



House of Commons  
Home Affairs Committee

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# Identity Cards

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Fourth Report of Session 2003–04

*Volume I*





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**Fourth Report of Session 2003–04**

*Volume I*

*Report, together with formal minutes*

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## Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies; and the administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office.

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/parliamentary\\_committees/home\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/home_affairs_committee.cfm). A list of Reports of the Committee in the present Parliament is at the back of this volume.

### Committee staff

The current staff of the Committee are Dr Robin James (Clerk), Mr Mark Etherton (Second Clerk), Kate Akester (Adviser (Sentencing Guidelines)), Miss Jane Gordon (Committee Legal Specialist), Dr Ben Morris (Committee Legal Specialist), Mr Ian Thomson (Committee Assistant), Melanie Barklem (Secretary), and Mr John-Paul Flaherty (Senior Office Clerk).

### Contacts

All correspondence should be addressed to the Clerk of the Home Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3276; the Committee's email address is [homeaffcom@parliament.uk](mailto:homeaffcom@parliament.uk).

### Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the page number as in 'Ev 12'. All evidence for this inquiry is printed in Volume II.

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## Summary

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In this report we consider the Government's proposals for an identity cards scheme and the draft Identity Cards Bill.

The report provides a brief history of UK identity cards.

We outline international developments in identity documents and the experience of a number of countries inside and outside Europe. International experience clearly indicates that identity cards and population registers operate with public support and without significant problems in the rest of Europe. However, given the variety in social, political and legal culture and history, it cannot be assumed that any given approach will work in this country, nor is there any significant international experience to draw on for the use of biometrics on the scale proposed. We outline the implications of the Government's decision to use passports and driving licences for the design and use of a UK identity card system.

We consider the objections of principle raised to identity card schemes. We conclude that objections of principle should not be lightly dismissed and that the Government's proposed scheme would represent a significant change in the relationship between state and individual in this country. But we do not believe that identity cards should be rejected on constitutional grounds alone: the test should be whether the costs are proportionate to the benefits of an ID card system.

We examine evidence that the proposals would not work or would be unacceptably risky. The proposed scheme is unprecedentedly large and complex and will handle sensitive personal data and we conclude that measures to ensure its integrity must be built into all aspects of its development. We express concern about the Government's lack of clarity about the scheme's scope and practical operation, and the current procurement process.

We set out the aims of the scheme given by the Government and assess how the scheme might contribute to the stated aims. We note that the Government's stated aims have changed over time and indicate where further clarity is still required.

We conclude that ID cards can make a significant contribution to tackling illegal working, but only when accompanied by wider enforcement measures. ID cards could make a contribution to reducing illegal immigration, but only if the scheme is properly enforced and complemented by action on access to public services.

We conclude that ID cards would make a real and important contribution to fighting organised crime and terrorism by disrupting the use of multiple identities, identity fraud and related activities like money-laundering. We note the support for an ID card scheme from law enforcement agencies. We conclude that the full benefits would come with a compulsory scheme.

An identity card scheme would help combat identity fraud, but we note the need for appropriate checks on the card and on biometrics. Government should clarify how and when it expects the card to be checked.

ID cards would make it easier to establish entitlement to public services, but action should be taken now to ensure that measures to check identity are developed across public

services. The Government should review entitlements to all public services. We express concern that there may be up to four different systems for checking entitlement in different parts of the United Kingdom.

The scheme would improve access to public services to an extent, but in the absence of coherent proposals for improving access to a wider range of services and information, citizens may still have to carry a wide range of cards.

We conclude that among the issues common to the areas in which the Government expects identity cards to make a contribution are the level and nature of checks required and how the operation of services needs to be changed to take advantage of cards. In most cases cards will only be fully effective if complementary action is taken. More could be done now to check identities and there is a danger that action will be delayed until identity cards are introduced.

We note strong public support for the principle of identity cards, but little enthusiasm for paying fees at the level suggested. We criticise the use of the term 'voluntary' to describe the first phase of the scheme, but believe that an incremental approach to the introduction of cards is justified. We stress the importance of ensuring that the proposals do not impose new disadvantages on vulnerable groups and minorities.

We consider the design and planned operation of the scheme. It will be important to establish the right technical and managerial structure from the outset. We are concerned that the Government's approach has not ensured adequate technical debate and public scrutiny.

A balance must be struck between protecting individuals from unnecessary access to information and ensuring that users of the database have the information they need. We point to the implications of, for example, a national fingerprint register, and conclude that Parliament should be able to oversee and prevent 'function creep' in the use of the National Identity Register.

The Government should clarify the operational reasons for requiring addresses on the register, given the significant administrative consequences of doing so. If addresses are included, it should be a legal requirement for landlords to register their tenants. The Government should also clarify the purpose of the number assigned to each individual on the register and its relation to other identifying numbers used by the state.

The security and reliability of biometrics are central to the Government's proposals. No comparable system of this size exists. There should be exhaustive testing of the biometrics chosen and the results assessed by independent experts, perhaps led by the Government's Chief Scientific Adviser.

There is a significant overlap between the General Register Office's proposal for a UK population register—the Citizen Information Project—and the proposed identity cards database. We believe it would be better to improve the quality of existing registers and to draw up common standards for register management. We are concerned by the proliferation of large-scale databases and card systems. Co-ordinated action should be undertaken at the highest levels of the Civil Service. There should not be a central database holding all individual information but the identity card should enable access to all Government databases.

More study is needed of the enrolment and registration processes. The Home Office is taking decisions about the nature of the card without external assessment or public debate. We express deep concern about the lack of information from the Government about the number, type and cost of card readers and infrastructure. Estimates should be published of the number of readers required by government departments and other organisations. We support the issue of multiple identity cards to an individual where there is a legitimate need.

The Home Office's public costings have not changed in two years. We have seen, on a confidential basis, details of the assumptions on which these are based. We are not convinced that the level of confidentiality is justified and believe that cost information is an essential element in determining value for money. The least robust cost estimates appear to relate to the assumptions with the greatest cost-sensitivity. The failure to publish a Regulatory Impact Assessment significantly weakens pre-legislative scrutiny and public consultation. Commercial sensitivity is not an excuse to avoid publishing a full Assessment with the Bill.

We believe it is possible to deliver the project on time, to specification and to cost. But the closed nature of the procurement process should be replaced by a more open procurement policy, allowing expert scrutiny.

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

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

Our consideration of the draft Bill was not as detailed as we would have wanted. But we conclude that it gives the Government powers to register a wide range of information not obviously related to establishing identity and allows wider access to the database than is justified by the fight against organised crime and terrorism. It is unacceptable to leave to secondary legislation questions over the degree of access to the database, especially since the purposes of the Bill need to be made less broad. We believe that the move to the compulsory stage should be subject to primary legislation and that the powers of the proposed National Identity Scheme Commissioner should be strengthened and extended. We also comment on a number of detailed points in the draft Bill.



# 1 Introduction and Background

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## The Committee's inquiry

1. The Committee decided to inquire into all aspects of identity cards, including the practical aspects of the Government's proposals and of any future schemes, as well as undertaking pre-legislative scrutiny of the Home Office's draft Bill. Key points we agreed to consider were:

- the practical issues involved in the ID database and biometric identifiers;
- the security and integrity of the proposed system;
- the operational use of ID cards in establishing identity, accessing public services, and tackling illegal migration, crime, and terrorism;
- issues to be addressed in the longer-term, including compulsion; and
- the estimated cost of the system.

2. During the course of our inquiry we took oral evidence on nine occasions and received 115 memoranda, of which 33 focussed on the draft Bill. A list of those who gave oral evidence is annexed. We visited the UK Passport Service's Headquarters to see its biometric pilot project. We also visited Sweden and Germany.

3. The Committee would like to thank the two Specialist Advisers appointed to assist the inquiry, Professor Angela Sasse of University College London and Professor Brian Collins of the Royal Military College of Science Shrivenham.

## Identity Cards in the United Kingdom

4. The carrying of identity cards was compulsory in the United Kingdom from 1939 to 1952. They were introduced as a security measure and continued after the war to help in the administration of food rationing. The police had powers to see identity cards in certain circumstances. If an individual did not show one when asked, it had to be produced at a police station within two days. In December 1950 Clarence Henry Willcock, the manager of a dry cleaning firm, refused to show his identity card when asked to by PC Muckle following a minor motoring offence; two days later, having failed to produce it at a police station, he was charged under the National Registration Act 1939. In the magistrates court he argued that it was wrong for the authorities to continue to use a power given during a national emergency when that emergency no longer existed. He was convicted under the terms of the Act, but given an absolute discharge. He appealed against the conviction and in June 1951 the case reached the High Court, where Lord Goddard, acting Lord Chief Justice, concluded that he had no choice but to uphold the conviction, praised the magistrates for giving an absolute discharge and said:

“it is obvious that the police now, as a matter of routine, demand the production of national registration identity cards whenever they stop or interrogate a motorist for whatever cause. Of course, if they are looking for a stolen car or have reason to believe that a particular motorist is engaged in committing a crime, that is one thing, but to demand a national registration identity card from all and sundry, for instance,

from a lady who may leave her car outside a shop longer than she should, or some trivial matter of that sort, is wholly unreasonable.

This Act was passed for security purposes, and not for the purposes for which, apparently, it is now sought to be used. To use Acts of Parliament, passed for particular purposes during war, in times when the war is past, except that technically a state of war exists, tends to turn law-abiding subjects into lawbreakers, which is a most undesirable state of affairs. Further, in this country we have always prided ourselves on the good feeling that exists between the police and the public and such action tends to make the people resentful of the acts of the police and inclines them to obstruct the police instead of to assist them [...] They ought not to use a Security Act, which was passed for a particular purpose, as they have done in this case. For these reasons, although the court dismisses the appeal, it gives no costs against the appellant.”<sup>1</sup>

The National Registration Act was repealed following the change of government in October 1951.

5. Various proposals for the reintroduction of identity cards were made in succeeding years. In May 1995 the then Government published a Green Paper on identity cards, setting out a range of possibilities. The principal options were:

- a) no new card of any kind
- b) use of the photographic Driving Licence (then only a proposal) as a *de facto* voluntary identity card
- c) including information on the photographic Driving Licence to enable to serve as a voluntary identity card
- d) a new voluntary identity card, which would also serve as a valid travel card within the European Economic Area (EEA)<sup>2</sup>
- e) a new high-tech card, which would serve a number of different functions, including that of a voluntary identity card, and
- f) a compulsory card.<sup>3</sup>

### The 1996 Home Affairs Committee Report on Identity Cards

6. Following the Government’s consultation process, which ended in September 1995, the then Home Affairs Committee undertook an inquiry on the issue. In its report, published in June 1996, the Committee concluded, *inter alia*, that “in principle an identity card could be of benefit to many individual citizens by providing them with an additional or easier means of establishing their identity”.<sup>4</sup> The Committee also considered that an identity card could make a contribution in the following areas: fraud relating to social security and benefit payments, helping the financial and commercial world to reduce fraud, bogus official callers, lower level non-fraud crime, under-age sales, the electoral process and

<sup>1</sup> Lord Goddard [Willcock v. Muckle] 26 June 1951

<sup>2</sup> The EU countries plus Norway, Switzerland, Iceland and Liechtenstein.

<sup>3</sup> Home Office, *Identity Cards: a consultation document*, CM 2879, May 1995

<sup>4</sup> Home Affairs Committee, Fourth Report of Session 1995–96, HC172-I, para 11

facilitating travel within the European Economic Area. The Committee took the view that only a compulsory card or one that carried details of immigration status would have an impact on preventing illegal immigration and that while it might be possible usefully to include basic medical information, this would raise important issues of privacy.

7. The Committee also examined technical questions arising from the introduction of an identity card system and considered that:

“a sufficient level of protection against forgery is available to make a useful ID card a feasible objective, though this will not prevent the production and use of forgeries where cards are only lightly checked. Higher levels of security will involve the ready availability and widespread use of devices capable of performing the necessary tests on the card; moves towards such extra security may become necessary in time.”<sup>5</sup>

8. The Committee highlighted the importance of the security of the issuing process and noted that if “very high levels of security against the issue of multiple identity cards” were necessary, then a national identity database containing a biometric of each cardholder would be required.<sup>6</sup> The Committee also noted that higher security entailed greater technical sophistication and accordingly greater cost and that citizens might find biometric testing, notably fingerprinting, unacceptable. The Committee’s overall conclusion on the technical aspects was that:

“although the required level of security will rise over time, processes and technology already appear to be available to enable a reasonably secure identity card to be introduced at reasonable cost.”<sup>7</sup>

9. The Committee did not recommend the introduction of a compulsorily held card, noting that none of the bodies who might have been expected to be in favour, such as the police and the financial and commercial sectors, had called for one. The Committee further concluded that “it should not become the practice for access to individual public services to be made dependent on the presentation of a card”.<sup>8</sup> It also noted that it was common ground in the evidence received that “there should be no charge to the citizen if a card were to be compulsory”.<sup>9</sup> The Committee also recommended against a unique identity number for each card holder, on the grounds that the gain that might be derived from it would probably be outweighed by the increased data protection risks.

10. On cost issues the Committee concluded that the private sector should only be expected to cover the costs of the parts of the identity card system of direct benefit to them, such as identity card readers, and that if a new, separate identity card were introduced, “the Government should be prepared to envisage its issue either free of charge or on a subsidised basis”.<sup>10</sup> The overall conclusion on costs was that “a detailed analysis of the likely net public expenditure effect of the particular scheme proposed to be introduced must be published as part of the pre-legislative consultative process”.<sup>11</sup>

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<sup>5</sup> Home Affairs Committee, Fourth Report of Session 1995–96, HC172-I, para 52

<sup>6</sup> HC172-I, para 56

<sup>7</sup> HC172-I, para 67

<sup>8</sup> HC172-I, para 78

<sup>9</sup> HC172-I, para 112

<sup>10</sup> HC172-I, para 116

<sup>11</sup> HC172-I, para 117

11. The Committee's general conclusion was:

“For us, the balance of advantage to the individual citizen and to the public as a whole is in favour of the introduction of some form of voluntary identity card, subject to the proviso that the particular card is sufficiently reliable, is sufficiently widely held, is accompanied by protections for civil liberties, and does not entail disproportionate cost.”<sup>12</sup>

The Committee's preferred option for the card itself was the photocard driving licence, with additional voluntary information, such as address and nationality, issued on the basis of a much stricter process than that for the issue of driving licences and supported by a database developed from scratch, to avoid importing errors from existing databases.

12. In its response to the Committee's report,<sup>13</sup> the Government stated that it intended to introduce such a voluntary card scheme and announced, in the Queen's Speech opening the 1996–97 Session of Parliament, that it would publish a draft Bill on the introduction of voluntary identity cards. However the Session was curtailed by the calling of the May 1997 General Election and no draft Bill was published.

## The international context

13. We now turn to the international context. It is clear that the current Government's proposals are shaped by international developments affecting the content and format of passports and driving licences. We also examine other countries' experiences of identity cards or attempts to introduce them.

### EU and ICAO standards

#### Driving licences

14. Within the EU the Commission and Member States have shared competence on driving licences. These are governed by Council Directive 91/439/EEC of 29 July 1991, subsequently amended, notably by Directive 96/47/EC of 23 July 1996. (A new Directive is currently under discussion.) These Directives set out the formats to which both the paper driving licence and the photo card must conform. UK driving licences comply with these directives which rules out the possibility, for example, of a combined passport, driving licence and identity card.

15. Stephen Harrison, Head of the Home Office's Identity Card Policy Unit, told us:

“At the moment the two [standards] are incompatible in terms of the physical layout of the card. They require information to be displayed in different formats. But we would hope to pursue arguments with those bodies over time to try to bring the standards together, but I could not say that that is going to be a short term development.”<sup>14</sup>

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<sup>12</sup> HC172-I, para 126

<sup>13</sup> Home Office, *The Government Reply to the Fourth Report from the Home Affairs Committee, Session 1995–96*, Cm 3362, August 1996

<sup>14</sup> Q 131; The incompatibilities arise not only from differences in format, but also because of the different purposes for which the data is required.

## *Passports*

16. The format of passports falls to the International Civil Aviation Organisation (ICAO), which agreed recommendations in May 2003 on the use of biometrics in machine-readable travel documents (sc. passports and visas), which subsequently became known as the ICAO “Blueprint”. The first recommendation was that facial recognition to be used worldwide for machine-assisted identity confirmation, with the option of fingerprint and/or iris recognition in support; it was further recommended that a contactless integrated circuit chip, with a minimum capacity of 32K bytes of data, should be used as the medium for storage of electronic data, including biometrics, on a travel document.<sup>15</sup>

## *US visa regulations*

17. The Enhanced Border Security and Visa Entry Reform Act was signed by President Bush in May 2002. Among provisions designed to strengthen US borders, through, for example, authorising increased staff numbers, was a change in the requirements of the Visa Waiver Program, under which citizens of 27 participating countries, the United Kingdom among them, are allowed to travel to the United States for tourism or business for 90 days or less without obtaining a visa. The Act requires that from 26 October 2004 Visa Waiver Program countries must have a programme in place to issue their nationals machine-readable passports. These must be tamper-resistant and incorporate biometric and document authentication identifiers that comply with ICAO standards. The Act also requires visitors coming to the United States under the Program to present these new biometric and machine-readable passports if they were issued on or after that date. Travellers who were nationals of Visa Waiver Program countries, but who did not have biometric passports issued after that date, would need a visa to enter the United States.

18. However the Department of Homeland Security and the State Department have requested Congress to extend the deadline until 30 November 2006. In presenting this request, Secretary of Homeland Security Tom Ridge argued that while most Visa Waiver Program countries would be able to certify that they have a programme in place to issue biometric passports by 26 October 2004, few, if any, would actually be able to produce biometric passports by that date. This would lead to significant burdens on US Consulates, who would have to process millions of extra visas. The Department of Homeland Security was unable to acquire and deploy the equipment and software needed to compare and authenticate biometric passports by the original deadline, and, if it did, the equipment would be unlikely to be interoperable for all relevant passports.

19. We highlight a number of issues arising from these developments. International developments, including ICAO recommendations, EU directives and amendments to US visa regulations, will require the introduction of biometrics, whether or not the Government intended to introduce identity cards. However, the Government’s decision to make the UK passport one form of an identity card has a number of consequences. In particular, it means adopting the ICAO format for the card and for data storage. This in turn has major implications for the wider design, cost and operation of the identity card system. As we shall note later in the report, there is a lively technical debate about the best format for cards and for data storage and retrieval. Those countries that have kept identity

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<sup>15</sup> [www.icao.int/mrtd/download/technical.cfm](http://www.icao.int/mrtd/download/technical.cfm)

cards separate from passports and travel documents have been able to choose alternative formats. We discuss possible types of card in paragraphs 194–198.

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

21. The delay in the introduction of the US system for biometric passport controls illustrates a further element of identity systems to which we shall return. The issuing of an identity document is only one part of an identity system; the capacity to check those documents in an efficient and reliable manner is equally important.

### *Other European experiences*

22. Most members of the European Union have voluntary or compulsory identity cards. Apart from the United Kingdom the only members without any form of identity card scheme are Ireland, Denmark, Latvia and Lithuania. Most EU countries have a national register, or issue citizens at birth a personal number for use in a wide range of circumstances, such as paying tax, opening a bank account or claiming benefits. Many cards have a biometric, in the sense that they incorporate a fingerprint, and some are compulsory to carry and produce on request. No country yet has a biometric system of the sort proposed for the United Kingdom, but a number are introducing smart-cards and considering options for more sophisticated biometrics.

### *Sweden and Germany*

23. In May 2004 we visited Sweden and Germany, in connection with our inquiries into identity cards and rehabilitation of prisoners. We held discussions with representatives of government, NGOs and others to discuss each country's present or planned system of identity cards.

#### *Sweden*

24. For several centuries there has been a national population register: everyone in Sweden is issued with a personal number at birth, and this has to be cited in many official transactions. There is completely open access to the population register: anyone can look up a person's name, address and personal number. The population register is the basis for identity documents carried by 90% of Swedish citizens and residents. It is difficult to be served in shops or banks without one: driving licences, passports, or cards issued by banks or companies are used for this purpose.

25. There is, however, no national identity card as yet. A new Swedish national identity card will include biometric data, though the exact nature of this has not yet been decided on. The purpose of the new card is as a travel document within the Schengen area, rather than as a measure to tackle crime or identity fraud.

26. It will be designed to allow more information to be added to it in future, e.g. electronic signatures. There will be a charge for the card: this has not yet been fixed, but is expected to be greater than the current charge for a passport of 225 Kr (about £19). It will not be compulsory to carry the card. The card will show date of issue and nationality, and be valid

for five years. Cards will be revocable, if the holder has been found to assume a false identity or has allowed another person to use their card.

27. We were told that the principle of the population register and the personal number is universally accepted in Sweden, because people have been familiar with it throughout their lives. However, there has been opposition on grounds of individual rights to a linkage between the new card and the population register. Accordingly, the card will not be linked to the register. Information will be stored in the chip on the card but not in a central database. Anyone checking the card will be able to check that the person presenting the card is the person whose details are stored in the chip, but will not be able to use the card to access personal information other than that contained in the card itself.

### Germany

28. In Germany there is a national identity card system. This has been in force for several generations. Compulsory registration of individuals was introduced under the Reich Registration Law of 1938, and identity cards were introduced in 1950. It is not mandatory to carry the identity card or 'PA' (*Personalausweis*). However, most people do because "you never know when you'll need it". The police have powers to stop people in the street and ask them to show their identity card. If they are unable to produce this, the police have the right to 'accompany' them to their residence or to arrest them for the purpose of establishing identity—but they have to demonstrate "good reason" why they are exercising this power.

29. Because of concerns about individual rights, and the memory of abuses during the Nazi period, there is no central database of identity card information, and the scheme is organised at regional (*Länder*) level, rather than the federal level.

30. The identity card contains the address of the holder. Every individual living in Germany is required to notify the public authorities of a change of address within a week of moving. Secondary places of residence also have to be registered. Registration is necessary in order to claim social security benefits. An individual's address is not regarded as private information, and information about addresses will be supplied to inquirers; there is a fee for this service.

31. Every German over the age of 16 years is required to have an identity card. These are supplied on application to a specialist office (*Einwohnermeldeamt*) in the area where the applicant has their main residence. The only proof demanded is a copy of the birth certificate or a previous identity card. Applications are sent to the official printers in Berlin, the *Bundesdruckerei*, where the cards are manufactured. We visited the *Bundesdruckerei* (which used to be state-run but was privatised in 2000) and can attest to the technical sophistication of the cards—comparable to that of German passports. According to our interlocutors, these very high security standards make the cards all but impossible to counterfeit. Data held for the purpose of producing the identity card are deleted after completion of the production process.

32. The current fee for German identity cards is €8 and for passports €26. Planning is in train for introducing EU passports including biometrics as and when a political decision to do so is taken at EU level. It has not yet been decided which form of biometrics to use. New generation identity cards including biometrics and digital signatures are likely to be introduced within the next few years. The German authorities are more concerned with the

security of EU identity documents than with that of their own, which they take largely for granted.

33. We were told that the German identity card is a fully accepted and widely used document, carried by almost all Germans and used in all kinds of transactions.

### **Canada and Australia**

34. Canada and Australia are frequently cited as countries with similar political and social cultures to the United Kingdom.

35. In October 2003 the Committee on Citizenship and Immigration of the Canadian House of Commons published an interim report *A National Identity Card for Canada?*<sup>16</sup> This reached no formal conclusions, although it did identify a number of questions that needed to be answered to reach a conclusion. The Committee took the view that:

“It is clear that this is a very significant policy issue that could have wide implications for privacy, security and fiscal accountability. Indeed, it has been suggested that it could affect fundamental values underlying Canadian society.”

36. On 31 December 2003 the Canadian Government introduced an identity card for foreign nationals who are legal permanent residents in Canada.<sup>17</sup> The Permanent Resident Card (PR Card), also known as the Maple Leaf Card, is the proof of status document required by permanent residents seeking to re-enter Canada on a commercial carrier. Only non-secure information is printed on the card: personal information is encoded and accessible only to authorized officials. Security features include laser-engraved photograph and signature, micro-text printing, tactile lettering and ultra-violet images. Richard Haddock, of LaserCard, pointed to the Canadian experience as a model:

“we have some experience now in five different countries starting from scratch through the planning process to the point where they have all issued cards. The most impressive one was the Canadian Government, where, shortly after 9/11, they decided they wanted to upgrade their permanent resident card to an optical memory card, and within nine months of making that decision they were issuing cards to their citizens. They said by June 28th 2002 they must be issued, and we thought it was very aggressive but we agreed to it and on June 28th they issued cards. It was on time, on budget, so it can be done, [...]”<sup>18</sup>

He added:

“What is currently on the Canadian card is a facial photograph of the person, (which is actually in black and white because they laser-engrave the card), and it has a digitised signature of the person (where again it is a scan of the signature), and they have allocated a space in the secure partition of the optical memory for a fingerprint, but currently they are not putting the fingerprint in it because they are still considering the privacy implications. So in that case they built the flexibility to upgrade in the future into their system.”<sup>19</sup>

<sup>16</sup> [www.parl.gc.ca](http://www.parl.gc.ca)

<sup>17</sup> <http://www.ci.gc.ca/english/pr-card/index.html>

<sup>18</sup> Q 434

<sup>19</sup> Q 471

Mr Haddock also remarked on the way the Canadian card was introduced:

“The Canadian Government put out a PR campaign about their new permanent resident card and actually the card is a very beautifully designed card. They did a good job in designing it and it makes you want to own one, so there is some pride of ownership associated with it in the newspapers. It is called the Maple Leaf Card and it was splashed all over the press there. They actually won three international awards within three months of it being issued for both technical and aesthetic qualities. They then put out technology fliers on the benefits of it and got a high rate of acceptance. Of course they also had the advantage of having a pre-existing paper document which they could force to expire and oblige people, if they wanted to continue to have the privileges associated with that document, to upgrade to the new card.”<sup>20</sup>

37. Like the United Kingdom, Australia had an identity card system during the Second World War; this was withdrawn shortly after the end of hostilities. In July 1985 the Australian Government brought forward a proposal for the “Australia Card”, largely on the grounds that it would reduce tax evasion. The scheme was to include a register, operated as a hub-system whereby participating agencies could share specified data about individuals. The entire population was to be recorded on the register, and every person was to have an obligation to acquire a code, and a card carrying the code, and to present that card in a wide variety of circumstances.<sup>21</sup> Although the Bill introducing the card was twice defeated in the Senate, in December 1986 and April 1987, the card was not an issue in the July 1987 elections, which were won by the incumbent Labor Government. Nonetheless a vigorous campaign of opposition led to the proposal being withdrawn in September 1987.

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

## 2 The Government’s proposals

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39. On 3 July 2002 the Home Office published a consultation paper on Entitlement Cards and Identity Fraud.<sup>22</sup> The paper stated that:

“A universal entitlement card scheme would:

(i) provide people who are lawfully resident in the UK with a means of confirming their identity to a high degree of assurance;

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<sup>20</sup> Q 477

<sup>21</sup> Roger Clarke, The resistible rise of the national personal data system, *Software Law Journal*, 5.1 (January 1992)

<sup>22</sup> Home Office, *Entitlement Cards and Identity Fraud*, CM 5557, July 2002

(ii) establish for official purposes a person's identity so that there is one definitive record of an identity which all Government departments can use if they wish;

(iii) help people gain entitlement to products and services provided by both the public and private sectors, particularly those who might find it difficult to do so at present;

(iv) help public and private sector organisations to validate a person's identity, entitlement to products and services and eligibility to work in the UK.”<sup>23</sup>

40. It continued: “The Government does not wish to consult on the introduction of a compulsory scheme, by which it means a card which everyone would have and be required to carry at all times.”<sup>24</sup> But the paper also made clear that the preferred option was a “universal” entitlement card scheme, by which everyone in the country over a certain age was required to register with the scheme and to obtain a card, and a card would be the only way to access particular services (other than in an emergency or in cases where a card had been lost or stolen).

41. The preferred option of a universal entitlement card scheme was described by the paper as one under which:

“(i) it would be a requirement that all lawful residents of the UK over a certain age register with a scheme and obtain a card;

(ii) service providers would be free to decide whether or not to use the card scheme as the means to access their services;

(iii) service providers who did choose to use the card scheme would make the scheme the exclusive way to access their services (with exceptions for emergencies such as lost or stolen cards);

(iv) some services would rely on the database which administered the card scheme rather than require production of a card if that was a more efficient and convenient way to provide the service.”<sup>25</sup>

42. Other issues raised in the consultation paper included:

- whether there should be unique personal numbers;
- what services should be linked to the card;
- whether the card should also serve as a European travel document;
- how to combat identity fraud;
- what links there should be to the private sector;
- whether biometric information should be included; and
- what information should be included in a central register.

43. The paper focussed on the option of building on existing passport and driving licence systems. 13 million photocard driving licences had been issued in Great Britain, to EU-

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<sup>23</sup> CM 5557, para 1

<sup>24</sup> CM 5557, para 2

<sup>25</sup> CM 5557, P4, p20

wide standards, since 1998 (in Northern Ireland since April 1999); the 25 million existing paper licences were being replaced by photocard when they were renewed, for example after a change of address. The UK Passport Service was examining the feasibility of issuing a travel card alongside the paper passport book; the card, which would have to comply with International Civil Aviation Organisation and EU standards, could be used for countries where there is no requirement for a visa or stamp on entry, such as the EEA. Those who did not hold either a driving licence or a passport, and did not wish to have either, could apply for a “non-driving licence/entitlement card”.

44. On 11 November 2003, following the consultation exercise, the Home Secretary said that the Government had decided to begin the process of building a base for a national compulsory identity card scheme. The Home Office’s paper *Identity Cards: the Next Steps* argued that the Government’s proposals would help combat illegal immigration and illegal working, terrorism, money-laundering, people-trafficking and drug-related offences, identity fraud and fraudulent use of public services, such as health tourism.<sup>26</sup> It announced that a draft Bill would provide for further discussion. This was published on 26 April 2004, with explanatory notes on the clauses and a further consultation document.<sup>27</sup> This document set out the aims of the Bill as follows:

“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 agencies, such as 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;

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<sup>26</sup> Home Office, *Identity Cards: The Next Steps*, Cm 6020, November 2003

<sup>27</sup> Home Office, *Legislation on Identity Cards: A Consultation*, Cm 6178, April 2004

- 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.

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 draft Identity Cards Bill. This would include the exact format of applications and the levels of fees to be charged.”<sup>28</sup>

45. The consultation paper also indicated the content of the National Identity Register:

“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 registration number” together with other relevant reference numbers recorded (e.g. national insurance number or existing passport number).

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<sup>28</sup> Home Office, *Legislation on Identity Cards: A Consultation*, Cm 6178, April 2004, para 2.2, p 14

**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.”<sup>29</sup>

46. The likely types of identity card were also spelled out:

“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.”<sup>30</sup>

47. The consultation paper gave details of the parliamentary procedure to be followed before the move to compulsion:

“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 clause would be subject to the affirmative resolution procedure but, in addition, the draft Bill provides at Clause 7 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

<sup>29</sup> Home Office, *Legislation on Identity Cards: A Consultation*, Cm 6178, April 2004, para 2.9, p 16

<sup>30</sup> Cm 6178, para 2.16, p 18

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."<sup>31</sup>

The Government estimated that the costs of identity cards would be £35 for a 10 year plain card, £77 for a passport card and £73 for a driving licence card. The Government argued that this was only £4 more than the costs that would have to be charged for improvements to the security of driving licences and passports, including through biometrics, which would anyway have to be introduced. Cards would be free to 16 year olds and would be cheaper for those on low incomes.<sup>32</sup>

### Aims of the Scheme

48. The Home Office's written submission to our inquiry argued that the scheme would provide benefits in the areas of:

- tackling illegal working and immigration abuse;
- disrupting the use of false and multiple identities by organised criminals and those involved in terrorist activity;
- helping protect people from identity fraud and theft;
- ensuring free public services are only used by those entitled to them;
- enabling easier and more convenient access to public services.<sup>33</sup>

It should be noted that the Home Secretary did not argue that identity cards would by themselves resolve any of these issues, only that they would make a contribution to their solution.<sup>34</sup>

49. We examine in detail how the Government believes the scheme will achieve its stated aims in paragraphs 66–128.

## 3 Opposition to Identity Cards

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50. Objections to identity cards fall broadly into three camps. Some oppose the Government's proposals, or elements such as compulsion to register, outright, on grounds of principle or because they believe the scheme to be unworkable technically. Others do not oppose an identity card scheme in principle, but have significant reservations about the Government's proposals as they stand. Others question whether the Government's scheme is an effective or cost-effective way of tackling the problems it is designed to solve. This section of the report will cover the first group: practical concerns, including issues of cost and effectiveness, and objections to details of the Bill, will be dealt with later.

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<sup>31</sup> Cm 6178, para 2.52, p 25 emphasis as in original

<sup>32</sup> Home Office, *Legislation on Identity Cards: A Consultation*, Cm 6178, April 2004, paras 3.15–18, pp 34–5

<sup>33</sup> Ev 199

<sup>34</sup> Q 623

## Concerns of principle

51. Privacy International and Liberty opposed identity cards on constitutional grounds. They argued, firstly, that identity cards would fundamentally change the balance between citizens and the state by imposing a general requirement to prove one's own identity.<sup>35</sup> Shami Chakrabarti, the Director of Liberty, said: "From a constitutional point of view, it is worth noting that there is not a single compulsory identifier in any other common law tradition in the world and that demonstrates the heart of the argument."<sup>36</sup> (We note that the Home Office have disputed the argument that no common law countries have identity cards, pointing within the EU to Cyprus, "a common law jurisdiction which has identity cards which all Cypriot citizens over the age of 12 have to obtain".<sup>37</sup>)

52. Secondly, it was argued that there would be a new requirement to register information, including sensitive personal biometric data, with the state. This is a significant new obligation on the individual citizen which will be intrusive in operation.

53. Thirdly, while it might be acceptable to have to demonstrate identity, and hence entitlement, to specific services for specific purposes, the imposition by the state of a single system of identification which had to be used for a wide variety of different purposes—rather than the current reliance on different forms of identification for different purposes—was a significant change in the obligation placed on individuals and the relationship they have with public and private bodies.

54. Fourthly, because in principle information about individuals should be held only for particular purposes, there were currently proper limits on the proper sharing of data between public bodies. To the extent that an identity card system required wider sharing of information between different bodies and organisations, the privacy of individuals would be reduced.

55. Simon Davies, the Director of Privacy International, argued that the Government's proposals would be in breach of the European Convention on Human Rights (ECHR) since the concept of privacy intrusion was culturally relative and the current proposal would fundamentally change the nature of privacy in the United Kingdom without overriding justification.<sup>38</sup> Liberty, however, took the view that while the European Court on Human Rights might not find any difficulty with identity cards, since the majority of European countries had them, courts in the UK would have to take a stricter approach to Article 8 of the ECHR, which covers the right to respect for family and private life.<sup>39</sup>

56. The Director of Liberty further argued that experience in other European countries showed that identity cards would tend to worsen relations with minority groups, by exacerbating existing tensions.<sup>40</sup> (The issue of how identity cards would affect vulnerable groups, including minority ethnic groups, is covered in more detail in paragraphs 139–141.)

<sup>35</sup> Q 163

<sup>36</sup> Q 159

<sup>37</sup> HC Deb, 24 May 2004, col 1416W

<sup>38</sup> Q 180

<sup>39</sup> Ev 231

<sup>40</sup> Qq 159–161

57. Witnesses opposed to identity cards on principle also doubted that their benefits would be in proportion to their drawbacks. The Director of Liberty said that their constitutional concerns would have to be rebutted “by very compelling justification to the contrary that is necessary and proportionate”.<sup>41</sup> For his part, the Director of Privacy International accepted that a simple identity card for specific purposes might well be lawful.<sup>42</sup> Many witnesses argued that no proper cost-benefit analysis had been done of identity cards and that the Government had not demonstrated that they would be the most effective way of tackling problems.

58. We do not think these objections of principle should be lightly dismissed. Nonetheless, it is clear that identity systems operate in other modern, liberal, functioning democracies. No challenge to identity cards has been successful in the European Court on Human Rights, and they appear to enjoy broad public support where they exist in the rest of Europe.

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

**60. The test should be whether the measures needed to install and operate an effective identity card system are proportionate to the benefits such a system would bring and to the problems to be tackled and whether such a scheme is the most effective means of doing so.** We examine these aspects in more detail in the next section.

## Practical concerns

61. Some witnesses argued that the Government’s proposals would not work or that the risks were unacceptable.

62. Professor Martyn Thomas, representing the UK Computing Research Committee, said:

“There is a technical systems engineering issue here which is captured in popular wisdom by “don’t put all your eggs in one basket”. If you create either a single card that has multi functions or a single database then you are adding to the nation’s critical infrastructure unnecessarily and by doing that you are making a very large range of services, probably a growing range of services, vulnerable to a single attack, either a deliberate attack or a fault that arises as a consequence of mis-implementation or accident.”<sup>43</sup>

The UK Computing Research Committee also expressed significant concerns over the security of a comprehensive system on the scale proposed. They argued that any sensitive database available to a large number of users would almost inevitably be successfully

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<sup>41</sup> Q 155

<sup>42</sup> Q 180

<sup>43</sup> Q 344

attacked. Therefore, data on the system should be kept to the minimum.<sup>44</sup> On the other hand, as noted in paragraph 146, other witnesses from the IT and smart card sector took the view that a single database could be made sufficiently secure, and that to create one was not of itself doomed to failure.

63. Professor Ross Anderson, Chair of the Foundation for Information Policy Research, an Internet policy think-tank, also argued that the more functions included in a system, the more fragile, difficult to maintain and expensive it became. Other, non-technical witnesses, however, were of the view that an identity card scheme would be of little use unless it enabled access to a range of services and facilitated joined-up government.

64. We consider the arguments for and against the technical aspects of the Government's proposals in more detail in the next section. **The proposed system is unprecedentedly large and complex. It will contain sensitive personal information on tens of millions of individuals. Any failure will significantly affect the functioning of public and private services and personal and national security. Measures to ensure the integrity of the design, implementation and operation of the system must be built in to every aspect of its development. As we will remark at a number of points throughout this report, the Government's lack of clarity about the scope and practical operation of the scheme, and the nature of the procurement process, does not give us confidence that this will be achieved. We will make recommendations for addressing this serious weakness later in the report.**

## 4 Benefits and weaknesses of the Government's scheme

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65. In this section we first examine the possible contribution the proposed identity card scheme might make to each of the Government's stated aims, taking into account as appropriate existing means for attaining these goals. We then consider possible areas in which the Government needs to take additional action if a scheme is to be fully effective, before considering aspects of the Government's proposals such as the National Identity Register; the identity cards and readers; biometrics; and procurement and costings.

### The stated aims

66. The Government argued that the scheme will help in the following areas:

- Illegal working and immigration abuse;
- Organised crime and terrorism;
- Identity fraud;
- Entitlement to public services; and
- Easier access to public services.

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<sup>44</sup> Ev 268

67. We note that the relative prominence given to these has varied. In July 2002 the original consultation document<sup>45</sup> asked for views on whether cards would help with: providing better services; identity fraud; tackling illegal immigration and illegal working; a convenient travel document; proof of age; reducing crime; electoral registration and voting; and emergency medical information. In this list there was no mention of terrorism. The card was called an entitlement card and there was clearly a greater emphasis on the link between the card and the use of public services than in later proposals.

68. In November 2003 the Home Secretary argued that biometrics enabled the Government to deal with “the growing threats to the security and prosperity of Britain, from identity theft, fraud, and illegal migration”. He added “the security services have indicated to me that they would value improved methods of verifying identity and counteracting the use of multiple identities. It is obvious that terrorist networks would target the countries that had made the least progress in developing the capacity to provide this protection”.<sup>46</sup> The paper setting out the Government’s plans,<sup>47</sup> which the Home Secretary was introducing, argued for identity cards on the grounds of fighting illegal immigration and illegal working; disrupting terrorist use of false and multiple identities; combating identity fraud and money laundering; and providing a convenient way for those entitled to services to access them and preventing unauthorised access to services, including health tourism.

69. Explaining the change from an entitlement card, the Home Secretary told us:

“Post-11 September 2001 I was asked on a number of occasions, starting on the end of the week of 11 September, whether I believed that we should have ID cards as a consequence of the attack on the World Trade Center, and I said on record several times, and I still believe it, that whilst there could be a contribution towards countering terrorism this was not the primary purpose, and although it would be part of any such scheme it should not be seen as the sole focus. I went on to say that it was probably sensible, if we were going to move towards such a programme, to describe it as being part of entitlement—entitlement to services and benefits—which we had built up by the contributions we made and the mutuality that has stood us in good stead and is part of the National Insurance concept of the post-Second World War settlement. I then took that to the appropriate Cabinet committee the following January, that is January 2002. When we launched the consultation proper in the July it soon became clear that people did not like the term “entitlement” card. They thought that it should be an ID card, that it should be explicit rather than implicit, that it should give a clearer picture that it encompassed tackling terrorism and organised crime, and they believed that it would be more honest and transparent of the Government to do so, so in a nutshell we agreed after listening to the results of the consultation that that is what we should describe it as.”<sup>48</sup>

**70. It is reasonable for the Government to have refined the aims of its scheme after a consultation exercise and development of proposals for its implementation. It has now set out its reasons for introducing identity cards, in its most recent document,**

<sup>45</sup> *Entitlement Cards and Identity Fraud*, Cm 5557

<sup>46</sup> HC Deb, 11 November 2003, col 171

<sup>47</sup> *Identity cards: The Next Steps*, Cm 6020

<sup>48</sup> Q 609

***Legislation on Identity Cards: A Consultation***, which accompanied the publication of the draft Bill.

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

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

### ***Illegal working and immigration abuse***

73. Since January 2002, when an asylum application is made, the applicant is screened, and his or her personal details are recorded and put on an Application Registration Card (ARC) which is issued to the applicant. The ARC provides a secure means of recording asylum seeker's details and biometric identity. Asylum seekers now use the ARC to access the services provided for them. Up to the end of March 2004 200,000 cards have been issued and the Immigration Service say they have seen very few cases of suspect cards. Of the ones they have seen, only two were in fact forgeries, and only one of these was of a quality which might have deceived untrained personnel.<sup>49</sup> Both the Law Society and the Commission for Racial Equality thought that the ARC had been a success in that it provided a secure form of identification for asylum seekers, who might have no other means of showing who they were.<sup>50</sup>

74. The consultation paper accompanying the draft Bill put tackling illegal immigration at the top of the aims of the Government's scheme:

“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 [...].”<sup>51</sup>

75. The Home Office memorandum to the Committee argued that an identity card system would enable employers to establish the status of prospective employees more quickly and more simply.<sup>52</sup> It also argued that the creation of the National Identity Register would, by verifying entitlements to public services, make it more difficult for those here illegally to gain access to them, and thus would reduce the “pull factor”—the perception that once in the country people can work and obtain benefits and public services with impunity.

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<sup>49</sup> Note to Q 146

<sup>50</sup> Qq 179 and 836

<sup>51</sup> Home Office, *Legislation on Identity Cards: A Consultation*, Cm 6178, April 2004, para 2.72, p 29

<sup>52</sup> Ev 199; under section 8 of the 1996 Act employers are required to check eligibility to work; there is a range of documents which can be shown as proof.

76. The Government argued that an identity card will make it easier to establish that a foreign national has the right to work. The Commission for Racial Equality recognised “a potential benefit to ID cards scheme in that they could enable immigrants and other groups to authenticate their identities (for accessing the labour market and public services where they are entitled)”.<sup>53</sup> The Law Society, however, argued that the real problem was the small number of employers who did not at the moment carry out the appropriate checks, who would continue to employ people illegally regardless of whether or not there was a national identity card.<sup>54</sup>

77. In our recent report on Asylum Applications, we said:

“We believe that a significant factor in the problem of illegal working is the deliberate decision by some employers to break the law. We recommend that the Government should target such employers, who are not only easier to identify than those they employ but arguably more culpable. We refer below to the Government’s commitment to use the Proceeds of Crime Act as a weapon against people traffickers. We recommend that the Act should also be used to seize profits made from the employment of illegal labour. The Home Office should be pro-active within Government in seeking to ensure that other departments take action against illegal working—for instance, by means of a concerted attempt to prosecute employers of illegal labour for other related breaches of employment legislation...”<sup>55</sup>

78. The Minister of State for Citizenship and Immigration told us that as of 1 May this year the Government required employers to use “a far more secure form of identification” and that employers now knew what the position was and what was expected of them. He added that employers would be given help and assistance to ensure that they could enforce regulations and that “we will police that properly and investigate it properly between now and the time when we can start to see the roll out of ID cards offering employers a more secure and simpler form of identity”.<sup>56</sup> The Government also maintained that identity cards would reduce the “pull factor” for illegal immigration by making both illegal working and unauthorised access to benefits more difficult.

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

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

**81. The Government must clarify what action will be expected from the employer, including whether presentation of card by a job applicant is enough or whether an**

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<sup>53</sup> Ev 273

<sup>54</sup> Qq 184–185

<sup>55</sup> Home Affairs Committee, Second Report of Session 2003–04, *Asylum Applications*, HC 218-I para 247

<sup>56</sup> Q 613

employer would have to check the biometrics or the authenticity of the card. If so, the Government needs to be clear how often this will be required and what access to biometric readers or the National Identity Register will be available to employers or other agencies.

82. It is clear that a non-EU national with false EU documents would be able to enter the UK and to work. The Home Secretary argued that such illegal immigrants would be caught by the system: after the three-month period during which EU nationals would not be required to register, they would have to register.<sup>57</sup> **We are concerned that the three-month period for EU nationals, or those claiming to be such, might constitute a significant loophole: it is difficult to see what would stop someone moving from job to job on false papers. The Government must bring forward proposals to deal with this loophole, as well as making a substantial commitment to robust enforcement of laws against illegal working.**

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

84. We noted in our Asylum Applications Report referred to above that, according to research commissioned by the Home Office, “expectations relating to welfare benefits and housing did not play a major role in shaping the decision to seek asylum in the UK within the response group”.<sup>58</sup> Such benefits may well, of course, be more significant to illegal immigrants if they can access services without adequate proof of identity. Identity cards will need to be used effectively to control access to public services if they are to reduce this “pull factor”. **We conclude that identity cards, by reducing the “pull factor” from work, and public services, could make a contribution to preventing illegal immigration, but only if the scheme is properly enforced and complemented by action on access to public services.**

### ***Organised crime and terrorism***

85. The Home Office said that a card scheme would disrupt the use of false and multiple identities by terrorist organisations. The Home Secretary told us that “in excess of a third of those who are engaged in supporting terrorism use multiple identities in order to be able to evade detection and to evade us being able to disrupt their activities, and in tracing those who have undertaken terrorism, even the limited identification that is possible from traditional ID cards has been helpful”.<sup>59</sup> He accepted that the scheme would not prevent atrocities such as those in Madrid and Istanbul, but argued that a new database, created from scratch with the use of biometrics, would help. Nicola Roche, Director, Children,

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<sup>57</sup> Q 612

<sup>58</sup> Home Affairs Committee, Second Report of Session 2003–04, *Asylum Applications*, HC 218-I para 75

<sup>59</sup> Q 616

Identity Cards and Coroners, in the Home Office, also told us that their estimate was that about £390 million a year was laundered through the use of multiple identities.<sup>60</sup>

86. Evidence from the police endorsed the Home Secretary's view. For example, the Association of Chief Police Officers argued that it would put "an additional hurdle in the path of those who aid and support terrorism by providing funding, false identities and 'safe locations'".<sup>61</sup> The Minister of State for Citizenship and Immigration told us that from his experience in Northern Ireland stopping the use of false identities had helped with police work against terrorism.<sup>62</sup>

87. ACPO also argued that an identity card scheme would be beneficial in areas such as organised crime, people trafficking, the sex trade and money laundering.<sup>63</sup> The Metropolitan Police took the view that while the introduction of an identity card would not of itself lead to a reduction in crime or an increase in detection rates, a society built around an individual's true identity and their ability to prove it would significantly reduce the opportunity for crime in a number of areas.<sup>64</sup> Jan Berry, Chairman of the Police Federation, told us:

"I do not think that we should underestimate how much time is spent by police officers, checking identities. [...] we could be using that time to far better effect."<sup>65</sup>

88. Police witnesses argued that the identity card scheme would only demonstrate its full benefits when it was in the compulsory stage. But while ACPO and the Police Federation argued in favour of making it compulsory to carry a card, the Metropolitan Police stated: "We agree that the carrying of an identity card should never be compulsory nor do we seek powers for individuals to produce their card on the spot".<sup>66</sup> The Metropolitan Police did argue in favour of their having access to the Register under certain circumstances in order to enable them to establish an individual's identity through his or her biometrics.

89. The Minister of State for Citizenship and Immigration has set out how the introduction of identity cards would affect police powers to establish identity:

"..there will be no new power for the police to stop someone and demand to see their card. Existing police powers to require drivers to produce their driving licence (which could be designated as an ID card) on demand or within seven days at a police station will remain. Added to this, if someone has been arrested for a recordable offence, existing powers will allow the police to take reasonable steps to identify them. This currently includes powers to check biometric information. There are also classes of criminal offences which are non-arrestable and are enforced by sending a summons. In these situations, the police have to be certain of a person's name and address. If a person refuses to identify themselves in these circumstances or the police are not satisfied with the information given, they have a power of arrest after which biometric checks can be made. If it were not possible to identify an

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<sup>60</sup> Q 16

<sup>61</sup> Ev 149

<sup>62</sup> Q 618

<sup>63</sup> Ev 149

<sup>64</sup> Ev 239

<sup>65</sup> Q 274

<sup>66</sup> Ev 240

arrested person otherwise, for example checking police records, a check could then be made on the person's biometric against the National Identity Register."<sup>67</sup>

90. He also set out what police powers to access the Register would be:

"There is an exception to the general bar on disclosing information from the register without consent where disclosure to the police is in the interests of national security and for the prevention and investigation of crime, as set out in Clause 20(3) of the draft Identity Cards Bill. Such disclosure may be authorised only where the Secretary of State is satisfied that it was not reasonably practicable for the police to have obtained the information by other 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. In addition, Clause 24(2) enables the Secretary of State to impose other requirements that must be satisfied before such a disclosure is made."<sup>68</sup>

91. Liberty said that all of those involved in the 9/11 atrocities had either legitimate identification papers or very compelling forgeries and argued that sophisticated terrorist networks would be able either to forge the cards themselves or produce false papers enabling an individual to register under a false identity. During the course of our inquiry, Privacy International released a study on identity cards and terrorism, which argued that "of the 25 countries that have been most adversely affected by terrorism since 1986, 80% have national identity cards, one third of which incorporate biometrics".<sup>69</sup> When we put this argument to the Minister of State for Citizenship and Immigration, he replied that other countries did not have the biometric database that was being proposed as part of this scheme, and that this, rather than the card, was the defence against the use of multiple identities.<sup>70</sup>

92. The Law Society doubted that identity cards would be effective in reducing crime, arguing that the biggest problem for the police lay not in identifying individuals, but rather in linking an individual to a crime. Liberty shared these doubts and argued that the Government had not produced any evidence, for example from experiences in the rest of Europe, that identity cards were cost-effective; they believed that funding for an identity card scheme could be better spent on police recruitment, retention and training.

93. Critics of the Government's proposals argue that it has not made the case that identity cards will help fight crime and terrorism. We think that it is perfectly reasonable for the Government to rest its case on the support of those responsible for fighting crime and terrorism.

**94. We understand that the contribution to fighting terrorism would be the ability to disrupt the use of multiple identity, identity fraud and related activities like money-laundering, and illegal migration by terrorists and their networks. While, of course, not all terrorists make use of activities based on false identities, and some will have legitimate national or international identity documents, we believe that effective action**

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<sup>67</sup> HC Deb, 29 April 2004, col 1300W

<sup>68</sup> HC Deb 25 May 2004, col 1554W

<sup>69</sup> Privacy International, *Mistaken Identity; Exploring the Relationship Between National Identity Cards & the Prevention of Terrorism*, April 2004, [www.privacyinternational.org](http://www.privacyinternational.org)

<sup>70</sup> Q 618

on identity would be a real and important contribution to restricting the ease with which terrorists can operate.

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

### **Identity fraud**

96. The Government estimates that identity fraud costs the country above £1.3 billion a year, about a tenth of the total annual economic cost of all fraud.<sup>71</sup> The Home Office argued that the scheme will combat both identity fraud and identity theft, since starting the registration process from scratch would mean that incorrect data would not be imported. Biometrics would reduce identity theft, since attempts to change an identity would show up automatically. Similarly, lost and stolen cards would be put on a stop list, taking a card out of circulation and making it impossible to use fraudulently.

97. The Association of Chief Police Officers stated that:

“The proposed scheme has the potential to reduce identity fraud. ACPO acknowledges that the proposed scheme provides further barriers for those seeking to fraudulently create a false identity. This is clearly beneficial in the prevention and detection of crime. ACPO is currently working with partners in both the public and private sectors to develop policies, practices and procedures to combat identity fraud.”<sup>72</sup>

98. The Foundation for Information Policy Research were sceptical about the effects of identity cards on identity theft, arguing that it was more a regulatory issue centred on enforcing the correction of inaccurate records; they also said that “fraud patterns do not appear to vary across Europe according to the existence or absence of ID cards”.<sup>73</sup> Professor Anderson, the Foundation’s Chair, told us that in his experience the main determinant of levels of fraud was not the card technology but the diligence and frequency of online checks on whether a transaction was valid or not. The Law Society also pointed to international comparisons, arguing that no evidence had been produced to demonstrate how similar schemes across the world had made an impact on identity or improving the prevention and detection of crime.

99. **We believe there is a danger that in many day-to-day situations the presentation alone of an identity card will be assumed to prove the identity of the holder without the card itself or the biometrics being checked, thus making possession of a stolen or forged identity card an easier way to carry out identity fraud than is currently the case. The availability of readers of cards and biometrics, including to the private sector, is therefore a crucial factor.**

100. **We think it would be likely that identity cards would help combat identity fraud, but only as part of a wider package of measures. The Government should be clearer**

<sup>71</sup> Cabinet Office, *Identity Fraud :a study*, July 2002, para 2.17

<sup>72</sup> Ev 150

<sup>73</sup> Ev 191

**both about how and when it expects the card and biometrics to be checked and about what levels of security are appropriate in different circumstances.**

### *Entitlement to public services*

101. The Home Office argued that an identity cards scheme would allow public services to check whether an individual's entitlement, for example to benefits, had expired or had never existed. "An identity card would give everyone a recognised Government-confirmed proof of identity, would mean that an individual did not need to provide many different cards or pieces of paper, and would combat impersonation and identity fraud."<sup>74</sup>

102. The Parliamentary Under-Secretary at the Department of Work and Pensions, Mr Chris Pond MP, told us that his Department estimated that of the estimated £2 billion total annual benefit fraud, £50 million came from people not being who they said they were when making a claim. He argued that as the Department clamped down on other forms of fraud, there would be more attempts at this type of fraud. He also believed that identity cards might help tackle an additional £50 million of other types of benefit fraud annually.<sup>75</sup>

103. The British Medical Association strongly supported the Government's intention to reduce the inappropriate use of health services, and recognised that the NHS had a legal duty to check the eligibility of individuals wishing to use free health services. Dr John Chisholm, Chairman of the BMA's General Practitioners Committee, expected the checking to continue to be done by the primary care trust, rather than by doctors and their staff.<sup>76</sup> The BMA was, however, concerned that any potential system should not cost the NHS more, in terms of additional bureaucracy, than it saved.<sup>77</sup>

104. Entitlement to services and entitlement to an identity card will not always coincide. For example, the Rt Hon John Hutton MP, Minister for Health, told us that: "It is the case of course that you can have entitlement to NHS care, but not an ID card and it is perfectly possible that you could have an ID card, but not be entitled to NHS care".<sup>78</sup> The Rt Hon Charles Clarke MP, Secretary of State for Education and Skills, noted that "Education legislation does not impose any conditions relating to the nationality or immigration status of children seeking entry to a maintained school. So questions of proving entitlement to schooling are irrelevant".<sup>79</sup>

105. It is not obvious to us why the Government want to charge for NHS treatment, but to provide free education to children of illegal immigrants (and whom the Government wishes to remove from the country by using the identity card scheme).

106. We do not believe that entitlements are currently checked as rigorously as they could be—for example, the Secretary of State for Education and Skills conceded that this was the case for post-16 education.<sup>80</sup> The development of identity cards should not be used as a

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<sup>74</sup> Ev 200

<sup>75</sup> Q 549

<sup>76</sup> Q 823

<sup>77</sup> Ev 271

<sup>78</sup> Q 548

<sup>79</sup> Ev 173

<sup>80</sup> Q 539

reason to avoid tougher measures now on identity fraud in relation to public services. Indeed, if no culture of checking identity is developed now, it is difficult to believe that identity will be checked rigorously once identity cards have been introduced. If checks are not carried out thoroughly now, they may still not be after identity cards have been introduced. Providers of public services, such as schools and hospitals, need to check identity regularly now.

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

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

109. Some public services fall to the devolved administrations. The Scottish First Minister, Mr Jack McConnell MSP, has said that the position of the Scottish Executive is that “any proposals for voluntary, compulsory or any other form of identity card system in the United Kingdom that might be used for any matter that comes under the United Kingdom Government’s remit should not and will not be compulsory for use in relation to devolved services in Scotland.”<sup>81</sup> Andy Kerr MSP, the Scottish Executive Minister for Finance and Public Services, explained that Scottish Ministers had decided to proceed with a voluntary Scottish card<sup>82</sup> because, in their view, the focus of the Home Office proposals had narrowed to primarily the reserved issues of nationality, immigration and employment rights, while the authentication requirements of the UK identity card would be significantly higher than for the Scottish card and the proposed time table for implementation of the identity card was considerably longer than for the Scottish card.<sup>83</sup>

110. The Welsh First Minister, Rhodri Morgan AM, has said that “The current Assembly Government has no intention of cutting back on or denying services to people who do not have identity cards”.<sup>84</sup> He explained to us “We will consider the implications for Wales of the Home Secretary’s proposals for identity cards as these proposals are firmed up. But, as the Home Secretary has announced, decisions on the use of these cards to access services for which the Welsh Assembly Government is responsible will be a matter for this administration. I used the opportunity of an Assembly Question to provide reassurance to people in Wales that their access to public services will not, in the foreseeable future, be dependent on the possession of an identity card”.<sup>85</sup>

111. The situation in Northern Ireland was set out by the Secretary of State:

“The Identity Card scheme involving the registration of individuals and the issue of identity cards will operate on a UK-wide basis. If, as we hope, we can restore the devolved institutions at an early date, then it would be up to the devolved

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<sup>81</sup> SP OR 13 November 2003, col 3254

<sup>82</sup> See para 184 for this and other card schemes.

<sup>83</sup> Ev 258–259

<sup>84</sup> Official Record of the National Assembly for Wales, 2 December 2003, OAQ30113, p 11

<sup>85</sup> Ev 270

administration in Northern Ireland to decide what use they make of the identity cards.”<sup>86</sup>

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

### *Easier access to public services*

113. The Home Office said that the card will make it easier to access not only public services, but also those provided by the private sector:

“An identity card that was recognised by the range of service providers across both the public and private sectors would considerably ease an individual’s life. This will be particularly important for those people who do not have a driving licence or a passport, and who may currently experience difficulties in proving their identity, and therefore their entitlement to services, in those situations where proof of identity is routinely asked for.”<sup>87</sup>

The Parliamentary Under-Secretary at the Department of Work and Pensions argued that identity cards would, for example, make life easier for those claiming benefits, by making the process of establishing identity both more secure and more convenient for the customer.<sup>88</sup>

114. He added that the Register might also make it easier for his Department to contact groups who were not receiving the benefits to which they are entitled, such as Council Tax Benefit and Pension Credit.<sup>89</sup>

115. For his part, the Minister for Health emphasised that it would be important to keep a balance between checking cards and allowing access to services, suggesting that appropriate points to confirm entitlement to free NHS care would be when first registering with a GP or at the first in a series of hospital appointments.

116. The Finance and Leasing Association argued that identity cards would also help with access to private sector services: “an identity card could also assist the financially excluded to access mainstream financial services. Currently due to the information sources available, the main one being the electoral roll, individuals may find it difficult to access these services”.<sup>90</sup> Martin Hall, Director General of the Association, explained that “financially excluded people, who typically do not have a passport, do not have a driving licence, perhaps have a meter for electricity and gas” did not have the documents they need to establish an identity under the Know Your Customer money laundering rules.<sup>91</sup> Identity

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<sup>86</sup> HC Deb, 16 June 2004, col 965W

<sup>87</sup> Ev 201

<sup>88</sup> Q 570

<sup>89</sup> Q 571

<sup>90</sup> Ev 188

<sup>91</sup> Q 315

cards would therefore, in his view, help such people establish who they were. Councillor Gerald Vernon-Jackson of the Local Government Association told us: “If you are going to do it—if you are going to do an identity card—let us do it properly and have one that actually works for a range of things, otherwise it becomes a charter for wallet makers that we have to carry five or six of these things around, and that just seems to be inefficient and really does not do government a great service”.<sup>92</sup>

117. The Government claims that identity cards will make access to public services easier, but it has not set out in detail how this will be achieved. Witnesses indicated two ways how cards might in principle help. First, a single card could provide a substitute for multiple forms of identity where proof of identity was required, including public services, such as benefits and local authority services, and private services, such as proof of age in bars or meeting the requirements of money-laundering legislation. Second, an identity card could make it easier to access other types of services. For example, it could potentially enable an individual to access their NHS records or ensure that the electoral register was up to date with changes of address.

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

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

120. Many of the benefits noted above are not dependent on a card being compulsory. The Secretary of State for Education and Skills, the Minister for Health and the Parliamentary Under-Secretary at the Department of Work and Pensions agreed that the benefits of even a voluntary identity card, such as the better management of services and the elimination of fraud, would lead to efficiencies and benefits both to the citizen and the State across a wide range of different services.

121. The Home Office argued, however, that some of the expected benefits of identity cards, in particular those relating to countering organised crime and terrorism, would only accrue if a scheme were compulsory. They believe that this would encourage service providers, public and private, to use the scheme consistently, and that only a compulsory scheme would be non-discriminatory, since everyone would have a card.

### **The Government’s proposals—some key issues**

122. There are some common issues which arise from our discussion of the government’s aims.

123. Identity cards would assist with each of them, although for many compulsion would be necessary. However, in each case, cards will have to be properly checked, and their

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<sup>92</sup> Q 312

utility will depend on verification and security being at the most appropriate level. The system will have to be sufficiently reliable, and the proportion of cards incorrectly rejected sufficiently low, for checks to be accepted as a normal part of the provision of services.

124. The Home Office told us that there would be a number of different ways of checking identity through a card. They gave the following examples:

(1) Visual—photograph matches, security features

This type of basic check could only confirm that the card appears to be genuine, in accordance with a visual check of security features, is valid and is rightfully held in that the photograph bears a likeness to the holder.

(2) Telephone—automated confirmation

This would check that the card has been validly issued which could be confirmed by contacting a call centre.

(3) ‘Card not present’ database check—automated confirmation

A check of an identity number or other personal details against the identity cards database which will check that a valid card/identity number has been issued to a person.

(4) Telephone—automated check including pin number

As (2) above but with a greater level of assurance that the person holding the card was the person to whom it was issued.

(5) Off-line biometrics—card reader required

A highly verified check of identity which determines whether a person’s biometric information matched that on the chip.

(6) On-line biometrics—confirmation with identity cards database

Highest form of check as it would provide additional confirmation that the card has been genuinely issued, that the biometrics information of the holder, card and database all match. This level of check could be carried out with or without the card.

- If the card were presented, the check would show whether the holder was the person whose biometric was recorded on both the chip and the database.
- If the card were not presented, the person’s biometric information, eg a fingerprint, could be checked directly against the database and the person’s identity confirmed.<sup>93</sup>

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

<sup>93</sup> Ev 206

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

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

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

## Public support

129. We note that public support for the principle of identity cards has so far been high. A poll carried out for the Daily Telegraph in September 2003<sup>94</sup> found 78% in favour of the introduction of national identity cards (15% opposed, 7% don't know); 81% were in favour of compulsory cards (dividing roughly half and half on whether it should be compulsory to carry one at all times). 92% would welcome or not mind the introduction of identity cards or reluctantly go along with them, while 7% would strongly object and absolutely refuse to acquire one. Around 80% believed that cards would help cut down on 'health tourism' and benefit fraud and make it easier to catch bogus asylum seekers and others attempting to avoid deportation (13% disagreed in each case); 60% also thought that it would be easier for the police to catch criminals (26% disagreed). A poll carried out for the IT consultancy Detica gave similar results in April 2004.<sup>95</sup> 50% were strongly and 30% moderately in favour of identity cards (5% were moderately and 6% strongly opposed), while 73% said they were unconcerned that identity cards would affect their civil liberties, and 83% were happy to carry a national identity card at all times.

130. However, a poll commissioned the following month by Privacy International found only 61% in favour of identity cards, with the number saying they were strongly opposed at 12%.<sup>96</sup> It is also the case that those questioned were less than enthusiastic about paying for them (see paragraph 134), and were distinctly sceptical about the Government's ability to introduce them smoothly—58% of those questioned by Detica had little or no confidence in this—or to protect information on the database—in the same poll 48% were not very or not at all confident in the Government's ability to store personal information securely.

131. The Home Secretary thought that demand for identity cards would be high from the opening of the scheme:

“I happen to believe that once we have got this up and running, as with the pilot for biometrics that we announced a week ago, people will queue up for it and we will have to deal with the flow and the flood of people wanting it much earlier, wanting to renew their passport and get an ID card very fast.”<sup>97</sup>

Intellect, the trade association representing IT, telecoms and electronics companies in the UK, was less sanguine and argued that “an ID Card will have to deliver rapid and

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<sup>94</sup> [www.yougov.com](http://www.yougov.com)

<sup>95</sup> [www.detica.com](http://www.detica.com)

<sup>96</sup> [www.privacyinternational.org](http://www.privacyinternational.org)

<sup>97</sup> Q 626

compelling benefits to citizens to shift negative perceptions and establish the foundations for long term success”.<sup>98</sup>

132. Other witnesses expressed the concern that even a voluntary scheme would become effectively compulsory if a card was required to access large numbers of services; the Law Society was concerned that “in practice, a voluntary scheme could become in effect compulsory as more and more organisations and service providers required production of the card to prove identity”.<sup>99</sup> The Information Commissioner raised the linked issue of inappropriate demands to produce a card:

“I would be unhappy if a local authority gymnasium required you to produce your identity card in order to make use of that local authority gym. I think that is going well beyond what should be acceptable. The local video shop, when you are renting a video: for them to insist upon the production of an identity card for you to rent a video would in my view be disproportionate and unacceptable and I would want to see appropriate restrictions stopping that sort of activity.”<sup>100</sup>

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

134. We also note that public support for the principle of identity cards does not extend to the reality of having to pay for them. In the Daily Telegraph poll of September 2003, cited in paragraph 129 above, only 1% believed that £40 was a reasonable charge for an entitlement card, while 86% thought the card should be provided free. Similarly, in the Detica poll also cited in paragraph 129, 40% did not want to pay anything, while a further 32% were only prepared to pay up to £25.

### The ‘voluntary’ stage

135. The Home Office made a distinction between the second phase, when it will be compulsory to register, and the opening phase of the scheme, which they describe as ‘voluntary’.<sup>101</sup> The Law Society were opposed to a compulsory system, though not necessarily to a voluntary scheme, but argued that even before the Government moved to the compulsory stage of the proposed scheme, cards would not in reality be voluntary, since anyone who needed a new passport or driving licence, or who moved house, and thus had to update their driving licence, would have no option but to apply for a card and to be put on the National Identity Register. They characterise the word ‘voluntary’ as ‘very disingenuous’, since anyone renewing a passport or driving licence would have no choice but to register and pay for an identity card version of those documents: they suggested that it should be possible to choose a non-identity card version until the compulsory stage was reached.<sup>102</sup> The Information Commissioner similarly talked of “an illusion of choice”.<sup>103</sup>

<sup>98</sup> Ev 215

<sup>99</sup> Ev 222

<sup>100</sup> Q 210

<sup>101</sup> Ev 203

<sup>102</sup> Q 693

<sup>103</sup> Ev 285

The Home Office said that the Government's proposal would be 'more convenient to the public' and increase take-up; they also argued that it would not be in the public interest to continue to issue less secure passports and driving licences.<sup>104</sup>

136. For most people, to travel abroad and to drive are fundamentals. It cannot be argued that these would be given up voluntarily. To describe the first phase of the Government's proposals as 'voluntary' stretches the English language to breaking point.

137. The Government expected to cover 80% of the economically active population within five years of the beginning of the first phase.<sup>105</sup> The Director of the Home Office's Identity Cards Programme told us that they would expect to issue between 10 and 17 million cards a year.<sup>106</sup> This may be optimistic: according to the Home Office, the highest annual figure for new and renewed passports and driving licences over the past five years is less than 12.5 million.<sup>107</sup>

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

### Vulnerable groups

139. A wide range of witnesses expressed concern to us over the effects of any identity card system on vulnerable groups, such as the elderly or those suffering from mental illness. The British Medical Association, for example, said "Socially excluded groups are among the least likely to access public services effectively, and the need to register for and hold an ID card in order to access vital services could operate as an additional disincentive."<sup>108</sup> The Metropolitan Police linked this concern to the issue of how the card would affect minority ethnic groups:

"The scheme could become compulsory prematurely for those disadvantaged members of society, because they would have to have an ID Card in order to access Social Security Benefits, etc. It should also be noted that many of the visible ethnic minorities are over-represented in this socio-economically deprived group. We have severe reservations that the scheme could add to tensions at a time when the police service is investing greatly in gaining confidence across all communities."<sup>109</sup>

Trevor Phillips, Chair of the Commission for Racial Equality, also noted the concerns of minority ethnic groups over the operation of an identity card, pointing to "a pretty profound lack of evidence about the potential impact of the scheme on different ethnic groups and communities."<sup>110</sup> The Director of Liberty was concerned that identity cards might exacerbate existing tensions with minority groups;<sup>111</sup> Mr Philips pointed out that the

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<sup>104</sup> Ev 308

<sup>105</sup> Q 6

<sup>106</sup> Q 98

<sup>107</sup> Ev 307–308

<sup>108</sup> Ev 272

<sup>109</sup> Ev 240

<sup>110</sup> Q 834

<sup>111</sup> Q 161

perceptions and expectations of such groups regarding identity cards were as important as the reality in affecting community relations.<sup>112</sup>

140. Press for Change (PFC), “the largest representative organisation for transsexual people in the UK”, made the point that even before the move to full compulsion, anyone applying for a new passport or driving licence would have to apply to be put on the National Identity Register and would be given an identity card version of the relevant document. They argued that “Protection for trans people and other vulnerable minorities must therefore be assured before any implementation of the NIR or of enhanced versions of existing documents, rather than delayed until consideration of universal compulsion”<sup>113</sup>.

**141. The effect of the identity card scheme on minorities, such as the elderly, the socially excluded and ethnic groups, is of the utmost importance. The Government should ensure that the scheme imposes no new disadvantages on these groups, and do so before it is implemented.** In paragraph 256 we make a practical recommendation on how legislation should approach such groups.

## The National Identity Register

142. There are a number of basic questions about the design of the scheme. These include whether its aim is to enable an individual to prove his or her identity or to enable him or her to access services. There are also different degrees of possible control over information on the database: an individual might wish to allow some, but not others, to have access to their address or their past or current names. The answers to these fundamentally affect the design of the scheme, how it would be used in practice and how it would affect individuals in their daily life.

143. There is a wide range of options for the design of the identity cards scheme. Andy Jebson, of Cubic Transportation Systems, argued that the possibility of a pure identity card that would never be anything else had to be balanced against the richness of data that might be used for other purposes later.<sup>114</sup> John Harrison, a Director of Eidentity, argued that an individual had many different identities, each a function of a relationship with a different organisation or body, and that the question was therefore how an identity card, evidence of an individual’s relationship with the Home Office, should be used to identify that individual in other relationships, such as with a health provider.<sup>115</sup> There were also differences of opinion, as noted below, on the proper architecture of the database, the relationship between the card and the database, the type of card and the information held on the card itself. Witnesses were, however, unanimous on the importance of the Government taking the over-arching decisions at the beginning of the process and sticking to them; as Mr Harrison put it:

“You take, you should take, the big decisions about the infrastructure, the basic shape of the thing, very early on. You create the outline, and then, as time goes by, you can

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<sup>112</sup> Q 845

<sup>113</sup> Ev 299; PFC explain “Transsexual people identify themselves as members of the sex opposite to that assigned at birth, and may undergo medical treatment known as gender reassignment. Transgender is a broader term that includes people temporarily changing their gender and appearance as well as transsexual people. These terms are not precise, so PFC uses the broad adjective trans to cover men and women in both categories”.

<sup>114</sup> Q 422

<sup>115</sup> Q 426

fill in the detail. What is very, very expensive and almost catastrophic is to go a number of years down the path and then change the overall outline.”<sup>116</sup>

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

### ***Architecture of the database***

145. There are technical issues of considerable importance arising from choices made about the nature of the database. Professor Martyn Thomas, representing the UK Computing Research Committee, as noted in paragraph 62, argued that to create a single national database was risky; Professor Ross Anderson, the Chair of the Foundation for Information Policy Research, also warned against trying to cover too many functions at once:

“As a general principle, if you have one mechanism that you make serve more purposes then you make it more fragile, you make it more expensive, you make it more difficult to maintain and it becomes a road block in the things that all sorts of people are trying to do.”<sup>117</sup>

John Harrison, of Edentity, was cautious about the ways in which a single database would be used, arguing that occasions on which identity needed to be proved to the Home Office were relatively few, while identity might have to be proved more frequently for other purposes, such as in the work place or a hospital, and that it would be “nonsensical” to create an infrastructure that threw all of those back at one central database.<sup>118</sup>

146. Andy Jebson, of Cubic Transportation Systems, argued from his experience that a single database should not be ruled out, since it was possible to contain a database in a very secure facility in one single site and thus to limit the access to the data over communications links. Furthermore, existing systems could be completely backed up in a separate, highly secure site. He acknowledged that security could never be 100% certain, but argued that even using currently available technology it was possible to reach such a high level of security that risk was significantly minimised.<sup>119</sup>

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

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<sup>116</sup> Q 462

<sup>117</sup> Q 340

<sup>118</sup> Qq 424 and 429

<sup>119</sup> Qq 418 and 428

### **Access to the database**

148. Richard Thomas, the Information Commissioner, told us:

“There are huge questions about access to the national identity register: who has access to it, for what sorts of purposes and how is that information to be used.”<sup>120</sup>

149. The Director of Liberty said “the tradition in this country has always been that [...] the state holds a piece of information about you in one place for one purpose.”<sup>121</sup> She was concerned that this was being undermined by a culture of data-sharing that disregarded the purposes for which the data had been gathered. The Law Society expressed similar fears. The Director of Liberty also argued that experience showed that compliance with existing data protection laws was not sufficient and that they should therefore be broadened.<sup>122</sup> The Law Society’s Head of Law Reform, Vicki Chapman, noted that widespread access to the database would have consequences for the security of the system.<sup>123</sup>

150. The Home Office expected the ‘vast majority’ of cases involving other Government departments would involve checking whether information provided by an individual matched that on the National Identity Register, rather than requesting additional information.<sup>124</sup>

**151. A balance needs to be struck between, on the one hand, protecting individuals from unnecessary access by public and private bodies to information held on them and, on the other, ensuring that users of the database have the information they need for the scheme to fulfil its purposes. Above all, it is important that the public should know who may be able to see information about them, and what that information is.** We consider the Government’s proposals for access to the Register by the police, security services and officials in paragraphs 266–72.

### **‘Function creep’**

152. Concerns were also expressed over “function creep”. The Information Commissioner drew a historical parallel:

“In the written submission we gave to the committee we gave you details of a government committee in the early 1950s looking at the Second World War national identity card. That was introduced in 1939 with three stated purposes: for conscription, for national security and for rationing. By 1950 the government committee of the day found that in those 11 years that scheme had grown to 39 stated purposes. The debate at the time the committee reported in the early 1950s was that the main rationale for identity cards was the prevention of bigamous marriages.”<sup>125</sup>

<sup>120</sup> Q 204

<sup>121</sup> Q 167

<sup>122</sup> Q 186

<sup>123</sup> Q 187

<sup>124</sup> Ev 314

<sup>125</sup> Q 748

153. On the other hand, the Finance and Leasing Association took the view that “the database should be available for all legitimate users of information to access either directly or indirectly to facilitate the uses of the card which an individual may make”.<sup>126</sup> Their Director-General stated that no lender would be seeking direct access to that central database and stipulated that the purposes for which that data could be used would have to be very strictly defined, such as when there were *prima facie* grounds for suspecting fraud, for instance, or for the purpose of credit-checking, but not for marketing purposes.

154. It is almost certain that a successful identity card scheme will bring forward new proposals for its use. However it is essential that there should be proper public scrutiny of and parliamentary control over such developments. There are a number of possible examples. Perhaps the most significant development is the move from enabling individuals to identify themselves to enabling the state to identify individuals.

155. The draft Bill effectively establishes a national fingerprint register covering 80% of the economically active population within five years of the scheme’s implementation, and 100% once the compulsory stage has been reached. It is a moot point whether Parliament would currently sanction the establishment of a comprehensive fingerprint register solely for crime fighting purposes: to date only the limited extension of finger-printing and DNA sampling for those arrested has been sanctioned. Nonetheless the Minister of State confirmed the Government’s intention to use the National Identity Register as a national fingerprint register to identify individuals. He suggested that there would or might be some unspecified limits on the circumstances in which the Secretary of State would permit this to take place.

156. Irrespective of the Government’s intentions, we can also expect media and public pressure to use the fingerprint register ever more extensively. The establishment of a national fingerprint register has never been a stated aim of the identity card system. Whatever the merits of such a development—and there has been no debate as to whether an identification through this means would be sufficient evidence to secure a conviction for example—we believe its use should be subject to proper Parliamentary scrutiny and decision and not developed through executive action.

157. It is also likely that that facial recognition technology will develop to the point where an individual captured on a CCTV camera could potentially be identified from the National Identity Register. Again, we doubt whether the pressure to use the system in this way could be resisted forever by future governments.

**158. Whatever the merits or otherwise of such developments, their potential should be recognised. It is essential that they do not develop incrementally or by executive action but are subject to full Parliamentary scrutiny. These issues are at least as significant as the decision to make cards compulsory.**

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

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<sup>126</sup> Ev 187

## *Information on the database*

### *Addresses*

160. The Home Office have said that “the information that is proposed to be held on the National Identity Register is simply that information which is required to establish a person’s core identity”.<sup>127</sup> There are important practical issues arising from the information held on the database. For example both the Local Government Association and the Police Federation wanted to have addresses on the database, even though they accepted that this would create problems. As Councillor Vernon-Jackson of the Local Government Association said “In London, 40% change address every year. In Southampton, 25% change every year. That is a huge number of cards that would have to be reissued—and that is only having to register once a year. With people who are serially moving, it will be an extremely difficult process to make sure that things are accurate.”<sup>128</sup> The Chair of the Commission for Racial Equality similarly pointed to the “impact on different kinds of communities particularly, for example, the 100,000 or more gypsies and travellers in this country who are not settled. If there is an address on the card and they have to keep this up to date every time they move, we can begin to see chaos, catastrophe and all sorts of problems there”.<sup>129</sup>

161. The Information Commissioner raised the question of whether an address would be printed on the face of the card. He said that it was currently acceptable for a driving licence, but he was uncomfortable with the idea of an address being on an identity card or a passport.<sup>130</sup>

162. Address information is most obviously necessary in areas such as housing benefit fraud and credit card fraud. One might question whether having addresses on the National Identity Register adds significantly to the security against double claiming at different addresses offered by the effective use of biometrics.

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

164. In many parts of Europe, including Sweden and Germany, where there is a requirement to register addresses, it is a legal requirement for landlords to register their tenants. We recommend that this be adopted if the Government decides to

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<sup>127</sup> Q 46

<sup>128</sup> Q 250

<sup>129</sup> Q 835

<sup>130</sup> Q 756

**include addresses, since it would help alleviate the problem of frequent changes of address.**

### *The individual number*

165. A related issue is whether it is necessary to have an individual number, and of what sort. Some of our witnesses took the view that this was not necessary. Professor Thomas, representing the UK Computing Research Committee, argued that US example showed the dangers of a single life-long identifying number, which, because it was inevitably widely known, gave others the ability to access an individual's personal information or impersonate him or her.<sup>131</sup> He and Professor Anderson, of the Foundation for Information Policy Research, both pointed to the German model, in which an individual's number changes each time the card is reissued, as one that avoided these drawbacks.<sup>132</sup>

166. The current practice in the United Kingdom is that when a Child Benefit claim is made, the Department for Work and Pensions generates a Child Reference Number for each child. This is in National Insurance Number format and is converted to a National Insurance Number when the individual is around the age of 15 years and 9 months and allocated automatically by the Inland Revenue just before the individual's 16th birthday. The purpose of a National Insurance Number is to act as a unique identifier to link an individual to their National Insurance contributions record, and for use as a reference number by Department for Work and Pensions for social security benefits and by the Inland Revenue for tax credits. Policy responsibility for National Insurance Numbers is held jointly by Inland Revenue and Department for Work and Pensions. The possibility thus already exists for every British citizen to have a unique number from cradle to grave, on the Swedish model.

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

### **Biometrics**

168. The Home Office described a biometric as "a digital record of a particular physical characteristic that is unique to each individual, such as fingerprints or the shape of a person's face".<sup>133</sup> The Government's case is that biometrics will link individuals to their card and the National Identity Register so that, as the Home Secretary told us, "the moment someone presents the same biometric but with a different identity, a different name and presentation, that would automatically show up as already existing on the database".<sup>134</sup> The techniques being considered for the identity cards scheme are face recognition, iris recognition and fingerprint recognition. It should be noted that the feasibility study commissioned by the UK Passport Service, DVLA and Home Office on the use of biometrics said that "Biometric methods do not offer 100% certainty of

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<sup>131</sup> Q 348

<sup>132</sup> Q 347

<sup>133</sup> Ev 199

<sup>134</sup> Q 628

authentication of individuals” .<sup>135</sup> The study also suggested that about 1 in 10,000 people did not have an iris that can be used for iris recognition, while over 1 in 1000 fingers were missing or have no readable fingerprint. Even facial recognition, the nearest to universal, would have cases where automatic enrolment fails. From the experience of one of our Members at the UK Passport Service’s pilot enrolment project, covered in paragraph 189, we know that the process of registering biometrics can be uncomfortable, even when successful. We are also concerned that there are medical conditions that would preclude the use of iris scanning. Furthermore, biometrics are not constant over a life-time, since, for example, fingerprints can be worn away by manual labour.

169. In addition to “failure to acquire rates”, any biometric has both a false non-match, or false rejection, rate (in which legitimate card holders are not matched with their recorded biometric) and false match rates (in which someone is matched to a biometric that is not their own). These are linked, so that a reduction in the false match rate leads to a rise in the false rejection rate, and vice-versa.

170. Figures for performance by biometrics depend on whether the check is one-to-one—checking that someone is who they say they are—or one-to-many—checking whether someone is already on the database. The National Physical Laboratory’s feasibility study noted that in one-to-one checks good fingerprint systems were able to achieve a false match rate of 1 in 100,000, with a false non-match rate of approximately 1 in 100. Iris recognition could achieve a false match rate of better than 1 in 1,000,000 with a false non-match rate of below 1 in 100. Under ideal lighting conditions, with subjects directly facing the camera and using photographs 1 or 2 months old, facial recognition achieved a false match rate of 1 in 1,000 and a false non-match rate of 1 in 10.

171. The study concluded that for one-to-many checks to be workable with a database of more than 50 million people at least four, and preferably all, fingerprints should be collected, and for iris recognition, both irises. Face recognition was not reliable for a database of this size.

172. However, other assessment of fingerprint matches, such as one by the US General Accounting Office,<sup>136</sup> show far higher error levels. The critical difference between these studies appears to be the assumption about the circumstance in which the fingerprints are taken and checked against the central register. Fingerprints taken to police standards have a high reliability rate; fingerprints taken by less well trained personnel will have higher false matches and false rejections.

173. We assume that almost all one-to-many checks would be carried out by specially trained staff, either on enrolment or by law enforcement personnel in the circumstances outlined in paragraph 89. It is not clear how well the public will tolerate false rejection in other circumstances (for example when using the identity card to open a bank or investment account). The importance of reliable verification again underlines the importance of the Government making clear what level of security they expect the identity system to require in different circumstances.

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<sup>135</sup> Tony Mansfield and Marek Rejman-Greene, *Feasibility Study on the Use of Biometrics in an Entitlement Scheme*, National Physical Laboratory, 2003, p3, [www.homeoffice.gov.uk/comrace/identitycards/publications.html](http://www.homeoffice.gov.uk/comrace/identitycards/publications.html)

<sup>136</sup> US General Accounting Office, *Technology Assessment: Using Biometrics for Border Security*, GAO-03-174, November 2002, [www.gao.gov](http://www.gao.gov)

174. There are media reports of successful attempts to evade commercially available biometric software, by, for example, using a digital photograph of another person's iris with a hole cut in it for the criminal's eye. Professor Anderson, Chair of the Foundation for Information Policy Research, told us:

“As things stand I am afraid that iris scanners, like fingerprint scanners, are liable to be defeated by sophisticated attack if they are used in an unattended operation. Attended operation is different, of course, if you train the staff properly they can feel people's fingerprints, they can look carefully at the eye and check there is no funny business.”<sup>137</sup>

The Director of the Home Office's Identity Cards Programme told us that the UK Passport Service pilot project, mentioned in paragraph 189, is not intended to test the robustness of biometric technology or how well the system would work on a larger scale.<sup>138</sup>

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

## Medical information

176. The British Medical Association did not want medical information recorded on identity cards, since they “want the public to be reassured that other people who had access to their identity card were not able to access personal health information”<sup>139</sup> and because the information would not be updated sufficiently frequently. For the same reasons they argued in favour of keeping the National Identity Register separate from the planned national electronic health record. **We agree with the BMA: it would not be either useful or appropriate to keep medical details on the Register. But it would be sensible for the identity card to be the mechanism that enables individuals to access their NHS records.**

## The Citizen Information Project and other Government databases

177. The identity card scheme proposes a National Identity Register (see paragraph 45) covering the population of the United Kingdom over the age of 16, resident foreigners and others. Several other Government proposals are in the pipeline for databases covering the entire population, or significant proportions of it. In this section we review these proposals and examine how far they overlap with or duplicate the proposal for a National Identity Register.

178. The General Register Office, part of the Office for National Statistics (ONS), published a consultation document *Civil Registration: Delivering Vital Change* in July 2003.<sup>140</sup> This

<sup>137</sup> Q 379

<sup>138</sup> Q 671

<sup>139</sup> Q 839

<sup>140</sup> Office for National Statistics, *Civil Registration: Delivering Vital Change*, July 2003

explained the legal changes necessary to deliver proposals for modernising the civil registration service in England and Wales, which had been set out in the White Paper *Civil Registration: Vital Change* published on 22 January 2002.<sup>141</sup> Central to these proposals is the establishment of a central electronic database of key life events (such as birth, marriage and death), administered by the Registrar General.

179. On 6 January 2004 the Registrar General for England and Wales, Len Cook, published a feasibility study into developing a UK population register, with the working title of the “Citizen Information Project” (CIP). The aim of the register was to pave the way for more responsive and personalised public services. He also announced that, with ministerial agreement, a team based within the General Register Office would carry out the detailed development work over the following 18 months. Ministers would then decide whether or not to create a register for use by the public sector.

180. The Registrar General’s written evidence for the Committee said that the joint ONS/Treasury feasibility study concluded that:

“it should be possible to build a population register for use by public services across the UK. This would bring together basic contact information, about people who are usually resident in the UK, such as:

- name (with alternatives, for example, women may use their maiden name and their married name in different circumstances)
- address(es)
- date and place of birth (to distinguish between people with the same name)
- date of death
- sex
- a unique reference number.”<sup>142</sup>

181. The Registrar General’s note for the Committee also said that the CIP “would have many administrative and statistical benefits. It would become the authoritative source of name and address information for use across the public sector. This would support joined-up delivery and more efficient and effective transaction and back office services. The feasibility study shows the population register has considerable potential for improving public services and for making it simpler for people to update their name and address details held by government”.<sup>143</sup>

182. The Registrar General told us that one benefit of the Citizen Information Project would be that: “there will be one place where you could change your address with effect across all the systems where address change could happen”.<sup>144</sup> He added “I am completely convinced, without doing any more work, that the statistical benefits of this project will be quite immense for the UK, but they are not at all relevant in a decision as to whether a project such as this should go ahead”.<sup>145</sup>

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<sup>141</sup> Office for National Statistics, *Civil Registration: Vital Change*, Cm 5355, January 2002

<sup>142</sup> Ev 245

<sup>143</sup> Ev 246

<sup>144</sup> Q 511

<sup>145</sup> Q 531

183. We note however that the Registrar General also told us “it will not be possible to eliminate all multiple identities either in the existing data or in future data held on the population register”, but argued that “Once an individual is authenticated through the identity cards system, it will be possible to flag the record in the CIP population register that corresponds with that name and address as having been ‘authenticated’”.<sup>146</sup> We also note that the Secretary of State for Education and Skills understood the purpose of the CIP to be purely statistical.<sup>147</sup> We suspect that this misunderstanding is widely shared.

184. The identity card scheme and the Citizen Information Project are not the only large-scale government databases or card systems in preparation. In December 2003, the Secretary of State for Health announced the award of contracts to run the NHS Care Records Scheme, which would provide all 50 million NHS patients with an individual electronic NHS Care Record, detailing key treatments and care within either the health service or social care.<sup>148</sup> The Department for Education and Skills is working on introducing a Unique Learner Number, and on a common identifier with the Home Office. A database of all children is proposed under the Children Bill. The Office of the Deputy Prime Minister recently completed a National Smart Card Project which, *inter alia*, set out a framework for local authority smart card implementation and development. Similarly, the Scottish Executive is supporting the development by local authorities of youth and citizen’s entitlement cards. These initiatives are in addition to existing databases, such as those of the Inland Revenue, UK Passport Service and DVLA. There are doubtless others of which we are not aware.

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

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

**187. We believe that the Government must tackle this proliferation of databases, examining in each case whether the number, identifier or database is needed, what its relationship is to other existing or planned databases, how data will be shared or**

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<sup>146</sup> Ev 247

<sup>147</sup> Q 607

<sup>148</sup> DoH press release 2003/0502, 8 December 2003

verified and other relevant issues. For this action to be effective, it must be co-ordinated at the highest levels of the Civil Service.

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

## Registration and enrolment

189. The proposed system aims to cover the adult population of the country, and the Director of the Identity Cards Programme in the Home Office told us that their estimate was that between 10 and 17 million cards would be issued a year in the initial stage, roughly equivalent to the volume of passports, drivers licences and other identity type documents currently being issued in the UK.<sup>149</sup> A pilot project, run by the UK Passport Service, has been set up to study the enrolment process. Originally scheduled to begin in January 2004, this ran into “a series of hardware, software and ergonomic problems”<sup>150</sup> which delayed its start until April. The trial is to cover some 10,000 people and is expected to run for six months; its results will be assessed by Dr Tony Mansfield of the National Physical Laboratory. Dr Mansfield was the co-author of a feasibility study on the use of biometrics commissioned by the UK Passport Service, DVLA and Home Office. Nigel Sedgwick, a Director of Cambridge Algorithmica Ltd, argued to us that it was therefore open to doubt whether Dr Mansfield could be viewed as independent of those specifying, designing and implementing the UK Passport Service’s system and evaluating the trial of biometric technology.<sup>151</sup>

190. Witnesses made the point that enrolment is also crucial to the security of the whole system. If forged or fraudulent documents are not spotted, individuals will be able to enrol with false identities (even if biometrics mean that they will not be able to re-enrol in their real ones). Another means of creating a false identity would be if a corrupt official, for example in a British consulate overseas, were able to register applicants with no or minimal checks. There will therefore need to be a high degree of confidence on the reliability of the staff involved in enrolment, and enrolment processes will have to be designed so that through double checking, the scope for a corrupt official to register a false identity is minimised.

191. The Home Secretary conceded that it would be possible for an individual to have created a false identity by the time the scheme was implemented, and to be registered under that identity. But he argued that they would have to keep that identity for the rest of their life in the United Kingdom, since any attempt to re-register under their real identity would be picked up through their biometrics.<sup>152</sup>

192. An enrolment process that involves biometrics increases the significant practical questions that any large-scale registration process will have to deal with. These include, but are not limited to, registration of the housebound and of vulnerable groups such as the

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<sup>149</sup> Q 98

<sup>150</sup> Ev 269

<sup>151</sup> Memorandum from Nigel Sedgwick [not printed]

<sup>152</sup> Q 612

mentally ill. There will also be occasions on which supporting documentation is in a foreign language or script, or even hand-written.

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

## Cards

194. If the Government's scheme proceeds, decisions will have to be taken on what information is legible on the face of the card. As noted in paragraph 161, the Information Commissioner told us that there should be no more information on the card that was necessary for its intended purpose: thus, while he did not object to addresses on the current driving licences, he was not comfortable with them being legible on passports or identity cards. He also argued that information on the chip should be either encrypted or on a contact chip—which needs to be inserted in or run through a reader rather than held near it. (The International Civil Aviation Organisation recommends unencrypted contactless chips.) The Home Office said that no decision has yet been taken on what would be printed on the face of the card nor on what will be encrypted. Decisions would be taken “in the light of work underway on the feasibility of different technologies and analysis with key user groups of the business requirements of the scheme” and in accordance with international rules on the content of chips, some of which are still under discussion.<sup>153</sup>

195. As set out in paragraph 46, the Government's proposals envisaged a family of different documents each of which can be used as an identity card. (We also note the suggestion that Post Office Account Cards might be added to the family of identity cards.<sup>154</sup>) The Government's plan appears to be cheaper than producing a stand-alone identity card, since, according to the Government's figures, a plain identity card would cost about £35, while the additional cost of passport and driving licences identity cards was only £4. However neither passports nor driving licences can, for the time being, be reduced to cards, since the first will need space to record visas and the second endorsements. In addition, there are no plans to issue passport identity cards at British posts abroad, so British citizens resident overseas will continue to use passport booklets. Using passports and driving licences as identity cards may also give rise to difficulties, such as, for example, an individual trying to access a public service while their passport identity card is waiting for a visa at a foreign consulate. The Home Office said that when the identity card is used to access public services they will ensure that procedures are in place to help those whose card has been lost or stolen, especially in cases of emergency. They argued it could also be possible for service providers to check the National Identity Register directly without the need for a card to be produced.

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<sup>153</sup> Ev 308

<sup>154</sup> Memorandum from Electronic Data Systems [not printed]

196. Witnesses held a range of different views on the type of card to be used. Richard Haddock, CEO of LaserCard, took the view that all the data on the National Identity Register should also be on the card, so that the Register was accessed only to issue or replace cards.<sup>155</sup> On the other hand, Neil Fisher, Director of Security Solutions at QinetiQ, argued that biometrics could be reduced to a two-dimensional barcode, which the individual could keep on a memory device and print off as necessary.<sup>156</sup> The question of the type of card used is linked to the number of biometric readers needed for the system. Mr Fisher believed that these would be “very widespread”,<sup>157</sup> but Mr Haddock argued that technology implementation would be slower than planned and that there would be a continuing requirement for a physical card with a picture, name and fingerprints.<sup>158</sup>

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

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

## Readers and infrastructure

199. Whatever the type of card used, it is clear that there will need to be large numbers of machines able to read the chip on the card, the biometrics on the card or an individual’s biometrics. The only public estimate of the numbers needed was given by the Parliamentary Under-Secretary at the Department of Work and Pensions, who told us his Department estimated they would need some 4,500 readers; he was unable to be more precise than to say that they expected to need only “a small number of full biometric readers”.<sup>159</sup> No other Department, including the Home Office, has given any public indication of the number of readers it expects to require, although the Health Service, for example, will need many thousands if every practice and hospital is to have at least one. We note in addition that the Police Federation expect to be able to use mobile readers.<sup>160</sup> There is also the question of readers for use by the private sector: if the scheme is as successful as the Government hopes, there may well be many thousands of these; the Finance and Leasing Association told us that they had distributed 28,000 ultraviolet lights for use with

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<sup>155</sup> Q 430

<sup>156</sup> Q 432

<sup>157</sup> Q 499

<sup>158</sup> Q 501

<sup>159</sup> Qq 576 and 580–81 and Ev 175

<sup>160</sup> Q 245

the existing driving licences, but expected that cost would be the deciding factor for individual businesses.<sup>161</sup> (The cost of readers is discussed in paragraph 208.)

200. Little attention has yet been paid to the physical infrastructure that will be needed to support the system, including issues such as how biometric readers and enrolment equipment will be connected to the central database. These issues are vital: if, for example, the infrastructure is insecure, the viability of the whole system will be compromised. Similarly, the costs are a significant factor: it is clear that they are not covered in the central budget and the presumption therefore is that each Department will have to pay. It is not clear that they are committed to doing so; as a result there is a clear danger that Departments will tend to rely simply on presentation of the card, without checking its validity or the biometrics against the central database. This would undermine the value of the whole scheme.

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

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

## Multiple cards

203. Press for Change recalled the long-standing common law principle that a person is free to use more than one name, provided that there is no attempt at fraud or the avoidance of an obligation. As examples of legitimate use of more than one name they gave people living trans-gendered lives, singers, writers and actors with stage or professional names and married women using their maiden names for professional purposes. They therefore argued that what they saw as legitimate flexibility should be maintained by explicitly allowing the issue of multiple identity cards to a person and the explicit provision of privacy for the link between those identities.<sup>162</sup> The Home Office envisaged building on procedures for issuing passports and driving licences when issuing an identity card in an alternate name or gender. They said that exact arrangements for issue of identity cards to transgendered persons have yet to be decided, and noted the need to take into account the Gender Recognition Bill.<sup>163</sup> **We support the issue of multiple identity cards to an individual in cases where there is a legitimate need, and welcome the Home Office's expression of flexibility on this issue.**

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<sup>161</sup> Qq 245 and 295

<sup>162</sup> Ev 300

<sup>163</sup> Ev 308

## Security

204. We were told in Germany that the German identity cards were very secure. Witnesses from card manufacturers, such as Richard Haddock of LaserCard, were confident about the technological security of their products, while stressing the importance of proper security and audit procedures in the production of cards. Industry representatives also argued that the security of the system and of the database could be managed in such a way as to make the risk of fraud “minuscule”.<sup>164</sup>

205. Other witnesses, such as the representatives of the UK Computing Research Committee and the Foundation for Information Policy Research, argued that even if the card or the database were effectively secure against attack (which they thought improbable), those seeking to create false identities would simply try to subvert the enrolment and issuing process, for example at a British Consulate abroad.<sup>165</sup>

206. It is obvious that no system or card will be entirely infallible. It is also clear that the enrolment process, if not put in place with security in mind, may provide the easiest way of subverting the system. But if the card and the system are set up properly, any successful attack on them would have to be determined and technically sophisticated. Professor Anderson of the Foundation for Information Policy Research argued that “the main determinant of levels of fraud is not the card technology that you use but how diligent you are at checking online whether a transaction is valid or not”.<sup>166</sup> This suggests that systematic use of card readers by service providers would also be a deterrent to fraud.

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

## Costings

208. The Home Office’s public estimates for the cost of the proposals remain the £1.3 to £3.1 billion set out in the first consultation paper of July 2002.<sup>167</sup> The Government’s intention is that the costs of running the scheme will be met from charging: these figures therefore include revenue from the cost of the cards to individuals. Officials giving evidence to us cited commercial confidentiality for saying nothing more than they were “moving away from the lower end” of this £1.8 billion range.<sup>168</sup> The Home Secretary told us that this figure does not include the costs of biometric readers and other equipment to be installed in other Departments, such as the Department for Work and Pensions, or the National Health Service.<sup>169</sup> The overall costs of these would, in any case, be difficult to establish as there is little if any certainty about the numbers and types of readers required.

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<sup>164</sup> Q 391

<sup>165</sup> Q 397

<sup>166</sup> Q 357

<sup>167</sup> Home Office, *Entitlement Cards and Identity Fraud: A Consultation Paper*, Cm 5557, July 2002, p 141

<sup>168</sup> Q 93

<sup>169</sup> Q 637

209. The Cabinet Office Regulatory Impact Unit has issued guidelines on Regulatory Impact Assessments (RIAs), which state that a partial RIA is required to be issued alongside any public consultation (the final RIA is laid before Parliament alongside the resulting Bill) and that it should cover thirteen different points, including describing and quantifying the scale of the risk (or problem being addressed), identifying who is affected, including the business sectors affected, estimating the benefits and costs and identifying the key risks associated with each option and flagging up any potential unintended consequences.<sup>170</sup>

210. The draft Bill was not accompanied by a RIA, since the Home Office argued that it imposed no regulations on any private sector or voluntary organisations, and did not mandate which public sector organisations would be involved in the issuing of cards, and that it was not therefore appropriate to publish a RIA for the scheme. They said that since the Bill, if it became law, would lead directly to contracts for the provision of various services needed to deliver the card scheme, they needed to ensure that any published RIA would not compromise their ability to secure value for money for the scheme and added that provided that they could be assured of this their intention was to publish an RIA when the substantive Bill was introduced.<sup>171</sup>

211. It is intended to subsidise the cost of cards for those on low incomes, and that the subsidy will be funded by the fees paid for other cards and charged for verifying identities. It has been suggested that this is effectively taxation by stealth: the Home Office described these cross-subsidies as service charges and instanced cross-subsidisation of passports, where adult charges cover cheaper passports for children.<sup>172</sup>

**212. The Home Office have provided us with details of the assumptions on which their costings have been based, on a confidential basis. We are not convinced that the level of confidentiality applied is justified. Cost information is an essential element in determining the value for money of any project. It is of prime importance where expenditure is funded from the public purse and of particular relevance with regard to public sector IT projects which have a history of poor performance and cost-overruns. We are also concerned that the least robust cost estimates appear to relate to the assumptions with the greatest cost-sensitivity, such as the length of enrolment time, the anticipated number of applications requiring further investigation, the cost of card production and the criteria for subsidised cards. Changes to any one of these factors could cause significant increases to the cost of the programme.**

**213. The failure to attach a Regulatory Impact Assessment to the draft Bill, or to provide any detailed information on estimated costs and benefits, significantly weakens the basis for pre-legislative scrutiny and the public consultation exercise. This secrecy is all the more regrettable since the case for an identity card system is founded on whether its benefits are proportionate to the problems it seeks to address: a proper cost-benefit analysis is an indispensable element of this. The excuse of commercial sensitivity should not be used to avoid publishing a full Regulatory Impact Assessment with the Bill. We recall that the 1996 report of the Committee made exactly the same point about the importance of a detailed analysis to pre-legislative scrutiny (see paragraph 10).**

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<sup>170</sup> *Better Policy Making: A Guide to Regulatory Impact Assessment*, [www.cabinet-office.gov.uk/regulation/ria-guidance](http://www.cabinet-office.gov.uk/regulation/ria-guidance)

<sup>171</sup> Ev 309

<sup>172</sup> Ev 316

## Procurement

214. The Government's record on large-scale IT projects is not encouraging. Some critics, such as Professor Thomas, representing the UK Computing Research Committee, believed that the difficulties inherent in a public procurement project of this scale were insuperable. He also argued that penalty clauses can only guard against financial loss, and not against the unavailability of a public service. The Home Office said however that their adherence to the Office of Government Commerce's Gateway Review system provided reassurance; Intellect believed, based on their two years of work with the Home Office on the issues, that the Home Office had a better understanding of the capabilities of the technology. Other witnesses from the IT industry were unanimous about the importance of taking decisions about the infrastructure and the basic shape of the system early on. Mr Haddock, of LaserCard, held up the process followed by the Italian government as a model:

“it was about four years of planning and now, just in the last year, they have really starting issuing the card. The procurement process started in what they called the Experimental Phase because they had a group of 40 companies and government agencies who were providing input to them and from that they asked that same group to do a pilot programme of two hundred thousand cards to learn how well it worked and adjust to specifications and so forth. From that they started putting out procurements for sections of the system, not the whole system.”<sup>173</sup>

On 26 May the Home Office announced the choice of PA Consulting as its private sector development partner, to help determine the best way of designing and implementing the scheme. The company will work on the design, feasibility testing, business case and procurement elements of the identity cards programme.<sup>174</sup>

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

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

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

**218. The Home Office must develop an open procurement policy, on the basis of system and card specifications that are publicly assessed and agreed. The Home Office should also seek to minimise risk, including, as appropriate, by breaking the procurement process down into manageable sections. We have already recommended that the Chief Scientific Officer be invited to oversee the development of the biometric elements of the**

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<sup>173</sup> Q 458

<sup>174</sup> "ID cards—Home Secretary announces private sector partner" Home Office press release 196/2004, 24 May 2004

scheme. We recommend that individuals or groups with similar expertise be invited to advise on the scrutiny of other aspects of the scheme.

## Conclusions

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

220. We now examine the draft Bill in the light of these general conclusions.

## 5 The draft Bill

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221. In the time available we have not been able to scrutinise each clause of the draft Bill. We have taken evidence from a range of witnesses on a number of its provisions, but we do not pretend that our consideration of the draft Bill has been as detailed as we would have wanted.

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

223. Furthermore, the practical application of the scheme is unclear. The Home Office have told us that in the vast majority of cases involving other departments they expect them to make use of the identity verification service offered by the scheme. This means checking that information provided by an individual matches that on the National Identity Register rather than requesting any additional information from the Register.<sup>175</sup> Presumably the Government has the same expectation of the use of the Register by the private sector. We also note that the Government intends that some privatised organisations should be treated in the same way as public sector bodies. But nowhere in the draft Bill are the conditions for access to the Register spelt out. Clause 14, for example, provides for Regulations governing disclosure of information with the consent of the individual concerned. But it is conceivable that in the compulsory stage, when a private

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<sup>175</sup> Ev 314

organisation would be free to require presentation of an identity card, that organisation could make it a condition of providing its services that an individual consent to give it access to the full range of information on them in the Register, and not just to the data needed to check identity.

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

## Purposes of the Bill and the Data Protection Act: Clause 1 and Schedule 1

225. Witnesses criticised the purposes of the Bill as set out in Clause 1. The Information Commissioner took the view that the Government's assurances about function creep centred on information on the Register, rather than the use of the system in practice.<sup>176</sup> He added:

“Clause 1 is very general, very unclear and does not give us clarity as to the purposes [...] for which this information is being processed.”<sup>177</sup>

226. Dr Pounder, Editor of *Data Protection and Privacy Practice*, argued that the breadth of the purposes set out in Clause 1 meant that the protection offered by the Data Protection Act was minimal, because the relevance of the information gathered could not be assessed in terms of one organisation processing data for one particular purpose.<sup>178</sup>

227. Witnesses also questioned the relevance of the list of registrable facts. At our first oral evidence session, the Director of the Home Office Identity Cards Programme had said:

“The information that is proposed to be held on the National Identity Register is simply that information which is required to establish a person's core identity. So that might include name, date of birth and a record of certain biometric identifiers.”<sup>179</sup>

After the draft Bill was published, the Home Secretary confirmed to us that: “The only details that will be held are those that are required for verifying the identity”.<sup>180</sup> But the Director of Liberty said:

“We do not see in principle why detailed information about someone's past residential status or, indeed, past immigration status, perhaps many years after they have acquired British nationality, is something that can in any sense be said to be limited to identity and identifying information.”<sup>181</sup>

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<sup>176</sup> Ev 284

<sup>177</sup> Q 750

<sup>178</sup> Ev 279

<sup>179</sup> Q 46

<sup>180</sup> Q 647

<sup>181</sup> Q 684

228. The Home Office said that the Bill did not override the operation of the Data Protection Act and complied with the Data Protection Principles. The Home Office argued that information about past residential status would make an application to register easier to verify, while a record of past residential status would show length of legal residence in the United Kingdom, which could affect entitlement to free public services. In addition, such information, including updating of residential status, would provide the basis for an audit trail to help monitor the operation of the system, and might be releasable to the police in a criminal investigation.<sup>182</sup>

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

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

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

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

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

234. Dr Pounder, Editor of *Data Protection and Privacy Practice*, noted that subsection 9 of Schedule 1 opened the possibility of unrecorded access to the Register.<sup>183</sup> The Home Office said that this was not the aim of the subsection, which was drafted to reflect the fact that not all the information listed in Schedule would be needed, and therefore some of it might not have to be recorded.<sup>184</sup> **There should be explicit provision in the Bill that all access to the register must be recorded.**

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<sup>182</sup> Ev 309

<sup>183</sup> Ev 278–279

<sup>184</sup> Ev 316

## Registration and issue of cards: Clauses 2 and 8

235. Clauses 2(4) and 8(4) respectively cover the registration of and issue of cards to individuals who have not applied to register or who are not required to have an identity card. The Law Society considered that these clauses were not sufficiently clear about who was covered and suggested that they might apply either to failed asylum seekers or to allow people to register in the first, “voluntary” phase before they were obliged to do so. The Society’s Head of Law Reform argued that the clauses granted powers that were too wide for the issues addressed.<sup>185</sup> Liberty were also concerned by the clauses, which, in their view, would permit the passing of regulations that obliged non-nationals who were not applying for either immigration or asylum to carry identity cards.<sup>186</sup> The Home Office said that Clause 2(4) was intended to cover cases such as failed asylum seekers, illegal immigrants or third country nationals intending to stay for less than three months whose passport had been surrendered for bail purposes. It might also prove useful to register biometric information from visa applicants who would be expected to obtain an identity card after staying in the UK for three months. Clause 8(4) might also cover such third country nationals, as well as British citizens who have lived overseas permanently.<sup>187</sup> **We support the provisions in Clauses 2(4) and 8(4) that enable registration of failed asylum seekers and other similar cases, but recommend that the Home Office clarify the purposes of these Clauses in the Bill.**

## Information on the Register: Clause 3

236. Clause 3 provides that the only information on the Register is the registrable facts listed in Schedule 1, information needed to administer the scheme and information held at an individual’s request (with official agreement), such as emergency contact details. The Law Society were concerned by the provision in the draft Bill that the Home Secretary could amend the list of facts in the Schedule, and hence the information required on the Register, by regulations.<sup>188</sup> The Home Office contended that this was necessary “to maintain the flexibility of the scheme” as, for example, technology changed. They also argued that the facts that information in Schedule 1 had to be consistent with the statutory purposes of the Bill and that any regulations would be subject to affirmative procedure in Parliament were effective measures against function creep. They also pointed out that only information held within the existing categories of information, as set out in Clause 1 (4) of the Bill, could be amended by regulations; any new category of information would require primary legislation.<sup>189</sup>

237. The statutory purposes of the Bill, as set out in Clause 1, are very broad and include “providing a record of registrable facts about individuals in the United Kingdom”; this is far from a significant protection against function creep. **Clause 3 provides an acceptable mechanism for amending the information required to be held on the Register, but only if the statutory purposes of the Bill are clarified as we recommend.**

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<sup>185</sup> Qq 690–692

<sup>186</sup> Ev 294

<sup>187</sup> Ev 310 and 312

<sup>188</sup> Q 696

<sup>189</sup> Ev 310

## Designated documents: Clause 4

238. Clause 4 provides for the Home Secretary to designate official documents as identity cards. The Home Office have made clear that these will be passports, driving licences, and plain identity cards for UK nationals and residence permits for foreign nationals. We have expressed our concerns about the lack of an independent analysis of the reasons behind this decision, or of its costs and benefits, in paragraphs 19 and 20.

## Information required for registration: Clause 5

239. The Information Commissioner took the view that Clause 5 imposed an “open ended” requirement on applicants to provide information on registration, and argued that it should be possible to establish the sort of information that might reasonably be required, so that it could be specified in statute.<sup>190</sup> The Home Office considered that this would be unnecessarily restrictive, since precise arrangements would be decided after further preparatory work and testing of different options. They also argued that over time the application process might have to be changed.<sup>191</sup> **It is practical to allow some flexibility over precisely which documents are required at registration and that these should be set out in secondary legislation. But the Bill should state that only those documents that are reasonably necessary to establish identity may be required. There should be a right of appeal to the National Identity Scheme Commissioner.**

## Obligatory registration: Clause 6

240. Clause 6 sets out penalties for failing to register when required to do so (£2,500 each time) and for failing to provide information (£1,000). It would come into full effect in the compulsory stage, but could be used to cover foreign nationals in the first phase of the scheme if it was decided this was desirable. It also provides the facility to phase in compulsory registration, for example by age group.

241. Liberty argued that the proposed penalties demonstrated that those who were not prepared to register would be dealt with harshly.<sup>192</sup> The Director of Liberty pointed out that continued refusal to register could attract multiple penalties, so that the sum would quickly rise above £2,500. She and the Director of JUSTICE believed that the penalties might be considered criminal, rather than civil, under the European Convention on Human Rights.<sup>193</sup>

242. The Home Office argued that providing for civil penalties gave greater discretion on whether to apply them. On the level of the penalties, they said that any financial penalty would need to be sufficient in order to encourage an individual to comply with their legal requirement to register with the scheme (rather than, for example, at a level at which the penalty could be paid as a way of avoiding registration). A further consideration was the need to ensure that a person could not evade registration by making an application to be registered but refusing to comply with any requirements that would help to confirm his or

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<sup>190</sup> Ev 285

<sup>191</sup> Ev 310

<sup>192</sup> Ev 294

<sup>193</sup> Qq 732–734

her identity prior to registration. The penalties proposed were consistent with these considerations and with the existing legal requirement to keep driving licence information up to date, which carried a maximum criminal penalty of £1,000.<sup>194</sup>

243. We note that the maximum fine for not having a TV licence is £1,000. Improper registration of birth attracts a maximum of £200 and, after 12 months, non-registration of death the same. Breaches of supervision, curfew, probation, and drug testing and treatment orders could attract maxima of £1,000 and contempt of court a maximum of £2,500.<sup>195</sup>

244. **The proposed penalties are reasonable given their purposes and existing penalties for similar offences.** We comment in paragraph 254 on the anomaly that failure to update a driving licence is a criminal offence. We suggested in paragraph 164 that it should be a duty on landlords to register tenants: there would also need to be a penalty for failure to do so.

### The move to compulsion: Clause 7

245. The draft Bill provides for a move to compulsion through “a special super-affirmative process”, short of primary legislation. This would entail the Government publishing its reasons for wanting to make registration compulsory and a proposal for how this would operate. The report would be debated and voted on in both Houses of Parliament and it could be modified by them. The Government would then lay a draft order consistent with its proposals, which would need to be approved by both Houses. If either House did not approve the proposal, or modified it in a way the Government did not like, the Government would have to start the process again.

246. JUSTICE were among the witnesses who believed that a move of this significance should not be taken without the most intense scrutiny and primary legislation. They also said:

“A vote now in relation to reforms to be implemented in a decade’s time creates too distant an accountability to the electorate. Second, the current Bill is, of necessity, an enabling bill that does not specify what will be required in a decade’s time.”<sup>196</sup>

247. The Home Office argued that to have the debate over compulsion now gave a clear picture of the nature of the scheme and how it would apply, thus heading off accusations of proceeding by stealth. They said that there were also advantages for service providers, who would be able to plan investment in new business processes and technology, such as card readers, with greater confidence.<sup>197</sup>

248. **It is unlikely that if full Parliamentary procedures were followed the Government would, as it fears, be accused of “proceeding by stealth”. The move to compulsion is a step of such importance that it should only be taken after the scrutiny afforded by primary legislation: the proposed “super-affirmative procedure” is not adequate. We would, however, support the inclusion in the Bill of powers to enable the Government**

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<sup>194</sup> Ev 311

<sup>195</sup> Stone’s Justices’ Manual (2003)

<sup>196</sup> Ev 289

<sup>197</sup> Ev 311

**both to set a target date for the introduction of compulsion and, if necessary, to require agencies and other bodies to prepare for that date.**

### Renewal of identity cards: Clause 9

249. Clause 9 covers renewal of identity cards, where registration is obligatory, and provides for a penalty of up to £1,000 for failure to renew. We noted in paragraph 198 that although costings imply identity cards would be valid for ten years, the Government has not yet said what the validity of identity cards would be. Clause 9 is another reason for a clear statement before the Bill is published.

### Issue of identity cards: Clause 10

250. Clause 10 covers procedures for issuing identity cards. We have observed in paragraph 193 that this is an area that is crucial to the security of the system: no one individual should have a level of access to the system that would enable them alone to issue a card. **The Government should consider statutory provisions to ensure the integrity of the registration and enrolment system, as well as specific penalties for breaches of these provisions.**

### Accuracy of the Register: Clauses 11, 12 and 37

251. Liberty expressed concern over the provisions of Clauses 11 and 12, arguing that the Government had a poor record on accuracy of information held on databases and that an obligation to inform of any relevant change in circumstances, backed up by a penalty of up to £1,000, and possibly, given Clause 37, accompanied by a fee for any amendment, could place a considerable burden on those who lived in insecure or frequently changing accommodation.<sup>198</sup> The Information Commissioner noted what he described as “an open-ended requirement on unspecified third parties to provide information for application validation purposes” in Clause 11(1), which creates a duty to provide information to verify an entry on the Register.<sup>199</sup>

252. The Home Office argued that it was not unusual to require individuals to report changes in circumstances so as to maintain the accuracy of a database and instanced the DVLA, which requires drivers to report any changes in name or address, failure to do so being a criminal offence carrying a maximum penalty of £1,000.<sup>200</sup> The Home Office also said that it was the Government’s intention that the costs of running the scheme be met from charging. No final decision had been taken on whether charges would be made for amendments to the Register, or whether amendment costs would be reflected in a higher initial fee.<sup>201</sup> The Home Office were unable to tell us how many prosecutions or convictions there had been over the past five years for failing to inform the DVLA of a change of address, since the offence shared a sub-classification code with sixteen others.<sup>202</sup>

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<sup>198</sup> Ev 294–295

<sup>199</sup> Ev 286

<sup>200</sup> Ev 312

<sup>201</sup> Ev 316

<sup>202</sup> Ev 312

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

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

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

256. The Law Society and the Chair of the Commission for Racial Equality questioned how the obligation to report changes of address would work in practice for the homeless, those fleeing domestic violence or groups such as gypsies and travellers.<sup>203</sup> The Home Office said that further work will be undertaken during the consultation on the draft Bill to deal with some of the issues raised by socially excluded groups such as gypsies and travellers, and that how to record address information of those without a fixed address had not yet been decided.<sup>204</sup> **The practical application of Clauses 11 and 12 to socially excluded groups must be clarified as soon as possible. This should be done in such a way as to ensure that such groups are no further disadvantaged by the operation of the scheme. The Bill should contain legal duties on the Home Secretary to take into account special needs, such as health, in applying these clauses; and to establish a clear legal status in the primary legislation for those of no fixed abode.**

257. The Chair of the Commission for Racial Equality called for a full Race Impact Assessment to be published with the Bill and another one at the time of the move to compulsion.<sup>205</sup> He argued that there was little hard evidence about the impact of an identity card scheme on different ethnic groups and communities in the United Kingdom, but experience in other European countries was not encouraging. He also pointed out, as noted in paragraph 139, that fears and perceptions of minority groups had important consequences for community relations. **We agree with the CRE that the Bill should be accompanied by a full Race Impact Assessment and that there should be a further Assessment at the time of the move to compulsion.**

### Loss, theft or damage to a card: Clause 13

258. The Law Society were concerned by Clause 13, which they believed established “a very draconian measure about the failure to notify if the card has been lost, stolen or damaged”, because subsection (1), which permitted the making of regulations that would require an

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<sup>203</sup> Ev 292 and Q 835

<sup>204</sup> Ev 309

<sup>205</sup> Q 834

individual to report if a card had been lost, stolen, damaged, destroyed or tampered with, did not contain a reasonableness defence.<sup>206</sup> Liberty took a similar line. The Home Office said that the regulations might incorporate such a defence.<sup>207</sup> **A reasonableness defence to the offences that might follow from Clause 13(1) should be included on the face of the Bill, rather than left to regulations.**

### **The right to see information held and disclosure of information: Clauses 14 and 24**

259. Witnesses were concerned by what they saw as the removal by Clause 14(4) of an individual's right to see the audit trail of who had accessed his or her details and on what occasions.<sup>208</sup> The Home Office told us that this was drafted with the intention of preventing an individual being alerted to the fact that security and intelligence agencies had accessed their records, but said that it had become apparent that it might be possible to rely on existing provisions of the Data Protection Act, exempting disclosure where national security or the prevention or detection of crime are concerned.<sup>209</sup> **The Bill should contain an explicit reaffirmation of the right of individuals to see both the data held on them and the audit trail of who has accessed those data and on what occasions, subject only to the national security and crime exemptions of the Data Protection Act.**

260. Press for Change raised the possibility of restricting releasable information to prevent disclosure of, for example, a previous gender or previous names.<sup>210</sup> They were also concerned about the relation of the disclosure provisions, with and without consent, to the Gender Recognition Bill.<sup>211</sup> The Home Office agreed that there might be cases in which it would be necessary to restrict information and took the view that the rules for disclosure under Clause 24 would be in line with the provisions of the Gender Recognition Bill. They promised further consultations with the Department for Constitutional Affairs and other interested parties.<sup>212</sup> **It is reasonable that there should be the possibility of restricting releasable information in certain cases. We welcome the Home Office's readiness to consult on the issue.**

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

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

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<sup>206</sup> Q 714

<sup>207</sup> Ev 312

<sup>208</sup> Qq 708 and 759

<sup>209</sup> Ev 313

<sup>210</sup> Ev 300

<sup>211</sup> Ev 301

<sup>212</sup> Ev 315

## Power to make public services conditional on identity checks: Clauses 15 and 19

263. Clause 15 links production of the card to the provision of public services after the move to compulsion. In paragraphs 125–128 we have stressed the importance of Government departments checking identity in a systematic way, even before the introduction of identity cards. But this should not mean that identity cards in practice become obligatory before the move to compulsion. The Director of Liberty argued that a phased introduction of compulsion, for example by requiring foreign nationals to register for a card before UK nationals might lead to service providers being sued under Clause 19, which prohibits a card being the only way to access services before the compulsory stage.<sup>213</sup> The Home Office said that they were still consulting on the best way to enforce Clause 19.<sup>214</sup>

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

## Checks on the Register: Clause 18

265. Clause 18(4) provides that the Government must consult the public about proposals for regulating checks on the Register. We have stressed in this report the importance of a coherent system for checking eligibility to public services. It is therefore important that this consultation enable an informed public discussion of the issues.

## Disclosure of information without consent: Clauses 20, 21 and 23

266. Several witnesses criticised the provisions of Clauses 20, 21 and 23, above all the sections relating to the security and intelligence agencies. They argued that both the range of authorities and the grounds for disclosing information without the consent of the individual concerned were too wide. They criticised in particular Clause 20(2) which permits access to the audit trail by the Security Service, the Secret Intelligence Service, GCHQ, the National Criminal Intelligence Service and the National Crime Squad “for purposes connected with the carrying out of [each organisation’s] functions”. The Information Commissioner, for example, told us that “the width of the provisions in clause 20(2) at the moment [...] effectively give[s] those services unlimited entitlement to the information for any purposes” and believed that not only the organisations, but also the purposes for which information was needed should be identified.<sup>215</sup>

267. The Home Office said that the security and intelligence agencies would only be able to receive information for their statutory purposes, as set out in the Security Services Act 1989, the Intelligence Services Act 1994 and the Police Act 1997. This would mean that, for example, the Security Service would only be able to receive information from the National Identity Register for the purposes of protecting national security, safeguarding the economic well-being of the United Kingdom and acting in support of police forces and other law enforcement agencies in the prevention or detection of serious crime. They

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<sup>213</sup> Q 705

<sup>214</sup> Ev 314

<sup>215</sup> Q 764

argued that there might be circumstances in which information on the Register might usefully contribute to those agencies' aims even though not related to national security or crime, and pointed out that the agencies' access to the register would have to be authorised in accordance with the provisions of Clause 20 and would be subject to the oversight of the National Identity Scheme Commissioner.<sup>216</sup>

268. As noted in paragraph 222, there a number of cases in which it would be reasonable for the Government might wish to allow access to the National Identity Register without the consent of the individual concerned. These might include checking the last known address of a suspect, fingerprints from the scene of a crime, or travel or interactions with a range of government or private sector services. But this is a long step beyond the simple identity card system originally proposed.

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

270. The Information Commissioner argued that Clause 20(5) which provides for disclosure of information other than the audit trail to a civil servant carrying out official functions, was very wide indeed, and added:

“We know from our data protection experience that where too much information is shared, where there are not appropriate lines drawn, then individuals can and do suffer serious consequences in particular situations.”<sup>217</sup>

271. The Home Office said that Clause 20(5) was needed because it was not yet clear which Departments might need information from the Register and that Clause 23 provided flexibility to take account of possible future organisational changes to the bodies named in Clause 20 or to add other bodies, such as the emergency services.<sup>218</sup>

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

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

## Oversight of the scheme: Clauses 25 and 26

274. Witnesses criticised the proposed powers and remit of the National Identity Scheme Commissioner. The Information Commissioner argued that these fell well short of the level of independent supervision required, and was particularly concerned that even if the Commissioner discovered misuse there was no provision to require him or her to bring

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<sup>216</sup> Ev 314

<sup>217</sup> Q 745

<sup>218</sup> Ev 314

this to the attention of the individual affected or to provide any remedy.<sup>219</sup> Liberty criticised what they characterised as the Prime Minister’s broad power to suppress details and said that the role of the Commissioner should extend to overseeing the operation of the registration and identification scheme as a whole, as well as any future extension of these powers through regulations.<sup>220</sup> The Director of Liberty also argued that the Commissioner should report directly to Parliament.<sup>221</sup>

275. The Home Office noted that it was envisaged that the scheme would be operated by an Executive Agency similar to the DVLA and UK Passport Service (which might indeed be made the lead organisation) and which would not require legislation; they argued that since these existing Agencies had no Commissioner and because there were no clauses on governance in the Bill, there was no need to expand the powers of the National Identity Scheme Commissioner. They also argued that the Commissioner’s functions might be carried out by existing Commissioners such as the Surveillance Commissioner or the Intelligence Service Commissioners, who report to the Prime Minister.<sup>222</sup>

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

### Possession of false documents: Clause 27

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

### Complaints: Clauses 34 and 35

278. The Information Commissioner told us that he would like to see provision for an individual, with reasonable cause, to challenge the operation of the system (rather than just the imposition of a penalty).<sup>223</sup> Similarly, the Commission for Racial Equality called for “effective and unbureaucratic recourse to an independent body that can investigate practical abuse of the scheme by individual police officers and other authorities at street level”.<sup>224</sup> The Home Office said that it was their intention that an individual should be able

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<sup>219</sup> Ev 286

<sup>220</sup> Ev 295

<sup>221</sup> Q 727

<sup>222</sup> Ev 315

<sup>223</sup> Q 772

<sup>224</sup> Ev 275

to make a complaint about the operation of the scheme, but that as they intended the scheme to be run by an Executive Agency, there was no need to specify this in legislation. They added that complaints about disclosure could be heard by a tribunal such as the Investigatory Powers Tribunal. **We welcome the Home Office's commitment to enabling complaints to be made about the operation of the scheme. The provisions to enable this must be effective, unbureaucratic and practical.**

## 6 Overall conclusions

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

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

# Conclusions and recommendations

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## The international context

1. While we can understand why the Government has proposed a combined passport and identity card, we regret that no analysis has been published of the costs and benefits of a free-standing identity card. (Paragraph 20)
2. We consider in detail later in this report the concerns raised in the United Kingdom over the Government's proposals. The international experience clearly indicates that identity cards and population registers operate with public support and without significant problems in many liberal, democratic countries. In a number of these, the holding and even carrying of the card is compulsory and appears to be widely accepted. However, each country has its own social, political and legal culture and history: the nature of each identity scheme and population register reflects those unique elements. We cannot assume that any particular approach can be applied successfully in the UK. Nor can we yet draw on any significant international experience of the use of biometrics on the scale that is proposed in the UK. (Paragraph 38)

## Concerns of principle

3. An identity card scheme of the sort and on the scale proposed by the Government would undoubtedly represent a significant change in the relationship between the state and the individual in this country. International experience does not suggest that objections of principle are overwhelming, although the development of a biometric-based scheme does introduce new elements that have not been tested elsewhere. We do not, however, believe that an identity card scheme should be rejected on constitutional grounds alone. (Paragraph 59)
4. The test should be whether the measures needed to install and operate an effective identity card system are proportionate to the benefits such a system would bring and to the problems to be tackled and whether such a scheme is the most effective means of doing so. (Paragraph 60)

## Practical concerns

5. The proposed system is unprecedentedly large and complex. It will contain sensitive personal information on tens of millions of individuals. Any failure will significantly affect the functioning of public and private services and personal and national security. Measures to ensure the integrity of the design, implementation and operation of the system must be built in to every aspect of its development. As we will remark at a number of points throughout this report, the Government's lack of clarity about the scope and practical operation of the scheme, and the nature of the procurement process, does not give us confidence that this will be achieved. We will make recommendations for addressing this serious weakness later in the report. (Paragraph 64)

## Benefits and weaknesses of the Government's scheme

6. It is reasonable for the Government to have refined the aims of its scheme after a consultation exercise and development of proposals for its implementation. It has now set out its reasons for introducing identity cards, in its most recent document, *Legislation on Identity Cards: A Consultation*, which accompanied the publication of the draft Bill. (Paragraph 70)
7. However, many elements of the design of an identity card scheme, from the national register, to the design of the card and to its operational use, depend greatly on the precise purpose for which it is designed. Although some core functions are consistent and clear, the changing aims of the scheme do not give total confidence that the Government has arrived at a complete set of clear and settled aims for the card. The Government has not yet clarified how it intends to deal with some elements of the original proposals for entitlement cards, such as which services should be linked to the card and whether there should be unique personal numbers across public services. We consider these issues further below, but it is clear that they are central to the functioning of the scheme. (Paragraph 71)
8. The draft Bill might have been expected to clarify the Government's aims but we do not believe it has done so. It is essential that the Government explain its intentions on issues raised in this report before the Bill is published. (Paragraph 72)

## Illegal working and immigration abuse

9. Identity cards could make it easier for those seeking work to demonstrate their right to do so, and, by the same token, make it easier for the police to show that a company employing illegal labour had done so knowingly. (Paragraph 79)
10. We believe that identity cards can make a significant contribution to tackling illegal working. However this will need to be as part of wider enforcement measures, including action against culpable employers. We repeat our recommendations that the Government should target employers who deliberately break the law and that the Proceeds of Crime Act should also be used to seize profits made from the employment of illegal labour. We welcome the steps the Government has taken so far, but to be fully effective there must be properly resourced enforcement of existing regulations. (Paragraph 80)
11. The Government must clarify what action will be expected from the employer, including whether presentation of card by a job applicant is enough or whether an employer would have to check the biometrics or the authenticity of the card. If so, the Government needs to be clear how often this will be required and what access to biometric readers or the National Identity Register will be available to employers or other agencies. (Paragraph 81)
12. We are concerned that the three-month period for EU nationals, or those claiming to be such, might constitute a significant loophole: it is difficult to see what would stop someone moving from job to job on false papers. The Government must bring forward proposals to deal with this loophole, as well as making a substantial commitment to robust enforcement of laws against illegal working. (Paragraph 82)

13. It is also clear that the integrity of the UK system will be dependent on the integrity of the passport, asylum and visa regimes in other EU countries. In our visit to Germany we were told of a pilot scheme involving biometrics to prevent fraudulent asylum and visa applications. The Minister of State has set out the UK's involvement in similar schemes. As part of the development of the identity card scheme, the Government should report regularly to Parliament on progress being made across the EU to tackle any weaknesses in other EU countries, and, in particular, those countries currently judged to be the least secure. (Paragraph 83)
14. We conclude that identity cards, by reducing the “pull factor” from work, and public services, could make a contribution to preventing illegal immigration, but only if the scheme is properly enforced and complemented by action on access to public services. (Paragraph 84)

### Organised crime and terrorism

15. We understand that the contribution to fighting terrorism would be the ability to disrupt the use of multiple identity, identity fraud and related activities like money-laundering, and illegal migration by terrorists and their networks. While, of course, not all terrorists make use of activities based on false identities, and some will have legitimate national or international identity documents, we believe that effective action on identity would be a real and important contribution to restricting the ease with which terrorists can operate. (Paragraph 94)
16. We note, however, the real benefits of an identity card in fighting serious crime and terrorism are only likely to be achieved with a compulsory scheme covering all citizens and residents. It will also be dependent on the effective use of the scheme to check identities, an issue we discuss in the next sections. (Paragraph 95)

### Identity fraud

17. We believe there is a danger that in many day-to-day situations the presentation alone of an identity card will be assumed to prove the identity of the holder without the card itself or the biometrics being checked, thus making possession of a stolen or forged identity card an easier way to carry out identity fraud than is currently the case. The availability of readers of cards and biometrics, including to the private sector, is therefore a crucial factor. (Paragraph 99)
18. We think it would be likely that identity cards would help combat identity fraud, but only as part of a wider package of measures. The Government should be clearer both about how and when it expects the card and biometrics to be checked and about what levels of security are appropriate in different circumstances. (Paragraph 100)

### Entitlement to public services

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

20. The Government should also review entitlements to public services across the board with the aim of rationalising and standardising them, since there does not appear to be a consistent set of principles underlining access to government services. (Paragraph 108)
21. The existence within the United Kingdom of up to four different systems for checking entitlement to public services will be a possible cause of confusion, particularly where cross-border services are provided. The UK Government should liaise closely with the devolved administrations on these issues, both to avoid confusion and to learn from the experiences of the devolved administrations' own entitlement cards. (Paragraph 112)

### **Easier access to public services**

22. The Government's current proposals would improve access to public services to the extent to which this depends on identification. It is important to ensure that the convenience to the state of having a comprehensive system of identifying individuals and accessing data about them is accompanied by an increase in convenience to the individual. The benefits must not be entirely, or even predominantly, to the state. (Paragraph 118)
23. The Government has not developed coherent proposals for using the identity card in other ways to improve access to a wider range of services and information or to promote greater coherence across public services. As a result, citizens are still likely to be required to carry a wide range of cards and documents to use many local and national, public and private services. We believe that this is a missed opportunity. (Paragraph 119)

### **Key issues**

24. We note that at the moment there is very little clarity about the level and nature of checks that will be required and carried out, even though this is fundamental to the whole scheme. We recommend that the Government should provide estimates of the proportion of checks that would be biometric and therefore highest security. (Paragraph 125)
25. It is not clear that Government departments have identified how the operation of their services, or entitlement to them, need to be changed to make best use of an identity card system. (Paragraph 126)
26. In most cases, identity cards will only be fully effective if complementary enforcement action can be taken. (Paragraph 127)
27. Finally, more could be done to check identities today and there is a danger that action will be delayed pending the introduction of an identity card. (Paragraph 128)

### **Public support**

28. It may be that citizens will choose to use identity cards voluntarily on an extensive basis. However, until identity cards are compulsory there should be realistic

alternatives to their use in every case. There should also be effective restrictions on inappropriate demands for them. (Paragraph 133)

### **The 'voluntary' stage**

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

### **Vulnerable groups**

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

### **The National Identity Register**

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

### **Architecture of the database**

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

### **Access to the database**

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

### 'Function creep'

34. Whatever the merits or otherwise of such developments [eg. the establishment of a national fingerprint register], their potential should be recognised. It is essential that they do not develop incrementally or by executive action but are subject to full Parliamentary scrutiny. These issues are at least as significant as the decision to make cards compulsory. (Paragraph 158)
35. In a similar way, identity cards are not planned to be a single card for all public services, but it clearly is possible, and perhaps desirable, for a successful identity card scheme to develop in this direction. But this should be a decision of Parliament, not of the executive. (Paragraph 159)

### Information on the database

36. The functions of the Register entail establishing an individual's identity in a number of different circumstances. For some of these, such as interaction with local authorities, addresses may be necessary. There is therefore a case for including them in the National Identity Register. But to do so would have significant administrative and operational consequences, since the Register would need to be updated frequently; the extra work could lead to mistakes which would be disastrous if not properly handled. The Government should be more explicit about the case for including addresses and demonstrate that the advantages of doing so outweigh the problems that would be created. The Government should also clarify whether addresses would be only on the Register or whether they would be legible on the surface of the card itself. (Paragraph 163)
37. In many parts of Europe, including Sweden and Germany, where there is a requirement to register addresses, it is a legal requirement for landlords to register their tenants. We recommend that this be adopted if the Government decides to include addresses, since it would help alleviate the problem of frequent changes of address. (Paragraph 164)
38. The nature of the individual number and its relationship to other identifying numbers used by the state are more decisions that are crucial for the design and development of the system. The Government must be clear and open about the issues involved and enable informed parliamentary and public scrutiny of any decisions (Paragraph 167)

### Biometrics

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

## Medical information

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

## The Citizen Information Project and other Government databases

41. We doubt that the Citizen Information Project will provide “a strong and trusted legal basis for holding personal contact information” if the information on it has to be confirmed by another, separate identity card Register. There is a very large degree of overlap between the Citizen Information Project and the National Identity Register. The Registrar General mentioned the options of “comprehensive legislation to oversee information matching which in itself was conducted by individual agencies but which improves the quality of individual registers without actually going to the next step of creating a register” and of “common standards for register management in the British government”: each of these would be more worthwhile than the Citizen Information Project as it is currently planned. (Paragraph 185)
42. We are concerned by the proliferation of large-scale databases and card systems, since we have seen little to suggest that they are being approached in a co-ordinated way. While we have not taken detailed evidence on current proposals, other than the Citizen Information Project, we have the impression that each government department is continuing with its own project in the hope that it is not going to be significantly affected by other projects. The format of registration on different databases should be coherent and consistent. (Paragraph 186)
43. We believe that the Government must tackle this proliferation of databases, examining in each case whether the number, identifier or database is needed, what its relationship is to other existing or planned databases, how data will be shared or verified and other relevant issues. For this action to be effective, it must be co-ordinated at the highest levels of the Civil Service. (Paragraph 187)
44. We do not think that there should be a central database with all information available to the Government on it. But an identity card should enable access to all Government databases, so that there would be no need for more than one government-issued card. (Paragraph 188)

## Registration and enrolment

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

## Cards

46. The type of card to be used is a decision of the same order of importance as the architecture of the database, since it has consequences for issues such as how the card will be used and the number of readers and the infrastructure needed, both of which have significant implications for costs. Some choices, such as the nature of the chip, seem to follow a decision to use the passport as an identity card (and therefore follow ICAO) rather than any independent assessment of what would be most appropriate for an identity card. We are concerned that the Home Office appears to be taking these key decisions without any external reference, technical assessment or public debate. (Paragraph 197)
47. The Government's figures on how much cards would cost compare them to 10-year passports and driving licences. The Government has not, however, confirmed explicitly how long the validity of identity cards would be. It must do so before the Bill is published. (Paragraph 198)

## Readers and infrastructure

48. We are deeply concerned that the Government has published so little information about the number, type, distribution and cost of card readers and the infrastructure necessary to support this. This information is not only essential to proper costing of the scheme, but also to an assessment of how effective the scheme will be. (Paragraph 201)
49. We are also concerned that the Home Office may be leaving it to other government departments, local government and the private sector to decide what level of investment to make in card readers and infrastructure. There is an obvious danger that each organisation will opt for a low level of security, relying on others to raise the level of security in the system as a whole. If this happens the value of the identity card system will be significantly undermined. We also expect the Home Office and other Departments to give at least broad estimates of the numbers of readers they expect to need of each type and what level of provision other organisations are expected to make. (Paragraph 202)

## Multiple cards

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

## Security

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

## Costings

52. The Home Office have provided us with details of the assumptions on which their costings have been based, on a confidential basis. We are not convinced that the level of confidentiality applied is justified. Cost information is an essential element in determining the value for money of any project. It is of prime importance where expenditure is funded from the public purse and of particular relevance with regard to public sector IT projects which have a history of poor performance and cost-overruns. We are also concerned that the least robust cost estimates appear to relate to the assumptions with the greatest cost-sensitivity, such as the length of enrolment time, the anticipated number of applications requiring further investigation, the cost of card production and the criteria for subsidised cards. Changes to any one of these factors could cause significant increases to the cost of the programme. (Paragraph 212)
53. The failure to attach a Regulatory Impact Assessment to the draft Bill, or to provide any detailed information on estimated costs and benefits, significantly weakens the basis for pre-legislative scrutiny and the public consultation exercise. This secrecy is all the more regrettable since the case for an identity card system is founded on whether its benefits are proportionate to the problems it seeks to address: a proper cost-benefit analysis is an indispensable element of this. The excuse of commercial sensitivity should not be used to avoid publishing a full Regulatory Impact Assessment with the Bill. (Paragraph 213)

## Procurement

54. We welcome the Home Office's efforts to overcome their record on IT procurement. We do not believe that it is impossible for them to deliver the project on time, to specification and to cost. (Paragraph 215)
55. But we are concerned about the closed nature of the procurement process which allows little public or technical discussion of the design of the system or the costings involved. We do not believe that issues of commercial confidentiality justify this approach. Any potential gains from competing providers providing innovative design solutions are likely to be more than offset by the unanticipated problems that will arise from designs that have not been subject to technical and peer scrutiny. (Paragraph 216)
56. Nor do we believe that the Government's OGC Gateway process has yet demonstrated the robust track record on procurement projects that would allow it to be relied upon for a project of this scale. (Paragraph 217)
57. The Home Office must develop an open procurement policy, on the basis of system and card specifications that are publicly assessed and agreed. The Home Office should also seek to minimise risk, including, as appropriate, by breaking the procurement process down into manageable sections. We have already recommended that the Chief Scientific Officer be invited to oversee the development of the biometric elements of the scheme. We recommend that individuals or groups

with similar expertise be invited to advise on the scrutiny of other aspects of the scheme. (Paragraph 218)

## Conclusions

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

## The draft Bill

59. The draft Bill gives the Government powers to require and register a wide range of information not obviously needed to establish identity. It gives a wide range of organisations access to that information and to the audit record of when and by whom the National Identity Register has been accessed, so giving information on key actions of individuals. While the draft Bill undoubtedly enables these actions to be taken in the fight against serious crime or terrorism, it allows for far wider access to the database than this justifies. In particular, given the lack of clarity about the aims of the identity card, to leave so much to secondary legislation is unacceptable. (Paragraph 222)
60. It is unacceptable that basic questions about the degree of access to the National Identity Register should be left to secondary legislation. The Government must clarify what access will be given to public and private sector bodies, and under what circumstances. Once identity cards are compulsory, there is a significant danger that the concept of consent to disclosure of information will in practice be eroded, unless there are clear statutory safeguards against improper access to the Register. (Paragraph 224)
61. We note that whilst a range of data might be required to verify an application, it is not necessary for all that data to be retained on the National Identity Register. They could either be returned or, if necessary for audit purposes, held on a separate database. The Bill should be amended to restrict data held on the register to that information required to establish identity once the card has been issued. (Paragraph 229)
62. The one exception would be information about immigration status. This is so central to the justification for the Bill that it would be useful and convenient to hold this on the central register. (Paragraph 230)
63. The purposes of the draft Bill as set out in Clause 1 are very broad and the list of registrable facts is longer than those the Home Office has said are necessary to

establish identity. Both the purposes of the Bill and the registrable facts should be strictly limited to establishing identity and immigration status, so as to ensure that the provisions of the Data Protection Act cover the operation of the scheme effectively. (Paragraph 231)

64. It is not yet possible to be more precise about the list of registrable facts, because the aims of the scheme, and hence the requirements for information to be registered, are not sufficiently clear. As the Bill proceeds, the Government must set out its justification better. (Paragraph 232)
65. Clause 1 should set out the aims of the scheme. A possible formulation might be: “to enable an individual to identify himself in order to gain access to public and private services or when required to identify himself for the purposes of law enforcement”. Wording of this sort would establish a test against which the data to be stored and used could be tested. It would also guard against the type of function creep in which the state uses the register to identify individuals without amendment by Parliament. (Paragraph 233)
66. There should be explicit provision in the Bill that all access to the register must be recorded. (Paragraph 234)
67. We support the provisions in Clauses 2(4) and 8(4) that enable registration of failed asylum seekers and other similar cases, but recommend that the Home Office clarify the purposes of these Clauses in the Bill. (Paragraph 235)
68. Clause 3 provides an acceptable mechanism for amending the information required to be held on the Register, but only if the statutory purposes of the Bill are clarified as we recommend. (Paragraph 237)
69. It is practical to allow some flexibility over precisely which documents are required at registration and that these should be set out in secondary legislation. But the Bill should state that only those documents that are reasonably necessary to establish identity may be required. There should be a right of appeal to the National Identity Scheme Commissioner. (Paragraph 239)
70. The proposed penalties [for failing to register when required to do so and for failing to provide information] are reasonable given their purposes and existing penalties for similar offences. (Paragraph 244)
71. It is unlikely that if full Parliamentary procedures were followed the Government would, as it fears, be accused of “proceeding by stealth”. The move to compulsion is a step of such importance that it should only be taken after the scrutiny afforded by primary legislation: the proposed “super-affirmative procedure” is not adequate. We would, however, support the inclusion in the Bill of powers to enable the Government both to set a target date for the introduction of compulsion and, if necessary, to require agencies and other bodies to prepare for that date. (Paragraph 248)

72. The Government should consider statutory provisions to ensure the integrity of the registration and enrolment system, as well as specific penalties for breaches of these provisions. (Paragraph 250)
73. It is reasonable to require individuals to report relevant changes in their circumstances, provided that the range of information they are required to update is not excessive and that they are able to check that the information held on them is accurate. We do not believe that there should be charges for updating information on the Register, since this would be likely to affect adversely the accuracy of the information held. (Paragraph 253)
74. We find it anomalous that failure to update a driving licence should be a criminal offence, especially when failure to update the National Identity Register will not, and we note that the Home Office does not know how many prosecutions there have been for failing to update a driving licence. This offence should be reviewed in the light of the proposed legislation on identity cards. (Paragraph 254)
75. Clause 11(1) could have significant implications for past and current employers, neighbours, landlords, family members and past spouses, all of whom might be required to assist in the identification of an individual. The Government should clarify the scope and limits of this clause on the face of the Bill. (Paragraph 255)
76. The practical application of Clauses 11 and 12 to socially excluded groups must be clarified as soon as possible. This should be done in such a way as to ensure that such groups are no further disadvantaged by the operation of the scheme. The Bill should contain legal duties on the Home Secretary to take into account special needs, such as health, in applying these clauses; and to establish a clear legal status in the primary legislation for those of no fixed abode. (Paragraph 256)
77. We agree with the CRE that the Bill should be accompanied by a full Race Impact Assessment and that there should be a further Assessment at the time of the move to compulsion. (Paragraph 257)
78. A reasonableness defence to the offences that might follow from Clause 13(1) should be included on the face of the Bill, rather than left to regulations. (Paragraph 258)
79. The Bill should contain an explicit reaffirmation of the right of individuals to see both the data held on them and the audit trail of who has accessed those data and on what occasions, subject only to the national security and crime exemptions of the Data Protection Act. (Paragraph 259)
80. It is reasonable that there should be the possibility of restricting releasable information in certain cases. We welcome the Home Office's readiness to consult on the issue. (Paragraph 260)
81. Earlier in this report, we referred to the different levels of security, from simple visual examination of the card to access to the National Identity Register, which the Home Office expects to be undertaken. Although it would not be possible to specify in detail all the circumstances in which different bodies might have access to the

Register, we believe that the principle and tests of reasonableness should be placed on the face of the Bill. (Paragraph 261)

82. The Bill might also allow individuals to limit access to certain data under certain circumstances. For example, a citizen might choose that addresses could not be released to all those who access the Register. (Paragraph 262)
83. We welcome the provisions of Clause 19 prohibiting any requirement to produce an identity card before the move to compulsion. (Paragraph 264)
84. We are not opposed in principle to access to the database and to the audit trail without the consent of the individual concerned. But we are extremely concerned by the breadth of the provisions of Clauses 20 and 23 and particularly by Clause 20(2) which would allow nearly unfettered access to the security and intelligence agencies. At a minimum, disclosures without consent should be limited to cases of national security or the prevention or detection of serious crime. (Paragraph 269)
85. It is not acceptable to have as broad a Clause as 20(5) simply because the Government is unclear about its objectives. (Paragraph 272)
86. The Bill should have explicit data-sharing provisions to make clear the relationship between the National Identity Register and other official databases. Some of the proposed databases have no statutory basis—this is unacceptable and needs to be addressed in further legislation. (Paragraph 273)
87. It is reasonable for the scheme to be operated by an Executive Agency similar to the DVLA or UK Passport Service. But we reject the argument that since their operations are not overseen by a Commissioner, neither should those of an identity card agency. We believe that because the identity card scheme would directly affect the daily lives of millions of people, and routinely involve sensitive and often highly personal information, oversight of its operation is utterly different to that of the DVLA or UK Passport Service. The National Identity Scheme Commissioner should report directly to Parliament. He or she should have powers of oversight covering the operation of the entire scheme, including access by law enforcement agencies and the security and intelligence services. (Paragraph 276)
88. There are no provisions in Clause 27 to cover aiding and abetting the offences created, or conspiracy to commit them. It is possible that these can be dealt with through existing legislation, but we believe that it would be more sensible to cover them explicitly in the Bill. (Paragraph 277)
89. We welcome the Home Office's commitment to enabling complaints to be made about the operation of the scheme. The provisions to enable this must be effective, unbureaucratic and practical. (Paragraph 278)

## Overall conclusions

90. We believe that an identity card scheme could make a significant contribution to achieving the aims set out for it by the Government, particularly tackling crime and terrorism. In principle, an identity card scheme could also play a useful role in

improving the co-ordination of and the citizen's access to public services, although the Government has not yet put forward clear proposals to do so. We believe that the Government has made a convincing case for proceeding with the introduction of identity cards. (Paragraph 279)

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

# Annex: Conduct of the inquiry

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## Oral Evidence

### *Ministers*

The Rt Hon David Blunkett MP, Home Secretary

Des Browne MP, Minister of State for Citizenship and Immigration

The Rt Hon Charles Clarke MP, Secretary of State for Education and Skills

The Rt Hon John Hutton MP, Minister of State for Health

Chris Pond MP, Parliamentary Under-Secretary of State, Department of Work and Pensions

### *Officials*

Nicola Roche, Director, Children, Identity Cards and Coroners, Home Office

Katherine Courtenay, Director, Identity Cards Programme, Home Office

Stephen Harrison, Head, Identity Cards Policy Unit, Home Office

### *Other official bodies*

Richard Thomas, the Information Commissioner\*

[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

Jonathan Bamford, Deputy Information Commissioner\*

Len Cook, Registrar General for England and Wales

[www.gro.gov.uk](http://www.gro.gov.uk)

Dennis Roberts, Director for Registration Services, General Register Office

Trevor Phillips OBE, Chair, Commission for Racial Equality<sup>†</sup>

[www.cre.gov.uk](http://www.cre.gov.uk)

### *Private companies*

Cubic Transportation Systems Ltd

[www.cubic.com/cts](http://www.cubic.com/cts)

Eidentity

[www.eidentity.co.uk](http://www.eidentity.co.uk)

LaserCard Systems Corporation	<a href="http://www.lasercard.com">www.lasercard.com</a>
QinetiQ	<a href="http://www.qinetiq.com">www.qinetiq.com</a>

### **Other organisations**

British Medical Association <sup>†</sup>	<a href="http://www.bma.org.uk">www.bma.org.uk</a>
Finance and Leasing Association	<a href="http://www.fla.org.uk">www.fla.org.uk</a>
Foundation for Information Policy Research	<a href="http://www.fipr.org">www.fipr.org</a>
Intellect	<a href="http://www.intellectuk.org">www.intellectuk.org</a>
JUSTICE <sup>†</sup>	<a href="http://www.justice.org.uk">www.justice.org.uk</a>
Law Society*	<a href="http://www.lawsoc.org.uk">www.lawsoc.org.uk</a>
Liberty*	<a href="http://www.liberty-human-rights.org.uk">www.liberty-human-rights.org.uk</a>
Local Government Association	<a href="http://www.lga.gov.uk">www.lga.gov.uk</a>
Privacy International*	<a href="http://www.privacyinternational.org">www.privacyinternational.org</a>
Police Federation of England and Wales	<a href="http://www.polfed.org">www.polfed.org</a>
Press for Change <sup>†</sup>	<a href="http://www.pfc.org.uk">www.pfc.org.uk</a>
UK Computing Research Committee	<a href="http://www.ukcrc.org.uk">www.ukcrc.org.uk</a>

### **Others**

Dr Chris Pounder, Editor, *Data Protection and Privacy Practice*<sup>†</sup>

\* — gave oral evidence on general issues and on the draft Bill

<sup>†</sup> — gave oral evidence on the draft Bill only

# Formal minutes

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**Tuesday 13 July 2004**

Members present:

Mr John Denham, in the Chair

Janet Anderson	Bob Russell
Mr James Clappison	Mr Marsha Singh
Mrs Janet Dean	David Winnick
Mr Gwyn Prosser	

The Committee deliberated.

Draft Report (Identity Cards), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 58 read and agreed to.

Paragraphs 59 and 60 read.

Question put, That paragraphs 59 and 60 stand part of the Report.

The Committee divided.

Ayes, 5

Noes, 2

Janet Anderson	Bob Russell
Mr James Clappison	David Winnick
Mrs Janet Dean	
Mr Gwyn Prosser	
Mr Marsha Singh	

Paragraphs 61 to 63 read and agreed to.

Paragraphs 64 to 278 read.

Motion made, to leave out paragraphs 64 to 278 and insert the following new paragraphs:

64. We accept that if it can be convincingly shown that identity cards would act as a deterrent to terrorism there would be sufficient justification for their introduction. Terrorism undoubtedly presents a grave threat and it is likely that this will continue for some considerable time ahead.

65. However, there is little reason to believe that terrorism would be so undermined. Privacy International has supplied us with a list of a number of countries that have suffered most from terrorist attacks since 1986. Eighty percent of these have long-standing identity card systems, of which a third contain a biometric such as a fingerprint.

66. We note that both Turkey and Spain are included amongst such countries, and certainly no evidence has been produced that the recent terrorist outrages were hindered in any way by identity cards. Neither has there been any evidence that the biometric cards the Home Secretary intends here

would have prevented the attacks and the heavy loss of innocent lives. Those involved in the 9/11 atrocities in the United States had - as Liberty and others have pointed out - legitimate identification papers.

67. As mentioned earlier, the Home Secretary accepted the proposed scheme would not prevent atrocities as in Madrid and Istanbul, but went on to say it would nevertheless help. We are not persuaded this would be so. Indeed, if such means of identification were really necessary to combat terrorism there would surely be a case for their much earlier introduction.

#### **Illegal working and immigration abuse**

68. One of the arguments put forward for what is being proposed is that identity cards are necessary to deal with illegal working and the abuses connected with this. In our earlier report on Asylum Applications we said:

“We believe that a significant factor in the problem of illegal working is the deliberate decision by some employers to break the law. We recommend that the government should target such employers, who are not only easier to identify than those they employ but arguably more culpable. We refer below to the government’s commitment to use the Proceeds of Crime Act as a weapon against people traffickers. We recommend that the Act should also be used to seize profits made from the employment of illegal labour. The Home Office should be pro-active within government in seeking to ensure that other departments take action against illegal working – for instance, by means of a concerted attempt to prosecute employers of illegal labour for other related breaches of employment legislation (e.g. failure to pay the minimum wage or to observe health and safety regulations). We note the comments by the Environment, Food and Rural Affairs Committee on the collusion of employers with illegal rural labour through the gangmaster system, and support their view that the government should treat this problem with greater seriousness.”

69. The Minister of State for Citizenship and Immigration told us that of 1st May this year the government required employers to use a far more secure form of identification, that employers now knew what the position was, and what was expected of them. He added that employers would be given help and assistance to ensure they could enforce the regulations. The Minister promised the policy would be policed properly, but added that ID cards would in time be offering employers a more secure form of identity.

70. We repeat our recommendations that the government should target employers who deliberately break the law, and that the Proceeds of Crime Act should certainly be used in such cases to seize profits made from the employment of illegal labour.

71. We do not, however, accept that identity cards would make a significant contribution to the problem of illegal working. The real need is for firm and determined action in acting against culpable employers.

72. It is most unlikely that had identity cards been in existence it would have stopped the fifty-eight Chinese nationals who suffocated in June 2000 when they were being smuggled into the UK in a lorry working here if they had survived. Neither would it have saved the lives of those who tragically died in February 2004 working illegally at Morecombe Bay. The Law Society argued that the real problem was the small number of employers who did not carry out the appropriate checks, who would continue to employ people illegally regardless of whether or not there was a national identity card. We fully concur with this view and that the criminal elements and some gangmasters will try to evade any such scheme as they do now with existing laws over immigration control and employment.

73. We consider that having to live and work in the UK under a false identity is not in itself a significant disincentive to many potential illegal immigrants. Being here in such circumstances and readily exploited by unscrupulous employers can hardly be pleasant, but it would be considered better than where they came from and hence the large sums paid to the criminal outfits to get them to European countries. Very often the money is paid in stages after they start working illegally.

## Identity Fraud

74. The Foundation for Information Policy Research, an Internet policy think-tank, were sceptical about the effects of identity cards on identity theft, arguing that it was more a regulatory issue centred on enforcing the correction of inaccurate records; they also said that “fraud patterns do not appear to vary across Europe according to the existence or absence of ID cards”. Professor Ross Anderson, the Foundation’s Chair, told us that in his experience the main determinant of levels of fraud was not the card technology but the diligence and frequency of online checks on whether a transaction was valid or not. The Law Society also pointed to international comparisons, arguing that no evidence had been produced to demonstrate how similar schemes across the world had made an impact on identity or improving the prevention and detection of crime.

75. As we have seen, The Home Secretary accepted that it would be possible to create a false identity under his proposed scheme, but he argued that the person who did this would be forced to keep it and would be unable to return to his or her true identity.

76. If anything, the danger would be that far too much reliance would be placed on such cards and that automatically it would be assumed to prove the identity of the holder. It is doubtful if in day to day busy situations the biometrics would actually be checked, and thus ironically making possession of a stolen identity card easier than now to carry out fraud. We return later to the reliability of biometrics.

## Entitlement to free public services

77. Entitlement to services and entitlement to an identity card will not always coincide. For example, the Rt Hon John Hutton MP, Minister for Health, told us that: “It is the case of course that you can have entitlement to NHS care, but not an ID card and it is perfectly possible that you could have an ID card, but not be entitled to NHS care” . The Rt Hon Charles Clarke MP, Secretary of State for Education and Skills, noted that “Education legislation does not impose any conditions relating to the nationality or immigration status of children seeking entry to a maintained school. So questions of proving entitlement to schooling are irrelevant.”

78. The British Medical Association strongly supported the government’s intention to reduce the inappropriate use of health services, and recognised that the NHS had a legal duty to check the eligibility of individuals wishing to use free health services. The BMA was, however, concerned that any potential system should not cost the NHS more, in terms of additional bureaucracy, than it saved.

79. The Parliamentary Under-Secretary at the Department for Work and Pensions, Mr Chris Pond MP, told us that his Department estimated that of the estimated £2 billion total annual benefit fraud, £50 million was identity fraud. He argued that as the Department clamped down on other forms of fraud, there would be more attempts at identity fraud. He also believed that identity cards might help tackle an additional £50 million of other types of benefit fraud annually.

While £50 million of public money in identity fraud must be of concern, even against the estimated £2 billion total annual benefit fraud, we were not provided with evidence of how necessarily the cards would prevent this. The additional £50 million mentioned seems again to be a guess or a hope.

80. We note that the devolved administrations have differing views on access to public services if identity cards were introduced. Scotland was likely to proceed with a voluntary scheme while the Welsh First Minister, Rhodri Morgan, AM, has said that “The current Assembly Government has no intention of cutting back on or denying services to people who do not have identity cards.” He explained to us “We will consider the implications for Wales of the Home Secretary’s proposals for identity cards as these proposals are firmed up. But, as the Home Secretary has announced, decisions on the use of these cards to access services for which the Welsh Assembly Government is responsible will be a matter for this administration. I used the opportunity of an Assembly Question to provide reassurance to people in Wales that their access to public services will not, in the foreseeable future, be dependent on the possession of an identity card.”

81. If the devolved administration on Northern Ireland is included there could be four different systems in the UK for checking entitlement to public services and causing possible confusion. We do not believe that access to such services should be dependent on the possession of an identity card.

## Biometrics

82. What of the reliability of biometrics? Professor Ross Anderson was asked what evidence he had that it is practically feasible to produce contact lenses to fake irises on a significant scale. He replied:

“Well, I have not done it myself but I have seen a photograph of one that was produced by one of the researchers in the field and, given the underlying mathematics, I do not think there is any difficulty in principle with producing a contact lens that will produce a certain iris code. The manufacturers of iris scanning equipment will say in their defence that it is possible to measure the nictation, the oscillation in the diameter of the pupil. I understand that none of the equipment currently on sale does that and I would be worried that someone might produce a well printed contact lens with a sufficiently clear area in the middle where the movement of the underlying eye would be taken by the scanner as indicating that the genuine eye were present. There is room for further technological work here. As things stand I am afraid that iris scanners, like fingerprint scanners, are liable to be defeated by sophisticated attack if they are used in an unattended operation. Attended operation is different, of course, if you train the staff properly they can feel people’s fingerprints, they can look carefully at the eye and check there is no funny business.”

83. The Association of Payment and Clearing Services, which has taken the lead in credit and debt card security, is reported to have doubts about the quality of biometric identification. Such a system was under consideration for the new generation of chip and pin credit and debit cards but it was rejected because no system was found to be reliable enough.

84. Privacy International, which is a campaigning organisation against identity cards, has concerns about the ability of technology to keep one step ahead of the criminal:

Can an ID card be forged?

“Invariably, yes. The technology gap between governments and organised crime has now narrowed to such an extent that even the most highly secure cards are available as blanks weeks after their introduction. Criminals and terrorists can in reality move more freely and more safely with several fake “official” identities than they ever could in a country using multiple forms of “low-value” ID such as a birth certificate.

Criminal use of fake identity documents does not necessarily involve the use of counterfeiting techniques. In 1999, a former accountant was charged in London with obtaining up to 500 passports under false identities. The scam was merely a manipulation of the primary documentation procedure.

It is worth considering some inevitable formulae that apply across the board to the black-market economy. Whenever governments attempt to introduce an ID card, it is always based on the aim of eliminating false identity. The higher the “integrity” (infallibility) of a card, the greater is its value to criminals and illegal immigrants. A high-value card attracts substantially larger investment in corruption and counterfeit activity. The equation is simple: higher value ID equals greater criminal activity.

85. It should be noted that the feasibility study commissioned by the UK Passport Service, DVLA and the Home Office on the use of biometrics admitted that biometric methods do not offer 100% certainty of authentication of individuals. The study also said that about 1 in 10,000 people did not have an iris that can be used for iris recognition, while over 1 in 1,000 fingers were missing or have no readable fingerprints. Even facial recognition, the nearest to universal, would have cases where automatic enrolment fails. Biometrics are not constant over a lifetime since, for example, fingerprints can be worn away by manual work.

86. In addition to “failure to acquire rates”, any biometric has both a false non-match, or false rejection, rate (in which legitimate card holders are not matched with their recorded biometric) and false match rates (in which someone is matched to a biometric that is not their own). These are linked, so that a reduction in the false match rate leads to a rise in the false rejection rate, and vice-versa.

87. Figures for performance by biometrics depend on whether the check is one-to-one checking that someone is who they say they are or one-to-many checking whether someone is already on the

database. The National Physical Laboratory's feasibility study noted that in one-to-one checks good fingerprint systems were able to achieve a false match rate of 1 in 100,000, with a false non-match rate of approximately 1 in 100. Iris recognition could achieve a false match rate of better than 1 in 1,000,000 with a false non-match rate of below 1 in 100. Under ideal lighting conditions, with subjects directly facing the camera and using photographs 1 or 2 months old, facial recognition achieved a false match rate of 1 in 1,000 and a false non-match rate of 1 in 10.

88. The study concluded that for one-to-many checks to be workable with a database of more than 50 million people at least four, and preferably all, fingerprints should be collected, and for iris recognition, both irises. Face recognition was not reliable for a database of this size.

89. However, other assessment of fingerprint matches, such as one by the US General Accounting Office, show far higher error levels. The critical difference between these studies appears to be the assumption about the circumstance in which the fingerprints are taken and checked against the central register. Fingerprints taken to police standards have a high reliability rate; fingerprints taken by less well trained personnel will have higher false matches and false rejections.

90. The security and reliability of biometrics are at the heart of the Government's case for their proposals. We note that no comparable system of this size has been introduced anywhere in the world. The system proposed would therefore be breaking new ground. We have considerable doubts over the reliability and security of the biometrics chosen, and even more so given the major failure of the IT projects brought in by the Home Office over a period of time.

#### **Costs**

91. The Home Office's public figures for the estimated cost of the proposals remain the £1.3 to £3.1 billion set out in the first consultation paper of July 2002. Officials giving evidence to us cited commercial confidentiality for saying nothing more than they were "moving away from the lower end" of this £1.8 billion range. The Home Secretary told us that this figure does not include the costs of biometric readers and other equipment to be installed in other Departments, such as the Department for Work and Pensions, or the National Health Service. We note that the overall costs of these would, in any case, be difficult to establish as there is little if any certainty about the numbers and types of readers required.

92. The Home Office have provided us with details of the assumptions on which their costings have been based, on a confidential basis. We are not convinced that level of confidentiality applied is justified. Cost information is an essential element in determining the value for money of any project. It is of prime importance where expenditure is funded from the public purse, and of particular relevance with regard to public sector IT projects which have a history of poor performance and cost-overruns. We are also concerned that the least robust cost estimates appear to relate to the assumptions with the greatest cost-sensitivity, such as the length of enrolment time, the anticipated number of applications requiring further investigation, the cost of card production and the criteria for subsidised cards. Changes to any one of these factors could cause significant increases to the cost of the programme.

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

94. We can be reasonably sure, going by past experience, that the final sums involved will be higher and probably considerably so than the present estimated costs. Nearly every government computer project has had massive cost-overruns, and this project is not likely to be different in that respect.

95. It should be borne in mind that £3 billion amounts to the whole NHS capital project for 2003/4.

### Function creep

96. We are concerned that if the Government's proposals become law, and identity card will need to be shown for all kinds of purposes. An example was given by the Information Commission who drew a historical parallel:

"In the written submission we gave to the committee we gave you details of a government committee in the early 1950s looking at the Second World War national identity card. That was introduced in 1939 with three stated purposes: for conscription, for national security and for rationing. By 1950 the government committee of the day found that in those 11 years that the scheme had grown to 39 stated purposes. The debate at the time the committee reported in the early 1950s was that the main rationale for identity cards was the prevention of bigamous marriages."

97. It remains very likely that any voluntary identity card scheme would be shortlived; there would be pressure from the police in particular on the government of the day to make the scheme compulsory as quickly as possible. Already the enthusiasts for these cards argue that a voluntary scheme would serve little purpose.

### Public Support

98. It is not surprising that there is public support at the moment for the principle of identity cards; at a time of concern over asylum seekers, 'health tourism', benefit fraud, etc, it might appear that the cards would considerably help in tackling these matters.

99. However, a poll commissioned in Britain in October 2003 by Privacy International found only 61% in favour of ID cards, with the number saying they were strongly opposed at 12%. It is also the case that those questioned were less than enthusiastic about paying for them (see paragraph 103 below), and were distinctly sceptical about the Government's ability to introduce them smoothly – 58% of those questioned by Detica had little or no confidence in this – or to protect information on the database – in the same poll 48% were not very or not at all confident in the government's ability to store personal information securely.

100. The Home Secretary thought that demand for identity cards would be high from the opening of the scheme:

"I happen to believe that once we have got this up and running, as with the pilot for biometrics that we announced a week ago, people will queue up for it and we will have to deal with the flow and the flood of people wanting it much earlier, wanting to renew their passport and get an ID card very fast".

Intellect, the trade association representing IT, telecoms and electronics companies in the UK, was less sanguine and argued that "an ID card will have to deliver rapid and compelling benefits to citizens to shift negative perceptions and establish the foundations for long term success."

101. Other witnesses expressed the concern that even a voluntary scheme would become effectively compulsory if a card was required to access large numbers of services; the Law Society was concerned that "in practice, a voluntary scheme could become in effect compulsory as more and more organisations and service providers required production of the card to prove identity". The Information Commissioner raised the linked issue of inappropriate demands to produce a card:

"I would be unhappy if a local authority gymnasium required you to produce your identity card in order to make use of that local authority gym. I think that is going well beyond what should be acceptable. The local video shop, when you are renting a video: for them to insist upon the production of an identity card for you to rent a video would in my view be disproportionate and unacceptable and I would want to see appropriate restrictions stopping that sort of activity."

102. We would be very concerned that production of an identity card would be required along the lines mentioned by the Information Commissioner. Moreover, the non-production of the card will arouse suspicion, however unjustified.

103. We also note that public support for the principle of identity cards does not extend to the reality of having to pay for them. In the Daily Telegraph poll of September 2003, only 1% believed that £40 was

a reasonable charge for an entitlement card, while 86% thought the card should be provided free. Similarly, in the Detica poll cited in para 99, 40% did not want to pay anything, while a further 32% were only prepared to pay up to £25.

### **Vulnerable groups**

104. A wide range of witnesses expressed concern to us over the effects of any identity card system on vulnerable groups, such as the elderly or those suffering from mental illness. The British Medical Association, for example, said “Socially excluded groups are among the least likely to access public services effectively, and the need to register for and hold an ID card in order to access vital services could operate as an additional disincentive.” The Metropolitan Police linked this concern to the issue of how the card would affect minority ethnic groups:

“The scheme could become compulsory prematurely for those disadvantages members of society, because they would have to have an ID card in order to access social security benefits, etc. It should also be noted that many of the visible ethnic minorities are over-represented in this socio-economically deprived group. We have severe reservations that the scheme could add to tensions at a time when the police service is investing greatly in gaining confidence across all communities.”

Trevor Phillips, Chair of the Commission for Racial Equality, also noted the concerns of the minority ethnic groups over the operation of an identity card, pointing to “the lack of evidence about the potential impact of the scheme on different ethnic groups and communities.” As noted in para ## above, the Director of Liberty was concerned that identity cards might exacerbate existing tensions with minority groups; Mr Phillips pointed out that the perceptions and expectations of such groups regarding identity cards were as important as the reality in affecting community relations.

105. Press for Change (PFC), “the largest representative organisation for transsexual people in the UK” made the point that even before the move to full compulsion, anyone applying for a new passport or driving licence would have to apply to be put on the National Identity Register and would be given an ID card version of the relevant document. They argued that “Protection for trans people and other vulnerable minorities must therefore be assured before any implementation of the NIR or of enhanced versions of existing documents, rather than delayed until consideration of universal compulsion.”

106. The effect of the identity cards scheme on minorities, such as the elderly, the socially excluded and ethnic groups, is of the utmost importance. We fear that such groups could be adversely affected and that ethnic minorities in particular would be asked more frequently by the police and officialdom generally to produce an identity card. This could have an adverse effect on community and race relations.

### **Civil liberties and privacy**

107. The introduction of identity cards would not make this country less of a Parliamentary democracy, any more than it did during the Second World War. It is also the position that a number of European democracies have such cards, though their history tends to be somewhat different than ours.

108. In the evidence presented to the Committee by Liberty the following statement was made:

Any national identity scheme raises profound constitutional concerns regarding the relationship between the individual and the state, and the presumption of privacy and individual liberty. These concerns can only be rebutted by clear and compelling evidence to the contrary, and a proportionate and effective mean of achieving the state’s aims. In other words, there is a rebuttable presumption in favour of the liberty, autonomy and privacy of the individual (and thus against ID cards). This is underpinned by Britain’s common law and constitutional tradition, and the analytical approach of the European Convention on Human Rights (ECHR). The issue is whether the government’s proposals rebut that strong presumption.

106. The Information Commissioner, Mr Richard Thomas, stated in evidence to us that on his last appearance before the Committee he had used the language of “healthy scepticism” about the government’s proposals. He then stated that having looked at the detail, this was beginning to change to rather more like “increasing alarm”. He went on to say “I think that as we see the detail of these

proposals it is now clear that we are talking not about ID cards as such. This debate is primarily about a National Identity Register and all the consequences of that. Some of the issues arising from information sharing have been discussed earlier this afternoon. This is beginning to represent a very significant sea change in the relationship between the state and every individual in this country, and I think it has to be seen in that sense.”

107. Mr Thomas continued by saying... “It is about the nature of the information held about every citizen and how that is going to be used in a wide range of activities. In many ways I was not unduly surprised to see the detail of the draft Bill, but when one sees the way that the draftsman has clearly approached all the various issues which need to be addressed in the process of constructing a scheme like this, once begins to see fleshed out on the face of this draft Bill, with a great deal of details to come later as regulations are made, just how complex this issue is and how far-ranging and extensive the arrangements are going to be.”

108. In answer to a question from the Committee Chairman on whether the draft Bill is far broader than the stated aims, the Information Commissioner responded... “One can only make judgments about the appropriateness of the detailed drafting and the acceptability of the various safeguards when one is absolutely clear what are the purposes. Is this primarily about dealing with illegal immigration or illegal working? Is it primarily about access to public services? Is it primarily about the fight against crime and terrorism? It is only when one sees the Bill as drafted that one sees that it is all of these things and many more, and I think the draftsman, perhaps as you are suggesting, has identified a very wide range of issues which need to be addressed with a comprehensive scheme. The point I want to make to you is that this is a very comprehensive scheme. I think it would probably be the most comprehensive and ambitious scheme anywhere in the world. Leaving aside all the technology aspects, this would be an unprecedented scheme.”

109. He was also of the view that just as the passport is widely targeted by criminals and counterfeiters, so would identity cards, even with biometric details. We also accept this would be the case and that the more sophisticated international criminal gangs would do their utmost to produce false cards.

110. We fully share the concern of the Information Commissioner about such a National Identity Register, and consider that the implications are disturbing for the intrusion into the lives of law-abiding UK citizens and all others lawfully resident here and no less law-abiding.

111. While we fully accept that the Home Secretary is motivated by what he considers to be the public good, nevertheless we are not persuaded that identity cards are necessary in tackling the matters we are all concerned about. We consider that the negative factors far outweigh any good that might come about by their introduction. Therefore we recommend that the proposals be rejected and as such we are opposed in principle to the draft Bill.—(*David Winnick.*)

Motion made, and Question put, That the paragraphs be read a second time.

The Committee divided.

Ayes, 2

Bob Russell  
David Winnick

Noes, 5

Janet Anderson  
Mr James Clappison  
Mrs Janet Dean  
Mr Gwyn Prosser  
Mr Marsha Singh

Question put, That paragraphs 64 to 278 stand part of the Report.

The Committee divided.

Ayes, 5

Noes, 2

Janet Anderson  
Mr James Clappison  
Mrs Janet Dean  
Mr Gwyn Prosser  
Mr Marsha Singh

Bob Russell  
David Winnick

*Ordered*, That further consideration of the Chairman's draft Report be now adjourned.—  
(*The Chairman.*)

Report to be further considered upon Tuesday 20 July.

[Adjourned till Tuesday 20 July at 9.30 am.]

### Tuesday 20 July 2004

Members present:

Mr John Denham, in the Chair

Mr James Clappison	Mr Marsha Singh
Mrs Claire Curtis-Thomas	Mr John Taylor
Mrs Janet Dean	David Winnick
Mr Gwyn Prosser	

The Committee deliberated.

Consideration of the Chairman's draft Report [Identity Cards] resumed.

Paragraphs 279 and 280 read.

Question put, That paragraphs 279 and 280 stand part of the Report.

The Committee divided.

Ayes, 6

Noes, 1

Mr James Clappison  
Mrs Claire Curtis-Thomas  
Mrs Janet Dean  
Mr Gwyn Prosser  
Mr Marsha Singh  
Mr John Taylor

David Winnick

Annex agreed to.

Question put, That the Summary stand part of the Report.

The Committee divided.

Ayes, 6

Noes, 1

Mr James Clappison  
Mrs Claire Curtis-Thomas  
Mrs Janet Dean  
Mr Gwyn Prosser  
Mr Marsha Singh  
Mr John Taylor

David Winnick

Motion made, and Question put, That the Report be the Fourth Report of the Committee to the House.

The Committee divided.

Ayes, 6

Noes, 1

Mr James Clappison  
Mrs Claire Curtis-Thomas  
Mrs Janet Dean  
Mr Gwyn Prosser  
Mr Marsha Singh  
Mr John Taylor

David Winnick

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select committees (reports)) be applied to the Report.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

Several memoranda were ordered to be reported to the House.

[Adjourned till Wednesday 8 September at 2.15 pm.]

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## Thursday 11 December 2003

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**Nicola Roche**, Director, Children, Identity Cards & Coroners, **Katherine Courtney**, Director, Identity Cards Programme, and **Stephen Harrison**, Head, Identity Card Policy Unit, Home Office

Ev 1

## Tuesday 3 February 2004

**Ms Shami Chakrabarti**, Director, Liberty, **Mr Simon Davies**, Director, Privacy International, and **Ms Vicki Chapman**, Head of Law Reform, The Law Society  
**Mr Richard Thomas**, Information Commissioner, and **Mr Jonathan Bamford**, Assistant Information Commissioner

Ev 19

Ev 29

## Tuesday 10 February 2004

**Mr Martin Hall**, Director-General, Finance and Leasing Association, **Councillor Gerald Vernon-Jackson**, Local Government Association, and **Mrs Jan Berry**, Chairman, Police Federation of England and Wales

Ev 36

## Tuesday 24 February 2004

**Mr Nick Kalisperas**, Senior Programme Manager, and **Mr Geoff Llewellyn**, Member, ID Card Working Group, Intellect, **Professor Ross Anderson**, Foundation for Information Policy Research, and **Professor Martyn Thomas**, UK Computing Research Committee

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## Tuesday 20 April 2004

**Mr John Harrison**, Director, Eidentity Ltd, **Mr Andy Jebson**, Director, Cubic Transportation Systems Limited, **Mr Richard Haddock**, Chief Executive Officer, LaserCard Systems Corporation, and **Mr Neil Fisher**, Director of Security Solutions, QinetiQ

Ev 66

## Tuesday 27 April 2004

**Mr Len Cook**, Registrar General for England and Wales, and **Mr Dennis Roberts**, Director for Registration Services, General Register Office, Office for National Statistics.

Ev 82

**Rt Hon Charles Clarke MP**, Secretary of State, Department for Education and Skills, **Rt Hon John Hutton MP**, Minister of State (Health), Department of Health, and **Mr Chris Pond MP**, Parliamentary Under-Secretary of State, Department for Work and Pensions

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## Tuesday 4 May 2004

**Rt Hon David Blunkett MP**, Home Secretary, **Mr Desmond Browne MP**, Minister of State for Citizenship and Immigration, **Katherine Courtney**, Director, Identity Cards Programme, and **Stephen Harrison**, Deputy Director, Identity Cards Programme, Home Office

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**Tuesday 8 June 2004**

**Mr Roger Smith**, Director, JUSTICE, **Ms Shami Chakrabarti**, Director, Liberty, **Mr Simon Davies**, Director, Privacy International, and **Ms Vicki Chapman**, Head of Law Reform, The Law Society Ev 116

**Mr Richard Thomas**, Information Commissioner, and **Mr Jonathan Bamford**, Assistant Commissioner Ev 126

**Tuesday 15 June 2004**

**Dr Chris Pounder**, Editor, *Data Protection and Privacy Practice*, and **Ms Claire McNab**, Vice-President, Press for Change Ev 134

**Dr Vivienne Nathanson**, Director of Professional Activities, and **Dr John Chisholm, CBE**, Chairman, General Practitioners Committee, British Medical Association, and **Mr Trevor Phillips, OBE**, Chair, Commission for Racial Equality Ev 142

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Rt Hon Rhodri Morgan AM, First Minister, Welsh Assembly Government	Ev 270
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UK Passport Service	Ev 269

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons Library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1 (Tel 020 7219 3074). Hours of inspection are from 9.30am to 5.00pm on Mondays to Fridays.

Shireen Anderson

APACS

Axalto

Business Consultancy Services Ltd

Cambridge Algorithmica Limited

Cubic Transportation Systems Limited

De La Rue ID Systems

Brian Duguid

Mark Dziecielewski

Electronic Data Systems Limited

European Biometrics Forum

Paul Flynn MP

Home Office

Information Support Group Smart Card Centre, Royal Holloway University of London

LaserCard Systems Corporation

Trevor Mendham

Dr Richard Miller

Northrop Grumman

Mr M Pearson

Angela Pinter

L Pycock

Nigel C Sedgwick, Cambridge Algorithmica Limited, and Professor Ross Anderson  
(exchange of emails)

Stand

Julian Todd

TSSI

# Reports from the Home Affairs Committee since 2001

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The following reports have been produced by the Committee since the start of the 2001 Parliament. Government Responses to the Committee's reports are published as Special Reports from the Committee or as Command Papers by the Government. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2003–04

First Report	Asylum and Immigration (Treatment of Claimants, etc.) Bill	HC 109 ( <i>Cm 6132</i> )
Second Report	Asylum Applications	HC 218 ( <i>Cm 6166</i> )
Third Report	The Work of the Home Affairs Committee in 2003	HC 345

## Session 2002–03

First Report	Extradition Bill	HC 138 ( <i>HC 475</i> )
Second Report	Criminal Justice Bill	HC 83 ( <i>Cm 5787</i> )
Third Report	The Work of the Home Affairs Committee in 2002	HC 336
Fourth Report	Asylum Removals	HC 654 ( <i>HC1006</i> )
Fifth Report	Sexual Offences Bill	HC 639 ( <i>Cm 5986</i> )

## Session 2001–02

First Report	The Anti-Terrorism, Crime and Security Bill 2001	HC 351
Second Report	Police Reform Bill	HC 612 ( <i>HC 1052</i> )
Third Report	The Government's Drugs Policy: Is it Working?	HC 318 ( <i>Cm 5573</i> )
Fourth Report	The Conduct of Investigations into Past Cases of Abuse in Children's Homes	HC 836 ( <i>Cm 5799</i> )