



Irish Council for
Civil Liberties

Briefing for Oireachtas Members

**Letter from UN Special Rapporteur Philip Alston to the Irish Government re:
Public Services Card**

The Irish Council for Civil Liberties welcomes [the UN Special Rapporteur on Extreme Poverty and Human Rights letter to the Government](#) detailing how the Public Services Card discriminates against the marginalised without a clear legal basis.

Professor Philip Alston's intervention reinforces ICCL's long-held position that the PSC has no [clear legislative basis](#), that it targets [vulnerable people](#) most dependent on access to Government assistance, and that it is not a necessary or proportionate tool for the Government's stated aims of reducing welfare fraud and error.

The Data Protection Commissioner has [already found](#) that the PSC violates privacy laws and ordered the destruction of 3.2 million PSC records. ICCL has also previously written to the Oireachtas and Professor Alston with grave concerns regarding the PSC's legality and impact on the poor.

Professor Alston also warned against any move towards a de facto national biometric ID card without a much more comprehensive, transparent and democratic debate in Ireland.

ICCL reiterates its [call for the PSC to be scrapped](#) in light of Professor Alston's report.

PSC and marginalised groups

[Article 9 of the International Covenant on Economic, Social and Cultural Rights](#), of which Ireland is a State party, recognises the right of everyone to social security.

Professor Alston's letter highlights how the requirement to register for a PSC in order to receive social protection benefits can pose obstacles for the elderly, those with intellectual or physical disabilities, those with a migrant background, and those who were adopted.

In summary, Professor Alston asserts that the steps required to enter into the Public Services Card system, which people must do in order to access vital supports, are manageable for some but can be a "nightmare for the especially disadvantaged" because of the bureaucratic route they must overcome in order to obtain the PSC.

This includes having to provide certain documentation that many may find hard to access and attending an interview that might cause major disruption.

Find on page 24 and 25 reference to the case of a pensioner who had her payments withheld for 18 months, and other cases which Professor Alston says "paint a disturbing, yet no doubt only partial, picture of the impact of the introduction of the PSC on welfare recipients, especially on the most vulnerable and marginalised among them".

He also finds that the State's justification for making the PSC system the means through which people can access certain services - to reduce fraud and "wage war on an alleged army of 'welfare cheats'" - holds no water, as the PSC does relatively little to reduce identity fraud while already costing the Irish taxpayer at least €68million.

ICCL agrees with Alston's assertion that the card is de-facto discriminatory.

PSC waiver during Covid-19 pandemic

Acknowledging [the recent waiver of the PSC requirement as an identification verification tool for new welfare recipients due to Covid-19](#), Professor Alston asserts that this move suggests the State itself acknowledges that the PSC is an "unnecessarily burdensome barrier" for those seeking to access their right to government assistance.

ICCL would pose the question: If one purported PSC benefit is administrative convenience, and if it is dropped as soon as it becomes inconvenient, then why use it at all?

This waiver echoes previous instances where exceptions to the registration process were applied and reinforces the unequal and inconsistent application of the PSC requirement throughout its history and questions the card's necessity.

The ICCL notes that the PSC waiver was implemented to minimise any face-to-face contact with Intreo officers during the Covid-19 pandemic. However this doesn't appear to explain the inconsistent application of the SAFE process prior to Covid-19, particularly when one considers how the State previously refused to make exceptions for people in vulnerable

situations and, in some cases, only changed its behaviour after incidences came to light in the media.

Democratic debate

Professor Alston is calling for a full, democratic debate about the PSC. He found the PSC, in its current form today, followed an accumulation of difficult-to-follow PSC-related amendments to the Social Welfare Consolidation Act 2005 no less than 28 times since 2005 and with “minimal” debate of the implications of these changes in the Oireachtas.

[Concerns about these cumbersome and confusing legal changes were specifically raised by ICCL and DRI during a meeting about the PSC at the Joint Oireachtas Committee on Social Protection back in February 2018.](#)

Many of the concerns surrounding the PSC today reflect similar concerns voiced in the late 1990s. This highlights how a long-overdue comprehensive and transparent cost-benefit analysis and human rights impact assessment of the card could have gone a long way to save the State from its costly journey to date and from the inescapable court costs to come.

A cost-benefit analysis of alternatives could also have helped, given that the card, as of the end of 2019, has cost the State €68million while, as of September 2019, the Department of Employment Affairs and Social Protection said a somewhat comparatively minute €1.74million had been saved in welfare identity fraud since 2011 when the card was first introduced.

Not Just a Photo: Data protection and Facial Recognition Tech

The right to protection of personal data is enshrined in both Article 8 (1) of the Charter of Fundamental Rights of the European Union and Article 16 of the Treaty of the Functioning of the European Union, while data controllers and processors need to abide by rules under GDPR and the Data Protection Act 2018.

The Government’s use of facial recognition tech for the purposes of the PSC engages these laws. Anyone who is to be issued with a PSC, among other steps, has to have a high-quality photograph taken by the Department of Employment and Social Protection. That photograph is then run through an arithmetic matching system to check against other photographs taken during other SAFE registrations. This, the Government states, is to detect or prevent duplicate registrations and prevent welfare fraud and error.

In his letter, Professor Alston notes the Government has admitted “the processing of the photographic image through these arithmetic templates and models produces biometric data”, however the Government maintains that it does not hold biometric data. But, as Professor Alston states in his report, this statement from the Government is “problematic, since most experts would consider that taking a picture of someone amounts to collecting biometric data”.

The Data Protection Commissioner has considered the Government’s use of facial recognition tech for the PSC to be so serious that it is now the subject of an entirely different investigation.