my recollection is the same as Patricia's. Even with the safeguard of an affirmative resolution trigger, a Bill of the kind proposed would be seen to be focused on the introduction of a compulsory ID scheme.

5. I am copying this minute to the Prime Minister, David Blunkett, Peter Hain, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

(JACK STRAW)

Foreign and Commonwealth Office
10 March 2004

LEADER OF THE HOUSE OF COMMONS

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

CABINET OFFICE
A 2441
05 MAR 2004
FILING INSTRUCTIONS
FILE No .....

C. Britton.

Our Ref: IM2036

3 March 2004

Dear John.

I have seen David Blunkett's letter to you of 24 February seeking policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I welcome the general approach that David is adopting and support the specific new criminal offences proposed to make the scheme workable, particularly those to reassure on disclosure of information.

I am pleased that offences related to keeping information up to date are not to be criminalised as I believe it is very important we continue to use alternatives to prison for non-violent offences. I do, however, have two specific concerns I would like to see addressed before we move to draft legislation:

"... power to allow an organisation to make regulations on access to services..." :

Despite the very significant support in the party for these measures, it is important that we offer clear reassurances about access to public services and anything that could be perceived to challenge the principle of services free to all at the point of use. I am very aware of the specific concerns that exist in regard to NHS services, but it is important that the bill very narrowly and clearly defines what services we believe should require the ownership of an ID card. Allowing the organisation to make these regulations might also raise concerns.

"... set a date by affirmative order by which it became compulsory to register and obtain a card..." :

I am concerned that there is less clear consensus on the desirability to make the card compulsory. David's proposal to set a date by affirmative order does of course mean that we do not need to make a political decision at this stage but there is a very real risk that those opposed to compulsion will feel that the Bill is their 'last chance' to prevent this. Thus, it is important that we make clear our commitment that there will be no compulsion without a further debate and vote on the floor of the House. A similar pledge was very helpful in the passage of the HE Bill in respect of a further increase in fees.

I am concerned that if we do not properly clarify these two points, then the legislation could potentially face an even more difficult passage.

Finally, as we agreed last year, I would be grateful for confirmation that the ID Cards policy will be put into the National Policy Forum process and discussed with the Parliamentary Labour Party. I am sure this will help build the policy consensus that we all seek.

I am copying this letter to the Prime Minister, members of DA Committee and Sir Andrew Turnbull.

PETER HAIN

Rt. Hon. John Prescott MP
Deputy Prime Minister &
First Secretary of State

PM (Iraq Meeting)
cc SM
JR
NS
IL

12/3

Duty Clerks
Please put with William Rees's note on ID cards in box

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

STRICTLY PERSONAL, PRIVATE AND CONFIDENTIAL

12 March 2004

The Rt Hon Tony Blair MP
10 Downing Street
London SW1

Dear Tony,

I would be grateful for the chance for a brief word with you on Saturday morning in Manchester.

Following my visit to the US - and indeed events in Madrid yesterday - I am more convinced than ever that the fundamental danger for those of us on the centre-left is to fail to appreciate the need to provide security, stability and order as the underpinning of everything we do. If we fail to do everything we properly can to protect the public from the terrorist threat we will pay a very high price indeed. I think that we still need to re-inforce this with our own colleagues. The progress we are able to make on counter-terrorist measures will be a critical test for us. I understand that Sir David is to come to talk to us in Cabinet about the wider issues, but I wondered whether it would be sensible to invite Eliza to join him.

Related to this is the issue of ID Cards. It seems clear to me that a number of my Cabinet colleagues are seeking to re-open issues that were resolved painfully in the Autumn. Again this for me is a critical test of our willingness to face up to the tough challenges of the future and it is vital that we demonstrate our clear ability to take these issues forward.

I would be grateful if we could discuss how best we can ensure that colleagues who are not dealing with these difficult issues on a daily basis appreciate these painful realities.

Best wishes,

David

DAVID BLUNKETT

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From: **William Perrin**
Date: **11 March 2004**

PRIME MINISTER

cc: **Ivan Rogers**
Jonathan Powell
Sally Morgan
Pat McFadden
Justin Russell
Clare Sumner
Kate Gross

IDENTITY CARDS

You should be aware of discussion on ID Cards. The Home Secretary has written to colleagues (attached) on a draft Bill that for publication in late April. The Foreign Secretary, Chief Secretary, SOS for Trade and Industry, Leader of the House and the SOS Transport have concerns on key points (letters attached).

The Deputy Prime Minister has called a meeting of DA, likely to be 29 March concerned by disagreement on three key issues:

- Using secondary (rather than primary) legislation to bring in compulsory possession in the future
- Powers to mandate ID Cards to access public services
- Detail on access by the security services to the underlying database

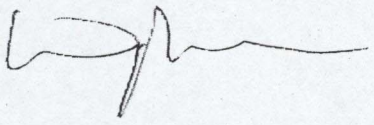
The secondary legislation issue is the biggest bone of contention. Home Office claim that they have sufficient policy clearance from November when the following was published:

> '..The move to compulsion would require full debate and a vote in both houses of Parliament.'

The clearance process at the time was unconventional. The DPM and colleagues do not think regard this text as an agreement to compulsion by secondary legislation and they see the DB letter as a bounce. DB is concerned that DA will push him off track for his draft Bill and could re-open the internal debate.

Key Cabinet members are annoyed at being bounced by DB's letter, and it is unlikely that anything he can say in writing will satisfy colleagues. The DPM has strong views on the need for a DA meeting.

It is likely that DB will seek to talk to you about this. The central principle of a card with a future move to compulsion is now agreed and public. There does not appear to be a strong public backlash. **I have consulted Sally, Ivan and Justin: their view is that Cabinet is becoming increasingly intolerant of DB bounces, especially on an issue that has had so much energy invested in it. This is not the right moment for you to intervene to stop a DA meeting, should DB ask.** Do you agree?



WILLIAM PERRIN

relation to driving licences, which would run counter to our efforts to improve compliance and enforcement. The fact that something is a criminal offence does not remove all discretion about enforcement: but in our experience, it is a helpful backstop and does encourage the police and the courts to take the issue rather more seriously than they might otherwise do.

I think this example illustrates the need for great care in looking for the potential interactions between the proposed ID card scheme and the existing provisions in motoring law.

I would therefore be grateful if my officials could continue to be kept very closely in touch with the Bill as drafting progresses.

Finally, I share the concerns expressed by a number of colleagues on the highly sensitive issue of how, at a later stage, Parliament might be invited to agree to a compulsory scheme. Technically of course, the affirmative resolution procedure would suffice, if we take the necessary powers now. However I think there will be a widespread feeling that a change of this significance and sensitivity will need a far fuller debate and much closer scrutiny at the time. I would prefer to recognise this now and make it clear in the draft Bill that we envisage further primary legislation if and when we reach that stage.

Similarly, I share the preference for an explicit commitment that we will not allow production of an ID card as such to be a mandatory requirement for access to individual public or private services in advance of the scheme itself becoming compulsory.

I am copying this letter to the Prime Minister, Jack Straw, Peter Hain, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

ALISTAIR DARLING

From the Secretary of State

Department for Transport

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

WP

cc: KeG
JR
MEL
SF
CS

IDENTITY CARDS

I have seen David Blunkett's letter dated 24 February about progress on ID Cards.

I welcome the close working which the Home Office has developed with my Department and the progress which is being made, as evidenced by the OGC Gateway O review. At the same time, I think we all recognise that there is a huge amount of detailed design work to be done before we can be wholly confident about precisely what can be delivered, over what timescale and at what cost.

It is important that the Home Office make prudent provision in their financial plans for the additional costs likely to fall on my and other Departments involved in the programme.

I welcome the proposal to publish a draft Bill for discussion. I agree that it would be inappropriate to legislate for a NDPB.

I am content with most of the proposals for offences and penalties. But I need to put down a marker about the need for great caution where potential differences emerge between new proposals for ID card offences and penalties and existing equivalents in relation to driving licences. For example, I am not clear why failure to keep personal details up to date should be a civil offence when it is a criminal offence in relation to driving licences: the discrepancy could lead to pressure to reduce the sanction in

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11 MAR 2004 15:36 FROM DH1

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

COPY

1. JR
2. file.

Kea

cc: JR
KR
GH
CS.

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Dear John

24 FEB 2004

IDENTITY CARDS

Summary

I am writing:

(i) to inform colleagues on the outcome of the Office of Government Commerce (OGC) Gateway Zero review of the Identity Cards Programme;

(ii) to seek policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme;

(iii) to update colleagues on how the position documented in Identity Cards: The Next Steps (CM 6020) will be expressed in the draft Bill and to explain how I intend to seek views on the governance arrangements for the scheme when consulting on the draft Bill.

2. I would be grateful for policy clearance on the criminal offences, penalties and civil sanctions by 9 March. I will be providing colleagues with regular written progress reports on the Identity Cards Programme.

OGC Gateway Zero review

3. We explained in Next Steps that we would not publish draft legislation for the Identity Cards Scheme until the Office of Government Commerce had confirmed, by means of a Gateway 0 Review, that the programme was ready to proceed. That review took place at the end of January by a team fully independent of the Home Office. The team has said that in their view the Gateway 0 preconditions have now been satisfied and have confirmed that the Identity Cards Programme is ready

card would be 10 years. My preferred solution is to retain the Computer Misuse Act offence but ensure that a maximum penalty of 10 years would apply for offences involving the National Identity Register. There is a precedent for this approach in the Customs & Excise Management Act 1979 Schedule 1 in relation to the importation of controlled drugs;

(iii) failure to surrender a card should be an summary-only offence. The offence would apply where the card-holder failed to surrender a card which was no longer valid. For example an executor who had a card of a deceased person in his position would be under a duty to surrender it. This offence would not apply to people failing to show a card on request to a police officer. As I stated in the Next Steps document, I am not proposing any police powers or new sanctions in this area;

(iv) there will be a duty on people registered under the scheme to keep their personal details up to date. In the case of driving licences it is already a criminal offence to fail to notify the DVLA (or DVLNI in Northern Ireland) of such changes and I do not propose any changes to the arrangements for driving licences. However I am not persuaded that we need similar criminal sanctions for failing to keep registered details up to date for other types of identity document which might form part of the scheme for example passports. I recommend a civil financial penalty for these cases which has the advantages of giving card-issuing organisations greater discretion in whether to apply the penalty and not criminalising the failure to keep registered details up to date. If we decided to proceed to stage two of the scheme where it would be compulsory to register and obtain a card, I would also like to use a civil financial penalty as a sanction rather than a criminal offence.

7. I will be writing separately to Jack McConnell to see whether he would prefer the option of establishing equivalent offences in Scots Law either via his own legislation or a Sewel motion. In most cases there is also the option of relying on Scots common law offences.

Draft legislation

8. I have attached at Annex B the contents of the draft Bill and how each provision in it relates to the Next Steps publication. It sets out the requirements for an affirmative order before we move to stage two – compulsion and requiring the card to access public services. As discussed above, only the criminal offences and civil penalties were not included in the Next Steps document. Copies of the instructions and relevant policy papers are being circulated to your officials. I am grateful for the contributions we have received to date.

9. One issue which was discussed at the Programme Board was whether we should establish a body at 'arms length' from the Secretary of State to set and enforce standards for the issuing of cards, for example to ensure that the plain form of identity card has the same level of identity checks as the passport card. While we need to do some more detailed work on this, I am not persuaded of

the need to legislate for an 'arms length' body such as an NDPB. I believe that any such body should take the form of an executive agency – either an existing agency which will also be a card issuer or a separate agency which sets and enforces standards on the card issuers. As an agency does not require legislation, there will be no draft clauses on which to consult but the consultation paper which will accompany the draft bill will explain the issues and invite comments on our proposal.

10. I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,

David

DAVID BLUNKETT

Fraudulently altering a card	Rely on s 1 FCA and amending s 5 (5) FCA 1981.	6 months or fine or both	10 years
Create a false entry or amend details to make an entry false on the National Identity Register.	Amend penalty under Computer Misuse Act 1990 for application to National Identity Register only	6 months or a fine or both	10 years
Failure to surrender a card when required to do so.	New offence (summary only)	6 months or a fine or both	N/A
Civil sanctions		Penalty	
Failure to inform National Identity Register of change to registered details	New civil financial penalty Retain existing criminal sanction (£1000 fine) for driving licences s9 Road Traffic Act 1988	£1,000	
Failure to register during stage two of the scheme (or for certain classes of foreign nationals during stage one)	New civil financial penalty	£2,500	

ANNEX B – PROVISIONS IN THE DRAFT BILL

The following table lists the main provisions in the draft Bill, relates them to the statements made in Identity Cards: The Next Steps and summarises the provisions.

Ref	Subject Heading	Next Steps Reference	Summary
1	National Identity Register	Paragraph 3 ...we will publish draft legislation... This will include: (i) establishing a National Identity Register; Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme. It will be built from scratch as people are issued with identity cards and not rely solely on other sources of data which may have historical or other errors Paragraph 23 Only Parliament would be able to change the statutory purposes of the scheme or The information which could be held by the scheme. Paragraph 24 Data held on the National Identity Register will be basic identity information – such as name, address, date of birth, gender, immigration status and a confirmed biometric – and this will be set out in statute.	Define the statutory purposes of the Register Power to initiate and specify the process of registration Maintenance of the Register Establishing a National Identity Registration Number Information content of the Register and rules for amending or adding content
2	Criminal Offences and Civil Sanctions	No reference, see paragraphs 5-7 of this letter and Annex A.	Establish criminal offences relating to fraudulent applications for and use of a card

ANNEX A – CRIMINAL OFFENCES AND CIVIL SANCTIONS FOR THE NATIONAL IDENTITY CARDS SCHEME

This table lists the criminal offences and civil sanctions necessary for the proper administration of the scheme. The amendment to s5(5) of the Forgery and Counterfeiting Act 1981 is necessary to include the driving licence in the list of instruments to which some of the offences in the Act apply. An amendment may also be necessary to s9 to clarify that a false document includes a genuinely issued document which was obtained using false details or another person's details as well as a document which has been forged or altered.

Offence or sanction	**Legislation**	Maximum Penalty	
		Summary	**Indictment**
Criminal offences			
Being in possession or control of "false documents" without reasonable cause	New offence Plus Amendments to s 5 (5) Forgery and Counterfeiting Act (FCA) 1981 and s 9 FCA 1981.	6 months or a fine or both	2 years
Unlawful disclosure of information held on the National Identity Register by a person involved in its administration	New offence	6 months or a fine or both	2 years
Obtaining a card fraudulently	New offence	6 months or a fine or both	2 years
Using a card fraudulently where there is intent to induce someone to accept it as genuine and in so doing to cause prejudice.	Existing offence under FCA s 3	6 months or a fine or both	10 years
Using a card fraudulently where there is knowledge or belief that the document is false.	Existing offence under s5(2) FCA	6 months or a fine or both	2 years

4. As is normal, the Gateway Reviewers made a number of recommendations that they wished to see carried out before the next review (Gateway 1). These recommendations will be taken forward with the Programme Board chaired by my Permanent Secretary and on which there are senior representatives from the departments likely to be involved in the delivery of the Identity Cards Programme. In the meantime, and on the basis of the successful outcome of the Gateway Zero Review, we will proceed towards publication of the draft Bill as originally agreed.

Criminal offences and penalties

5. The Next Steps document was silent on the criminal offences and other sanctions which will be necessary to ensure that the scheme works effectively. The list of offences and other sanctions I propose is included at Annex A. Colleagues will recall that the scheme will largely be built around issuing more secure versions of existing documents such as passports and residence permits. There will need to be a plain form of identity card for those people who do not hold existing documents. Most of the offences merely ensure that there are equivalent offences for the 'plain card' as for existing documents. For example I recommend that the maximum penalty for making a fraudulent application for a plain card should be the same as that which applies for a passport and a driving licence and that the offence should be arrestable. Cases of forging a card or possession or use of a false card can be prosecuted under the Forgery and Counterfeiting Act 1981, Scots common law or a new offence of a person being in possession without reasonable cause of false identity documents or documents which are not his own. DA agreed to the new false documents offence last year as part of a package of counter-terrorism measures and I would like to include it in the Identity Cards Bill.

6. I also recommend that there should be specific criminal offences for:

(i) unauthorised disclosure of information by people administering the scheme. This will send an important message that the Government is determined to ensure that people's information is properly protected. I have concluded that the similar offence which exists under the Data Protection Act 1998 is too loosely drafted and that the maximum penalty of an unlimited fine is insufficient. The offence I propose is similar to the penalty which applies for unauthorised disclosure of tax records and would have a maximum penalty of 2 years' imprisonment;

(ii) creating a false entry on the National Identity Register or amending details on the Register such as to make an entry false. False entries could allow false cards to be issued which to all intents and purposes will appear genuine. As with (i) above this offence will give the public confidence that we will not tolerate abuses of the scheme by those administering it. The Computer Misuse Act 1990 has an offence which we could use, however the maximum penalty under this Act is 5 years. It would be inconsistent to have a maximum penalty for creating a false Register entry of 5 years when – via an existing offence in the Forgery and Counterfeiting Act 1981 - the maximum penalty for forging a

Ref	Subject Heading	Next Steps Reference	Summary
			Establish an offence of being in possession or control of false identity documents Establish offences for any person involved in the administration of the scheme to disclose information without authorisation or for criminal proceedings and of making false entries on the National Identity Register
3	Identity Cards	Paragraph 3 ...(ii) proceeding towards more secure passports and driving licences based on biometric technology – with personalised, specific identifiers; (iii) for those who do not need a passport or driving licence and choose to take it up, making available a voluntary plain identity card... (iv) introducing mandatory biometric identity documents for foreign nationals coming to stay in the UK for longer than 3 months. Paragraph 16 ...(ii) linking more secure passports and perhaps eventually driving licences to the scheme on a compulsory basis... Paragraphs 18-22 discuss the charging structure for cards.	Establish the legal basis for the plain card Establish powers for the Home Secretary to designate existing documents as acceptable forms of identity card and to designate organisations to be card issuers Establish powers to set fees for cards and to charge on a discretionary basis for access to the Register Establish powers to set validity periods for cards and entries on the Register Establish powers to specify application processes for cards Power to allow for a person to have multiple registrations eg for witness protection purposes Powers governing revocation and surrender of a card Powers to specify the format of

Ref	Subject Heading	Next Steps Reference	Summary
			identity cards including what is displayed on the face of the card and what is encoded.
4	Data sharing powers	Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme..... before an entry is confirmed, it will be checked against other databases such as passports, driving licences and immigration records.	Powers for card issuing organisations to access data collected for other purposes and held by other agencies in order to process applications for cards ie to perform 'historical footprint' checks. Powers to ensure lawful exchange of information between the National Identity Register and information held by card issuing organisations.
5	Disclosure of National Identity Register information to police, Security Service etc	Paragraph 25 The police and other organisations will not have routine access to data stored on the National Identity Register. However there are strong arguments for giving them such access to help fight serious crime and terrorism. Such access will be set out in statute and there will be independent oversight of the arrangements as there is at the present time.	Powers for law enforcement and security agencies to access the Register without consent in specified circumstances Powers to ensure that there is independent oversight of the disclosure arrangements and independent investigation of complaints.
6	Access to Services	Paragraphs 1 & 2 ...we face growing threats to the security and prosperity of British citizens from...fraudulent access to public services...The Government has decided to begin the process of introducing a national identity cards scheme as a key part of a comprehensive strategy to contain these threats and ensure more reliable means of authenticating people's identity. Paragraph 3	Power to allow an organisation to make regulations on access to its services where none currently exists so that requirements to produce an identity card can be on a statutory basis.

Ref	Subject Heading	Next Steps Reference	Summary
		...If the conditions were right...could then be followed by a move to a compulsory card scheme in which it would be compulsory...to produce a card to access public services in ways defined by those services. Paragraph 6 ...It will help people prove their identity to access services... Paragraph 9 Across public services there are already many situations in which statutory services require an individual to produce proof of identity,...An identity card which was a recognised Government-confirmed proof of identity, would mean that an individual would not need to provide many different cards or pieces of paper, and would combat impersonation and identity fraud... A card would not be mandatory for verification of entitlement to services in the voluntary phase until the appropriate further Parliamentary decision on a move to compulsion. Paragraph 23 The legislation will allow the cards scheme to be used by any service – public or private – to establish identity with the consent of the card-holder, but with strict limits on the information available.	
7	Compulsion	Paragraph 3 ...If the conditions were right, this first stage phased roll-out could then be followed by a move to a compulsory card scheme in which it would be compulsory to have a card – though not to carry one... The	Power to set a date by affirmative order by which it would become compulsory to register and obtain a card Establish a general civil financial

Ref	Subject Heading	Next Steps Reference	Summary
		move to compulsion would require full debate and a vote in both houses of Parliament. Paragraph 17 ...While if we proceeded to stage two of our proposals, it would eventually become compulsory for everyone to have an identity card, it would not be compulsory to carry an identity card.	penalty for failing to register which would only be enacted should the compulsory power be invoked
8	Territorial and consequential amendments	Paragraph 3 ...In the case of those services for which the devolved administrations have responsibility, decisions on production of a card to access those services would be a matter for them.	To set out which parts of the Act apply in the devolved areas To set out any consequential amendments to other legislation eg Road Traffic Acts

There are other provisions which could be highly beneficial in combating identity fraud which are not strictly required for the identity cards scheme. For example:

(i) legislating for some data sharing gateways in advance of the introduction of the scheme, for example between DVLA and the UK Passport Service to counter identity fraud in the shorter term and to allow FCO to issue passports abroad with the same standard of background identity checks as UKPS;

(ii) giving UKPS and DVLA prosecution powers which was a recommendation of the Cabinet Office identity fraud study. The agencies are currently considering whether this is necessary and will seek approval of Ministers separately if they conclude that there is a case for such powers.

I do not propose to include these in the draft Bill but would like to return to them when the substantive Bill is introduced.

I also noted David proposes to make provisions to allow law enforcement and security agencies to gain access to the ID card database. While I agree that there may well be cases where this would be justified, I should welcome a little more detail about what is proposed before giving final agreement.

Finally, David mentions in his letter the fact that instructions to Counsel and relevant policy papers are being circulated at official level. I am most grateful that David is ensuring that we receive as much warning as possible of the proposals he is planning to make, particularly as I understand that many Departments have concerns about certain aspects of them. I will ensure my officials work closely with David's so that we are in a position to respond quickly when David seeks formal policy clearance.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours sincerely,

pp **PATRICIA HEWITT**
Authorised by the Secretary of State
and signed in her absence

CONFIDENTAL – COMMITTEE MEMBERS ONLY

dti

8 March 2004

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Copy No 27
C. Bitton

2645

Dear Deputy Prime Minister,

IDENTITY CARDS

David Blunkett's letter of 24th February seeks policy clearance on a range of issues, including for the creation of a range of criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I agree that the criminal offences and measures David proposes are necessary if the scheme is to work effectively and so I am content to give them policy clearance.

I was however, concerned to see that David is proposing to include powers in the Bill to make ID cards compulsory at a later date by means of an affirmative SI as well as powers to allow an organisation to make regulations on access to its services so that, effectively, access to public services could be made conditional upon production of an ID card. Implementation of such a measures could, in the case of certain public services, make possession of an ID card effectively compulsory.

You will remember that we and colleagues debated these issues fully late last year and reached agreement on the way forward along lines different to those David is proposing here Since my views and concerns remain unchanged, I should prefer that the agreement we were all able to reach together should stand.

Department of Trade and Industry

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[redacted]harpe Dale - Cabinet Secretary's Office -

From: Stansfield Michael - Leader of the Commons -
Sent: 04 March 2004 14:13
To: LeaderC - DA
Cc: Newman James - Leader of the Commons -
Subject: Identity Cards (HO) - IM2036

IM2036-National Identity Card ...

This document has been distributed for your information. Thank you.

Top: BLUKED "PD(JR)

FCS/04/045

DEPUTY PRIME MINISTER

ID Cards – Policy Clearance for Sanctions

1. I have seen a copy of David Blunkett's letter of 24 February to you, which seeks DA policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme and updates colleagues on the progress of the work on the scheme.

2. I welcome the proposals for criminal offences relating to the unauthorised use of information by people administering the scheme, and agree in principle that certain proportionate penalties and civil sanctions will be necessary to ensure that the scheme works effectively.

3. I should like to emphasise that the ID card scheme must be designed in a way that is compatible with our obligations under international law, in particular EU law. This is particularly important given that the scheme will be mandatory for some groups of foreign nationals before it becomes compulsory for UK citizens. I understand that the provisions relating to the proposals on civil sanctions (failure to inform of change to registered personal details and failure to register) will be drafted to meet these concerns and to allow for proportionate enforcement.

4. I have also just seen Patricia Hewitt's letter to you of 8 March. I share her view – set out in her last paragraph of page one of the letter – about the need to ensure that the draft Bill is in line with what colleagues

SKP 10/3/04

earlier agreed. I do not have the minutes of our discussions to hand, but my recollection is the same as Patricia's. Even with the safeguard of an affirmative resolution trigger, a Bill of the kind proposed would be seen to be focused on the introduction of a compulsory ID scheme.

5. I am copying this minute to the Prime Minister, David Blunkett, Peter Hain, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

(JACK STRAW)

Foreign and Commonwealth Office
10 March 2004

Finally, as we agreed last year, I would be grateful for confirmation that the ID Cards policy will be put into the National Policy Forum process and discussed with the Parliamentary Labour Party. I am sure this will help build the policy consensus that we all seek.

I am copying this letter to the Prime Minister, members of DA Committee and Sir Andrew Turnbull.

PETER HAIN

Rt. Hon. John Prescott MP
Deputy Prime Minister &
First Secretary of State

LEADER OF THE HOUSE OF COMMONS

CABINET OFFICE
A 2441
05 MAR 2004
FILING INSTRUCTIONS
FILE No .....

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

C. Bitton.

Our Ref: IM2036

3 March 2004

Dear John,

I have seen David Blunkett's letter to you of 24 February seeking policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I welcome the general approach that David is adopting and support the specific new criminal offences proposed to make the scheme workable, particularly those to reassure on disclosure of information.

I am pleased that offences related to keeping information up to date are not to be criminalised as I believe it is very important we continue to use alternatives to prison for non-violent offences. I do, however, have two specific concerns I would like to see addressed before we move to draft legislation:

"... power to allow an organisation to make regulations on access to services..." :

Despite the very significant support in the party for these measures, it is important that we offer clear reassurances about access to public services and anything that could be perceived to challenge the principle of services free to all at the point of use. I am very aware of the specific concerns that exist in regard to NHS services, but it is important that the bill very narrowly and clearly defines what services we believe should require the ownership of an ID card. Allowing the organisation to make these regulations might also raise concerns.

"... set a date by affirmative order by which it became compulsory to register and obtain a card..." :

I am concerned that there is less clear consensus on the desirability to make the card compulsory. David's proposal to set a date by affirmative order does of course mean that we do not need to make a political decision at this stage but there is a very real risk that those opposed to compulsion will feel that the Bill is their 'last chance' to prevent this. Thus, it is important that we make clear our commitment that there will be no compulsion without a further debate and vote on the floor of the House. A similar pledge was very helpful in the passage of the HE Bill in respect of a further increase in fees.

I am concerned that if we do not properly clarify these two points, then the legislation could potentially face an even more difficult passage.

Top: PD(KEG)
4 PD(JR)
8

FCS/04/045

DEPUTY PRIME MINISTER

ID Cards – Policy Clearance for Sanctions

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SKP 10/3/04

earlier agreed. I do not have the minutes of our discussions to hand, but my recollection is the same as Patricia's. Even with the safeguard of an affirmative resolution trigger, a Bill of the kind proposed would be seen to be focused on the introduction of a compulsory ID scheme.

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(JACK STRAW)

Foreign and Commonwealth Office
10 March 2004

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt. Hon. John Prescott MP
Deputy Prime Minister and First Secretary of State
26 Whitehall
London
SW1A 2WH

JR
cc KEG
IR
MG

9 March 2004

IDENTITY CARDS – PROPORSED DRAFT BILL

I have seen David Blunkett's letter of 24 February asking for policy clearance for the draft Identity Cards Bill.

2. Given the current stage of development of the ID cards programme, I am generally content that the draft Bill represents an effective and well considered set of proposals for legislation. In particular, I welcome the casting of key clauses as broad enabling powers. This will allow the main parameters of the scheme to be defined at a later stage, by order, once the necessary feasibility work and option appraisal has been completed. I also welcome proposals to name the Inland Revenue and HM Customs and Excise on the face of the Bill as lawful authorities to receive disclosures of information from the National Identity Register – supporting the Treasury departments' ongoing work to improve compliance, combat tax fraud and tackle other serious and organised crime.

3. There are a number of points, however, that will need further consideration. In particular, I remain concerned about compulsion – an issue that cuts to the core of the political and public acceptability of the scheme. Specifically, I do not believe that this Bill should take powers to enable a move to compulsory registration through secondary legislation. Such a significant decision should properly require further primary legislation at a later stage, once the agreed pre-conditions have been met.

4. Linked to this, I believe we should clearly rule out any suggestion that production of an ID card might be mandatory for access to public or private services during the first, voluntary stage of the scheme. This will require powers on access to public services to be carefully framed. It also suggests that we should consider the case for taking powers to prevent explicitly the private sector from imposing mandatory requirements in relation to ID cards during the first stage – for example to avoid any risk that banks might require production of an ID card in order to open a customer account.

5. David's letter further raises the issue of governance structures. An Executive Agency – particularly an existing Agency with operational experience of issuing identity documents – may well be the right solution. However, with substantial work on the implications and costs of potential

alternatives still to do, I think it is too early to define a single option. In this context, I would suggest that the consultation document covers a range of possibilities, within which an Executive Agency might be highlighted as our current preference.

6. At a more detailed level, I believe that the schedule of information to be recorded in the National Identity Register is overly defined for the projects current stage of development. Options as to the number and type of biometrics to be recorded, for example, have not yet been tested or appraised. I am also concerned that the proposed powers relating to fees are not yet sufficient to support objectives on cross-subsidisation and cost recovery. I would ask that my officials are kept closely involved as work on these issues moves forward

7. I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

PAUL BOATENG

CONFIDENTAL – COMMITTEE MEMBERS ONLY

dti

Top: PD(IKEa) cc PD(JR)

8 March 2004

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

Copy No. 2.

The Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

PRIME MINISTERS
DIRECT COMMUNICATION UNIT
10 MAR 2004
RECEIVED

Dear Deputy Prime Minister,

IDENTITY CARDS

David Blunkett's letter of 24th February seeks policy clearance on a range of issues, including for the creation of a range of criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I agree that the criminal offences and measures David proposes are necessary if the scheme is to work effectively and so I am content to give them policy clearance.

I was however, concerned to see that David is proposing to include powers in the Bill to make ID cards compulsory at a later date by means of an affirmative SI as well as powers to allow an organisation to make regulations on access to its services so that, effectively, access to public services could be made conditional upon production of an ID card. Implementation of such a measures could, in the case of certain public services, make possession of an ID card effectively compulsory.

You will remember that we and colleagues debated these issues fully late last year and reached agreement on the way forward along lines different to those David is proposing here. Since my views and concerns remain unchanged, I should prefer that the agreement we were all able to reach together should stand.

Department of Trade and Industry

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1 Victoria Street
London SW1H 0ET

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SKP 10/3/04

I also noted David proposes to make provisions to allow law enforcement and security agencies to gain access to the ID card database. While I agree that there may well be cases where this would be justified, I should welcome a little more detail about what is proposed before giving final agreement.

Finally, David mentions in his letter the fact that instructions to Counsel and relevant policy papers are being circulated at official level. I am most grateful that David is ensuring that we receive as much warning as possible of the proposals he is planning to make, particularly as I understand that many Departments have concerns about certain aspects of them. I will ensure my officials work closely with David's so that we are in a position to respond quickly when David seeks formal policy clearance.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours sincerely,

pp. **PATRICIA HEWITT**
Authorised by the Secretary of State and signed in her absence

RESTRICTED - POLICY

From the Secretary of State for Health

Department of Health

Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 3000

IMC: 31500

The Rt Hon John Prescott MP
Deputy Prime Minister and
First Secretary of State
26 Whitehall
London
SW1A 2WH

KEG
JR
WP

8 March 2004

IDENTITY CARDS

I have seen David Blunkett's letter of 24 February to you. I welcome the positive outcome of the OGC Gateway Zero review and am grateful to David for the update on progress. I can confirm I am content with his proposals on criminal offences, penalties and civil sanctions.

I am copying this letter to the Prime Minster, the Foreign Secretary, the Leader of the House, members of DA Committee, the Secretary of State for International Development, First Parliamentary Counsel and Sir Andrew Turnbull.

Yours ever

JOHN REID

SV030302

LSLO

The Rt Hon The Lord Goldsmith QC

9 BUCKINGHAM GATE
LONDON SW1E 6JP

020-7271 2460

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

4th March 2004

Dear John

RE: IDENTITY CARDS

I am copied into David Blunkett's letter dated 24th February 2004 to you concerning the National Identity Cards scheme.

I am in general agreement with the proposed criminal offences, penalties and civil sanctions, which will assist in containing threats from illegal migration and working, organised crime and terrorism, identity theft and fraud and fraudulent access to public services as outlined in *Identity Cards: Next Steps.*

The details of the proposed criminal offences and penalties will need to be given further consideration when more information is available, particularly copies of the instructions and relevant policy papers that David indicates in his letter are being circulated to officials.

It is too early to say anything with certainty, but there is the possibility that the CPS will be required to undertake a significant number of additional prosecutions as a result of the introduction of criminal offences associated with the National Identity Cards Scheme. If this turns out to be the case, I will need to look to David to cover the prosecution costs associated with them.

I am copying this to recipients of David's letter.

Yours ever

Lord

LEADER OF THE HOUSE OF COMMONS

KEG

cc JR
WP
CS

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

Our Ref: IM2036

3 March 2004

Dear John,

I have seen David Blunkett's letter to you of 24 February seeking policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme. I welcome the general approach that David is adopting and support the specific new criminal offences proposed to make the scheme workable, particularly those to reassure on disclosure of information.

I am pleased that offences related to keeping information up to date are not to be criminalised as I believe it is very important we continue to use alternatives to prison for non-violent offences. I do, however, have two specific concerns I would like to see addressed before we move to draft legislation:

"... power to allow an organisation to make regulations on access to services..." :

Despite the very significant support in the party for these measures, it is important that we offer clear reassurances about access to public services and anything that could be perceived to challenge the principle of services free to all at the point of use. I am very aware of the specific concerns that exist in regard to NHS services, but it is important that the bill very narrowly and clearly defines what services we believe should require the ownership of an ID card. Allowing the organisation to make these regulations might also raise concerns.

"... set a date by affirmative order by which it became compulsory to register and obtain a card..." :

I am concerned that there is less clear consensus on the desirability to make the card compulsory. David's proposal to set a date by affirmative order does of course mean that we do not need to make a political decision at this stage but there is a very real risk that those opposed to compulsion will feel that the Bill is their 'last chance' to prevent this. Thus, it is important that we make clear our commitment that there will be no compulsion without a further debate and vote on the floor of the House. A similar pledge was very helpful in the passage of the HE Bill in respect of a further increase in fees.

I am concerned that if we do not properly clarify these two points, then the legislation could potentially face an even more difficult passage.

Finally, as we agreed last year, I would be grateful for confirmation that the ID Cards policy will be put into the National Policy Forum process and discussed with the Parliamentary Labour Party. I am sure this will help build the policy consensus that we all seek.

I am copying this letter to the Prime Minister, members of DA Committee and Sir Andrew Turnbull.

PETER HAIN

Rt. Hon. John Prescott MP
Deputy Prime Minister &
First Secretary of State

(1)
1 - GR
2 - file.

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

KGC
cc: JR
MR
GH
CS.

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Dear John

24 FEB 2004

IDENTITY CARDS

Summary

I am writing:

(i) to inform colleagues on the outcome of the Office of Government Commerce (OGC) Gateway Zero review of the Identity Cards Programme;

(ii) to seek policy clearance for criminal offences, penalties and civil sanctions associated with the National Identity Cards Scheme;

(iii) to update colleagues on how the position documented in Identity Cards: The Next Steps (CM 6020) will be expressed in the draft Bill and to explain how I intend to seek views on the governance arrangements for the scheme when consulting on the draft Bill.

2. I would be grateful for policy clearance on the criminal offences, penalties and civil sanctions by 9 March. I will be providing colleagues with regular written progress reports on the Identity Cards Programme.

OGC Gateway Zero review

3. We explained in Next Steps that we would not publish draft legislation for the Identity Cards Scheme until the Office of Government Commerce had confirmed, by means of a Gateway 0 Review, that the programme was ready to proceed. That review took place at the end of January by a team fully independent of the Home Office. The team has said that in their view the Gateway 0 preconditions have now been satisfied and have confirmed that the Identity Cards Programme is ready

4. As is normal, the Gateway Reviewers made a number of recommendations that they wished to see carried out before the next review (Gateway 1). These recommendations will be taken forward with the Programme Board chaired by my Permanent Secretary and on which there are senior representatives from the departments likely to be involved in the delivery of the Identity Cards Programme. In the meantime, and on the basis of the successful outcome of the Gateway Zero Review, we will proceed towards publication of the draft Bill as originally agreed.

Criminal offences and penalties

5. The Next Steps document was silent on the criminal offences and other sanctions which will be necessary to ensure that the scheme works effectively. The list of offences and other sanctions I propose is included at Annex A. Colleagues will recall that the scheme will largely be built around issuing more secure versions of existing documents such as passports and residence permits. There will need to be a plain form of identity card for those people who do not hold existing documents. Most of the offences merely ensure that there are equivalent offences for the 'plain card' as for existing documents. For example I recommend that the maximum penalty for making a fraudulent application for a plain card should be the same as that which applies for a passport and a driving licence and that the offence should be arrestable. Cases of forging a card or possession or use of a false card can be prosecuted under the Forgery and Counterfeiting Act 1981, Scots common law or a new offence of a person being in possession without reasonable cause of false identity documents or documents which are not his own. DA agreed to the new false documents offence last year as part of a package of counter-terrorism measures and I would like to include it in the Identity Cards Bill.

6. I also recommend that there should be specific criminal offences for:

(i) unauthorised disclosure of information by people administering the scheme. This will send an important message that the Government is determined to ensure that people's information is properly protected. I have concluded that the similar offence which exists under the Data Protection Act 1998 is too loosely drafted and that the maximum penalty of an unlimited fine is insufficient. The offence I propose is similar to the penalty which applies for unauthorised disclosure of tax records and would have a maximum penalty of 2 years' imprisonment;

(ii) creating a false entry on the National Identity Register or amending details on the Register such as to make an entry false. False entries could allow false cards to be issued which to all intents and purposes will appear genuine. As with (i) above this offence will give the public confidence that we will not tolerate abuses of the scheme by those administering it. The Computer Misuse Act 1990 has an offence which we could use, however the maximum penalty under this Act is 5 years. It would be inconsistent to have a maximum penalty for creating a false Register entry of 5 years when – via an existing offence in the Forgery and Counterfeiting Act 1981 - the maximum penalty for forging a

card would be 10 years. My preferred solution is to retain the Computer Misuse Act offence but ensure that a maximum penalty of 10 years would apply for offences involving the National Identity Register. There is a precedent for this approach in the Customs & Excise Management Act 1979 Schedule 1 in relation to the importation of controlled drugs;

(iii) failure to surrender a card should be an summary-only offence. The offence would apply where the card-holder failed to surrender a card which was no longer valid. For example an executor who had a card of a deceased person in his position would be under a duty to surrender it. This offence would not apply to people failing to show a card on request to a police officer. As I stated in the Next Steps document, I am not proposing any police powers or new sanctions in this area;

(iv) there will be a duty on people registered under the scheme to keep their personal details up to date. In the case of driving licences it is already a criminal offence to fail to notify the DVLA (or DVLNI in Northern Ireland) of such changes and I do not propose any changes to the arrangements for driving licences. However I am not persuaded that we need similar criminal sanctions for failing to keep registered details up to date for other types of identity document which might form part of the scheme for example passports. I recommend a civil financial penalty for these cases which has the advantages of giving card-issuing organisations greater discretion in whether to apply the penalty and not criminalising the failure to keep registered details up to date. If we decided to proceed to stage two of the scheme where it would be compulsory to register and obtain a card, I would also like to use a civil financial penalty as a sanction rather than a criminal offence.

7. I will be writing separately to Jack McConnell to see whether he would prefer the option of establishing equivalent offences in Scots Law either via his own legislation or a Sewel motion. In most cases there is also the option of relying on Scots common law offences.

Draft legislation

8. I have attached at Annex B the contents of the draft Bill and how each provision in it relates to the Next Steps publication. It sets out the requirements for an affirmative order before we move to stage two – compulsion and requiring the card to access public services. As discussed above, only the criminal offences and civil penalties were not included in the Next Steps document. Copies of the instructions and relevant policy papers are being circulated to your officials. I am grateful for the contributions we have received to date.

9. One issue which was discussed at the Programme Board was whether we should establish a body at 'arms length' from the Secretary of State to set and enforce standards for the issuing of cards, for example to ensure that the plain form of identity card has the same level of identity checks as the passport card. While we need to do some more detailed work on this, I am not persuaded of

the need to legislate for an 'arms length' body such as an NDPB. I believe that any such body should take the form of an executive agency – either an existing agency which will also be a card issuer or a separate agency which sets and enforces standards on the card issuers. As an agency does not require legislation, there will be no draft clauses on which to consult but the consultation paper which will accompany the draft bill will explain the issues and invite comments on our proposal.

10. I am copying this letter to the Prime Minister, the Foreign Secretary, the Leader of the House, members of DA Committee, Hilary Benn, First Parliamentary Counsel and Sir Andrew Turnbull.

Best wishes,

DAVID BLUNKETT

ANNEX A – CRIMINAL OFFENCES AND CIVIL SANCTIONS FOR THE NATIONAL IDENTITY CARDS SCHEME

This table lists the criminal offences and civil sanctions necessary for the proper administration of the scheme. The amendment to s5(5) of the Forgery and Counterfeiting Act 1981 is necessary to include the driving licence in the list of instruments to which some of the offences in the Act apply. An amendment may also be necessary to s9 to clarify that a false document includes a genuinely issued document which was obtained using false details or another person's details as well as a document which has been forged or altered.

Offence or sanction	**Legislation**	Maximum Penalty	
		Summary	**Indictment**
Criminal offences			
Being in possession or control of "false documents" without reasonable cause	New offence Plus Amendments to s 5 (5) Forgery and Counterfeiting Act (FCA) 1981 and s 9 FCA 1981.	6 months or a fine or both	2 years
Unlawful disclosure of information held on the National Identity Register by a person involved in its administration	New offence	6 months or a fine or both	2 years
Obtaining a card fraudulently	New offence	6 months or a fine or both	2 years
Using a card fraudulently where there is intent to induce someone to accept it as genuine and in so doing to cause prejudice.	Existing offence under FCA s 3	6 months or a fine or both	10 years
Using a card fraudulently where there is knowledge or belief that the document is false.	Existing offence under s5(2) FCA	6 months or a fine or both	2 years

Fraudulently altering a card	Rely on s 1 FCA and amending s 5 (5) FCA 1981.	6 months or fine or both	10 years
Create a false entry or amend details to make an entry false on the National Identity Register.	Amend penalty under Computer Misuse Act 1990 for application to National Identity Register only	6 months or a fine or both	10 years
Failure to surrender a card when required to do so.	New offence (summary only)	6 months or a fine or both	N/A
Civil sanctions		Penalty	
Failure to inform National Identity Register of change to registered details	New civil financial penalty Retain existing criminal sanction (£1000 fine) for driving licences s9 Road Traffic Act 1988	£1,000	
Failure to register during stage two of the scheme (or for certain classes of foreign nationals during stage one)	New civil financial penalty	£2,500	

Ref	Subject Heading	Next Steps Reference	Summary
			Establish an offence of being in possession or control of false identity documents Establish offences for any person involved in the administration of the scheme to disclose information without authorisation or for criminal proceedings and of making false entries on the National Identity Register
3	Identity Cards	Paragraph 3 ...(ii) proceeding towards more secure passports and driving licences based on biometric technology – with personalised, specific identifiers; (iii) for those who do not need a passport or driving licence and choose to take it up, making available a voluntary plain identity card... (iv) introducing mandatory biometric identity documents for foreign nationals coming to stay in the UK for longer than 3 months. Paragraph 16 ...(ii) linking more secure passports and perhaps eventually driving licences to the scheme on a compulsory basis... Paragraphs 18-22 discuss the charging structure for cards.	Establish the legal basis for the plain card Establish powers for the Home Secretary to designate existing documents as acceptable forms of identity card and to designate organisations to be card issuers Establish powers to set fees for cards and to charge on a discretionary basis for access to the Register Establish powers to set validity periods for cards and entries on the Register Establish powers to specify application processes for cards Power to allow for a person to have multiple registrations eg for witness protection purposes Powers governing revocation and surrender of a card Powers to specify the format of

Ref	Subject Heading	Next Steps Reference	Summary
			identity cards including what is displayed on the face of the card and what is encoded.
4	Data sharing powers	Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme..... before an entry is confirmed, it will be checked against other databases such as passports, driving licences and immigration records.	Powers for card issuing organisations to access data collected for other purposes and held by other agencies in order to process applications for cards ie to perform 'historical footprint' checks. Powers to ensure lawful exchange of information between the National Identity Register and information held by card issuing organisations.
5	Disclosure of National Identity Register information to police, Security Service etc	Paragraph 25 The police and other organisations will not have routine access to data stored on the National Identity Register. However there are strong arguments for giving them such access to help fight serious crime and terrorism. Such access will be set out in statute and there will be independent oversight of the arrangements as there is at the present time.	Powers for law enforcement and security agencies to access the Register without consent in specified circumstances Powers to ensure that there is independent oversight of the disclosure arrangements and independent investigation of complaints.
6	Access to Services	Paragraphs 1 & 2 ...we face growing threats to the security and prosperity of British citizens from...fraudulent access to public services...The Government has decided to begin the process of introducing a national identity cards scheme as a key part of a comprehensive strategy to contain these threats and ensure more reliable means of authenticating people's identity. Paragraph 3	Power to allow an organisation to make regulations on access to its services where none currently exists so that requirements to produce an identity card can be on a statutory basis.

ANNEX B – PROVISIONS IN THE DRAFT BILL

The following table lists the main provisions in the draft Bill, relates them to the statements made in Identity Cards: The Next Steps and summarises the provisions.

Ref	Subject Heading	Next Steps Reference	Summary
1	National Identity Register	Paragraph 3 ...we will publish draft legislation... This will include: (i) establishing a National Identity Register; Paragraph 15 A National Identity Register of basic personal information will be created as part of the scheme. It will be built from scratch as people are issued with identity cards and not rely solely on other sources of data which may have historical or other errors Paragraph 23 Only Parliament would be able to change the statutory purposes of the scheme or The information which could be held by the scheme. Paragraph 24 Data held on the National Identity Register will be basic identity information – such as name, address, date of birth, gender, immigration status and a confirmed biometric – and this will be set out in statute.	Define the statutory purposes of the Register Power to initiate and specify the process of registration Maintenance of the Register Establishing a National Identity Registration Number Information content of the Register and rules for amending or adding content
2	Criminal Offences and Civil Sanctions	No reference, see paragraphs 5-7 of this letter and Annex A.	Establish criminal offences relating to fraudulent applications for and use of a card

Ref	Subject Heading	Next Steps Reference	Summary
		...If the conditions were right...could then be followed by a move to a compulsory card scheme in which it would be compulsory...to produce a card to access public services in ways defined by those services. Paragraph 6 ...It will help people prove their identity to access services... Paragraph 9 Across public services there are already many situations in which statutory services require an individual to produce proof of identity,...An identity card which was a recognised Government-confirmed proof of identity, would mean that an individual would not need to provide many different cards or pieces of paper, and would combat impersonation and identity fraud... A card would not be mandatory for verification of entitlement to services in the voluntary phase until the appropriate further Parliamentary decision on a move to compulsion. Paragraph 23 The legislation will allow the cards scheme to be used by any service – public or private – to establish identity with the consent of the card-holder, but with strict limits on the information available.	
7	Compulsion	Paragraph 3 ...If the conditions were right, this first stage phased roll-out could then be followed by a move to a compulsory card scheme in which it would be compulsory to have a card – though not to carry one... The	Power to set a date by affirmative order by which it would become compulsory to register and obtain a card Establish a general civil financial

Ref	Subject Heading	Next Steps Reference	Summary
		move to compulsion would require full debate and a vote in both houses of Parliament. Paragraph 17 ...While if we proceeded to stage two of our proposals, it would eventually become compulsory for everyone to have an identity card, it would not be compulsory to carry an identity card.	penalty for failing to register which would only be enacted should the compulsory power be invoked
8	Territorial and consequential amendments	Paragraph 3 ...In the case of those services for which the devolved administrations have responsibility, decisions on production of a card to access those services would be a matter for them.	To set out which parts of the Act apply in the devolved areas To set out any consequential amendments to other legislation eg Road Traffic Acts

There are other provisions which could be highly beneficial in combating identity fraud which are not strictly required for the identity cards scheme. For example:

(i) legislating for some data sharing gateways in advance of the introduction of the scheme, for example between DVLA and the UK Passport Service to counter identity fraud in the shorter term and to allow FCO to issue passports abroad with the same standard of background identity checks as UKPS;

(ii) giving UKPS and DVLA prosecution powers which was a recommendation of the Cabinet Office identity fraud study. The agencies are currently considering whether this is necessary and will seek approval of Ministers separately if they conclude that there is a case for such powers.

I do not propose to include these in the draft Bill but would like to return to them when the substantive Bill is introduced.

10 DOWNING STREET
LONDON SW1A 2AA
020 7930 4433

23 December 2003

Dear Jonathan,

ID CARDS: EU ANGLE

Following the decision to go ahead with a UK ID card, I consulted the Prime Minister on the EU implications of progressing with such a scheme.

It is clear that the Commission's long-term and sensible aim is a common security format for *all* EU ID documents (Passports, Visas, Residence Permits and even Member States' Identity Cards), including common biometrics identifiers. Alongside this, the EU is slowly developing a family of entitlement documents: notably the EU health card and the EU driving licence. The Prime Minister considers that it is in the UK's interests to be fully involved in the development of these proposals, and to ensure that they are of benefit to our citizens as they travel around the EU and access their Treaty entitlements. In particular, the Prime Minister believes:

(a) The UK's ID card scheme should be developed in a way which is compatible with similar schemes in other Member States, and with the technical standards being developed at EU level. We should aim to lead the development of EU standards on biometrics, and the databases which underpin these. The Prime Minister hopes the Home Office and DTI will continue their work together to deliver this.

(b) In the longer-term, the Commission and other Member States should continue to develop their thinking around a common ID/entitlement card scheme in a way which does not preclude the UK from participating. Given that others are likely to push this idea, we should try to lead discussion rather than follow in their wake. Our objective should be to ensure that any such scheme is, in the first instance, purely voluntary. Home Office and DTI experts might undertake an initial scoping study to consider the pros and cons of an EU-wide scheme which established a EU ID/Entitlement card, or family of cards, linked to national population

databases. If this proved to be a worthwhile project, we might consider tasking the Commission with undertaking an in-depth feasibility study. This might then be an issue to take forward under the UK Presidency in 2005.

I would be happy to discuss. I should like to be able to report back on these points to the Prime Minister by the end of March 2004.

I am copying this letter to the Private Secretaries of the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Secretary of State for Trade and Industry and to John Grant (UKRep) and William Perrin and Kate Gross here.

Yours ever,

Stephen

J S WALL

Jonathan Sedgwick
Home Office

File

10 DOWNING STREET

[illegible]

PM

There are obvious attractions in principle to the idea of an EU-wide ID card. But there is a real danger that the Euro-sceptics would seize on the issue in a way that would greatly complicate our ability to secure consensus for our planned national scheme. It would be safer to explore this on a G8 / OECD track as well as an EU track; 2

10 DOWNING STREET

also be focus on issues like standardised biometrics rather than the development of a card per se.

9.

From Stephen Wall
Date: 19 December 2003

PRIME MINISTER

cc: Sally Morgan
David Hill
Ivan Rogers
Geoff Mulgan
Pat McFadden
Justin Russell
William Perrin
Sir Andrew Turnbull
John Grant (UKRep)
Katrina Williams (CO)

AN EU ID CARD

On the back of the decision to go ahead with a UK ID card, we have been considering the possible benefits of an EU-wide ID card scheme. This note suggests we commission further work with a view to making this a UK Presidency issue.

Present situation

The **UK ID card** will on current plans be issued in 2007, achieving full population coverage by about 2012. It will have a chip containing basic information, and authorities using the system will be able to access a population database with eg health, driving licence and criminal records. The biometric trials are already underway.

In parallel, we are edging towards a family of **EU identity/entitlement documents**, via the new EU health card (which will replace the E111 from 2004); an EU driving licence (attached to an EU-wide database which will record driving offences and disqualifications); and common format

passports and visas, including biometrics. Without a strategic plan, we risk creating a series of separate entitlement documents which are not interoperable.

The Commission has so far steered away from proposing a single EU ID card (in part because of UK resistance to e.g. an EU passport bearing the EU flag). But their long-term (sensible) aim is a common security format for *all* ID documents, including a standard biometric identifier. Current proposals for standard format visas and residence permits, which include biometrics, are paving the way.

The draft Constitutional Treaty would give the EU competence to harmonise ID cards and passports (by unanimity) for the first time. **We can expect the Commission to bring forward a proposal for a standard ID card format, including a biometric, in the next few years.** At least initially, this will probably be voluntary rather than compulsory, and allow Member States without ID cards (Ireland, Denmark, and many of the Accession states) to opt out.

A single card, which every EU citizen could use to prove their identity, access Treaty rights, and travel around the EU would be of **real value** both for the individual, facilitating free movement and the internal market, and for law enforcement/security purposes. The key to delivering the benefits would be a series of **interoperable national databases**, which could be accessed by electronic data in a card, or family of cards.

Different service providers/law enforcement agencies in Member States could access different 'levels' of data from such a system of databases. So hospitals could access health records, and police could access some or all

criminal records. The UK police could, for example, have much greater access to a British National's criminal record, than, say, the Greek Police, who might only be able to access driving disqualifications.

The technology to deliver such a vast, EU-wide system is untested and would be a heady cocktail blending EU bureaucracy with the complexity of biometrics and databases on an unprecedented scale. Implementing the system would be difficult. An EU-wide ID card would be domestically contentious, particularly with Eurosceptics and the civil liberties lobby.

Conclusions

It seems inconceivable that in 10 years time, the expanded EU, with complete free movement rights for all its citizens, and only minimal internal border checks, will not have some common internal control mechanisms. The Schengenites are already moving towards more and more complex EU-wide identity databases. By limiting these databases to criminals and third country nationals, we fail to harness any of the potential benefits for our citizens.

An EU-wide ID card would enhance security, and enable all EEA Citizens to travel without passports and access their Treaty entitlements easily and effectively. It is a sensible medium-term goal. Others are bound to push the idea. It would be good if we could lead, rather than follow reluctantly in their wake.

The Home Secretary is sympathetic in principle to the law enforcement and immigration benefits such a system might offer, but has not been consulted in detail.

Next steps

We must ensure as a **first step** that the UK system is compatible with those in other EU Member States. We must lead the development of EU standards on biometrics (which will be compatible with international/US standards) and databases, rather than simply apply what other Member States have designed. HO and the technical experts at DTI and the Security Agencies should be charged to work on this.

We should also under-take some **longer-term** work to establish whether an EU-wide ID card might be feasible. We could ask the Home Office, FCO and DTI to work on this, and consider whether to task the Commission to undertake a feasibility study for an EU-wide system, reporting back just before or during our Presidency. If the feasibility study was a success, we might then take this forward as one of our Presidency priorities.

The politics of this obviously need careful consideration. If you **agree** that we should do some more work on it, I will minute out to Departments accordingly.

Yes. But is sensible. But (a) an EU card should be compatible; & (b) a voluntary EU card seems sensible.

STEPHEN WALL

From Stephen Wall
Date: 19 December 2003

PRIME MINISTER

cc: Sally Morgan
David Hill
Ivan Rogers
Geoff Mulgan
Pat McFadden
Justin Russell
William Perrin
Sir Andrew Turnbull
John Grant (UKRep)
Katrina Williams (CO)

AN EU ID CARD

On the back of the decision to go ahead with a UK ID card, we have been considering the possible benefits of an EU-wide ID card scheme. This note suggests we commission further work with a view to making this a UK Presidency issue.

Present situation

The **UK ID card** will on current plans be issued in 2007, achieving full population coverage by about 2012. It will have a chip containing basic information, and authorities using the system will be able to access a population database with eg health, driving licence and criminal records. The biometric trials are already underway.

In parallel, we are edging towards a family of **EU identity/entitlement documents**, via the new EU health card (which will replace the E111 from 2004); an EU driving licence (attached to an EU-wide database which will record driving offences and disqualifications); and common format

passports and visas, including biometrics. Without a strategic plan, we risk creating a series of separate entitlement documents which are not interoperable.

The Commission has so far steered away from proposing a single EU ID card (in part because of UK resistance to e.g. an EU passport bearing the EU flag). But their long-term (sensible) aim is a common security format for *all* ID documents, including a standard biometric identifier. Current proposals for standard format visas and residence permits, which include biometrics, are paving the way.

The draft Constitutional Treaty would give the EU competence to harmonise ID cards and passports (by unanimity) for the first time. **We can expect the Commission to bring forward a proposal for a standard ID card format, including a biometric, in the next few years.** At least initially, this will probably be voluntary rather than compulsory, and allow Member States without ID cards (Ireland, Denmark, and many of the Accession states) to opt out.

A single card, which every EU citizen could use to prove their identity, access Treaty rights, and travel around the EU would be of **real value** both for the individual, facilitating free movement and the internal market, and for law enforcement/security purposes. The key to delivering the benefits would be a series of **interoperable national databases**, which could be accessed by electronic data in a card, or family of cards.

Different service providers/law enforcement agencies in Member States could access different 'levels' of data from such a system of databases. So hospitals could access health records, and police could access some or all

criminal records. The UK police could, for example, have much greater access to a British National's criminal record, than, say, the Greek Police, who might only be able to access driving disqualifications.

The technology to deliver such a vast, EU-wide system is untested and would be a heady cocktail blending EU bureaucracy with the complexity of biometrics and databases on an unprecedented scale. Implementing the system would be difficult. An EU-wide ID card would be domestically contentious, particularly with Eurosceptics and the civil liberties lobby.

Conclusions

It seems inconceivable that in 10 years time, the expanded EU, with complete free movement rights for all its citizens, and only minimal internal border checks, will not have some common internal control mechanisms. The Schengenites are already moving towards more and more complex EU-wide identity databases. By limiting these databases to criminals and third country nationals, we fail to harness any of the potential benefits for our citizens.

An EU-wide ID card would enhance security, and enable all EEA Citizens to travel without passports and access their Treaty entitlements easily and effectively. It is a sensible medium-term goal. Others are bound to push the idea. It would be good if we could lead, rather than follow reluctantly in their wake.

The Home Secretary is sympathetic in principle to the law enforcement and immigration benefits such a system might offer, but has not been consulted in detail.

Next steps

We must ensure as a **first step** that the UK system is compatible with those in other EU Member States. We must lead the development of EU standards on biometrics (which will be compatible with international/US standards) and databases, rather than simply apply what other Member States have designed. HO and the technical experts at DTI and the Security Agencies should be charged to work on this.

We should also under-take some **longer-term** work to establish whether an EU-wide ID card might be feasible. We could ask the Home Office, FCO and DTI to work on this, and consider whether to task the Commission to undertake a feasibility study for an EU-wide system, reporting back just before or during our Presidency. If the feasibility study was a success, we might then take this forward as one of our Presidency priorities.

The politics of this obviously need careful consideration. If you **agree** that we should do some more work on it, I will minute out to Departments accordingly.

STEPHEN WALL

RESTRICTED

Foreign & Commonwealth Office

17 February 2004

London SW1A 2AH

Dear Jonathan,

UK participation in discussions on EU ID documents

I have seen Sir Stephen Wall's letter of 23 December to you about participation of the UK in EU discussions on ID documents.

The FCO is supportive of the UK's full and active participation in the discussions on biometric identifiers in EU ID documents. The Foreign Secretary has stressed that in particular a UK ID card scheme must be compatible with EU legislation and with the technical standards being developed by the EU for ID documents. This is essential not only because of EU policy considerations but also for financial reasons.

We welcome the UK opt-in to the negotiations on biometric identifiers in visa and residence permits. We should decide quickly on our opt-in to biometrics in passports once the European Commission have tabled their proposal. UK involvement at an early stage gives us the opportunity to influence the substance of the measures and puts us in a better position for further initiatives in that or related areas.

As regards a common EU ID card scheme, we support the idea of an initial scoping study, although we want to reserve judgement on whether this might be an issue for the UK Presidency in 2005. This would certainly depend on the outcome of the study and on timing and circumstances (e.g. progress made with the planned UK ID card scheme and developments on related proposals at EU level) and other wider political considerations.

As the Foreign Secretary said in his minute of 16 December 2003 to the Home Secretary, particular attention must be paid to the financial implications of all the relevant current and future proposals. I understand the Home Office is to discuss this further with the Treasury. At risk of repeating a familiar mantra, I should say that there are no FCO resources with which to contribute to the funding of biometrics and related initiatives.

RESTRICTED

I am copying this letter to Sir Stephen Wall, John Grant (UKRep), Mark Bowen (Treasury), Matthew Hilton (DTI), William Perrin and Kate Gross (No10).

Yours ever,

Jonathan

(Jonathan Sinclair)
Private Secretary

Jonathan Sedgwick Esq
Home Office

0207 273 3400

COVERING RESTRICTED POLICY

1. cc. William Rees
2. B/F for Kate Gross in the New Year.

EM. 8/12

Home Office

Community Group
Identity Cards Policy Unit
3rd Floor, Allington Towers, 19 Allington Street, London SW1E 5EB
Facsimile 0207 035 5386 Direct Line 0207 035 5379
E-mail Ben.Morgan@homeoffice.gsi.gov.uk

FAX

To: Russell Pullen
Robert Ward
Jane Messer
Jane McIvor
Jonathan Brewer
Simon Thomas
Sheila Crennell
Tony Walker
Emily Miles
Maria Markos

CC JR
CS
JJSH

From: Ben Morgan

Date: 4 December 2003

Fax number: various

Number of pages: 12
(including this one)

If any part of this fax is unclear please telephone: 0207 035 5379

No action taken
EM 8/12

Dear Colleagues,

I attach a submission on access to the national identity register, which will be set up by the forthcoming Identity Cards Bill.

We anticipate calling a meeting of the Borders and Security Working Group, probably early in the new year although potentially sooner, to explore the issues raised in this submission in more detail with a view to informing the drafting of parts of the Bill, and identify any work which you may wish to feed into on the wider Identity Cards Programme. We will contact you and other group members in due course to agree a date.

Best Regards,

Ben Morgan
Identity Cards Policy Unit

RESTRICTED POLICY
DRAFT

Cc: See list at end

From: Ben Morgan
Identity Cards Policy Unit
3rd Floor
Allington Towers
☎ 0207 035 5379
✉ mailto: Ben.Morgan@homeoffice.gsi.gov.uk

4 December 2003

Beverley Hughes

National Identity Register: Access without Consent for Investigatory Purposes

Issue

You asked for further advice on the likely investigatory capabilities to which national identity register data could be put if supplied to investigatory agencies by the Home Secretary in the forthcoming Bill on identity cards as announced in principle by the Home Secretary on 11 November.

Timing

2. Pressing. We will need to resolve underlying policy considerations around this potential clause before Christmas to allow time for drafting instructions to be worked up, agreed with you, and sent to Parliamentary Counsel for inclusion in the published Bill.

Recommendation/Summary

3. That you consider the further information set out in this submission and agree:

- that the Home Secretary may supply data from the national identity register to the following organisations for the capabilities outlined in the table attached at Annex A:

- the **Director General of the Security Service** for its statutory purposes:
  - protection of national security in particular against threats from espionage, terrorism and sabotage, from the activities of agents of foreign powers, and from actions intended to overthrow or undermine parliamentary democracy by political industrial or violent means,
  - safeguarding the economic well-being of the UK against threats posed by the actions or intentions of persons outside the British Islands and
  - to act in support of police forces or other law enforcement agencies in the prevention or detection of serious crime;

- the **Chief of the Secret Intelligence Service** for its statutory purposes
  - to obtain and provide information and perform other tasks relating to the actions or intentions of persons outside the British Islands either (a) in the interests of national security with particular reference to the

United Kingdom Governments defence and foreign policies or (b) in the economic well-being of the United Kingdom or (c) in support of the prevention or detection of serious crime);

- the **Director General of GCHQ** for its statutory purposes
  - to monitor or interfere with electromagnetic, acoustic and other emissions and any equipment producing such emissions and to obtain and provide information derived from or related to such emissions or equipment and from encrypted material; and to provide advice and assistance about languages, including terminology used for technical matters, and cryptography and other matters relating to the protection of information and other material, to the armed forces of the Crown, to Her Majesty's Government in the United Kingdom or to a Northern Ireland Department or to any other organisation which is determined for the purposes of this section in such manner as may be specified by the Prime Minister. The functions referred to in subsection (1)(a) above shall be exercisable only (a) in the interests of national security, with particular reference to the defence and foreign policies of Her Majesty's Government in the United Kingdom; or
    (b) in the interests of the economic well-being of the United Kingdom in relation to the actions or intentions of persons outside the British Islands; or
    (c) in support of the prevention or detection of serious crime

  - A **Chief Officer of Police** for the prevention detection of serious crime (in relation to data-mining, watch-list and audit trails) and a **general police power to check a biometric** against the national identity register from a person arrested for a recordable offence for the purpose of identifying them;

  - the **Director General of the National Criminal Intelligence Service**, for use for NCIS purposes:
    - to gather, store and analyse information in order to provide criminal intelligence; to provide criminal intelligence to police forces in Great Britain, the Police Service of Northern Ireland, the National Crime Squad and other law enforcement agencies, and to act in support of such police forces, the Police Service of Northern Ireland, the National Crime Squad and other law enforcement agencies carrying out their criminal intelligence activities);

  - the **Director General of the National Crime Squad**, for use for NCS purposes (prevent and detect serious crime which is of relevance to more than one police area in England and Wales); and

  - the **Commissioners of Customs and Excise** for the prevention or detection of serious crime; and

- to include in the Bill a **power to extend the above list by Order**, for example to take account of organisational changes or include emergency services so that they can use data in matters of life or death). Access by the Immigration Service (to identify arrested persons via a biometric and view an audit trail of an ID card in connection with immigration enforcement) would be covered automatically if, as suggested, the Home Secretary owned the data.

- that, subject to development of an oversight regime, the Police Act 1997 definition of serious crime should be applied for access to the national identity register for more intrusive forms of investigative capability (data-mining, placing identity card use under surveillance, accessing audit trail information relating to the use of an identity card);

- to undertake further work at some point in the future to evaluate how access to the national identity register for emergency services (other than the police) may be helpful in matters of life or death; and

- to consider holding a further meeting with officials to discuss the drafting instructions on this area of the Bill before they are finalised.

Consideration

4. My advice of 21 October and Stephen Harrison's summary of 3 November set out the basis on which access without an individual's consent to identity data for investigatory purposes might be based.

5. You subsequently met with Stephen Harrison, Nicky Roche, Clive Osborne and myself to discuss these proposals. As a result of this meeting you asked for further information on:
   - thresholds relating to the levels of intrusion into identity data (please see attached table at Annex A);
   - the statutory purposes of the organisations to whom identity data is proposed to be supplied (summarised above);
   - the proposed process for establishing the identity of persons arrested for a recordable offence using the national identity register (see Annex A); and
   - how proposals for access to identity data relate to existing investigatory powers available to the police, intelligence agencies and other bodies to whom identity data is proposed to be supplied.

Definition of Serious Crime

6. You asked also for more information to clarify the threshold for serious crime currently set out in RIPA and the Police Act 1997 which we have proposed also be applied to ID card surveillance, data-mining and audit trail access. This sets out that serious crime is "crime that satisfies the test that:

   (a)the offence or one of the offences that is or would be constituted by the conduct is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or

   (b) that the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose".

Proportionality of Serious Crime Threshold

7. To give an indication of the proportion of crimes and criminals that this definition captures, between 1996 and 2001 an average of 51,655 men over the age of 21 received immediate custodial sentences each year. Of these, an average of 4,804 men each year received sentences of 4 or more years (excluding lifers) over the same period. These figures include first time offenders as well as reoffenders. Regarding ethnicity in 2001 23,897 men were in prison serving sentences of 4 or more years, of this 77% were White 16% were Black 3% were Asian 5% were of other ethnicity or not known.

8. In 2002/3 17% of police recorded crime was violent or me; 2% were drugs offences and 7% all other crimes, including fraud (these categories account for 26% of all crime). It is less than straightforward to relate these statistics directly to the proposed test. However, data on usage of powers to which the serious crime threshold is currently applied can help illustrate its proportionality.

Interception of Communications Warrants issued by Secretary of State

9. This power is often helpful in very complex crimes involving conspiracy (e.g. drugs/fraud) or in very serious cases such as murder. **In the calendar year 2001 (most recent year for which statistics published) the Home Secretary approved 1314 interception warrants**, and a further 1788 modifications of them were also made (to change which telephone numbers/email addresses targeted by the warrant). No statistics are published on the number of these that were serious crime interception warrants alone.

Intrusive Surveillance Warrants issued by Secretary of State

10. Intrusive surveillance is that which is carried out in relation to anything taking place on any residential premises or in any private vehicle, and involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device. **475 authorisations of this type were made in 2002/3. This figure does not include intelligence agency use of intrusive surveillance which is overseen by the Intelligence Services Commissioner and is not published.** (source report of the Chief Surveillance Commissioner for 2002/3)

RIPA Telecoms Data

11. No official statistics on the use of communications data will become available until the RIPA regime regulating its use becomes firmly established. However, research for the RIPA consultation showed that there are probably **about 500,000 requests each year for telecommunications data** under the Data Protection Act exemptions for serious crime and/or national security. Around 95% of requests come from the Police, HM Customs and Excise or the Security and Intelligence Agencies. Between **90-95% are requests for subscriber information** (i.e. who is this or that telephone number registered to?). Between **3-5% are for billing data, whilst less than 1% are for traffic data** (i.e. where is this mobile phone now and where has it been?).

12. It is therefore likely that the vast majority of less serious crimes will be outside the scope of this test, in so far as data-mining of the identity register, addition of names to an identity card watchlist or the accessing of historical use data of a card are applied.

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Emergency Services Access to Identity Data

13. Under RIPA, Emergency Services can access some types of mobile phone data, for example to locate a person who has made a 999 call, or to find out to whom a telephone number is registered in case it is helpful for their work. We have proposed that, subject to work to evaluate demand for such access, some access to the National Identity Register is made available to emergency services to assist in matters of life and death. For example, it may be beneficial to Emergency Services to be able to identify an accident victim using biometric information if no other identifying information is available. Once identified, it would be possible to more easily identify next of kin, or obtain medical records for the victim. It is suggested that the Order making powers should be used to add these at some point in the future once this work has been conducted and agreed with Ministers.

Data Sharing Between Governments

13. The Home Secretary has ruled out giving direct access to the National Identity Register to Foreign Governments. However, Law Enforcement Agencies and Security and Intelligence Agencies regularly exchange information about suspects in criminal cases and, as applicable, information for intelligence agency statutory purposes, for example about suspected terrorists. It is anticipated that data from the national identity register would be used for these existing statutory purposes.

Handling

14. Nothing further at this stage. We have noted significant media and some Parliamentary interest in the possible extent of Police access to identity information following the announcement of the scheme on 11 November. We will continue to monitor this and prepare briefing on these issues as necessary, for example for the Home Affairs Select Committee enquiry into identity cards.

Race Equality Impact

15. The regulation would be drafted in a non discriminatory way The proposal for a Commissioner to oversee the access made to the database (probably the Surveillance Commissioner and the Intelligence Services Commissioner who have not yet been approached), would provide reassurance that the legal powers were also used in a non discriminatory way.

Ben Morgan
Identity Cards Policy Unit

Cc Home Secretary
John Gieve
Leigh Lewis
Nicky Roche
Katherine Courtney
Bob Whalley

0207 273 3400

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Peter Storr
Stephen Harrison
Robin Woodland
Clive Osborne
Elizabeth Melia
Eric Downham
Ian Smith
Helen Bayne
Catherine Bryne
Jim Acton
Don Ingham
Simon Watkin
Andy Tester
David Payne
Jim Nicholson
Alistair Clyde
Nick Fussell
Huw Evans
Matt Cavanagh

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ANNEX A

NATIONAL IDENTITY REGISTER: ACCESS WITHOUT CONSENT TO NATIONAL IDENTITY REGITER

DRAFT PROPOSALS

PROPOSED CAPABILITY	WHO WOULD ACCESS?	FEASIBILITY	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Checking fingerprints left at scenes of crime against national identity register, if no match found on existing fingerprint or scenes of crime database	• Police • We will need to check the legal position of Scottish and Northern Ireland Police with LAB • May need consequential amendment to Police and Criminal Evidence Act 1994	• Unsure. Will need to conduct feasibility study as identity cards programme develops • **[NB will depend on whether fingerprints used in ID card scheme this not yet decided]**	• Protection of National Security • Prevention/Detection of Crime (a crime scene could contain the prints of a person wanted for a more serious crime, making it important not to set a serious crime threshold for this capability)

PROPOSED CAPABILITY	WHO WOULD ACCESS?	FEASIBILITY	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Identifying individuals via biometric e.g. coma victims so that their next of kin can be	• Likely to be emergency services or authorised medical practitioners	• Would need to evaluate demand for this as part of wider feasibility study	• Emergency Services Purposes/Matters of Life and Death • It is most likely that we would not specify this on the face of

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0207 273 3400

identified and contacted			the bill but leave it as an option for later.

PROPOSED CAPABILITY	WHO WOULD ACCESS?	FEASIBILITY OF ID CARDS SCHEME TO DELIVER THIS	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Check Biometric of Arrestee and access database (where no match is obtained against existing police/Immigration Service records) in a limited way to identify that person by obtaining basic data on them necessary for identification e.g. address, place of birth, date of birth	• Police (including others with powers of arrest e.g. British Transport Police, UKAEA Police, Immigration Officers and HMCE officers with arrest powers) • Does not extend police powers. Section 8 (fingerprints) of Criminal Justice Act 2003 will give (once commenced) all police constables power to take fingerprint on arrest for any recordable offence.	• Essentially feasible and within current programme estimations on basis that online biometric checks are planned. • Feasibility would need to be assessed in more detail subject to cost and programme development.	• Prevention and Detection of Crime • No serious crime threshold should be applied as person could be arrested for minor offence who is in fact wanted for more serious offence • E.g. Metropolitan Police Service (MPS) arrest approximately 800 people each day and currently 44,000 people are wanted by MPS, many for serious offences

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0207 273 3400

PROPOSED CAPABILITY	WHO WOULD ACCESS?	FEASIBILITY OF ID CARDS SCHEME TO DELIVER THIS	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Data Mining (searching national identity register for additional information on, or additional names of persons who may be connected to wanted criminals or terrorist targets)	• Intelligence Agencies – Security Service, SIS and GCHQ for serious crime, national security and economic well being • Police, Customs, NCIS, NCS for prevention/detection of serious crime	• Assumed to be feasible. Early consultation with specified user groups would be necessary to define search criteria and specify desired data-mining functionality during the design and development of the national identity register	• Protection of National Security • To safeguard the economic well-being of the UK • To prevent or detect serious crime using Police Act 1997 definition currently applied to interception, property interference

PROPOSED CAPABILITY	WHO WOULD ACCESS?	FEASIBILITY OF ID CARDS SCHEME TO DELIVER THIS	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Data-Sharing between UK and agencies of other countries	• Intelligence Agencies as part of existing powers to share intelligence with allies • Police as part of wider existing powers to share information with foreign investigators on prevention/detection of crime	• Assumed to be feasible; would use current channels for information sharing based on existing statutory purposes	• Home Secretary has ruled out providing direct access to national identity register to other countries. • Limited information exchange may occur for existing statutory purposes (prevention/detection of crime and intelligence

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0207 273 3400

			exchange)

PROPOSED POWER	WHO WOULD ACCESS?	FEASIBILITY OF ID CARDS SCHEME TO DELIVER THIS	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Access to audit Trail of ID data	• Intelligence Agencies – Security Service, SIS and GCHQ • Police, Customs, NCIS, NCS	• May be feasible • National Identity Register will capture a log of checks against the database • But – level of granularity of data not yet clear (e.g. it is not clear if every hospital or service checking against the database will be recorded, or if it will simply be recorded as a check by 'the NHS'). • This will become clearer as system design work progresses	• Protection of National Security • To safeguard the economic well-being of the UK • To prevent or detect serious crime using the Police Act 1997 definition currently applied to interception, property interference

PROPOSED POWER	WHO WOULD ACCESS?	FEASIBILITY OF ID CARDS SCHEME TO DELIVER THIS	THRESHOLD(S) FOR USE BASED ON STATUTORY PURPOSES OF USERS
Conduct active surveillance of ID card use by an individual	• Intelligence Agencies – Security Service, SIS and GCHQ for serious crime, national security and economic well being • Police, Customs, NCIS, NCS	• Some way off. Most card readers are likely to be off line so no real time audit trail is captured. • We would therefore need to consider with agencies the feasibility, cost/benefit	• Protection of National Security • To safeguard the economic well-being of the UK • To prevent or detect serious

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0207 273 3400

	for prevention/detection of serious crime	effectiveness, and desirability of creating bespoke audit trails at points of security importance (e.g. use of ID card to check in at port or airport). • It will not be until the E-borders programme run by the UK Immigration Service is fully developed that electronic data on people entering/leaving the country becomes fully available.	crime using RIPA/Police Act 1997 definition currently applied to interception, property interference

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0207 273 3400

1 – Matrix LOR
2. file.

FROM: ROBIN FELLGETT
TEL: 276 0189
DATE: 3 DECEMBER 2003

PAUL BRITTON

c. PS/Andrew Turnbull
Gabrielle Edwards
Jaee Samant
Nicola Smith
Liz Grierson
Paul Anderson
Emily Miles (No 10)

ID CARDS PROJECT BOARD

I attended the first meeting, chaired by John Gieve, yesterday.

We were given a presentation on the project, in largely familiar terms, which is attached. This was led by Katherine Courtney, the Delivery Programme Director, who helpfully seems to be emerging as the lead person albeit with some residual (notably policy and legislation) responsibilities resting with Nicky Roche within the slightly unusual responsibility split Home Office have decided on.

Bill Jeffrey initiated a helpful discussion on the governance of the project after the initial design stage. He pointed out that if ID cards were based on a franchise model this needed to be carefully developed. Further work was agreed. For example, work was needed on what form of agency or body would hold the database and exercise authority over it and access to it.

We were rather pointedly reminded that transport Ministers had not yet decided if DVLA would participate in the project. It was agreed there needed to be a fuller list of this and other difficult issues yet to be resolved. Prompted by John Gieve, Nicky Roche attempted to secure agreement that the board would be the forum for preparing issues to go to the planned Ministerial Committee. I said it would be better to wait and see what committee with what terms of reference the Prime Minister decided to establish before taking any such decision, which was I think accepted.

Home Office are looking for a £11.6 million fund development work in 2004/05. Other departments will have access to this for spending on the project. It was agreed access would only be for incremental spend in addition to development work they had under way and some rules would be needed on access. These are to be settled later.

We had the predictable Treasury point about keeping within existing departmental budgets.

A number of people pointed out that issues remained to be resolved on charging and cross subsidy (for example free plain ID cards for 16 year olds). It was agreed that the Local Government Association could be invited to a meeting of the relevant working group to discuss burdens on local authorities.

I asked about the assumed legislative timetable, which was not spelled out in the papers. It emerged that Home Office are assuming the draft legislation will be published in March or April, be given pre-legislative scrutiny by the Home Affairs Select Committee and perhaps in the Lords and be introduced in the latter part of the Third Session for enactment during the first half of 2005. They hoped for an LP meeting in January to clear the content of the Bill, without further policy clearance.

I explained the legislative timetable was optimistic. On a central scenario, and without prejudice to LP and Cabinet decisions, there was a remote chance of introducing the Bill towards the end of the third Session and a much better chance of introducing it in the fourth. If it were introduced in the fourth, when it would be enacted would then depend on whether there was an early election. These risks needed to be built into the project planning. The policy content of the Bill would need clearance through the relevant policy committee, either the new committee if it were established or DA if not, alongside legislative clearance through LP. The only policy so far collectively agreed were those items agreed at Cabinet.

All this seemed to come as a bit of a surprise to Home Office, and Nicky Roche referred pointedly to preparing decisions in the Board and then submitting them to LP during the rest of the meeting. But I talked afterwards to John Gieve (explaining I had discussed with Andrew) who seemed to accept the position on the basis, which I explained, that we envisaged the Home Secretary putting a complete package of policy proposals to the relevant policy committee rather than singling out any contentious issues for another "Second Reading" DA debate.

We agreed to work towards the necessary OGC gateway zero review around the end of January. Home Office described this as a pre-condition for draft legislation, whereas Cabinet in fact envisaged it being a pre-condition for the whole project but I am not sure there is any great distinction in practice. And to meet again in January beforehand.

ROBIN FELLGETT

Identity Cards Programme

Programme Board Inaugural Meeting

SRO - John Gieve

2 December 2003

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

Background

- Consultation document published in July 2002
- Cabinet agreed on 6th November to proceed by incremental steps towards introduction
- Decision announced in Parliament on 11 November 2003
- Publication of 'Identity Cards - The Next Steps'
- Queen's speech on 26 November 2003
- OGC Gateway 0 success required prior to draft legislation

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

Outcomes

- Less illegal migration and illegal working - resulting in better community relations
- Enhanced capability to counter terrorism and serious and organised crime
- Reduced identity fraud
- Speedier, more convenient, access to public services - and services to consumers more widely

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

Programme Governance

External Scrutiny

- OGC Gateway Review Process
- Home Affairs Select Committee Inquiry

Ministerial Committee
(No. 10 to determine)

Programme Board

SRO - John Gieve

Senior Officials from:

- IR
- DWP
- ODPM
- FCO
- UKPS
- IND
- ONS
- DfT

Also Attending:

- HMT
- No. 10
- Cabinet Office

Programme Team

Katherine Courtney - Programme Director
Nicky Roche - Director of Policy
Stephen Harrison - Head of Policy Development
Robert Raine - Programme Manager

Internal Scrutiny

- Group Investment Board (GIB)
- Strategic Delivery Board (SDB)

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

Terms of Reference

- Following the Cabinet decision of 6 November to proceed incrementally with ID Cards, the Programme Board will:
  - Monitor progress and assess risk
  - Approve delivery strategy, plans and budgets
  - Make timely decisions, resolve issues, remove barriers to progress and maintain consensus
  - Identify and commit resources

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Terms of Reference

- Board members also have a remit to act as programme "champions" through:
  - Active and visible participation throughout the programme
  - Communication of key messages to wider audiences
  - Ensuring Departmental Ministers are appraised of the views of the Board
  - Communicating formally and informally with the Programme Directors and Programme Manager on progress, risks and issues

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Terms of Reference

Next Steps:

- Programme Board to sign off the Terms of Reference

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Core Proposition

- Family of ID Cards
  - Passports
  - Drivers Licences
  - Work/Residency Permits for foreign nationals
  - Plain Card
- The scheme enables:
  - Identification
  - Verification
  - Authorisation

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Core Proposition

- Cards to be issued to everyone resident in the UK over the age of 16 and resident for 3 months or more
- National Identity Register database to be created
- Use of biometric data
  - Digital facial recognition
  - Fingerprints
  - Iris

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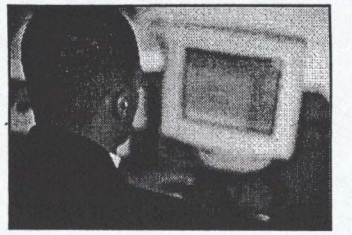
Identification (Registering ID)

Preparing:

- e-application
- Call Centre
- Paper format application form

Type of Applicant:

- new / renewal passport/driving licence applicant
- new / renewal drivers licence applicant
- NINO applicant
- Rising 16 year-old applicant
- Work Permit applicant



Bringing supporting documentation to appointment:

- Proof of Address
- Passport
- Birth Certificate
- Other official documents

Front Office checks application:

- Brief face-to-face interview
- Application details checked
- Supporting documents may be retained for further checks
- Digital photo taken to be printed on the card and held on the database
- Biometric (such as finger or iris scan)

DVLA

UKPS

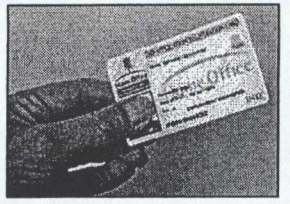
Private Sector

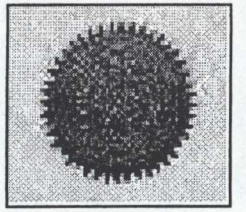
IND

Other

Back Office validates ID:

- Check authenticity of supporting documents
- Cross check with public sector data
- Cross check with private sector data
- Confirm residency / work status with IND





Card produced and following biometric check issued to individual in person

Gold Standard Identity established

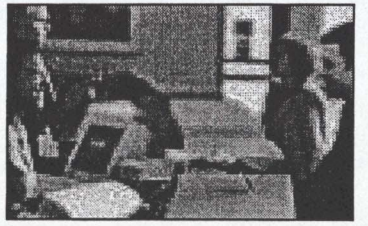
Verification (Checking ID)

Individual presents ID card, for example to:

- Apply for employment
- Register for or collect benefits
- Register with a GP
- Open a bank account

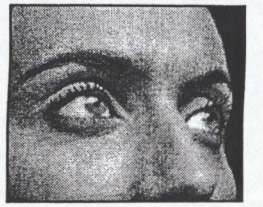
Service Provider/Employer may perform the following checks:

- Visual Check
- Offline Check with card reader and/or biometric reader
- Call Centre check
- Online check with card and/or biometric reader



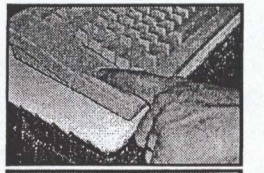
Visual Check

- Does the photo match?
- Does the age seem accurate?
- Does the card look authentic?



Offline Check with Readers

- Does the individual know the PIN?
- Can they answer questions about data held on the chip?
- Does the biometric match?

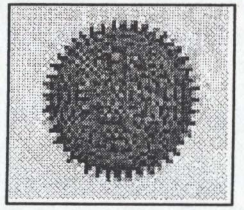


Call Centre Check

- Does the data on the face of the card match a record in the Central ID Register?
- Can the individual answer questions about data in the Central ID Register?

On-Line Check with Readers

- Does the data on the micro chip match a record in the Central ID Register?
- Does the system return a valid verification?



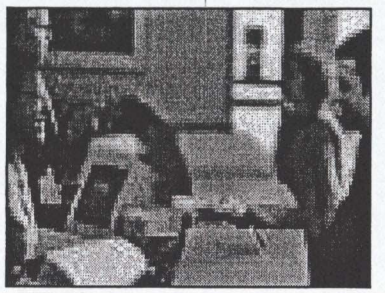
ID verified, residency status and eligibility to work confirmed

Authorisation
(Checking Entitlements)

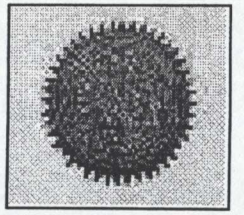
ID Card System

Identification Verified

Service Provider/Accredited User



Service Provider uses ID to check entitlement through own systems and procedures



Entitlement authorised according to Service Provider's policies and procedures

Health Record?

NHS

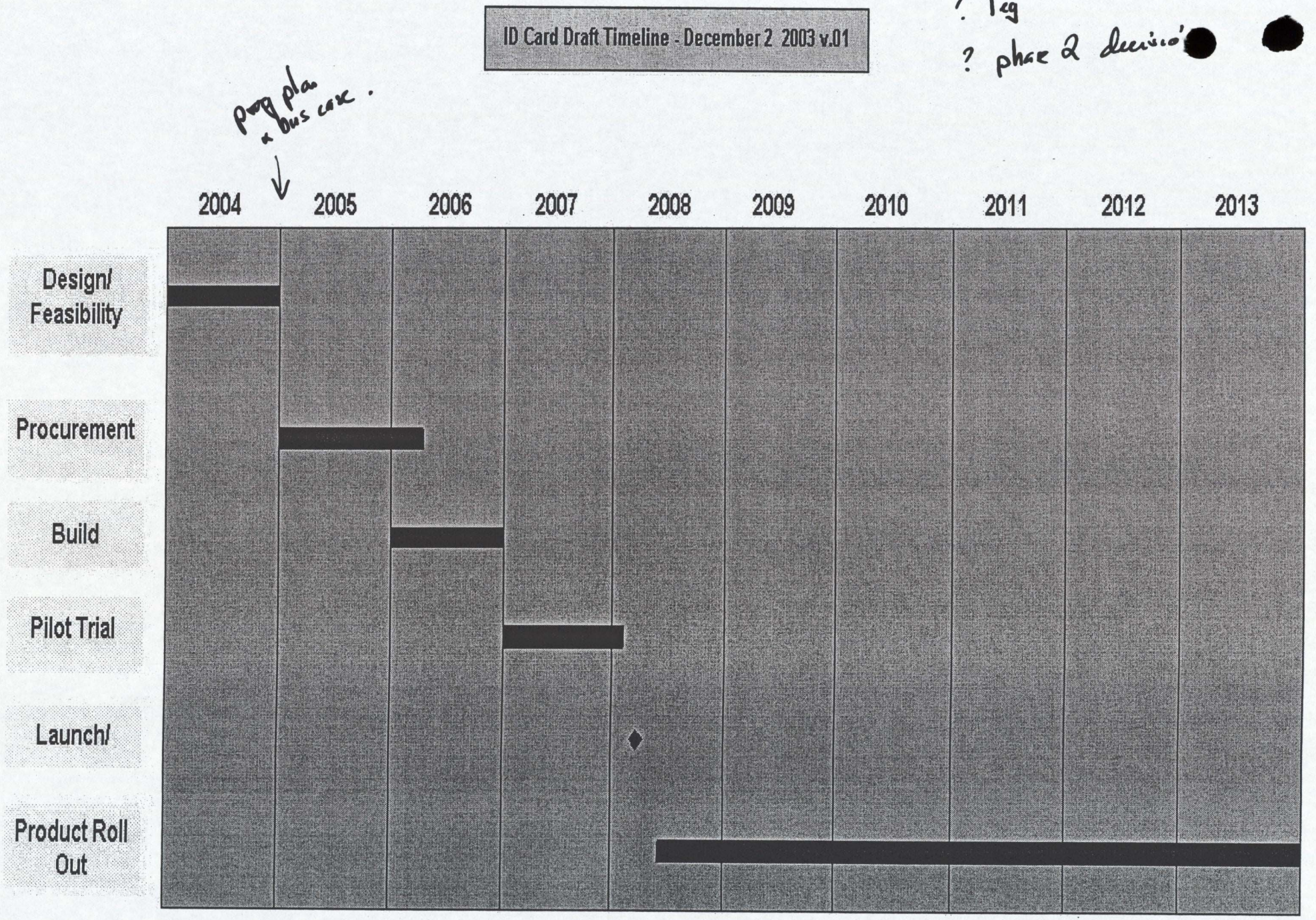
Credit worthy?

BANK

Entitled to State Benefits?

DWP

Eligible for employment?


ID Card Draft Timeline - December 2 2003 v.01
? lag
? phase 2 decision
prog plan & bus case.
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
Design/ Feasibility
Procurement
Build
Pilot Trial
Launch/
Product Roll Out

Programme Overview - Workstreams

- Solution delivery
- Technical design
- Business and commercial case
- Programme Management office
- Policy
- Legislation
- Communications
- Stakeholder management
- Benefits Realisation

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Programme Overview - Working Groups

- Principal User Group

- Current Working Groups:

  Delivery solutions

  Access to services

  Borders and security

  Numbering Schemes

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Programme Overview - Projects

Sub-Projects include:

- UKPS passport biometrics trial
- UKPS Front Office Study

Related projects include:

- ID Fraud Programme
- Citizens Information Project
- IND Case Information Database
- DWP Adult NINO Automation Project

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Programme Overview

Next steps:

- Board sign off on current work plan
- Solution delivery workshops beginning Dec. 4th
- Working Group meetings being arranged
- Workstreams being resourced and progressed

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Resource Planning - Finance

- A draft Strategic Outline Case has been prepared
- Core implementation costs are:

  £184 million in the first 3 years for set-up

  £224 million pa on average for the first 10 years of operation
- Quantifiable benefits to economy/society:

  £495 - £610 million pa
- NPV over 30 years = £1.4 bn

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Resource Planning - Finance 2004-05

A budget of £11.6 million has been estimated to fund the design and feasibility stages of the Programme.

Pay and administration	£1.3 million
Non-pay and running costs	£0.2 million
Programme costs	£10.1 million
TOTAL	**£11.6 Million**

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Resource Planning - Organisation

- Current Programme Team of 20, plus Policy Director
- Recruitment request submitted to add 10 additional staff
- Budget request includes temporary specialist consultancy support in areas such as procurement, security, technology

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Resource Planning

Next steps:

- Programme Board to note resource request for 2004-05
- Recruitment to fill vacant Programme Team posts
- Procurement action to engage specialist consultancy

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Legislation - Draft Legislation Aims

- Create a new criminal offence around misuse of the ID Card and other identity fraud issues
- Set out safeguards to protect an individual's data and allow in cases of serious crime/national security access by law enforcement agencies without consent
- Include enabling powers so that in future entitlement could be linked to presentation of a card
- Provide a power to set a date when cards would become compulsory

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Legislation - Draft Legislation Aims

The draft ID Cards Bill would:

- Establish a central database and data sharing powers for background checks
- Establish powers to designate documents as part of the ID Cards scheme
- Set out the information required on the cards and safeguards concerning access
- Allow public and private bodies to use the card and database to validate a persons identity (with consent)

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Draft Legislative Timetable

- Nov/Dec 2003 - Draft instructions to Parliamentary Counsel
- Jan/Mar 2004 - Parliamentary Counsel prepares draft Bill
- March 2004 - Publication of draft Bill and covering consultation paper
- July 2004 - End of consultation - Finalise Bill and prepare secondary legislation

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Legislation

Next Steps:

- HASC Inquiry
- In consultation with HO Legal Advisers Branch, instructions to be prepared for Parliamentary Counsel
- Progressing key points for legislation with stakeholders and legal advisors, e.g.:
  - Data sharing
  - Data to be held by the scheme

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Risk Strategy - Framework

The framework will address:

- How risks are identified
- How information about their likelihood and potential impact is assessed
- How risks are quantified
- How options to deal with them are identified
- How decisions on risk management are made and by whom

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Risk Strategy - Process

- A series of risk management workshops will identify and assess the risks
- Draft Risk Register has been prepared and will be updated after the workshops
- First workshop with Board Members (proposed for early January)
  - Review risk register
  - Establish risk ownership
  - Assign risk impact ratings

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Risk Strategy

Next steps:

- Programme Board to sign off Risk Strategy
- Programme Board to attend Risk Workshop
- Risk reporting arrangements to be established with:
  - Programme Board
  - HO Group Investment Board
  - HO Programme and Project Management Support Unit
  - OGC Gateway process

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OGC Gateway 0 - June 2003 Assessment

- A preparatory Gateway 0 Review was conducted in June 2003
- 16 recommendations were made
- 12 recommendations have been acted upon
- 1 recommendation was discussed with OGC and an alternative approach agreed

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OGC Gateway 0 - June 2003 Assessment

Outstanding recommendations from June are:

- Ministerial Committee to be established
- Appointment of Professional Client Advisor
- Will CIP be included in ID Cards Bill or is separate legislation preferred?

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OGC Gateway 0 - Current Status

- Gateway 0 success is critical to Programme continuance
- Positive self-assessment conducted
- Gateway 0 Review requested for January 2004
- Areas the Review is likely to focus on:
  - Funding for the next stage
  - Governance and programme direction
  - Stakeholder commitment

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OGC Gateway 0

Next steps:

- Programme Board to agree to proceed Gateway 0 Review stage in January
- Internal health check in January
- Programme Director to present on readiness at next Programme Board meeting
- Programme Team to complete necessary tasks and documentation to ensure a successful Gateway 0 Review

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Le[redacted]llini

From: Justin Russell
Sent: 19 November 2003 15:34
To: Lea Allini; Jonathan Powell
Cc: Jeremy Heywood; Emily Miles; Natalie Acton
Subject: RE: ID Cards programme board

I agreed with Jeremy that it would be me - with William as reserve. I'll let him know

-----Original Message-----
From: Lea Allini
Sent: 19 November 2003 15:01
To: Jonathan Powell
Cc: Jeremy Heywood; Justin Russell; Emily Miles; Natalie Acton
Subject: ID Cards programme board
Importance: High

http://ds11/livelink/livelink.exe/864630/ID_Cards_programme...pdf?func=doc.fetch&nodeid=864630&
864630.864630

Dear all ,
I have just had the HO (Edward Griffin 0207 273 2579) on the phone asking for an urgent nomination for the above board.

Many thanks
Lea

ID cards narrative

Summary

In principle we believe that a national ID card scheme could bring major benefits; in practice a number of issues still need to be resolved. So we intend to proceed by incremental steps, to build a base for a national ID card, with a final decision to proceed to a compulsory card in 5-6 years' time. We will legislate to enable the scheme to be introduced and plan on the basis that all the practical problems can be overcome; but we will reserve the final decision until later this decade.

Detail

The combination of greater global mobility and advancing technology is making it increasingly difficult to protect and authenticate people's identity. As a result, we face growing threats to the security and prosperity of British citizens from identity theft and fraud, illegal migration and working, organised crime and terrorism and the fraudulent access to public services, for example by illegal migrants who have no entitlement to them. That is why biometric passports and eventually driving licences are already being developed here and in Europe and the USA.

The Government has decided to begin the process of introducing a compulsory national identity card scheme as a key part of a comprehensive strategy to contain these threats and ensure more reliable means of authenticating people's identity.

After a constructive and wide-ranging debate, the Government has therefore chosen to proceed in two stages.

First stage

In the first stage, draft legislation will be published in the new year which will lay the foundations for the scheme and pave the way for the establishment of more reliable means of proving people's identity. This will include:

(i) establishing a national register of names and addresses and power to share data;

(ii) proceeding towards more secure driving licences and passports based on biometric technology;

(iii) a voluntary plain ID card for those who don't need a passport or drivers license.

To help coordinate and drive forward the different elements of the Government's strategy we will esablish a programme board reporting to a Cabinet Committee representing the key Government Departments. The Government will also be taking forward an independent review of eligibility criteria for free public services with a view to tightening up and consolidating eligibility rules across the public sector.

The introduction of plain ID cards on a voluntary basis will, on current plans, start from 2007 and, together with the incremental roll-out biometric passports and driving licences, might be expected to cover 80% of the economically active population within five years. Tighter procedures on eligibility checking for public services (eg for GP services and benefits) plus buy-in from the private sector should also increase coverage rates (for example of the plain ID card option).

Second stage

If the conditions are right, this first stage voluntary roll-out could then be followed by a move to a compulsory card. This would require:

- Agreement by Cabinet and by DA Committee
- A full debate and vote in both houses of Parliament

Before such a vote could be held, HO would have to demonstrate:

(i) that voluntary roll-out has already delivered significant coverage of the population

(ii) that there is demonstrable public support for a move to compulsion, and that this move will make a significant difference to tackling illegal working, and fraudulent access to services;

(iii) that we are sufficiently confident in the technology to make the card the compulsory way to access public services other than in an emergency;

(iii) that public services have implemented the technology and business changes necessary to take full advantage of the scheme;

(iv) That the scheme is fully affordable within agreed public expenditure plans.

JR
cc
FM
NA
JH

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Right Hon David Blunkett MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

11 November 2003

Dear Home Secretary

DA CLEARANCE FOR ID CARDS ANNOUNCEMENT

Your letter to me of 7 November sought colleagues' agreement to the text of a booklet on ID cards that you intend to publish on Tuesday. This letter gives you DA clearance to publish the booklet.

Gordon Brown, Jack Straw, Andrew Smith, Patricia Hewitt, John Reid, Alistair Darling, Paul Boateng and Peter Hain all provided comments. I understand that you have revised the draft booklet to take account of these comments and that they are now content. In the absence of any further comments from colleagues, you may take it that you have DA clearance to proceed with publication.

I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw and Sir Andrew Turnbull.

Yours sincerely

Yours sincerely

JOHN PRESCOTT

DP (approved by the DPM & signed in his absence)

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

RESTRICTED

Top: PSD (EM)
PSD (JR)
PSD (NA)
PSD (MEL)
PSD (SF)
PPS
COS
Political (SM)

From the Office of the
Secretary of State

Department for
Transport

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

10 NOVEMBER 2003

Jonathan Sedgwick
Principle Private Secretary
Home Office

Dear Jonathan

ID cards announcement

The Home Secretary circulated on Friday evening a draft document that he intends to publish on Tuesday to coincide with his statement to the House.

My Secretary of State discussed this document with the Home Secretary over the weekend, and asked that I provide you with his detailed comments. These comments are set out in the attached Annex and are numbered in accordance with the draft document itself.

I am copying this to Private Secretaries to the Prime Minister, DA members, the Foreign Secretary, and Secretary of State for International Development, and to Sir Andrew Turnbull.

Scott McPherson
Principal Private Secretary

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SKP 10/11/03

Annex

General comments

The document is missing any discussion of the need to set up systems for collecting biometrics and the scale of this task. It would also benefit from the inclusion of some caveat about the need for further work on to develop the required technology, data systems etc.

There are a number of references to the possible use of driving licences. At present there is no capability for driving licences to contain biometric data. Although research work is underway, this is at an early stage. Finally, such a change to driving licences would require agreement at European level. The document should therefore not go further than discussing the *possible* role of driving licences.

Detailed comments

Foreword, 2nd paragraph, 8th line: "…is why the government has decided to build a base for a possible future compulsory..."

Introduction, 1st paragraph, 6th line: delete: "and eventually driving licences" – biometric driving licences are not 'already being developed', although research is underway and this is a possibility for the future.

Introduction, before paragraph 3: there appears to be some superfluous text: "incremental bit"

Paragraph 3, Second Stage: "… move to a fully-fledged scheme or not, ~~we are clear that~~ it may well make sense… . There will ~~therefore~~ come a time ~~around the end of this decade~~ when… we propose that if ~~having established~~ confidence in the technology, ~~and~~ public acceptance, the readiness of our public services to make greater use of a scheme and ~~that~~ the compliance…

Paragraph 17, 5th line: replace "would" with "could".

Paragraph 18, 4th line: replace "most" with "some" – although most people will require photographs, most people do not pay for extra checks at the Post Office so will not incur costs of this size.

Paragraph 19, 4th line: "… ~~we estimate~~ initial estimates suggest that the 10 year cost of passports ~~would~~ might rise to…"