

# **DBS CHECKS AND IDENTITY VERIFICATION: SAFEGUARDING LOOPHOLES CREATED BY CHANGES OF IDENTITY**

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***KEEP PRISONS  
SINGLE SEX***



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# EXECUTIVE SUMMARY

The Disclosure and Barring Service plays a vital and unique role in safeguarding. By processing criminal record checks for individuals who have applied to work in roles where safeguarding considerations apply, the DBS allows organisations to access key information that will assist them in making safer recruiting decisions. The ability of a DBS check to play this role in safeguarding rests entirely on the relevance, completeness and accuracy of the information returned and displayed on the DBS certificate.

In December 2003, Ian Huntley was convicted of the murders of two 10-year old girls, Jessica Chapman and Holly Wells. At the time of committing the murders, Huntley had been employed at a local college as a caretaker, a position that facilitated his access to children. Although he had previously come into contact with the police over alleged sexual offences on many occasions, this information had not been disclosed during the vetting check carried out at the time of his appointment.

It is no exaggeration to say that the murders of the two girls and the subsequent discovery that Huntley should, and could, have been prevented from taking up the role of caretaker had a profound effect throughout the country. In 2004, following an independent inquiry, the Richdard Inquiry Report was published. This concluded that there had been extensive omissions and failures in the vetting process.

Significantly, Huntley had been able to change his name by deed poll to Ian Nixon and the criminal record check he underwent had only been carried out against this new identity. By presenting a new identity, Huntley had successfully severed the link with his existing police records meaning that the records held against the name 'Ian Huntley' were not disclosed.

Eighteen years later safeguarding loopholes created where applicants submit identity documents for DBS checks that display a new identity remain.

Although the government has acknowledged the safeguarding loophole created where registered sex offenders are able to change their name by deed poll, the ability to change identity in a more fundamental way, by simultaneously changing both name and gender, remains unaddressed. Any individual can easily, and for any reason, change their name and gender on documents commonly used to establish identity via a process of self-declaration. These documents, that include passport and driving licence, can be presented for the purposes of a DBS check and will show the individual's new name and their acquired gender instead of, and as opposite to, their sex.

The DBS grants enhanced privacy rights to individuals who change their gender when changing their identity. These are exceptional rights that are only granted to individuals from this group. The result is that identity verification is compromised, meaning that there is no guarantee that the information returned during the check and displayed on the certificate will be accurate or complete.

These exceptional privacy rights also allow an applicant who has changed gender to request that all their previous names are withheld from the DBS certificate that is issued. This right to conceal previous identities is not given to anyone else: disclosing previous identities is a key component of safeguarding and DBS certificates issued to all other individuals display all other names the applicant has used.

Applicants who change their gender are also permitted to conceal their sex and the DBS certificate issued will display their acquired gender instead. This right is not granted to any other individual: the importance of sex to safeguarding means that for all other applicants, their sex is always displayed.

These are all serious risks to safeguarding that compromise the validity and reliability of the DBS regime.

As digital identities are rolled out, including for DBS checks, the risk is that the existing loopholes will simply be perpetuated in the digital realm. In the drive for convenience and ease of use, digital identities also risk creating a new safeguarding loophole. In-person identity verification acts as a safeguarding protection in and of itself, yet digital identities can be shared remotely, meaning that this important step is removed.

The current operation of the DBS regime means that identity verification is compromised and organisations requesting DBS checks cannot have confidence in the information that is disclosed. In order to close these existing loopholes, we propose three recommendations:

- Mandatory use of National Insurance numbers for DBS checks and identity changes
- DBS certificates display sex registered at birth
- DBS certificates display other names used for all applicants, including those who have changed gender as part of changing identity

In order to be effective, the rules of safeguarding must apply equally to everyone. Whenever the members of one group are excused from the normal requirements of safeguarding, a loophole is created that is ripe for exploitation.

## Kate Coleman

**Director, Keep Prisons Single Sex**

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## About Keep Prisons Single Sex

Keep Prisons Single Sex campaigns for the sex-based rights of women in prison throughout the United Kingdom to single-sex accommodation and same-sex searching. KPSS also campaigns for data on offending to be recorded by sex registered at birth throughout the criminal justice system.

# THE DISCLOSURE AND BARRING SERVICE: AN INTRODUCTION<sup>1</sup>

Safeguarding refers to the framework of measures designed to protect the health, well-being and human rights of individuals. Where safeguarding measures are adequate and properly applied as part of an ongoing process, they allow people to live free from abuse, harm and neglect.

Certain groups of people are in particular need of safeguarding. These include children and vulnerable adults. The main pieces of legislation governing safeguarding are the Care Act 2014<sup>2</sup> for adults and the Children's Act 2004<sup>3</sup> for children.

The purpose of the Disclosure and Barring Service (DBS) is to help employers fulfil their safeguarding duties by enabling them to make safer recruitment decisions. The DBS does this by processing and issuing DBS checks for individuals who have applied to work in roles where safeguarding considerations apply. DBS checks disclose records of relevant past convictions, cautions, reprimands and warnings. Different levels of check can be requested: the level of check required will be determined by the nature of the role for which the individual is applying. The DBS also maintains the Adults' and Children's Barred Lists and makes decisions as to whether an individual should be included on one or both of these lists and hence barred from working with vulnerable groups.

The DBS does not undertake individual case-by-case assessments. Rather, this is a category-based system of disclosure specified by legislation. This means that certain convictions must be disclosed as part of a DBS check and where an individual has committed a particular offence, they must be included on the relevant Barred List. A category-based system has the benefit of legal certainty and also reflects the strong public expectation for proper standards of protection against threats to the welfare and safety of the public, particularly that of children and vulnerable adults. By contrast, a system of individual case-by-case assessments introduces the possibility for ambiguity and inconsistency.

The DBS is a non-departmental public body accountable to parliament through the Secretary of State for the Home Office. The functions of the DBS are those contained within the Safeguarding Vulnerable Groups Act 2006,<sup>4</sup> Part V of the Police Act 1997,<sup>5</sup> the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>6</sup> and Protection of Freedoms Act 2012<sup>7</sup>.

See Appendix One for the history and development of employment vetting and barring.

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1 <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

2 <https://www.legislation.gov.uk/ukpga/2014/23/contents>

3 <https://www.legislation.gov.uk/ukpga/2004/31/contents>

4 <https://www.legislation.gov.uk/ukpga/2006/47/contents>

5 <https://www.legislation.gov.uk/ukpga/1997/50/part/V>

6 <https://www.legislation.gov.uk/nisi/2007/1351/contents>

7 <https://www.legislation.gov.uk/ukpga/2012/9/contents>

# THE DBS CHECK PROCESS

There are four levels of DBS check that the DBS disclosure teams carry out:

- Basic DBS check
- Standard DBS check
- Enhanced DBS check
- Enhanced with Barred List(s) DBS check

A Basic DBS check is the lowest level of disclosure and can be requested for any purpose. A Basic DBS check is required in order to apply for an alcohol licence and, in some cases, a visa. The certificate will display details of convictions and conditional cautions that are considered to be unspent under the terms of the Rehabilitation of Offenders Act 1974.<sup>8</sup> Spent convictions will not be disclosed. An individual can apply for a Basic DBS check directly, or an employer can apply for a Basic DBS check on an individual's behalf, through a Responsible Organisation,<sup>9</sup> if they have that individual's consent.

Under the Rehabilitation of Offenders Act 1974, employers are not permitted to ask an individual for a full criminal history, including spent convictions, unless certain exceptions apply. These are listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.<sup>10</sup> Most roles working with vulnerable groups will be covered by these exceptions. Where the role involves a Regulated Activity, it will also have statutory safeguarding obligations attached.<sup>11</sup> A Regulated Activity is an activity within a role that takes place regularly and involves contact with children or with adults who are considered vulnerable at the time of that activity.<sup>12 13</sup> Regulated Activities include: teaching children; providing health care; managing a vulnerable person's affairs; driving children and adults who are vulnerable. For roles that include Regulated Activities, an Enhanced with Barring level DBS check is required. It is a criminal offence for an employee to take a role they are barred from and for an employer to knowingly employ a barred person.

Eligibility for Standard, Enhanced, and Enhanced with Barred Lists DBS checks is prescribed in legislation. When a conviction, caution, reprimand or warning is identified for any level of disclosure by the DBS, it will include the full disposal laid out by the court, including the sentence imposed and any fines. Where relevant, details of court orders and sex offender notifications will be included. An individual cannot apply for a Standard, Enhanced or Enhanced with Barred Lists DBS check directly. There must be a recruiting organisation who requires the individual to be checked. This is then sent to the DBS through a Registered Body.<sup>14</sup> The minimum age at which someone can be asked to apply for a criminal record check is 16 years old.

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8 <https://www.legislation.gov.uk/ukpga/1974/53>

9 A Responsible Organisation is an organisation registered with the Disclosure and Barring Service to submit Basic DBS checks through a web service.

10 <https://www.legislation.gov.uk/uksi/1975/1023/contents/made>

11 <https://dbsdirect.co.uk/resources/Posts%20eligible%20for%20a%20DBS.pdf>

12 <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

13 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/216900/Regulated-Activity-Adults-Dec-2012.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/216900/Regulated-Activity-Adults-Dec-2012.pdf)

14 A Registered Body is an organisation that is registered with DBS to submit Standard, Enhanced, and Enhanced with Barred Lists DBS checks. The conditions of registration for an organisation to become a Registered Body is set out in the Police Act 1997 (Criminal Records) (Registration) Regulations 2006. To satisfy the conditions of registration the organisation must: submit over 100 DBS check applications per annum; be entitled to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974; comply with the DBS Code of Practice.

## Standard DBS check

A Standard DBS check is required for positions that involve working in financial services, prisons, security, government buildings and healthcare establishments where incidental contact with vulnerable groups may occur.

The certificate will contain details of both spent and unspent convictions, cautions, reprimands and warnings that are held on the Police National Computer. Some may be filtered by the police if they are deemed not to be relevant to the position the applicant is applying for. The certificate will not disclose other police information, nor will it check the individual against the Barred Lists. Community resolution orders will not show up on a Standard DBS check.

## Filtering

Filtering is the process which identifies and removes protected convictions and cautions so they are no longer disclosed. The filtering rules were developed by the Home Office in conjunction with the Ministry of Justice. The necessary amendments to the Rehabilitation and Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) Regulations 2002<sup>15</sup> came into force in 2013.

For those aged 18 years or over at the time of the offence, an adult conviction will be removed from a DBS certificate if:

- 11 years have elapsed since the date of conviction, *and*
- it is the person's only offence, *and*
- it did not result in a custodial sentence

It will not be removed if it appears on the list of offences which can never be filtered from a DBS certificate. For those aged under 18 at the time of the conviction, the elapsed time period is five years and six months.

For those aged 18 years or over at the time of a caution, an adult caution will be removed from a DBS certificate six years after the date of the caution, provided it is not on the list of offences relevant to safeguarding. For those aged under 18 at the time of the caution, the elapsed time period is two years.

## Enhanced DBS check

An Enhanced DBS check is required for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care. An Enhanced DBS check is also required for a small number of other roles such as taxi licence applications and jobs that involve assisting with money and bills for vulnerable adults.

The certificate will display details of both spent and unspent convictions, cautions, reprimands and warnings that are held on the Police National Computer. Community resolution orders may be disclosed on an Enhanced DBS check, if they are deemed to be relevant. Additionally, an Enhanced DBS check involves an extra level of check with the applicant's local police force(s) records. The certificate may also disclose non-conviction information supplied by relevant police forces, if those forces deem it relevant. This may include recorded non-crime hate incidents.<sup>16</sup>

## Enhanced with Barred Lists DBS check

An Enhanced with Barred Lists DBS check includes a check of one or both Barred Lists.

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<sup>15</sup> <https://www.legislation.gov.uk/ukxi/2002/233/contents/made>

<sup>16</sup> <https://www.college.police.uk/app/major-investigation-and-public-protection/hate-crime/responding-non-crime-hate-incidents>



## Adults' and Children's Barred Lists

The Adults' and Children's Barred Lists are lists of people who have been barred from working with vulnerable adults and with children respectively. It is a criminal offence for a person to work with members of a group from which they have been barred from working. The lists record the following information:

- Title
- Surname
- Forenames
- Date of Birth
- Gender<sup>17</sup>

If an individual is placed on a list, they will be informed of that fact. It is not unusual for individuals once listed, to remain listed for life. However, certain factors such as the individual's age, may mean that an individual can ask the DBS to reconsider their placement on a list after a specific period of time. Usually, they can appeal after one year (if they were under 18 years at the time of barring), five years (if aged between 18 and 24 years) and 10 years (if over the age of 24).

Individuals may be brought to the attention of the DBS barring team in one of three ways:

- automatic barring offence, also known as 'Autobar'
- disclosure
- referral

### Automatic barring offences (Autobar)

Automatic barring offences are those which, due to their serious nature, mean that if an individual accepts a caution or receives a conviction, they are automatically placed on the lists. Automatic barring offences include rape, murder, sexual assault, ill-treatment of patients, cruelty to persons aged under 16 years, sexual intercourse with someone aged under 16 years, possession or distribution of indecent images of children, causing a child/vulnerable adult to die, or suffer serious physical harm.<sup>18</sup> In respect of some offences, known as automatic inclusion offences, the individual has the opportunity to make a representations to challenge inclusion on the list(s).<sup>19</sup> The information which places the individual on a barred list comes from the Police National Computer.

## Disclosure

This is when someone applies for an Enhanced DBS check to work with children or adults and the check reveals information that results in the individual being considered for inclusion on one or both of the Barred Lists.

## Referral

This is when an employer, volunteer manager, or other organisation has concerns that someone, because of their behaviour or as the result of an incident, has either caused harm or has the potential to cause harm to vulnerable groups and submits a barring referral to the DBS.<sup>20</sup>

## Barring representations

Where an individual is the subject of any of the above three barring referral types (excluding automatic barring offences, which are 'without representation'), the individual is given the opportunity to make a representation setting out why it would be inappropriate or disproportionate for DBS to include them on one or both of the Barred Lists.<sup>21</sup>

## Test for Regulated Activity

The DBS may only place an individual on a Barred List if there is reason to believe that the individual is, has been, or might in the future be engaged in Regulated Activity. The exception to this is where a person is cautioned or convicted for an automatic barring offence and is not eligible to submit representations against their inclusion on a Barred List.

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16 <https://www.college.police.uk/app/major-investigation-and-public-protection/hate-crime/responding-non-crime-hate-incidents>

17 Email correspondence dated 16 May 2022.

18 The full list of automatic barring offences, (those which do not enable the person to make representations) or automatic inclusion offences (those which require the DBS to enable the person to make representations) can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/157242/dbs-factsheet-05.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/157242/dbs-factsheet-05.pdf)

19 <https://www.gov.uk/government/publications/dbs-referral-guide-making-representations/dbs-barring-and-referrals-making-representations>

20 <https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance/dbs-paper-referral-form-guidance>

21 <https://www.gov.uk/government/publications/dbs-referral-guide-making-representations/dbs-barring-and-referrals-making-representations>

## DBS Update Service

The Update Service is an online subscription, for Standard, Enhanced and Enhanced with Barred Lists DBS checks, that allows applicants to keep their DBS certificates up-to-date and allows employers to view an applicant's certificate.

## The application process

The application process is completed online. The individual in respect of whom the DBS check is being carried out is required to provide a minimum of three current original documents. Collectively these must confirm:

- Current legal name
- Current address
- Date of birth

Where a Responsible Organisation has requested the DBS check, the ID checks should be carried out with the individual face-to-face.

We completed an Enhanced with Children's Barred List DBS check (see Appendix Two). For the purposes of this DBS check, the individual provided: current valid passport; current photo card driving licence; bank/building society statement. In addition to providing their current address, the individual must also provide any additional addresses for the previous five years. No supporting evidence of these is required and this question relies upon the individual's honesty in providing a truthful and complete answer. There is an opportunity to provide any previous names used. Again, no supporting evidence of these is required and this question relies upon the individual's willingness to provide a truthful answer.

The DBS certificate issued to the individual displayed the following information:

- All other names disclosed by the applicant
- Police records of convictions, cautions, reprimands and warnings
- Information from the list held under Section 142 of the Education Act 2002
- DBS Children's Barred List information
- DBS Adults' Barred List information (in this case the information was not requested)
- Other relevant information disclosed at the Chief Police Officer(s) discretion

## Sources of information for DBS checks

External sources of information checked when the DBS processes a request for a DBS check are the Police National Computer and records maintained by local police forces (where relevant to the check requested).

## Police National Computer

The Police National Computer (PNC) is a system that stores and shares criminal records information across the UK. Law enforcement agencies use the PNC to access information that will support national, regional and local investigations. The PNC records details of convictions, cautions, reprimands, warnings and arrests. This information is transferred over to the PNC from the data management systems of local police forces. Anyone who is arrested for any recordable offence has a record created on the PNC. Community resolution orders do not show on the PNC as a criminal record. They are, however, stored on police information systems meaning that the data can be accessed if the offender commits a crime again.

Other organisations that have access to the PNC include all police forces, National Identification Service, HM Revenue and Customs, National Crime Agency, NPCC, Department for Work and Pensions, HM Court Services and Probation Services.

## Local police forces records

There are 43 territorial police forces in England and Wales, four of which are in Wales. Isle of Man Constabulary is the police force for the Isle of Man; States of Guernsey Police is the police force for the islands of Guernsey, Alderney, Herm and Sark; States of Jersey Police is the police force for Jersey; the Isle of Wight Constabulary covers the Isle of Wight.

The Home Office Counting Rules (HOCR)<sup>22</sup> require that “all reports of incidents, whether from victims, witness or third parties, and whether crime related or not, will result in the registration of an incident report by the police.” These must be recorded on an auditable system, meaning that records should be searchable such that relevant information can be efficiently retrieved. In practice this means an incident log and/or a record on the force’s crime system.

Police crime and incident records will include: crimes, arrests (including those that resulted in no further action), cautions, reprimands, final warnings and non-crime hate incidents. Forces operate different processes for deciding if a crime should be recorded. Each force has a crime registrar who is responsible for overseeing compliance with the crime recording process. The crime registrar is the final arbiter when deciding whether or not to record a crime. There is no standard recording system for crime and incident reporting across police forces, with forces able to make their own decisions concerning the intelligence and case management systems they use.<sup>23</sup>

The DBS also works with ACRO Criminal Records Office (ACRO).<sup>24</sup> The purpose and objective of ACRO is to support UK and International law enforcement by processing criminal records for the purposes of public protection and safeguarding. Services delivered include: Police Certificates; International Child Protection Certificates; the co-ordination of subject access and record deletion requests. ACRO also provides Police National Computer (PNC) services which include: conducting name inquiry checks to support investigations and prosecutions; creating PNC records to support prosecutions and adding the details of offences on conviction; converting historical records onto the PNC; updating PNC records with current information.<sup>25</sup>

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22 <https://www.gov.uk/government/publications/counting-rules-for-recorded-crime>

23 Arguably, this lack of standardisation has the potential to result in a fragmented and inconsistent system for data collection and management. However, this is outside the scope of this report.

24 <https://www.acro.police.uk/About-Us>. ACRO was founded in 2006 following a decision by the Association of Chief Police Officers, now the National Police Chiefs’ Council. ACRO is a national police unit and is hosted by Hampshire Constabulary. ACRO’s policing powers derive from having a chief superintendent from that constabulary serving as Head of ACRO.

25 <https://www.acro.police.uk/PNC-services>

# IDENTITY VERIFICATION AND INDIVIDUAL PRIVACY RIGHTS

A DBS certificate displays information concerning individual records of offending and the previous identities that individual has used. Its value consists of its ability to form part of safeguarding, by enabling safer recruiting decisions to be made for roles where safeguarding is a consideration. The ability of a DBS certificate to make this contribution to safeguarding rests entirely on the relevance, completeness and accuracy of the information that it displays. In turn, that is dependent upon several different factors. These include:

- The circumstances for which the different levels of DBS check can be requested
- The categories of conviction and other records of offending or incidents that must be displayed
- The accuracy of the source data held on the Police National Computer and local police force systems and how easily this can be retrieved
- The information supplied by the applicant and the verification of their identity

This report concerns the last of these, specifically the identity documents the applicant provides and how the applicant's identity can be verified. By virtue of the fact that DBS checks disclose information held about individuals, the DBS process engages the privacy rights of individuals. A brief discussion of these rights will help set the context for the discussion that follows.

## Individual privacy rights

The disclosure of information regarding individual records of offending in order to safeguard the wider public is the key purpose of the DBS regime. This purpose gains its legitimacy from the function of the State to protect its citizens from crime, via the rule of law.

When legislating for a system of disclosure of criminal records, parliament has had to consider the privacy rights of individuals throughout each stage of that system. This includes the circumstances when it is legitimate, and thus proportionate, to collect, retain and disclose information about individuals. These considerations also relate to the function of the state to recognise and record each individual's civil/legal identity as a citizen.<sup>26</sup>

An individual's privacy rights are set out in the European Convention of Human Rights (the "Convention") at Article 8, the right to respect for private and family life.<sup>27</sup> In the UK, individuals' Convention Rights are incorporated into domestic law via the Human Rights Act 1998.<sup>28</sup>

Article 8 provides that:

*(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*

*(2) There shall be no interference by a public authority with the exercise of this right except such as is **in accordance with the law** and is **necessary in a democratic society** in the interests of national security, **public safety** or the economic well-being of the country, for the **prevention of disorder or crime**, for the **protection of health or morals**, or for the **protection of the rights and freedoms of others**. [Emphasis added]*

An individual's right to privacy is not an absolute right, rather it is qualified. This means that in certain circumstances the state may interfere with an individual's Article 8 rights where it has a legitimate reason to do so and where such interference is proportionate. Hence, where justified and in limited circumstances, private information may be held and shared by public authorities, according to the law.

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26 The UN recognises that a unique legal identity is a fundamental human right from birth and seeks to ensure State registration of every individual's core identity information at birth i.e. their name, sex, date and place of birth. See: [https://unstats.un.org/legal-identity-agenda/documents/Conference%20in%20Prep%20for%20HLPF2019%201%20pager\\_final.pdf](https://unstats.un.org/legal-identity-agenda/documents/Conference%20in%20Prep%20for%20HLPF2019%201%20pager_final.pdf)

27 [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

28 <https://www.legislation.gov.uk/ukpga/1998/42/contents>

Case law and the process of policy review, including that instigated as a result of safeguarding failures, mean that the relationship between these differing legal obligations and sets of rights is both shifting and dynamic. The result is a push and pull between the privacy rights of individuals and the rights of others to protection in the form of safeguarding. This is evident in the way that the DBS regime, and its predecessors, have evolved. The DBS regime has been subject to legal challenge, including on the grounds of privacy.<sup>29</sup> Changes made include both those that have pushed the balance more towards safeguarding and those that have favoured the protection of individual privacy rights.<sup>30</sup>

## Identity verification

The utility of a DBS certificate is predicated on the assumption that the information it displays is both accurate and complete. That is, that the information relates to the individual in respect of whom the certificate has been issued and that no relevant information about that individual has been omitted. The value of its contribution to safeguarding is dependent upon the accuracy and completeness of the information supplied by the applicant. That information consists of identity documents and disclosure of any previously used names. Unlike other European states, the UK does not issue citizens with national identity cards. Instead other documents are used to establish identity, for example passport and driving licence.

The information displayed on a DBS certificate will only be that that linked to the identity(ies) disclosed in the application: these are the identities that will be displayed on the certificate and used to search the Police National Computer, local police force systems and Barred Lists. The information shown on a certificate will not, therefore, include all relevant information relating to that individual where the applicant has not disclosed other identities they have used. The current DBS system relies on the assumption that these disclosures will be made accurately and fully, when there are reasons why they might not be. Omission could be deliberate, including for nefarious reasons. However, it could also be wholly innocent, for example where an applicant is absent-minded.

The DBS application process can be completed for all levels of checking, up to and including Enhanced with Adults' and/or Children's Barred Lists, using documentation that the individual can change to reflect a new identity. This includes passport and driving licence, which can be changed in respect of both name and gender, including on the basis of self-declaration. In some circumstances, the birth certificate can also be changed. By presenting documentation in a new identity and by failing to disclose previously used names, an individual is able to hide their existing identity for the purposes of a DBS check. This means that the information displayed on the DBS certificate may be incomplete: where information on offending has been recorded on the Police National Computer or local police force systems against an identity that the individual is no longer using and has not declared, that information will not be retrieved during the check and neither that name nor any relevant data on offending linked to that name will be displayed on the certificate. Hence, the DBS check process contains safeguarding loopholes, which may be exploited by those wishing to cause harm to children or vulnerable adults.

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<sup>29</sup> See 2019 Supreme Court decision <https://www.supremecourt.uk/cases/docs/uksc-2016-0195-judgment.pdf>. The judgment considered the relevant case law from the European Court of Human Rights and how the nature of police force sources of information impacts the balance of conflicting interests that arise in DBS disclosure regimes. When considering if the system of DBS disclosures is lawful and strikes the correct balance between public protection and individual Convention rights (e.g. under Article 8) the way that criminal records are handled at all three stages of the information gathering process must be considered, namely (i) collection of data, (ii) its retention in the records of the authorities, and (iii) its disclosure to third parties. Any scheme of disclosure must be according to the law and therefore both accessible and foreseeable. If the police are not collecting data consistently (in a foreseeable way) and using unfettered powers and discretions to decide how they are treating the privacy of sex/gender information then this will upset the delicate balance of factors in determining whether or not the DBS regime is lawful and in accordance with the Convention.

<sup>30</sup> See further Appendix 1.



## **Safeguarding loopholes: change of name**

Risks posed to safeguarding resulting from current provisions that enable individuals to change their identity have been highlighted by The Safeguarding Alliance.<sup>31</sup> Specifically, the loophole whereby registered sex offenders are able to change their name, thereby severing the link with their criminal record. Their 2021 publication, reports on their research on this issue and concludes that, "By changing their name, a registered sex offender is able to change their identity and pass under the statutory radar of all authorities, evading justice, continuing to offend and travel overseas."<sup>32</sup> The report received public support from Sarah Champion MP,<sup>33</sup> Robert Halfon MP and Baroness Newlove.

In summary, the report demonstrated that:

The process by which a registered sex offender can change their name by deed poll, both enrolled and unenrolled, is far too simple, inexpensive and unregulated. A registered sex offender can change their name from anywhere, including prison, to commence the process of obscuring their identity. Offenders may also choose to change their name prior to conviction, to ensure that their identity is unconnected to their crimes.

### ***Name change by deed poll<sup>34</sup>***

Although a deed poll is not needed in order to start using a new name, this document is required to apply for or change official documents to reflect a new name, such as passport or driving licence. A deed poll may be enrolled or unenrolled.

An individual may place their new name on public record by enrolling the deed poll at the Royal Courts of Justice for a fee.<sup>35</sup> However, both the Passport Office and the Driver and Vehicle Licensing Agency accept unenrolled deed polls as proof of change of name. An unenrolled deed poll is one that has not been enrolled with the courts. An individual does not need to use the services of a solicitor to draw up a deed poll: the individual may write one themselves or use an online deed poll generator.<sup>36</sup> The deed poll must state the individual's old name, new name, address, old and new signatures and the names, addresses and signatures of two witnesses. Witnesses must know the individual, be resident in the UK, not be a relative or partner of the individual and not be detained under the Mental Health Act 2007.<sup>37</sup>

## ***Name change by statutory declaration***

An individual may also change their name via statutory declaration. A statutory declaration is a formal statement governed by statute or legislation made affirming that something is true to the best knowledge of the person making the declaration. It must be signed and witnessed in the presence of a solicitor, commissioner for oaths or notary public. A statutory declaration is governed by the Statutory Declaration Act 1835.<sup>38</sup>

## ***Safeguarding Alliance conclusions and recommendations***

Registered sexual offenders are free to change their identities. Any change of name must be reported to the police. However, as the Sexual Offences Act 2003<sup>39</sup> places the onus of reporting a name change on the registered sex offender, this provision is all but rendered redundant. This is because its effective operation is solely reliant on the honesty of the registered sex offender, who already has a proven increased propensity to commit criminal acts, to report a name change. Answers to Freedom of Information Access Requests submitted by the Safeguarding Alliance showed that sex offenders were substantially more likely to not report a name change than they were to comply with the Sexual Offences Act 2003 and notify the police.<sup>40</sup> That it is a criminal offence not to notify the police is clearly not an effective deterrent.

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31 The Safeguarding Alliance aims to put an end to safeguarding failure by researching, developing and promoting policy, education, training and driving forward standards at both strategic and operational levels. <https://www.thesafeguardingalliance.org.uk/>

32 <https://www.thesafeguardingalliance.org.uk/campaign>

33 <https://www.thetimes.co.uk/article/a-review-into-sex-offenders-changing-their-names-must-bring-about-real-change-jgx6fjn2>

34 <https://www.gov.uk/change-name-deed-poll>

35 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/965572/Names\\_-\\_evidence\\_to\\_change\\_a\\_name.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965572/Names_-_evidence_to_change_a_name.pdf)

36 see e.g. <https://freedeedpoll.org/>

37 <https://www.legislation.gov.uk/ukpga/2007/12/contents>

38 <https://www.legislation.gov.uk/ukpga/Will4/5-6/62/contents>

39 <https://www.legislation.gov.uk/ukpga/2003/42/contents>. At s 84(1) the Act states that an offender must report a name change within three working days to the police. A failure to do so under section 91(2) is a criminal offence which could result in a term not exceeding five years imprisonment.

40 Over a three year period there were 1,349 notifications of a change of name and 10,461 prosecutions for failure to notify, equating to 8.043 individual case files. The number who did not notify and who were not detected is, of course, unknown.

The Safeguarding Alliance concluded that as a result, the effectiveness of the DBS, the Child Sex Offender Disclosure Scheme<sup>41</sup> and the Domestic Violence Disclosure Scheme<sup>42</sup> are undermined and leave those making an application with a false sense of security in the adequacy and robustness of the results obtained. This conclusion was reinforced by a response to another Freedom of Information Access request submitted by the Safeguarding Alliance. This stated that the DBS does not undertake any background checks regarding applicants changing their name via deed poll, nor does the DBS liaise with HMRC for identity matters.<sup>43</sup>

The lack of a joined-up approach between statutory and other agencies surrounding registered sex offender name change had significant consequences. The report concluded that “the current law and framework is not fit for purpose for the management of sex offenders. Whilst the status quo remains in situ more vulnerable children and adults will remain at significant risk of harm in the UK and overseas.” The report called for a full public inquiry and immediate publication of updated guidance.

The recommendations included:

- Removal of the automatic right of sex offenders to change their name, and for the name change process to be reviewed, regulated and joined-up across relevant departments.
- Establishing a national centralised sex offenders register maintained by the Home Office to ensure a joined-up approach is taken to sex offender management which should include all known names of each registered sex offender. The register would be accessible to the HMPO, DBS, Her Majesty’s Courts and Tribunal Service and police constabularies.
- A review of passport processes to ensure tighter safeguards are in place as the current process “lacks due-diligence and relies on the offender notifying all parties”.
- Reviewing and changing processes so that the registered sex offender name change process does not rely solely on the offender notifying as required.
- It should be mandatory for an applicant to produce a birth certificate as part of the DBS checking process.

## Government response

Prior to publication of the report, the Safeguarding Alliance had in 2020 launched a public petition to ‘Revoke the right of registered sex offenders to change their name by deed poll’.<sup>44</sup> This received over 37,000 signatures and prompted a response from the UK Government, which acknowledged concerns about sex offenders attempting to hide their identity. The undertaking given included working with the Master of Rolls and the Royal Courts of Justice to establish a Judicial Working Group to consider criminality in regard to the enrolled deed process and amending Home Office guidelines so that only enrolled deed polls can be accepted as proof of name change. The government also confirmed that they had recommended to the DBS that a feasibility study be undertaken to determine the impact of requiring that those undergoing a DBS check present their birth certificate as part of the application process.

On 1 December 2021 Rachel Maclean MP, Minister for Safeguarding, confirmed in response to written question 80315 from Sarah Champion MP that the Government had begun an internal review to consider the scale and nature of offenders changing their name to facilitate further offending, to fully understand all methods by which someone can change their name and to examine the opportunities to strengthen those to prevent abuse by nefarious criminals.<sup>45</sup>

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41 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118125/disclosure-scheme-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118125/disclosure-scheme-guidance.pdf)

42 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575361/DVDS\\_guidance\\_FINAL\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575361/DVDS_guidance_FINAL_v3.pdf)

43 The Safeguarding Alliance, Sex Offender Name Change, 2021; <https://www.thesafeguardingalliance.org.uk/campaign>

44 <https://petition.parliament.uk/petitions/300705>

45 <https://questions-statements.parliament.uk/written-questions/detail/2021-11-23/80315#>

On 9th May 2022, we wrote to Rachel Maclean MP requesting an update on this review, asking when is it due to complete and when the outcomes will be made available to the public. We received a response on 20 June 2022 which confirmed that the review had been completed but that the recommendations would not be published. This lack of transparency is regrettable.

This report by the Safeguarding Alliance makes a valuable contribution to exposing the safeguarding loophole that the ability to change identity has created. Demonstrating that the current reliance on the honesty of individuals to 'do the right thing' is both risky and unwarranted is important. However, this risk extends beyond the particular examples the Safeguarding Alliance presents: by limiting their research to registered sex offenders, the Safeguarding Alliance stops short of a comprehensive analysis. The ability to obscure one's identity, and the safeguarding loophole that this creates, applies to everyone, not just registered to sex offenders.

### **Safeguarding loopholes: change of name and gender**

The ability to change identity by what is arguably a more fundamental degree, by changing both name and gender also presents a risk to safeguarding. Not only is the individual able to change their name on identity documentation, but they are also able to overwrite the recording of their sex registered at birth with their acquired gender, including in some cases on their birth certificate. In this way, individuals are able to change the recording of two key identity markers, one of which, sex, is a protected characteristic under the Equality Act 2010.<sup>46</sup> Correctly ascertaining sex registered at birth may form an important part of safeguarding and concealing this on a DBS certificate may present a particular risk including where protections for women and children are concerned.

There are two ways by which a change of identity consisting of change of name and change of gender may be affected: by obtaining a gender recognition certificate in accordance with the provisions of the Gender Recognition Act 2004,<sup>47</sup> and by a process of self-declaration. Clearly, this is not to suggest that every person who changes their identity either in accordance with the Gender Recognition Act 2004 or via a process of self-declaration does so with nefarious intent. However, a loophole has been created which those who seek to hide their existing identity

and thereby gain access to children and vulnerable adults are able to exploit.

This risk to safeguarding was unaddressed by the Safeguarding Alliance. Although their report recommended that the automatic right to change one's name should be denied to registered sex offenders, the ability of registered sex offenders to change identity by other means is unaddressed and unchallenged. Where such an identity change is undertaken in accordance with the provisions of the Gender Recognition Act 2004, the individual acquires a new copy birth certificate which records the individual's acquired and legally recognised gender in lieu of and as opposite to their sex as registered at birth. Hence, the report's recommendation that birth certificates be a mandatory requirement for DBS checks would provide insufficient protection.

### ***The Gender Recognition Act 2004***

The Gender Recognition Act 2004 provides a legal mechanism whereby an individual, aged 18 years or over, who fulfils certain criteria can obtain legal recognition of their acquired gender. At section 2(1) these criteria are specified as:

- (a) has or has had gender dysphoria,*
- (b) has lived in the acquired gender throughout the period of two years ending with the date on which the application is made,*
- (c) intends to continue to live in the acquired gender until death.*

There is no requirement for any reassignment treatment or surgery in order to obtain a gender recognition certificate. Successful applicants now have a legal gender which differs from their sex registered at birth. They are issued with a gender recognition certificate, together with a new copy birth certificate. The latter shows the newly adopted name and their acquired and legally recognised gender in lieu of and as opposite to their sex as entered in the official register of births. The original entry of their sex in the official register of births remains unchanged, although protected for

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<sup>46</sup> <https://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>47</sup> <https://www.legislation.gov.uk/ukpga/2004/7/contents>



their privacy.<sup>48</sup> The Gender Recognition Panel conducts no risk assessment on applicants when making the decision to issue a gender recognition certificate: risk assessment is not part of their remit.

### **The Gender Recognition Reform (Scotland) Bill<sup>49</sup>**

The Gender Recognition Reform (Scotland) Bill was introduced by the Scottish Government in 2022. The Bill amends the Gender Recognition Act 2004 to change the process in Scotland whereby an individual may obtain a gender recognition certificate. At the time of writing (August 2022), the Bill had completed Stage 1.

The Bill (as introduced) removes the requirement for a diagnosis of gender dysphoria, lowers the age to 16 years and reduces the period during which the applicant must have lived in the acquired gender from two years to three months, with an additional three-month reflection period. The requirement for a statutory declaration is retained. Individuals who will be able to obtain a Scottish gender recognition certificate are those 'ordinarily resident' in Scotland and those Scottish-born, but resident elsewhere. At the time of writing, it was unclear whether gender recognition certificates obtained in Scotland in accordance with this revised process would be recognised throughout the rest of the United Kingdom.

The Bill also changes provision made for individuals who have obtained an overseas gender recognition certificate. Currently under the Gender Recognition Act 2004, only those individuals who have obtained a gender recognition certificate from a country or territory on the 'approved list' are able to have their legally acquired gender recognised on the basis of their pre-existing gender recognition certificate.<sup>50</sup> Individuals in receipt of an overseas gender recognition certificate issued by a country or territory on the approved list must complete an Overseas Legal Recognition Application.<sup>51</sup> Not all countries and territories are on the 'approved list': broadly speaking, those countries who operate a system of self-declaration are excluded.<sup>52</sup>

By contrast, the Bill provides a process of automatic recognition for all overseas gender recognition certificates: there is no list of approved countries or territories.<sup>53</sup> Although individuals in receipt of these are able to apply for a confirmatory gender recognition certificate, this is not necessary and the overseas gender recognition certificate will suffice. At the time of writing, it was unclear whether these confirmatory gender recognition certificates, particularly where these are issued in respect of a gender recognition certificate obtained in a country or territory not on the 'approved list', would be recognised throughout the rest of the UK.

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48 A 2022 decision of the European Court of Human rights in *Y v. Poland* has clarified that the right of an individual under Article 8 of the Convention to have their gender legally recognised and reflected on their short-form birth certificate does not extend to a right to have the original full birth certificate similarly amended. A refusal to alter this original full birth certificate following gender reassignment did not amount to a violation of Article 8 rights, nor discrimination under Article 14 of the Convention. The Court states that it was "mindful of the historical importance of original birth certificates and the need to guarantee the reliability of civil records." <https://hudoc.echr.coe.int/eng?i=001-215604>

49 <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/gender-recognition-reform-scotland-bill/introduced/bill-as-introduced.pdf>

50 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/710998/t491-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710998/t491-eng.pdf)

51 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/995309/t454-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/995309/t454-eng.pdf); [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/995308/t453-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/995308/t453-eng.pdf)

52 We can see, therefore, that UK wide recognition of Scottish gender recognition certificates which would be obtained via a system of self-ID would be out of keeping with the current overall policy in regard to overseas gender recognition certificates.

53 By setting no criteria, not even those that match the revised Scottish criteria, this introduces the possibility that individuals ineligible for a Scottish gender recognition certificate, where they have obtained an overseas gender recognition certificate, are able to enjoy legal rights that would otherwise be denied them.

## Self-declaration of gender

Individuals who identify as transgender may not qualify for or may otherwise choose not to undergo the legal process provided for in the Gender Recognition Act 2004. Although a new copy birth certificate can only be obtained with a gender recognition certificate, all other documentation can be changed on the basis of self-declaration of gender.<sup>54</sup> This includes driving licence and passport, documents that are commonly used to establish identity and which may be used for a DBS check application.

As before, we are not suggesting that every person who changes their identity via a process of self-declaration does so in order to evade safeguarding. However, this loophole exists and may be exploited by anyone who seeks access to children and vulnerable adults by hiding their pre-existing legal identity. Our concern is the existence of these loopholes.

## Driving licence

To update name, title and photo, form D1 from the DVLA should be completed by individuals in England, Wales and Scotland. In Northern Ireland, form DL1 should be completed. To update the name, an original or certified copy of the deed poll, which need not be enrolled, or statutory declaration must be included with the application. There is no field on a driving licence that records sex. However, sex is encoded in the driver number at entry number 5: the seventh character of this number is five or six for females and zero or one for males. A doctor's letter is not required in order to change this character. It is sufficient to enclose a covering letter declaring one's self-declared gender identity and one's wish to have the seventh character changed to reflect this.

## Passport

A passport can also be changed on the basis of self-declaration following a similar process for changing a driving licence. To change the name, the individual must include an original or certified copy of the deed poll, which need not be enrolled, or statutory declaration. To change the sex marker, a letter from a doctor stating that they consider this change to be permanent must be included. This letter does not need to be written by a gender specialist and can be written by the individual's GP. Online providers of transgender care can also

provide this letter.<sup>55</sup> Replacement photographs will need to be countersigned, as is usual when an individual's appearance has undergone a significant change.

In this way, individuals are able to achieve a change of identity, including both their name and the recording of their sex, by a process of self-declaration. This new identity may then be presented, via passport and driving licence, for the purposes of a DBS check.

Home Office guidance on change of name reveals that a name change associated with "change of gender" is one of the circumstances where no checks of the new and old names will be carried out.<sup>56</sup> This makes it an attractive proposition for those wishing to hide their identity in order to evade safeguarding:

*When a change of name is made for a purpose other than marriage, adoption, change of gender or as a result of needing protection as a vulnerable person, both the previous and the acquired names may be checked against other data to prevent criminality, including police records and with other law enforcement organisations.*

Where a new identity is presented, the DBS process is then wholly reliant on the applicant's honesty in providing their previously used names in order that these may also be checked and displayed on the certificate. However, as the Safeguarding Alliance report demonstrates, where safeguarding processes rely on applicant honesty in this way, a loophole is created. If safeguarding processes are to be robust and fit for purpose, they cannot be dependent on individuals simply choosing to 'do the right thing': those exploiting a loophole in order to evade safeguarding will simply choose not to.

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<sup>54</sup> The requirement in the Gender Recognition Act 2004 that an individual must live for two years in their acquired gender is predicated on the sufficiency of self-declaration for most purposes.

<sup>55</sup> <https://www.gendergp.com/help-centre/document-services/>

<sup>56</sup> <https://www.gov.uk/government/publications/change-of-name-guidance/use-and-change-of-names>

## **The DBS Sensitive Applications Route<sup>57</sup>**

The Sensitive Applications Route is a confidential checking service for transgender individuals who are the subject of a DBS check. It is available to those both with and without a gender recognition certificate and for all levels of check. The purpose is to provide transgender applicants with the choice not to have “any gender or name information disclosed on their DBS certificate that could reveal their previous gender identity” to a potential employer or the organisation that requires the DBS check. In this way, an applicant's previous names may be checked without the applicant having to reveal these during the application process or displayed on the certificate issued.

Transgender individuals are advised to contact the Sensitive Applications team prior to their application being made. The same DBS check online application form is completed. We contacted the Sensitive Applications team to determine the process for transgender applicants with and without a gender recognition certificate. We received the following information:<sup>58</sup>

*If an applicant doesn't want their previous gender identity disclosed to their employer, and/or on their DBS certificate, and has the identity documents required by the employer to support this their now name, the Sensitive Applications team will set up a case file. The team require the information listed below to set up the case file before the DBS application is submitted. Once they have this information the applicant is exempt from answering the question, “Have you been known by any other name?” on the application form. The application should be completed using the now title, now name and now gender.*

*The information needed from the applicant to set up a case file is:*

- *full now name*
- *all previous name(s) including the dates they were used from and to, to allow us to begin the process, prior to receiving the applicant's change of name deed*
- *gender as assigned at birth*
- *now gender: please note, the applicant must be living and using this now gender, if not then please contact the Sensitive Applications team for advice*
- *current full address including postcode*
- *date of birth*

- *contact telephone number/s*
- *whether the application is for a Basic, Standard or Enhanced DBS check*
- *job role applied for*
- *If you already have the DBS Application reference number beginning with an 'E' 'F' or '00'*

*In addition, if the applicant has a Change of Name deed the Sensitive Applications team require a scanned copy of this in PDF format or a photograph attachment.... If the applicant doesn't have a Change of Name deed, we can accept a self-declaration instead, i.e. the personal details provided as above including a statement declaring the personal information supplied is true. Please note, Gender Recognition Certificates are not required by DBS.*

*If an applicant doesn't have enough of the identity documents required by employers to support a DBS application, they must let the Sensitive Applications team know who will advise of any alternative options available.*

*It's the applicant's responsibility to let the Sensitive Applications team know each time they apply for a DBS check. They should contact us before the application form is submitted. The Sensitive Applications team will set up a case file for every new application and this allows us to search for each specific application, monitor that application throughout its checks and make sure that no previous gender names are disclosed on the completed DBS certificate.*

*Please contact the Sensitive Applications team before submitting an application for a DBS check if you want to use the Sensitive Application route to ensure previous names are not disclosed.*

*You should be aware that if you have any convictions in your previous name/gender, they may show on your DBS check. If you do have a conviction which may reveal your previous name/gender, it would be useful if you told us as soon as possible. You may be able to avoid previous identity details being disclosed, so advising us sooner rather than later will help speed up the process.*

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<sup>57</sup> <https://www.gov.uk/guidance/transgender-applications>

<sup>58</sup> Email correspondence received 27 June 2022

Does this service close the safeguarding loophole that changing name and gender creates? In our opinion it does not. This is because the contribution the Sensitive Applications Route may make towards ensuring that a DBS check is complete and that all names have been checked solely depends upon the applicant's honest decision to use this route: there is nothing to stop an applicant, who is eligible to use this route, from not using this service and instead choosing simply to withhold their previous name(s). Clearly, any individual acting in bad faith will not be motivated to use a service that could close the very loophole they have chosen to exploit.

Even where an applicant uses the Sensitive Applications Route, a safeguarding loophole remains because although previously used names will be checked, they will not be displayed on the certificate issued. Displaying an individual's past identities on the DBS certificate is standard practice because those responsible for safeguarding need to know all the names their employees and volunteers have used. This is to enable organisations to ask their own safeguarding questions of and about those who seek to work with children and vulnerable adults. However, the Sensitive Applications Route is designed to enable those using it to hide their past identities meaning that organisations, who request DBS checks where the Sensitive Applications Route is used, are unable to fulfil their safeguarding obligations. In our opinion, this is extremely concerning.

We asked whether a prospective employer could determine whether an individual in respect of whom a DBS check was being undertaken had used the Sensitive Applications Route where there was good reason to believe that the individual would need to do so in order to enable a complete DBS check to be carried out. The example we presented was an applicant of the male sex, using a female name, presenting identity documents stating that they were female and who had not provided any previously used names when the DBS check application was completed. The answer we received clearly stated that a prospective employer was not entitled to this information.<sup>59</sup> From a safeguarding perspective, we find this extremely concerning because it indicates that individual privacy protections are potentially undermining the operation of the DBS disclosure system.

We wrote to Rachel Maclean MP requesting an update on the review of the scale and nature of offenders changing their name to facilitate further offending. The reply we received stated that change of identity that includes a change of gender, whether by self declaration or in accordance with the Gender Recognition Act 2004, had not been specifically included, neither had the DBS Sensitive Applications Route. In our opinion, this is a missed opportunity to conduct a comprehensive examination of all processes and procedures relating to change of identity, including those relating to gender identity.

### *Enhanced individual privacy rights*

The Gender Recognition Act 2004 contains provision that affords enhanced privacy rights to those individuals who have been issued with or who have applied for a gender recognition certificate. Although these privacy rights are precisely specified in the Act, in practice the scope of these rights is frequently expanded to apply to other situations and individuals to whom the protections under the Gender Recognition Act 2004 do not apply. In our opinion, these enhanced and expanded privacy rights contribute to the safeguarding loophole that has been created where change of identity consists of both change of name and change of gender.

Section 22 of the Gender Recognition Act 2004, prohibition on disclosure of information, provides that it is a criminal offence for a person who has acquired protected information concerning an individual's application for or granting of a gender recognition certificate in an official capacity to disclose that information, or information pertaining to a successful applicant's gender prior to legal recognition of their acquired gender to any other person.<sup>60</sup> Section 22 contains specific exclusions including for the purposes of preventing and investigating crime and related to court/tribunal proceedings.<sup>61 62</sup>

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59 Email correspondence dated 13 July 2022

60 <https://www.legislation.gov.uk/ukpga/2004/7/section/22>; <https://www.legislation.gov.uk/ukpga/2004/7/notes/division/4/22>

61 See section 22(4)(e) and section 22(4)(f)

62 See also The Gender Recognition (Disclosure of Information) (England and Wales) Order 2021 SI 2021/1020, which came into force on 1st October 2021 and introduced a further exception to section 22 where the disclosure of protected information is necessary for the management of offenders and arrangements related to their probation.



It is understandable that individuals who have obtained legal recognition of acquired gender have a desire for privacy about their gender change. It is also desirable that professionals who acquire information concerning an individual's application for a gender recognition certificate should not be permitted to share this information unless there is good reason. However, these enhanced privacy protections, that come with criminal liability for breach,<sup>63</sup> have an impact on public interest disclosures and data collection. This is in part because the comparatively narrow scope of section 22 is, in practice, extended beyond its stated scope.

An example of this is the DBS Sensitive Applications Route which can be used by those transgender applicants who have chosen to assert their acquired gender via self-declaration only.<sup>64</sup> A prospective employer is not entitled to know whether or not an applicant has used the Sensitive Applications Route, even where that applicant does not have a gender recognition certificate. This is in order to protect the applicant's privacy. The enhanced privacy protection afforded by section 22 of the Gender Recognition Act 2004 is expanded to grant privacy protections to a group not covered by the Gender Recognition Act 2004.

We asked the Sensitive Applications team whether the Sensitive Applications Route could also be used by individuals who do not identify as transgender, but who may have reasons why they do not wish previous names to be known. The example we gave was a survivor of domestic violence who, for reasons of safety, has adopted a new name. The answer we received stated that the service can only be used by transgender applicants, "Our understanding of the Gender Recognition Act (2004) is that it protects the previous gender identity of transgender individuals from the risk of unauthorised disclosure but doesn't extend any further."<sup>65</sup> Whilst expanding the enhanced privacy rights of section 22 of the Gender Recognition Act 2004 to a group not covered by that act, at the same time the Sensitive Applications Route excludes from such enhanced privacy protections other individuals who might have legitimate sensitivities around their application. The legal basis for applying these protections to transgender individuals who have opted to assert their gender identity via self-declaration, yet denying them to non-transgender individuals, where neither group is covered by section 22, is unclear.

Although the issue of a gender recognition certificate grants the recipient legal recognition of their acquired gender and privacy protections in respect of this, a gender recognition certificate does not confer a new and independent legal identity for its recipient.<sup>66</sup> Yet, the privacy protections that are granted to those who have changed their gender, including by self-declaration, treats the new identity as if it does have this status. In turn, this has an impact on data recording and disclosure.

Sex registered at birth is established throughout the criminal justice system as important to analysing patterns of offending, pathways into offending and risk.<sup>67</sup> As such, sex registered at birth is a key factor for safeguarding. There are many instances when the state can and does legitimately retain records of private information about citizens from their birth registration, health records, parentage, issue of a passport, immigration and tax records to registration of their death. These records form a historical, factual record and are used for evidential purposes. In our opinion, policies that permit individuals to obtain DBS checks based on identity documents that conceal their sex registered at birth gets the balance of rights wrong.

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63 The answer dated 11 July 2022 to parliamentary question 31897 stated that in England and Wales there have been no convictions under section 22 from 2016 to 2021. <https://questions-statements.parliament.uk/written-questions/detail/2022-07-06/31897>. In our opinion this statutory provision has had a profound and disproportionate chilling effect on data recording and disclosure.

64 Whilst both groups share the protected characteristic 'gender reassignment' the Equality Act 2010 does not grant extended privacy rights to individuals based on that protected characteristic.

65 Email correspondence dated 18 July 2022

66 The effect of legal recognition of acquired gender is limited by sections 9(2) and 9(3) in that it does not affect events prior to the grant of a gender recognition certificate and it is subject to further provisions in legislation. Hence receipt of a gender recognition certificate does not change the individual's registered birth sex (the entry in the original birth register remains unchanged) and subsequent legislation by way of the Equality Act 2010 clarifies at section 212 that 'woman' and 'man' are defined in biological terms as a female of any age and a male of any age respectively.

67 <https://kpssinfo.org/wp-content/uploads/2022/05/KPSS-POLICE-RECORDING-SEX-2022.pdf>

## Safeguarding loopholes: concealing sex registered at birth

Additional safeguarding risks may present when an individual, on the basis of changing their identity, is able to conceal their sex registered at birth on their DBS certificate. This will occur when the identity documents submitted for the purposes of the DBS check record the individual's self-declared gender identity or legal gender instead of, and as opposite to, their sex registered at birth. In this set of circumstances, the DBS certificate issued to the individual will not display their sex registered at birth. Rather the certificate will show the individual's self-declared gender identity or legal gender. Where a DBS check has been requested for a role to provide a single-sex service on a same-sex basis, it will be particularly important that the sex registered at birth of the individual is known.

As before, this is not to suggest that every person who seeks to change their gender, whether via self-declaration or in accordance with the Gender Recognition Act 2004, does so in order to evade safeguarding. However, granting individuals the ability to change their gender as part of a change of identity has created a loophole that may be exploited by those acting with ill intent.

## The Equality Act 2010 Schedule 9, Part 1<sup>68</sup>

The Equality Act 2010 sets out when discrimination on the basis of what are known as protected characteristics is unlawful. The nine protected characteristics are set out in Chapter 1:<sup>69 70</sup>

- age
- disability
- gender reassignment<sup>71</sup>
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex

Schedule 9 provides an exception to what would otherwise be unlawful direct discrimination in relation to work. The exception applies where being of a particular sex, race, disability, religion or belief, sexual orientation or age is a crucial requirement for the post. Applying the requirement must be a proportionate means to achieve a legitimate aim. The exception also applies where not being transgender is a requirement.

Schedule 9 Part 1 provides that where a separate-sex or single-sex service is provided, as is permissible under the single-sex exceptions set out in Schedule 3,<sup>72</sup> roles that provide those services may be lawfully restricted to those having a particular protected characteristic, in this case sex:

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68 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/9>

69 <https://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>

70 Under the Equality Act 2010 all protected characteristics are considered separately: they operate in parallel. Consequently, the protected characteristic gender reassignment is not a 'feeder' into the protected characteristic sex. Thus, a person whose sex registered at birth is male who has a gender recognition certificate showing their acquired gender as female is not covered by the protected characteristic sex 'woman'. The February 2022 judgment handed down in the reclaiming motion brought by the campaign group For Women Scotland in respect of their petition for judicial review of the Scottish Government's decision by way of the Gender Representation on the Public Boards (Scotland) Act 2018 to implement certain positive action measures supports this. ([https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2022csih4.pdf?sfvrsn=7920df79\\_1](https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2022csih4.pdf?sfvrsn=7920df79_1)) The challenge included the definition of "woman" in section 2 of the Act which would allow persons whose sex registered at birth is male and who have the protected characteristic gender reassignment to be defined as "women" for the purposes of the Act. The judgment found in favour of For Women Scotland, ruling that the definition of "woman" in section 2 of the Act is outside the legislative competence of the Scottish Parliament in that it relates to reserved matters. As such "woman" in the Act should be defined in the same way as in section 212(1) of the Equality Act 2010, such that "woman" means "a female of any age". In the judgment, Lady Dorrian commented on the protected characteristics in the Equality Act 2010. At paragraph 37, she states that within the protected characteristic gender reassignment "no distinction is made between those for whom the relevant process [of gender reassignment] would involve reassignment male to female or vice versa... In other words, it is the attribute of proposing to undergo, undergoing or having undergone a process (or part of a process) for the purpose of reassignment which is the common factor, not the sex into which the person is reassigned." At paragraph 38, she notes that the Equality Act 2010 maintains the distinct categories of protected characteristics. She further explains at paragraph 49, "by incorporating those transsexuals living as women in the definition of woman the 2018 Act conflates and confuses two separate and distinct protected characteristics" and at paragraph 40, that "transgender woman" is not a protected characteristic.

71 The protected characteristic gender reassignment applies independently of whether or not the individual has been issued with a gender recognition certificate.

72 <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3>

*A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to work a requirement to have a particular protected characteristic, if A shows that, having regard to the nature or context of the work—*

*(a) it is an occupational requirement,*

*(b) the application of the requirement is a proportionate means of achieving a legitimate aim, and*

*(c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).*

Paragraph 3 of Part 1 provides that it is lawful to also exclude a 'transsexual person' who has the protected characteristic gender reassignment:

*(3) The references in sub-paragraph (1) to a requirement to have a protected characteristic are to be read—*

*(a) in the case of gender reassignment, as references to a requirement not to be a transsexual person (and section 7(3) is accordingly to be ignored);*

This means that all individuals whose sex registered at birth is male, regardless of their gender identity or whether they are in receipt of a gender recognition certificate, can lawfully be excluded from roles that provide single-sex services to women and girls on a same-sex basis under Schedule 3. Examples include roles providing intimate care to women and girls, or providing counselling services to female victims of rape. These provisions in the Equality Act 2010 provide protection for the privacy and other fundamental rights and freedoms of women and girls on the basis of their biological sex. For this reason, it is important that service providers recruiting for these roles have accurate information concerning applicants' sex registered at birth.

The application of the Schedule 9 exceptions hinges on the ability to properly balance the rights of individuals in a way that is achievable in practice. In our opinion, where the right of an individual to have their sex registered at birth overwritten with their legal gender or self-declared gender identity on a DBS certificate for a role subject to Schedule 9 Part 1 overrides the right of a service user to receive that single-sex service on a same-sex basis, the balance of rights is wrong.

Enhanced and expanded privacy rights mean that individuals who wish to are able to conceal their sex registered at birth on the identity documents they present for a DBS check. This means that the DBS certificate issued will not display the individual's sex registered at birth. As a result, service providers recruiting for single-sex services provided on a same-sex basis are unable to meet their basic safeguarding requirements and are unable to make the decisions needed in order to facilitate the operation of the service.

## **Digital identities: identity verification and safeguarding**

Digital identities have been described as providing a solution to the tension created when the principles of safeguarding and individual privacy rights come into conflict. The suggestion is that by permitting the selective disclosure of information about an individual, digital identities can enable sensitive information, including an individual's sex registered at birth, to be disclosed for carefully specified reasons only and in a way that minimises risk of infringing that individual's privacy rights.

Our own conclusion, however, is that in respect of DBS checks, digital identities do not provide a solution that closes the existing safeguarding loopholes that result when individuals are permitted to change their identity. Our conclusion is that not only do digital identities perpetuate the existing loopholes, additional safeguarding risks arise because their use creates 'distance' during the process of identity verification.

## What is a digital identity?

The National Data Strategy published in 2020<sup>73</sup> and the government response to the associated consultation published in 2021<sup>74</sup> are a central part of the government's wider ambition for a thriving digital sector. A commitment to enabling secure digital identities is included in the most recent iteration of the UK Digital Strategy published in July 2022.<sup>75</sup>

*Enabling secure digital identities is also critical to unlocking wider opportunities across the data economy. Forthcoming legislation will create a legal gateway that will allow public bodies to share data with organisations that follow the rules of the UK digital identity and attributes trust framework to validate a person's identity. [...] Secure digital identities, while not compulsory, will help make everyday transactions safer and easier, improving people's experiences, privacy and access to services, and reducing fraud.*

The most recent iteration of the UK Digital Identity and Attributes Trust Framework published in June 2022<sup>76</sup> after the 2021 Consultation<sup>77</sup> sets out the government's approach for digital identity solutions, as well as the rules and standards required to protect people's sensitive identity data when used digitally:

*...a digital identity is a digital representation of a person acting as an individual or as a representative of an organisation. It enables them to prove who they are during interactions and transactions. They can use it online or in person. [...] Anyone can choose to create one or more digital identities (a user may choose to have different digital identities to use in different contexts). They do not have to create a digital identity if they would prefer not to. Sometimes digital identities will be created for just one type of transaction at a specific point in time. Other digital identities will be 'reusable', which means they can be used again and again for different interactions and transactions across organisations.*

Digital identities are created by recording a combination of 'attributes' and 'binding' these to a person. An attribute is a piece of information that describes something about a person or an organisation. Attributes can also help prove that an individual is eligible or entitled to do something.

At present the government has no plans to make the use of digital identities compulsory.

## Data recording and disclosure

One of the intended benefits of a digital identity is that attributes can be selectively disclosed depending on the function the identity check serves. For example, an individual wishing to buy alcohol may be required to present proof that they are aged 18 years or over. Currently this will be in the form of an identity credential that also displays personal information that is not required for the purposes of that transaction, such as address, full date of birth, passport number, drivers licence number. This is an unnecessary disclosure of personal data. Digital identities allow a person to minimise what personal data is disclosed when accessing a service to just what is required to access that service, thus enhancing privacy.

However, we do not believe that the introduction of digital identities will provide a solution that closes the current loopholes in the DBS checking system that are created when individuals are able to change their identities, whether these consist of change of name alone or also involve change of gender.

In respect of change of gender, there is no indication that sex registered at birth will not simply continue to be overwritten by legal gender, as is the case for birth certificates where the individual has obtained a gender recognition certificate, or by self-declared gender identity, as is possible for passports and driving licences. Where individuals have chosen to do this, there is no indication that sex registered at birth will be retained as an attribute that is accessible to either attribute service providers or service providers that require an identity check.

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73 <https://www.gov.uk/government/publications/uk-national-data-strategy/national-data-strategy>

74 <https://www.gov.uk/government/consultations/uk-national-data-strategy-nds-consultation/outcome/government-response-to-the-consultation-on-the-national-data-strategy>

75 <https://www.gov.uk/government/publications/uk-digital-strategy/uk-digital-strategy>

76 <https://www.gov.uk/government/publications/uk-digital-identity-attributes-trust-framework-updated-version/uk-digital-identity-and-attributes-trust-framework-alpha-version-2>

77 <https://www.gov.uk/government/consultations/digital-identity-and-attributes-consultation/outcome/government-response-to-the-digital-identity-and-attributes-consultation>



In fact, there is every indication that the ability to substitute legal gender or gender identity for sex registered at birth will persist. This is because attribute service providers may collect or check digital attributes with reference to attributes found in documents such as passports, driving licences and birth certificates.

To test this we created a digital identity using the Post Office Easy ID app.<sup>78</sup> The individual who created the digital identity was able to do so using their passport. This confirms that digital attributes are recorded on the basis of existing documentation. It also confirms that where sex registered at birth is overwritten by legal gender or self-declared gender identity, this will simply be transferred to the newly created digital identity. As a separate step, the individual who created the digital identity was able to add their 'gender'. This was recorded from a piece of documentation which states this information, such as a passport. Again, this means that legal gender or self-declared gender identity will be recorded for a digital identity when sex registered at birth has been overwritten by legal gender or self-declared gender identity open the source documentation. See further Appendix Three.

## Digital identities and individual privacy rights

There is no indication that the enhanced privacy rights that are currently granted to individuals who include a change of gender when changing their identities will not persist in the digital realm. These privacy rights, which mean that information on sex registered at birth is inaccessible for DBS checks, look set to be perpetuated as the Equality Impact Assessment of the associated De Minimis Assessment confirms:<sup>79</sup>

*Further iterations of the trust framework will contain information around sex and gender to give guidance on information sharing for people who have undergone, intend to undergo or are currently undergoing gender reassignment so they can limit excessive or unnecessary disclosure.*

We also note, with concern, that the Digital Identity and Attributes Trust Framework does not refer to 'sex' at all. At section 16.1 and section 16.11 the attribute is referred to as 'gender' and at section 13.3, the document refers to a multiplicity of 'genders'. This implies that there are more than two that might need to be recorded.

The importance of retaining sex as a data category in recognition of its explanatory importance in almost every dimension of social life<sup>80</sup> and its legal significance as a protected characteristic in the Equality Act 2010 appears to have been ignored.

## Digital identities and DBS checks

The latest version of the Digital Identity Verification Guidance was published in May 2022.<sup>81</sup> This provides guidance to Registered Bodies and Responsible Organisations, referred to as Relying Parties, on using digital identity verification as part of an application for a DBS check. The use of digital identities can be used for all levels of DBS checks and is, at present, optional.

The Relying Party will use a certified Identity Service Provider to provide a verified digital identity for the individual to the required level of confidence. The evidence verification criteria are set by the DBS and the level of confidence is specified by the level of DBS check being undertaken: a Basic check requires a medium level of confidence whilst Standard, Enhanced and Enhanced with Barred Lists checks require a high level of confidence. Certification will provide assurance that Identity Service Providers meet DBS standards for identity assurance and the requirements set out in the DBS Operational Procedures Manual.

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79 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1060056/Copy\\_of\\_OFFSEN\\_-\\_Digital\\_identity\\_and\\_attributes\\_-\\_De\\_Minimis\\_Assessment\\_DI\\_DMA\\_-\\_LIVE.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1060056/Copy_of_OFFSEN_-_Digital_identity_and_attributes_-_De_Minimis_Assessment_DI_DMA_-_LIVE.pdf)

80 Sullivan, A. (2020) Sex and the Census: Why surveys should not conflate sex and gender identity. *International Journal of Social Research Methodology* vol. 23: 517-24.

81 <https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/dbs-digital-identity-verification-guidance>

Identity Service Providers follow a five-stage process of identity checking, with each step of the process scored to determine the level of confidence achieved:

- Get evidence of claimed identity
- Check the evidence is genuine or valid
- Check the claimed identity has existed over time
- Check if the claimed identity is at high risk of identity fraud
- Check that the identity belongs to the person who is claiming it

The intention is that using an Identity Service Provider will simplify and streamline the risk assessment process. An intended benefit is that a Registered Body or Responsible Organisation, who the guidance describes as unlikely to be expert at identity verification, will not need to undertake additional due diligence on the Identity Service Provider or the verified identity of the individual, if the level of confidence achieved meets the required level.

Making the process easier is also intended to benefit the individual for whom the check is being requested: the intention is that the individual will easily be able to complete the identity verification process remotely from their mobile phone.<sup>82</sup> To confirm this, we created a digital identity using the Post Office Easy ID app (see above and Appendix Three). The individual who did so was able to select the option to share the digital identity remotely from their mobile phone with no need for any in-person interaction.

Whilst being able to share one's digital identity remotely may be convenient, it removes an important level of interaction between the person acting for the Registered Body or Responsible Organisation and the individual in respect of whom the DBS check is being conducted. In-person identity verification acts as a safeguarding protection in and of itself, yet digital identities remove this key step in the safeguarding process. Enabling this stage of identity verification to be conducted remotely, bypassing the Registered Body or Responsible Organisation, deprives those with professional responsibility for safeguarding with the opportunity to observe how an individual behaves when they reach the identity verification stage. For example, reluctance, hesitation or agitation may legitimately prompt further enquiries to be made of or about the individual.

Yet digital identities require the Registered Body or Responsible Organisation to trust the digital identity without sight of the documents used to verify that identity. Depriving those with professional responsibility for safeguarding with the opportunity to view these documents by outsourcing identity verification and conducting it remotely, curtails a valuable opportunity to ask questions to the detriment of safeguarding.

DBS checks are only as robust as the verification of the identity of the individual who is the subject of the check. Our conclusion is that the introduction of digital identities, without prior radical overhaul of current data recording and disclosure practices, will simply move the existing safeguarding loopholes into the digital realm. Further, the use of digital identities for DBS checks has the potential to introduce additional safeguarding risks.

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82 <https://www.youtube.com/watch?v=cOcVfnpsoko> from 16:00 to 22:13.

# CONCLUSIONS AND RECOMMENDATIONS

DBS checks play an important role in safeguarding and help organisations make safer recruiting decisions. DBS procedures are designed to both deter unsuitable people from applying to work with vulnerable groups and to assist organisations in identifying and rejecting them if they do. Organisations are only able to rely on the DBS checking process to the extent that the checking systems are robust and the information displayed on DBS certificates is both accurate and complete.

However, where an individual changes their gender as part of changing their identity, the DBS grants them an extraordinary level of privacy, wholly unlike that granted to any other individual. This has created loopholes whereby an individual is able to conceal their past identities for the purpose of the checking process and request that past names they have used are not displayed on the DBS certificate issued to them. The loopholes mean that organisations have no way of knowing whether or not the information displayed on any DBS certificate presented to them is an accurate and complete record concerning that individual. The loopholes mean that current faith in the rigour and utility of DBS checks is, regrettably, misplaced. These are serious risks to safeguarding and compromise the DBS system in its entirety.

Although safeguarding loopholes resulting from the ability of registered sex offenders to change their names via deed poll have been acknowledged by the government, there is a reluctance to appreciate that those loopholes are only one part of the risk to safeguarding that the enhanced right to privacy given to those who change their gender has created. Including a change of gender when creating a new identity can be achieved via self-declaration and is something that anyone can do and for whatever reason.

We propose three recommendations:

- Mandatory use of National Insurance numbers for DBS checks and identity changes
- DBS certificates display sex registered at birth
- DBS certificates display other names used for all applicants, including those who have changed gender as part of changing identity

We believe that, together, these recommendations are sufficient to close the current loopholes in the DBS system.

## **Recommendation One: mandatory use of National Insurance numbers for DBS checks and identity changes**

A National Insurance number is a number used in the United Kingdom in the administration of the National Insurance or social security system. It is also used for some purposes in the UK tax system. Individuals are normally issued with their National Insurance number just before their 16th birthday.

National Insurance numbers are allocated for life and are unique to each individual. They do not change should an individual change identity, no matter what that change of identity consists of and no matter how that identity change is affected, be that via self-declaration, enrolled or unenrolled deed poll, or by statutory declaration. When an individual obtains legal recognition of acquired gender and is issued with a gender recognition certificate, the individual's new details are recorded against their existing number. Records of previously used identities are not deleted from the individual's National Insurance number record. Rather, they are retained, together with the relevant dates of use, until 50 years after the individual's death.<sup>83</sup>

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<sup>83</sup> <https://www.gov.uk/government/publications/transgender-customers-summary-of-dwps-policy-in-respect-of-the-retention-of-information/summary-of-dwps-policy-on-the-retention-of-information-relating-to-transgender-customers>

No matter how many identities an individual assumes, their National Insurance number is an unchanging and unchangeable constant. National Insurance numbers, therefore, enable all information held about an individual to be tied together in a way that cannot be circumvented by changing identity. Because of this, National Insurance numbers provide an opportunity to contribute much needed rigour, reliability and accuracy into the DBS system. However, whilst the DBS system does not exclude National Insurance numbers entirely, in our opinion they are under utilised and their potential to contribute to the DBS system remains unrealised.

Currently, although an applicant undergoing a DBS check is able to include their National Insurance number as part of the application, this is not a mandatory requirement and checks against an individual's National Insurance number only take place in very specific, arguably exceptional, circumstances. Thus, the applicant may submit identity documents that display that individual's National Insurance number, however, other identity documents that do not include the National Insurance number can be used instead. Although the online DBS check application form provides the opportunity to record the applicant's National Insurance number, to do so is optional.

Checks against an individual's National Insurance number are far from routine. The Police Act 1997 Part V at section 118 (2A)(d) states that it may be necessary to confirm an applicant's identity with reference to their National Insurance number. From the response we received to a Freedom of Information Access Request we submitted, it is clear that recourse to National Insurance numbers only takes place in very specific situations where the applicant is either unable to provide the required identity documents, or where a close match on the Police National Computer needs to be confirmed or eliminated.<sup>84</sup>

National Insurance numbers are not included in the information recorded for individuals who are placed on the Barred Lists.

Our recommendation is that full use be made of National Insurance numbers in order to close the current safeguarding loopholes that exist around identity documents and identity verification. We recommend:

- That it be a mandatory requirement for applicants to submit their National Insurance number during the DBS check application process
- That DBS checks include a check against the applicant's National Insurance number in order that all identities the applicant has used can be retrieved and checked against data held on the Police National Computer, local police force system and the Barred Lists
- That individuals placed on the Barred Lists have their National Insurance number recorded against their name
- That when an individual makes an application to change their identity on their passport or driving licence, the applicant is required to provide their National Insurance number in order that these identity changes can be included on their National Insurance number record

Currently, the safeguarding loopholes that exist around identity documents and identity verification mean that organisations that request a DBS check cannot be certain that the information displayed on the certificate is complete or accurate. Use of National Insurance numbers would remove this uncertainty and mean that organisations can justifiably be confident that all necessary checks against all current and former identities have been carried out. Using National Insurance numbers also removes the current reliance on the applicant's honesty to 'do the right thing' and provide all previously used names or to go through the Sensitive Applications Route. Incompleteness of information as a result of innocent absent-mindedness is also no longer an issue.

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<sup>84</sup> The Police Act 1997 Part V at section 118 (2)(a) provides that it may be necessary to confirm an applicant's identity using fingerprints. The set of circumstances where fingerprint checks are carried out is the same as for checking against National Insurance number.

We do not consider that requiring applicants to submit their National Insurance number for the purposes of a DBS check or when changing identity for passport or driving licence to be intrusive, disproportionate or onerous. Indeed, it is a common requirement for individuals to provide their National Insurance number. Many organisations routinely require individuals to provide their National Insurance number including:

- HM Revenue and Customs (HMRC)
- An individual's employer
- The Department for Work and Pensions, or in Northern Ireland the Department for Social Development, if the individual claims state benefits
- The local council, or the Northern Ireland Housing Executive, if the individual claims Housing Benefit
- Electoral Registration Officers (to verify identity when an individual registers to vote)
- The Student Loan Company, if an individual applies for a student loan
- Pensions providers
- Individual Savings Account (ISA) providers
- Authorised financial service providers.<sup>85</sup>

In our opinion, requiring an individual to provide their National Insurance number for the purposes of a DBS check is a proportionate measure to further the legitimate aim of safeguarding.

## **Recommendation Two: DBS certificates display sex registered at birth**

Currently, an individual is able to have their legal gender or self-declared gender identity recorded on their DBS certificate in lieu of, and as opposite to, their sex registered at birth. This presents additional and separate risks to safeguarding that exist independently of whether checks have been conducted against all the identities an individual has used, meaning that the rest of the information displayed on the certificate is complete and accurate.

As previously discussed, where legal gender or self-declared gender identity is displayed instead of sex registered at birth, there is a particular safeguarding risk when the DBS check has been requested for the purposes of a role specified in accordance with the provisions in Schedule 9 Part 1 of the Equality Act 2010 to provide single-sex services. As a general principle, when working with children or vulnerable adults, there will always be sex-based safeguarding considerations even if Schedule 9 is not formally invoked.

Our recommendation is that DBS certificates display the individual's sex registered at birth. This can be ascertained by checking against the individual's National Insurance number.<sup>86</sup>

We recommend:

- That the DBS certificate data field currently labelled 'gender' is renamed 'sex'
- That DBS certificates for Standard, Enhanced and Enhanced with Barred Lists checks display the individual's sex registered at birth and not their self-declared gender identity or legal gender

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<sup>85</sup> <https://www.gov.uk/national-insurance/your-national-insurance-number>

<sup>86</sup> <https://www.gov.uk/government/publications/transgender-customers-summary-of-dwps-policy-in-respect-of-the-retention-of-information/summary-of-dwps-policy-on-the-retention-of-information-relating-to-transgender-customers>



These recommendations do not impact upon a transgender individual's current ability to change their identity documents and/or birth certificate and to present these as proof of identity to a prospective employer. Individuals may still change identity via self-declaration or in accordance with the Gender Recognition Act 2004, as they wish.

These recommendations do, however, impact on the privacy of a transgender person for whom a Standard, Enhanced or Enhanced with Barred Lists DBS check is requested: the DBS certificate will display their sex registered at birth, not their acquired gender. However, if the current safeguarding loopholes are to be closed, this is unavoidable. This impact on privacy can be mitigated against by including the requirement that all individuals for whom such DBS checks have been requested are informed that the DBS certificate will record their sex registered at birth as ascertained from their National Insurance record. Those individuals who, on that basis, do not wish to proceed, are free to withdraw and the application can be terminated. Those who wish to proceed may tick a box that affirms their consent to this. This will also ensure that in respect of transgender individuals who have been issued with a gender recognition certificate that there is no risk of a breach of section 22 of the Gender Recognition Act 2004: they will have consented to their sex registered at birth being shared for this purpose.

When considering the impact on privacy, it is important to note that Schedule 9 Part 1 of the Equality Act 2010 permits the lawful exclusion of all those whose sex registered at birth is male, including those with the protected characteristic gender reassignment and who may present identity documents recording their legal gender or self-declared gender identity as female. In order for that lawful exclusion to operate and for the single-sex service to function as the service provider intends, it is clearly necessary to determine the sex registered at birth of those male individuals who present identity documents displaying their acquired gender as female.

### **Recommendation Three: DBS certificates display other names used for all individuals**

A DBS certificate standardly displays all other names the individual has used because those who are responsible for safeguarding need to know these when applicants seek to work with children and vulnerable adults. However, an individual who is eligible to use the Sensitive Applications Route, a service specifically intended to protect the privacy of transgender applicants, can request that their DBS certificate does not show their previous identities. Whilst the DBS considers that the individual privacy rights of those who change their gender outweigh some of the requirements for safeguarding, this level of privacy is not granted to any other group. No other individual is entitled to have their previous names hidden in this way.

By enabling those who have changed their gender to keep their previous identities secret from those responsible for safeguarding, the DBS has created a loophole that is ripe for exploitation.

We recommend:

- That DBS certificates record previously used names for all individuals.







# APPENDICES

# APPENDIX ONE: HISTORY AND DEVELOPMENT OF EMPLOYMENT VETTING AND BARRING

The current Disclosure and Barring Service states that its purpose is to help “employers make safer recruitment decisions”. It is the principles of public safety, prevention of crime and the rights of others which formed the basis of its predecessors and related legal provisions. The predecessor to barring, as it is currently understood, dates back to the 1930s. This consisted of barring teachers from working in schools on grounds of unsuitability for reasons including health, misconduct and safeguarding risks. Employment vetting as we now understand it dates back to the late 1950s. The Consolidated Circular of 1958 to the Police on Crime and Kindred Matters specified that certain occupations required employment vetting: those administering state functions; the medical profession; teaching and children’s care sectors; justice professions; transport provision. In 1969, the policy was extended to cover additional public sector occupations and greater decision-making responsibility was given to police forces. The guiding principle was that before any notification was made, consideration had to be given both to whether an offence “may reflect on a person’s suitability to continue in his profession or office” and whether the public interest in disclosure justified a departure from the usual principle of confidentiality. A 1973 review introduced three core occupational groupings requiring vetting: those in positions of trust regarding the vulnerable; those in positions relating to national security; those responsible for probity in the administration of the law.<sup>87</sup>

Several decades later, the Protection of Children Act 1999<sup>88</sup> brought in provisions for barring on unsuitability grounds for the health sector whilst the Criminal Justice and Courts Services Act 2000<sup>89</sup> expanded the definitions of regulated work with children and defined what types of work those who had a disqualification were disqualified from. The Criminal Justice and Courts Services Act 2000 also provided that courts could issue disqualification orders on those found convicted of offences against a child.

Considering the issue from the perspective of the personal privacy of an individual with a history of offending, the Rehabilitation of Offenders Act 1974<sup>90</sup> introduced protections to support the rehabilitation of offenders into employment: after a specified period of time, convictions were to be regarded as ‘spent’ meaning they need not be disclosed by that individual. Subsequently the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975<sup>91</sup> listed offices and professions where exceptions are made to the protections provided for in the 1974 Act. This meant that in respect of these offices and professions questions could still be asked of individuals about certain convictions. Amendments to the Rehabilitation of Offenders Act 1974 made through the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>92</sup> included increasing the scope of the Rehabilitation of Offenders Act 1974, so that prison sentences of up to and including four years in length can become spent, and reducing most rehabilitation periods.

In the late 1990s, Part V of the Police Act 1997<sup>93</sup> introduced Certificates of Criminal Records. This was administered by the Criminal Records Bureau (CRB). Initially part of the Passports and Records Agency, the CRB became an Executive Agency of the Home Office in its own right in 2003. In 2002 the CRB launched Standard and Enhanced Disclosure checks for England and Wales, with administration of these checks moved away from the police. The CRB process is in addition to individual disclosures, as limited by the Rehabilitation of Offenders Act 1974. This comprises a separate process of checking against state held records of criminality in cases where the protection of the public is regarded as particularly important.

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87 Home Office Circular 140/1973

88 <https://www.legislation.gov.uk/ukpga/1999/14/contents>

89 <https://www.legislation.gov.uk/ukpga/2000/43/contents>

90 <https://www.legislation.gov.uk/ukpga/1974/53/section/1>

91 <https://www.legislation.gov.uk/uksi/1975/1023/contents/made>

92 <https://www.legislation.gov.uk/ukpga/2012/10/contents/enacted>

93 <https://www.legislation.gov.uk/ukpga/1997/50/part/V>

## Development and administration of the Barred Lists

Barred lists of individuals who are excluded from roles because of their past behaviour exist as part of an evolving system of safeguarding.

The Education (Teachers) Regulations 1989<sup>94</sup> set out the barring provisions for teachers, known at that time as List 99. The Education Act 2002<sup>95</sup> placed List 99 on a statutory basis. List 99 could be accessed by employers via a service provided by the Department of Education. When the Criminal Records Bureau launched in 2002 List 99 could be checked via an application for a Standard or Enhanced disclosure.

The Protection of Children Act 1999 brought together the Consultancy Index List, a list of those people unsuitable for employment with children in childcare roles, and the Department of Education List 99. The Protection of Children Act 1999 created duties on certain organisations to check the list and to make referrals for inclusion on the list. The 1999 Act also provided a statutory route of appeal against inclusion on the list. In 2000, the Protection of Children Act List, which incorporated wider criteria, was introduced.

The Protection of Vulnerable Adults List maintained under Part 7 of the Care Standards Act 2000<sup>96</sup> was introduced in 2004. This list was administered by the Department of Education on behalf of the Department of Health and could be checked via an application to the CRB for a Standard or Enhanced disclosure.

The Independent Safeguarding Authority (ISA) was established under the Safeguarding Vulnerable Groups Act 2006<sup>97</sup> and was launched in 2008. The ISA had four statutory duties:

- To maintain a list of those barred from engaging in regulated activity with children (the Children's barred list)
- To maintain a list of those barred from engaging in regulated activity with vulnerable adults (the Adults' barred list)
- To make decisions concerning whether an individual should be included on one or both of the lists
- To make decisions concerning whether an individual should be removed from a barred list

These duties reflect the need to balance the potentially conflicting principles of public safety and protection and the individual privacy and rehabilitation of persons who have criminal convictions.

The Safeguarding Vulnerable Groups Act 2006 (Transitional Provisional) Order 2008<sup>98</sup> contained provisions to determine whether individuals on any of the lists then in existence should be transferred to the new Children's and Adults' barred lists.

## Development of Regulated and Controlled Activities

The Safeguarding and Vulnerable Groups Act 2006 introduced the concepts of Regulated and Controlled Activities. Regulated Activity was defined as specific activities, positions and certain work in specific establishments which an individual cannot legally undertake if they are on the relevant barred list. Controlled Activity was defined as certain activities that could involve contact with vulnerable groups or access to health or social services records that a barred person could undertake.

However, following the Vetting and Barring Scheme Remodelling Review Report 2011,<sup>99</sup> the definition of Regulated Activity was amended by the Protection of Freedoms Act 2012.<sup>100</sup> The concept of Controlled Activity was removed entirely. The Safeguarding Vulnerable Groups Act 2006 had also contained provisions to monitor persons working with children and vulnerable adults. Following the Vetting and Barring Scheme Remodelling Review Report 2011, these never commenced.

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94 <https://www.legislation.gov.uk/ukxi/1989/1319/made>

95 <https://www.legislation.gov.uk/ukpga/2002/32/contents>

96 <https://www.legislation.gov.uk/ukpga/2000/14/contents>

97 <https://www.legislation.gov.uk/ukpga/2006/47/contents>

98 <https://www.legislation.gov.uk/ukxi/2008/473/made>

99 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97748/vbs-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97748/vbs-report.pdf)

100 <https://www.legislation.gov.uk/ukpga/2012/9/contents>

The Safeguarding Vulnerable Groups Act 2006 introduced a number of offences in relation to vetting and barring. Those which remain following the amendments made by the Protection of Freedoms Act 2012 include: if a barred person works or seeks to work in Regulated Activity; if an employer knowingly permits a barred person to engage in Regulated Activity; failure, without reasonable excuse, on the part of Regulated Activity providers and personnel suppliers to supply the DBS with prescribed information when requested.

## The Bichard Inquiry Report<sup>101</sup>

Following Ian Huntley's conviction in December 2003 for the murders of Jessica Chapman and Holly Wells,<sup>102</sup> Sir Michael Bichard was asked to lead an independent Inquiry into child protection measures, record keeping and vetting and information sharing in Humberside Police and Cambridgeshire Constabulary. The Report was published in 2004.

The specific context around Ian Huntley included that he had been known to the authorities over a period of years. He had come to attention of Humberside Police in relation to allegations of eight separate sexual offences from 1995 to 1999 and had been investigated in respect of a ninth alleged sexual offence. However, that information had not emerged during the vetting check carried out by Cambridgeshire Constabulary at the time of his appointment for Soham Village College in 2001.

The Inquiry found errors, omissions, failures and shortcomings which, taken together, were considered so extensive that the Report concluded that despite vetting having been carried out, one could not be confident that it was Huntley alone who had slipped through the net.

Specific concerns raised included:

- The significance of Ian Huntley's name change by deed poll to Ian Nixon and the implications of this for vetting. A Police National Computer check had been carried out against the name Ian Nixon and no trace had been found. However, no check has been carried out against the name Ian Huntley. The Report concluded that if Huntley had been required to

provide his birth certificate for the purposes of vetting, this would have shown the surname Huntley: unlike a driving licence or passport, a birth certificate would not have been changed when Huntley changed his name.

- Information on crime recording systems was often not recorded correctly rendering information entered, and that entered onto recording systems of other agencies, unreliable. The Report stressed the importance of reliable, accurate, relevant data, with systematic record keeping and data entry practices that render the information searchable.
- Police officers were nervous about breaching recent and novel data protection legislation,<sup>103</sup> at least partly because too little had been done to educate and reassure them about its impact. The Report concluded that guidance on working with data protection legislation should be clearer so that front line police officers and other professionals know when they can confidently retain and use intelligence for the purposes of the protection of young people and other vulnerable members of society.
- The systems for checking identity required improvement and the problem of how to check effectively whether a person had provided aliases needed addressing. Passports or driving licences presented as proof of identity should be checked against the Passport Service and DVLA's databases and the Report suggested fingerprint provision to enable checks against police records that would be unaffected by name changes.

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<sup>101</sup> <https://dera.ioe.ac.uk/6394/1/report.pdf>

<sup>102</sup> The Soham Murders were a double child murder in August 2002 of two 10-year old girls, Holly Wells and Jessica Chapman. The friends had been lured by Huntley, a local resident and school caretaker, into his home where he murdered them. Soon after he dumped their bodies in a ditch around 20 miles away, where they were discovered 13 days later. Initially believed to be an abduction, the search for the girls in the 13 days prior to the discovery of their bodies was one of the most intense and extensive in British criminal history. Prior to his arrest, Huntley had been an active participant in the search, had given several television interviews and had positioned himself as an unofficial spokesman for the community of Soham. It is no exaggeration to say that the murders of Jessica and Holly had a profound effect throughout the United Kingdom, as did the subsequent discovery that Huntley had been known to the authorities and should have been prevented from taking up the position as school caretaker.

<sup>103</sup> Data Protection Act 1998 <https://www.legislation.gov.uk/ukpga/1998/29/contents>

Other concerns included the lack of effective information sharing between agencies and that identified cases of concern were viewed in isolation, rather than as forming a pattern.

In response to the Richdard Report, the Labour government passed the Safeguarding of Vulnerable Groups Act 2006 and set up the Independent Safeguarding Authority (ISA), a non-departmental public body intended to have decision making powers with regard to barring intended to operate alongside the Criminal Records Bureau (CRB), who would assume responsibility for the administrative process of conducting criminal record checks to form the Vetting and Barring Scheme (VBS).

However, in 2010, the incoming Coalition government, in its “Programme for Government”, which was committed to reducing government bureaucracy and spending, committed to reviewing the VBS and to scale it back to what were described as “common sense levels”.

The perception was that the VBS was a disproportionate response to the risk posed by a small minority of people who wished to cause harm to vulnerable people. The apparent assumption behind the VBS that people who wished to work, or undertake volunteering, with children and vulnerable adults posed a risk unless the VBS processes found otherwise was judged to be inappropriate and restrictive. “Needless levels of intrusion” were perceived as having the counter-productive effect of deterring well-meaning adults from working with children and vulnerable adults. In June 2010, Ministers announced that the planned implementation of the VBS was to be halted pending a review.

The Vetting and Barring Scheme Remodelling Review Report was published in 2011 containing recommendations for a scaled-back checking service. In 2012, by means of the Protection of Freedoms Act 2012, the ISA and CRB merged to become the Disclosure and Barring Service.

# APPENDIX TWO: SCREENSHOTS OF DBS CHECK APPLICATION

At least 3 documents must be provided and collectively, they must confirm:

- the current, legal name
- the current address
- the date of birth.

ID checks should be carried out face to face. Only current and original documents can be used, photocopies and internet print-outs are not acceptable.

The documents chosen will determine how identity is proven. If a document is chosen from the list below, two further documents will be required. If it is not possible to select a document from the list below, there are further documents on the following pages.

If it's not possible for UK nationals to select enough documents from the lists provided in the ID selection process, it may be necessary to carry out an external ID verification check or to be fingerprinted.

Non-UK nationals in unpaid voluntary work will need to be fingerprinted if they can't provide enough documents. Delays will be experienced if fingerprints are required.

Click 'Proceed' to go to the next step(s) and you'll be notified when you've selected enough documents.

Click 'Proceed'.

Original identity documents must be provided in order for the application to be completed.

Passport (any nationality) ☐ Yes ☐ No

Current photocard driving licence - UK/Isle of Man/Channel Islands (full or provisional) \* ☐ Yes ☐ No

Biometric residence permit (UK) ☐ Yes ☐ No

Adoption certificate (UK and Channel Islands) ☐ Yes ☐ No

Birth certificate (UK, Isle of Man and Channel Islands) ☐ Yes ☐ No

[Reset](#) [Proceed](#)

🏠 / Home

ID Selection: Trusted government documents

Additional documents are required to establish identity. If any of the documents listed are available they should be provided as part of the DBS application.

If you have marked as many boxes as you can and the system does not allow you to proceed, you will need to close or exit the application and return to the ID selection process once sufficient documents have been obtained.

**Please note:** all documents must have been issued in the UK unless otherwise stated. Documents marked with an asterisk should contain the current address.

Marriage/Civil Partnership Certificate (UK and Channel Islands) ☐ Yes ☐ No

HM Forces ID card (UK) ☐ Yes ☐ No

Firearms licence (UK, Channel Islands and Isle of Man) \* ☐ Yes ☐ No

Immigration document, visa or work permit.  
Valid only for roles where the applicant is working outside of the UK ☐ Yes ☐ No

[Start Again](#) [Proceed](#)

Identification documents

Additional - or supplementary - documents are required to help establish identity. Information from these documents will be required to complete the application.

Answer all the questions and click Proceed.



Tick the boxes beside any document that can be provided. The system will notify you when sufficient documents have been chosen. Click 'Proceed' to continue to the next step.

You can go back to the beginning of the ID selection process by clicking 'Start Again'. However, if you have marked as many boxes as you can and the system does not allow you to proceed, click 'No further ID available'. The application will then need to follow the fingerprint process.

The fingerprint process can take several months. If it is possible to obtain documents it may be best to close or exit the application and return to the ID selection process once the documents have been obtained.

#### Correspondence/ID Cards:

- |  |  |
|--|--|
| <input type="checkbox"/> Letter of Sponsorship from future employment provider (Non-UK only - valid only for applicants residing outside of the UK at time of application) * | <input type="checkbox"/> Letter from Head Teacher or College Principal of a UK institution - only to be used by 16 to 19 year olds in full time education if other documents cannot be provided. * |
| <input type="checkbox"/> EEA National ID card  | <input type="checkbox"/> Current passport card showing that the holder is a national of the Republic of Ireland (cannot be used with an Irish passport)  |
| <input type="checkbox"/> Cards carrying the PASS accreditation logo (UK and Channel Islands)   |  |

#### Documents issued within the past 12 months:

- |   |   |
|---|---|
| <input type="checkbox"/> Mortgage Statement (UK) - (Non-UK statements must not be accepted) * | <input type="checkbox"/> P60 certificate statement (UK and Channel Islands) * |
| <input type="checkbox"/> Financial Statement (UK) - e.g. pension, endowment, ISA *            | <input type="checkbox"/> Council Tax Statement (UK and Channel Islands) *     |
| <input type="checkbox"/> P45 certificate statement (UK and Channel Islands) *                 |   |

#### Documents issued within the past 3 months:

- |   |  |
|---|--|
| <input type="checkbox"/> Bank/Building Society Statement (UK and Channel Islands) (Non-UK statements must not be accepted) *  | <input type="checkbox"/> Credit Card Statement (UK) (Non-UK statements must not be accepted) *   |
| <input type="checkbox"/> Bank/Building Society Account Opening Confirmation Letter (UK) *   | <input type="checkbox"/> Bank or building society statement - Countries outside the UK (for applicants living and working outside the UK. Branch must be located in the country in which the applicant lives and works) *                    |
| <input type="checkbox"/> Electricity Bill/Statement (UK) *  | <input type="checkbox"/> Water Bill/Statement (UK) *   |
| <input type="checkbox"/> Gas Bill/Statement (UK) *  | <input type="checkbox"/> Telephone Bill/Statement (Not Mobile Telephone) (UK) *  |
| <input type="checkbox"/> Benefit Statement (UK) - e.g. Child benefit, Pension *   | <input type="checkbox"/> Document from Central or Local Government, Government Agency, or local council document giving entitlement (UK and Channel Islands) - Document 2 (this must have been issued by a different body than document 1) * |
| <input type="checkbox"/> Document from Central or Local Government, Government Agency, or local council document giving entitlement (UK and Channel Islands) - Document 1 * |  |

#### ☒ ID Verification

The following original identity documents are being provided:

1. A Current Valid Passport (Any Nationality)
2. Bank/Building Society Statement (UK and Channel Islands) (Non-UK statements must not be accepted)
3. Current photocard driving licence - UK/Isle of Man/Channel Islands (full or provisional)

[Choose Alternative Documents](#)

[+ Edit applicant details](#)

#### Applicant Details

Title

Additional Title

Gender

Current Forename

Middle Name (if any)

Current Surname

Date of Birth

#### **i** Applicant Details

To begin the application, certain essential information must be provided. We would suggest cross-referencing these details with the ID documents you have.

[Read More](#)

Current Address details

Country Of Residence UK? ☒ Yes ☐ No
Other Country\*
Current Address Postcode

Additional Details

Job Role
Level of Disclosure enhanced
Barring Register Check Children
Workforce
Is the applicant a volunteer?
Does this position involve working with children or adults at the applicant's home address?

Passport Details

Passport Number\*

Address Details

Please enter the current address postcode including spaces (e.g. AA9 9AA)

Select Job role

From the drop-down list provided, select which group the applicant falls under.

[Read More](#)

Passport Details

An original passport must be provided. Photocopies are not acceptable.

Passport Number\*
Passport Issue Date\*
Nationality UK\*
Other Nationality\*
Applicants Date of Birth\*
Passport Expiry Date\*

Applicant's Driving Licence (UK / Isle of Man / Channel Islands) (photo card) Details

Country of Issue?\*
Applicant's Driving Licence Number\*
Licence Valid From\*
Driving Licence Date of Birth\*

Bank/Building Society Statement (UK and Channel Islands) (Non-UK statements must not be accepted)

Bank or Building Society Statement Issue Date\*

provided. Photocopies are not acceptable. Passports may be of any nationality, but they must be valid.

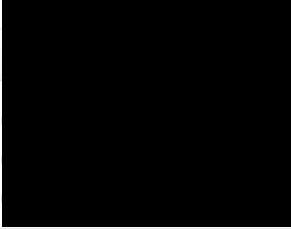
Driving Licence

A driving licence must be original (not a photocopy) and valid. Full or provisional licences are accepted but they must have been issued in the applicant's current, legal name.

Bank/Building Society Statement

The documents listed in this section must be original and should contain the date the document was issued. Each document must have been issued within the last 3 months.



Statement Issue Date	
ID Verifier / Unit details	
Branch Name	
Certificate Name	
Evidence Checked By	
ID Checker Confirmation	
<input checked="" type="checkbox"/> I confirm the following	
<ul style="list-style-type: none"><li>1. The applicant has provided original forms of valid identification</li><li>2. I have entered the applicant's personal details as given in the documents provided</li><li>3. The documents show the applicant's current name and address and at least one document shows the applicant's date of birth</li></ul>	
I understand that to knowingly make a false declaration in this application is a criminal offence.	
<div>ChangePrintProceed</div>	

Q Applicants ID details confirmation

Applicants must enter some details from two of the ID documents they provided for verification.

Security Question 1 \*

Enter the last 4 characters of the Passport Number

Answer

Security Question 2 \*

Enter the last 4 characters of the Driving Licence Number

Answer

Confirm

behalf of [REDACTED]

Your consent is required so that:

[REDACTED] can apply for a DBS disclosure  
[REDACTED] may pass on your information to the DBS to carry out

#### Consents

Please tick the boxes below to provide [REDACTED] consent to process your application.

- ☐ I have read and understood [REDACTED] Privacy Statements and policies.
- ☐ I give consent for my information to be used to submit a disclosure application. I understand that [REDACTED] (Registered Body) will share this with the Disclosure and Barring Service. I also understand that my information will be used only for the purpose it is supplied, unless my prior consent is obtained.
- ☐ I confirm that I have been made aware of the [REDACTED] Policies that relate to children and adults at risk.  
I understand that this DBS application is for [REDACTED] to continue assessment, for a role within the [REDACTED].  
I understand that I will be provided with a link to the above policies on completion of my application.

#### Privacy Policy - standard/enhanced checks (paper and e-Bulk applications) declaration

- ☐ I have read and understood [REDACTED] Privacy Statements and policies.
- ☐ I give consent for my information to be used to submit a disclosure application. I understand that [REDACTED] (Registered Body) will share this with the Disclosure and Barring Service. I also understand that my information will be used only for the purpose it is supplied, unless my prior consent is obtained.
- ☐ I confirm that I have been made aware of the [REDACTED] that relate to children and adults at risk.  
I understand that this DBS application is for [REDACTED] to continue assessment, for a role within the [REDACTED].  
I understand that I will be provided with a link to the above policies on completion of my application.

#### Privacy Policy - standard/enhanced checks (paper and e-Bulk applications) declaration

- ☐ I have read the Standard/Enhanced DBS check Privacy Policy for applicants at <https://www.gov.uk/government/publications/dbs-privacy-policy> and I understand how the DBS will process my personal data and the options available to me for submitting an application.

#### Consent to obtain e-Bulk standard/enhanced check electronic result

- ☐ I consent to the DBS providing an electronic result directly to the registered body that has submitted my application. I understand that an electronic result contains a message that indicates either the certificate is blank or to await certificate which will indicate that my certificate contains information. In some cases the registered body may provide this

The DBS require details of any names used during your lifetime

Have you ever used another forename?\*

☐ Yes
☐ No

Do you have any other middle names ?

☐ Yes
☐ No

Have you ever used another surname?\*

☐ Yes
☐ No

Your Birth Details

Born in the UK\*

☐ Yes
☐ No

Other Country\*

-- Select --

Birth Place Town / District / Borough\*

Town / District / Borough

Birth Place County / City\*

County / City

Nationality\*

-- Select --

Other Details

National Insurance Number

National Insurance Number

Current Address Details

Previous Names

It is a requirement that any previous forenames and/or surnames previously used are stated within your application.

[Read More](#)

Born in the UK?

If you were born in the UK, start typing the name of your birth town/district in the field provided.

The system will suggest matching town names based on the letters you've entered - click on the correct name to complete this field.

Address History

Complete the information regarding

Other Details

National Insurance Number

National Insurance Number

Current Address Details

Country\*

-- Select --

Postcode

Postcode

Search

Address Line One\*

Address Line One

(Optional Address Line)

Optional Address Line

Town / District\*

Town / District

County / City

County / City

You have lived at this address since\*

Month - Year

Additional Addresses

If you:

- have lived at your current address for less than five years; and/or
- have lived at more than one address over the last five years (including temporary and student accommodation)

Address History

Complete the information regarding your address. A five year consecutive address history must be provided. The first address entered MUST be your current address. If entering more than one address, add the most recent first and work backwards. Click the 'Search' button to carry out a quick address search on UK post codes.

[Read More](#)

Additional Addresses

If you:

- have lived at your current address for less than five years; and/or
- have lived at more than one address over the last five years (including temporary and student accomodation)

[Click Here](#) to provide your additional addresses.

Your Contact Details

Home Tel

XXXX XXX XXXX

Work Tel

XXXX XXX XXXX

Preferred Tel\*

XXXX XXX XXXX

Preferred time to call (9am-5pm)

--Select--

Do you have any convictions, cautions, reprimands or final warnings which would not be filtered in line with current guidance? (Select appropriately)\*

☐ Yes ☐ No

Note\* :  
By answering this question you agree that you have read and understood the information provided in 'Filtering Guidelines'.

Unspent Criminal Convictions

Under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 (as amended in 2013), certain job roles allow the employer to ask if an applicant has any criminal convictions, cautions, reprimands or final warnings that would not be filtered in line with the DBS's criteria.

Read More

Other Address

Used From

Used Until

Applicant Declaration

☐ I Declare

1. I understand that by submitting this application I am confirming the information provided is complete and true and that to knowingly make false statement is a criminal offence. I consent to the DBS using my information to verify my identity in order to process my application.

2. I understand that any information subsequently found about me may contain details of arrests, convictions, cautions, reprimands and warnings, including any other relevant information disclosed at the discretion of the Chief Police Officer(s). I consent to this information being disclosed to my prospective employer for the purpose of assessing my suitability for the position applied for.

3. I understand my statutory rights are not affected and that I may dispute any information disclosed using the DBS's disputes procedure. I have read and understood the Disclosure and Barring Service's [Privacy Policy](#).

Change

Print

Proceed

Applicant Declaration

You are completing a legally binding form and you are required to declare that you understand the implications of completing it and that you have submitted accurate information. At this point (and only at this point) you are able to print all of the information that has been submitted by both yourself and the ID checker.

# APPENDIX THREE: SCREENSHOTS OF DIGITAL IDENTITY CREATION

Has someone asked you to use EasyID?

Yes

I need to share verified details with someone.

☐

No

I just want to create my account.

☐

Continue



Create your EasyID

To sign up, follow the steps below. We'll save your progress as you go.

1 Give your consent

To use EasyID, you need to confirm your age and consent to a face scan to make sure it's you using the app.

2 Secure your account

3 Verify it's you

Continue



We're committed to **protectin**  
protecting your  
privacy

When you add details to EasyID, you create a reusable digital ID that you can use to prove who you are in person and online.

Any details you add are encrypted into unreadable data and locked using an electronic private key, which means we cannot see or sell your data.

Learn more about this in our [privacy policy](#)

This helps us ensure you meet the age of consent to use EasyID in your country.

✓ Country  
United Kingdom

Select your age

I'm 13 or over

☐

I'm 12 or under

☐

This information is required by law. It won't be stored or shared.

Why we need this information

Confirm



Not added yet

	Photo	+
	Full Name	+
	Date of Birth	+
	Estimated age	+
	Address	+
	Email	+
	Gender	+
	Nationality	+



Gender

To add your gender scan an ID document that contains it.

Continue



## Add your first ID document to your reusable Digital ID

You'll need to add a government-approved ID document

Your ID document details are added to your digital ID and securely encrypted so only you can unlock and access them

Add ID document +

My EasyID Activity Scan Explore More

### Select your ID document

Document issuing country: United Kingdom

Passport Fastest verification >  
Driving Licence >

Post Office PASS Card >  
CitizenCard >  
Young Scot >

Your ID document is encrypted so only you can access your details. We will never share your details without your permission.

### Add a Passport?

The easiest way to create your digital ID is to add a Passport.

#### Fastest method

We use OCR technology and NFC chip reading to quickly and precisely check your Passport.

#### Highest level of assurance

The Passport chip contains a digital signature. This proves the information is real.

Add passport >

Cancel

13:40 90%



### Send your details

Use EasyID to send your details to another person. You won't receive any of their details.

You'll see a record of this action in your activity.

### Send Method

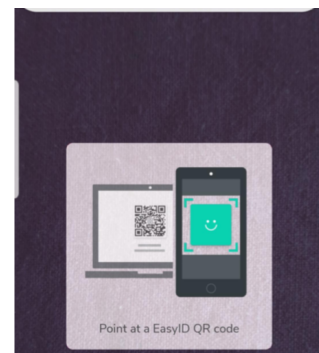
Choose how to send details:

Face to Face

Email

Text

More Options









**KEEP  
PRISONS  
SINGLE  
SEX  
XX**

