



An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí
Department of Employment Affairs
and Social Protection

Department's Summary Response to the Report of the Data Protection Commissioner

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This summary is stated in general terms and is provided for the information of interested members of the public. It should be noted that it contains a summarised version of the Data Protection Commission (DPC) report and the Department of Employment Affairs and Social Protection (DEASP) submissions.

It does not include the detailed legal advice of the Attorney General's Office (AGO). Accordingly it does not represent nor limit the case that may be made by DEASP in the event that the matters in question fall to be adjudicated in Court and DEASP reserves the right to expand on the submissions summarised in this document or to introduce new submissions.

1. Foreword

Section 263 (1) Social Welfare Consolidation Act, 2005

“The Minister may issue a card (in this Act referred to as a ‘Public Services Card’) to a person in such form as the Minister considers fit for the purposes of carrying out a transaction”

Section 263 (3) Social Welfare Consolidation Act, 2005

“A person shall produce his or her public services card at the request of a specified body for the purposes of a transaction”

- 1 The Public Services Card (PSC) was first provided for in the above terms in the Social Welfare Act 1998. It was introduced alongside the Personal Public Service Number (PPSN) which replaced the Revenue and Social Insurance number (RSI). The Minister of the day was clear that they were both to be used widely across the public service, stating:

‘It is intended that the use of the PPSN will occur gradually across the public service. The extension of this unique public service identifier (i.e. the PPSN) will assist individuals in their personal dealings with various public service organisations. Another new provision is the extension of the current social services card to reflect the intended use of the RSI/PPS number. This new card will be known as the Public Service Card’.

Speaking specifically about the PSC, he said:

‘In future it will be used as a key identifier by certain specified agencies. These include Government Departments, health boards, local authorities, the Revenue Commissioners, FÁS, the General Register’s Office and the Legal Aid Board. It is intended to add to this list over time’.

- 2 Subsequent Governments progressed this policy and introduced a small number of further legislative amendments, providing, for example, that the Minister would not issue a PSC unless he/she was satisfied as to the identity of the person to whom a card is to be issued. At each stage, Ministers were always clear as to the purpose of the legislation.

Other non-government members of the Oireachtas also welcomed the development of the PSC and, on occasion, enquired as to why its functionality and role was not extended further.

- 3 Following the development and implementation of a standard framework for the authentication of identity (SAFE – ‘Standard Authentication Framework Environment’), since 2011, the PSC is now used by a number of bodies as a means of authenticating identity.

These bodies include the Department of Employment Affairs and Social Protection (hereafter ‘DEASP’ or ‘the Department’), Revenue, the Passport Office, Student Universal Support Ireland (SUSI), the National Driver Licensing Service (NDLS) and the Irish Naturalisation and Immigration Service (INIS).

In practice, this means that once a person has authenticated their identity via the SAFE process and has been issued with a PSC, they do not have to submit the same information to authenticate their identity each time they make an application to any of the bodies that use the card.

There are now approximately 3.2m active users of the PSC (representing over 80 per cent of the adult population of the State). In this context, it should be noted that:

- Every week payments valued at approximately €150m are made via post offices to over 600,000 people whose identity is verified, on each occasion, by use of the PSC.
- Every week approximately 600,000 free travel journeys are made using the PSC.
- Every year approximately 70,000 people over the age of 18 apply for a passport for the first time using the PSC to avoid having to resubmit identity data.
- Almost 400,000 PSC holders (and growing) have verified their identity to a standard that enables them to access a wide variety of online services with the bodies mentioned above via MyGovID.

- 4 As the numbers above indicate, the development of the card has also been welcomed by the public. This is reflected in research, commissioned from a reputable research agency by DEASP (see appendix 6.4 for details). The research indicates that:

- 96 per cent of PSC holders surveyed were either very satisfied or fairly satisfied with the process.
- Almost 9 out of 10 people agree that it is very useful that other Government service providers may be able to use the identity information already provided in obtaining the PSC so as to avoid the need to provide the same information again.
- 88 per cent of those surveyed felt that they either had access to the right level of information in respect of the SAFE/PSC process or had access to more than they needed.
- Nearly 8 out of 10 people (77 per cent) understand the requirement to retain personal information and do not mind that their documents are retained.

- 5 Notwithstanding the high volume of its use over such an extended period, there have been no instances of hacking of the data underlying the use of the PSC.
- 6 Although some critics have described the PSC as a national identity card, it is not a national identity card. In this regard, it is to be noted that users are not required to carry the card with them at all times. Neither are they required to produce the card at the request of civil authorities such as An Garda Síochána.
- 7 Notwithstanding the benefits of, and the public support for, the PSC, some critics, including those who have indicated a principle-based and resolute opposition to the development of the PSC, have raised concerns, as they are entitled to do, relating to the transparency of information provided in respect of the PSC and the legal basis for the PSC. The Data Protection Commission (DPC), as it should, has sought to investigate these concerns.
- 8 In relation to the transparency concerns, the DPC engaged with DEASP in 2017 and, arising from this engagement, provided a list of 47 questions that it considered would be useful to answer as Frequently Asked Questions (FAQs) in order to improve the public information available about the PSC.
- 9 The Department answered all of these questions, added additional questions of its own and submitted them to the DPC for review. The full set of questions was published as a Comprehensive Guide to the PSC on 20 October 2017.
- 10 On 27 October 2017, the DPC initiated an investigation into the Department's compliance with its responsibilities as a data controller in respect of PSC related matters, including the legal basis for the processing of personal data and compliance with EU law.

- 11 The Department co-operated fully with the investigation, including through the provision of detailed responses to a draft report provided to the Department at the mid-point of the investigation process.
- 12 The final report, relating to legal basis and transparency issues, containing eight findings (“Findings”) was received by the Department on 15 August 2019, together with a letter from the DPC requiring that the Department take certain measures. The DPC has stated that it does not have legal powers to publish the report but did issue a press release setting out the key findings, and the measures it requested DEASP to take, and requested that the Department should publish the report of its own volition.
- 13 The DPC, in its report, found that DEASP has the legal powers to require users of its services to authenticate their identity to SAFE standards, to issue a PSC to these users and to require them to produce it as a means of authenticating their identity when accessing DEASP services. However, it found that the right to issue a PSC did not extend to circumstances where the user was acquiring it solely for the purpose of transactions with other bodies, in circumstances where those other bodies, did not offer their users an alternative means of authenticating identity. It also found that DEASP did not have the right to indefinitely, and on a blanket basis, retain documents and other information collected for the purpose of authenticating identity. In addition, it found that the information provided to users in respect of the PSC did not satisfy transparency requirements.
- 14 The letter received from the DPC set out “ends” to be achieved and “steps” to be taken in order to address these Findings. The DPC also elaborated on the implications of the Findings in a number of media interviews. The effect of these “ends” and “steps” differs in some important respects from that of the Findings themselves, and appears to go further than is required by the Findings.
- 15 DEASP, together with the Department of Public Expenditure and Reform (DPER), considered the report and letter very carefully and sought the advice of the Attorney General’s Office. Following this consideration, it was concluded that the processing of personal data related to the PSC does, in fact, comply with legal requirements, that document retention is lawful and that the information provided does satisfy the transparency requirements.
- 16 The Department sought to meet with the DPC on two occasions since receipt of the report with a view to outlining the basis for its conclusions and seeking to clarify a number of matters. The request for a meeting was declined on both occasions.

- 17 Given the convenience offered by the PSC to users and organisations that rely on its use, the high levels of public satisfaction with, and support for, the PSC, and the strong legal advice received, it was determined that it would be inappropriate to withdraw or modify its use of the PSC in the manner requested by the DPC. The DPC has been notified of this decision and has now indicated that it intends to initiate enforcement proceedings.
- 18 This document sets out the background to the investigation, together with the key findings of the DPC. A summary of the DPC's analysis and the Department's response is also included.
- 19 For reference purposes, a full copy of the DPC report together with related correspondence is published with this response.
- 20 The DPC report in its foreword, introduction and executive summary contains a commentary on the background to, and the evolution of, the PSC. These sections, and some of the related correspondence, contain material that the Department considers inaccurate and which it disputes.
- 21 However, this document does not comment on these matters. It confines itself to the key findings – these are the matters that are contested and are those on which the DPC is basing the steps that it now requires the Department to take.
- 22 Given that the DPC has indicated that it is now initiating enforcement proceedings to give effect to the steps it has requested in its letter of 15 August, and the Department's intention to contest these proceedings, it would be inappropriate for the Department to make any further observations or comments at this time.

2. Background – Progress of the Investigation to date

- 1 DEASP received notice, by way of a letter dated 27 October 2017, that DPC was undertaking an investigation into the parameters and extent of collection, sharing, transfer, disclosure and access to data related to the Public Services Card (PSC), the organisational and technical security measures employed in connection with the PSC, control oversight and governance measures related to the PSC, measures related to the exercise of data subject rights, the sufficiency of the legal basis for processing of personal data and compliance with relevant EU law principles. The investigation was to be conducted pursuant to the Data Protection Acts, 1988-2003 (“the Acts”).
- 2 Subsequently, at the mid-point of the ongoing investigation, the DPC wrote to DEASP on 28 August 2018 enclosing a draft investigation report. They instructed that it was provided on a strictly confidential basis and was not to be shared with any third parties without their prior agreement in writing. The DPC advised that the draft report included a number of provisional findings and was being provided in order to allow DEASP an opportunity to make submissions in relation to any of the matters set out in the draft report. In total, eleven provisional findings, relating to what the DPC has categorised as Module 1, Part 1¹, of its investigation were set out in the draft report.
- 3 The DPC also advised that it required further details in order to enable it to form final views and requested that DEASP revert with this information. In total, 8 requests for further information relating to Module 1, Part 1 matters were identified. In its draft report, the DPC itself identified the grounds which it considered were most relevant in determining whether or not DEASP had a legal basis for processing of personal data, in relation to PSC/SAFE (i.e. sections 2A(1)(c)(ii) and/or 2A(1) (c)(iii) of the Acts).
- 4 The DPC advised that, on receipt of any submissions from DEASP, and any responses received in respect of the requests for further information, it would

¹ Legal basis, data retention and transparency issues.

proceed to make any revisions, amendments or additions to the draft report and to issue a finalised report with conclusive findings. It also stated that, in the event that additional findings were made, or substantial changes were made to the provisional findings, DEASP would be given an opportunity to make submissions on the revised form of the report prior to the DPC issuing the report with conclusive findings.

- 5 DEASP, having sought and received DPC consent to share the report with DPER, proceeded to consider the draft report together with DPER, the Office of the Attorney General (AGO) and Counsel retained by the AGO. This consideration was undertaken in detail and was, in particular, mindful of the authority vested in the DPC. DEASP respected the request of the DPC to treat the draft report as strictly confidential and did not make any public comment other than to confirm that it had received the report and provided a response.
- 6 Having carefully considered the analysis presented in the draft report, having taken legal advice via the AGO and notwithstanding the respect held for the authority of the DPC (and, as a consequence, a concern to challenge the analysis only where there were strong grounds to do so), it was concluded that processing of personal data for the purpose of authenticating identity and issuing PSCs did, in fact, satisfy the relevant legal requirements.
- 7 Accordingly, a detailed response was prepared and submitted to the DPC on 30 November 2018. This submission set out the grounds on which it considered that the data processing, carried out in the context of SAFE/PSC, is compliant with all legal requirements. The response also included replies to each of the eight requests for further information and offered the continued co-operation of DEASP in the investigation. This included an offer to elaborate further on/explain the basis for DEASP's analysis and/or to meet with the DPC.
- 8 In the response, DEASP adhered to the DPC's framework of analysis and responded to its assessment in respect of the sections 2A (1)(c)(ii) and 2A(1)(c)(iii) of the Acts. DEASP also reserved the right to rely on other legal bases and gave examples of these - including 2A(1)(c)(iv), 2(A)(1) (b) (ii) and the exemptions provided for under section 8 of the Acts. Given the level and nature of detail provided in the response, DEASP requested that it be provided a further opportunity to review and comment on any subsequent drafts of the investigation report. DEASP subsequently provided the DPC with the results of an independently conducted survey of people on matters germane to the issue of transparency under investigation by the DPC. This survey indicated a high level of public support for the PSC and satisfaction with the quality of the information provided. It also provided a response to some public comments made by the Commissioner at an event in Israel in June 2019.

- 9 Some eight months after providing its response, DEASP received a final version of the investigation report on Thursday, 15 August 2019, with a cover letter setting out the steps that the Commission now requests be taken to address the findings contained in that report. Earlier in August, the DPC had indicated to the Department for the first time its intention to split Module 1 into two parts.
- 10 The report was announced publicly and its findings summarised via a press release issued by the DPC, embargoed until 12.00 AM on Friday, 16 August.
- 11 The report contains eight findings. For ease of reference, they are set out in table 1 below (which also contains the eleven preliminary findings from the draft report). As can be seen, five of these findings are similar to those contained in the draft report (findings 1, 3, 4, 5 and 6 – the latter being listed as provisional finding 9 in the draft report). Finding 2, relating to use of SAFE/PSC for the purposes of transactions with bodies other than DEASP, although similar to the provisional finding in the draft report, is stated in much more explicit and detailed terms than in the draft report. In particular, the DPC finds that processing personal data for purposes other than a transaction with DEASP does not have a legal basis where a person does not already have a card and where the specified body requires production of the PSC. In addition, the justification for finding 2, comprising a complex legal interpretation of the relevant statutory provisions, has been significantly developed compared to that previously shared with DEASP in the draft report. Finding 7 relating to transparency is substantially different to any of those set out in the draft report and is a new finding. Finding 8 is somewhat similar to provisional finding 10 of the draft report but contains an additional aspect in respect of fairness and Section 2D(2)(d) of the Acts. Four of the provisional findings in the draft report are not included in the final report. In Findings 1 and 2, a legal basis found in Section 2A(1)(c)(iv) of the Acts was considered by the DPC in the final report. This legal basis had not been considered in the provisional report.
- 12 Notwithstanding that the DPC had committed, in circumstances where additional findings were made or substantial changes were made to the provisional findings, to providing a further draft of the report to DEASP in order to enable DEASP to make further submissions, no such advance version was provided. The DPC assessed DEASP/DPER's response in terms of 2A(1)(c)(ii) and 2A (1) (c)(iii), introduced new arguments to rebut the case put forward by DEASP and conducted an analysis of the legal basis pursuant to Section 2A(1)(c)(iv). However, it did not offer DEASP an opportunity to review or comment on these new arguments and analyses.
- 13 It is regrettable that a revised draft was not provided as it was reasonable to expect that the substantial information provided to the DPC and the detailed and considered nature of the submission on the DPC's provisional findings provided by DEASP would have a material impact on those findings. It would also have been useful if an explanation for the DPC's rejection of DEASP's submissions had been

provided to DEASP prior to this rejection being made public, in order to provide an opportunity for DEASP, in a matter of some public interest, to consider and prepare a response to the DPC's findings and the somewhat complex and technical legal arguments underpinning some of them.

- 14 In addition, on any reading, the finalised report of 141 pages (excluding 31 pages of annexes) is substantially different to the draft report of 99 pages (excluding 40 pages of annexes) received in August 2018. Overall, the text of the report excluding annexes is 42 pages (some 42 percent) longer in length than the draft report. This is despite the fact that the scope of the draft report was broader than that of the final report. The draft report included an analysis of security arrangements which does not feature in the final report. DEASP had no advance sight of, or opportunity to make submissions on, this substantial volume of additional information. Failure to provide DEASP with a draft copy of the report for comment - or even an advance copy of the report - in sufficient time for it to consider the new/revised analysis presented by the DPC, prior to the announcement of the findings by the DPC, has now created a situation where there is a significant amount of ill-informed and one-sided commentary of the report's findings.
- 15 The remainder of this document sets out the core findings of the report in more detail than that published by the DPC in its press statements, summarises the basis, as understood by DEASP, that is presented by the DPC for these findings, summarises the position articulated by DEASP in its response to the provisional findings and sets out the current position in terms of DEASP's response. The full report of the DPC, together with relevant correspondence, is published with this report.

Table 1: DPC Findings in respect of its investigation into module 1 matters relating to SAFE/PSC

No.	Preliminary Report	Final Report
1	<p>...the DPC finds that in general there is a legal basis under section 2A(1)(c)(ii) and (iii) of the Acts for DEASP (on behalf of the Minister) to process personal data on a mandatory basis by way of SAFE registration and the issuing of a PSC for the purpose of authenticating the identity of a person claiming, receiving or presenting for payment of benefit.</p>	<p>The DPC finds that arising from the combination of sections 241(1)(b), 242(4) and 263 (1) of the Social Welfare Consolidation Act 2005 there is legal basis under sections 2A(1)(c)(ii), (iii) and (iv) of the Acts to process certain personal data (as described at paragraphs 175 to 176²) by way of SAFE registration and the issuing of a PSC for the purpose of authenticating the identity of a person claiming, presenting for or receiving a payment.</p>
2	<p>The DPC is not satisfied that there is a legal basis under section 2A(1)(c)(ii) or section 2A(1)(c)(iii) of the Acts for DEASP to conduct personal data processing by way of mandatory, centralised identity authentication of persons who are conducting transactions with specified bodies other than DEASP. The DPC therefore finds that in the absence of a valid legal basis for such processing carried out by the DEASP in the context of SAFE registration and issuing of the PSC for the purpose of facilitating transactions</p>	<p>In the context of whether there is a legal basis for the processing of personal data carried out by DEASP in respect of persons engaging in a transaction with a specified body other than DEASP (the “Specified Body”), the DPC’s conclusions are as follows.</p> <p>(A) In relation to the effect and meaning of Section 263 (3) of the SWA 2005:</p> <p>(1) Section 263(3) does not confer a power on a specified body to insist on the production of a PSC for the purpose of a transaction where a person does not already have a PSC;</p>

² The public sector identity dataset– i.e. the identity information collected as part of the SAFE process.

No.	Preliminary Report	Final Report
	<p>between individuals and specified bodies, there is no legal basis for such processing, in contravention of Section 2A of the Acts.</p>	<p>(2) Under the (Social Welfare Consolidation Act) SWCA 2005 there is no legal requirement on a person seeking to engage in a transaction with a specified body to submit to having their personal data processed by DEASP for the purposes of SAFE registration and the issuing of a PSC.</p> <p>(3) The specified body cannot refuse to engage in a transaction with a person who does not have a PSC and who does not obtain one.</p> <p>(A) Based on the findings at paragraph (A) above the DPC is not satisfied that there is a legal basis under section 263 SWCA 2005 or otherwise under the SWCA 2005 for the purposes of section 2A(1)(c)(ii), (iii) or (iv) of the Acts or otherwise under the Acts for processing carried out by DEASP for SAFE registration and the issuing of PSCs in circumstances where the specified body has sought to compel the production of a PSC, by a person who does not already have one, for the purposes of a transaction with a specified body. Accordingly in the circumstances of such processing, the DPC considers that DEASP is in contravention of its obligation under section 2A (1) of the Acts.</p>
3	<p>The DPC finds that the indefinite retention of documents and information (other than the applicants photograph and signature) which are originally collected for the purpose of identity authentication in the context of SAFE registration is not compliant with the</p>	<p>The DPC finds that the blanket, indefinite retention of personal data, consisting of documents and information (other than the applicant's photograph and signature) which are originally collected for the purpose of identity authentication in the context of SAFE registration is in contravention of DEASP's obligation under</p>

No.	Preliminary Report	Final Report
	storage limitation principle applicable under section 2(1)(c)(iv) of the Data Protection Acts 1988 and 2003.	section 2(1)(c)(iv) of the Acts.
4	The DPC is not satisfied that the SWCA Act provides data subjects with sufficient information on the PSC and SAFE registration to meet DEASP's transparency requirements under section 2D of the Acts.	The DPC is not satisfied that the SWCA 2005 alone provides data subjects with sufficient information on the PSC and SAFE registration, particularly with regard to the purposes of processing, to meet DEASP's transparency requirements under section 2D of the Acts.
5	The DPC is not satisfied that DEASP's privacy statement provides data subjects with sufficient information in relation to processing of personal data in connection with the issue of the PSC and SAFE registration to meet transparency obligations under section 2D of the Acts.	The DPC is not satisfied that DEASP's privacy statement provides data subjects with sufficient information in relation to processing of personal data in connection with the issue of the PSC and SAFE registration to meet DEASP's transparency obligations under section 2D of the Acts.
6	The DPC does not consider that DEASP has complied with its transparency obligations under section 2D of the Acts in relation to the processing of personal data which it undertakes for identity authentication in the context of SAFE registration and the issue of the PSC. In particular the DPC is not satisfied that DEASP has provided adequate information to individuals to explain the PSC is a mandatory identity verification process and SAFE is a token of such verification.	The DPC finds that DEASP has contravened section 2D(2)(d) of the Acts by failing to provide data subjects with sufficient information concerning the relevant potential consequences for a PSC cardholder who fails to update information in the context of a SAFE registration.

No.	Preliminary Report	Final Report
7	<p>The DPC is not satisfied that the information currently made available to data subjects by DEASP is sufficient for the purpose of meeting transparency obligations under section 2D(2)(d) of the Acts. DEASP has failed to be transparent with the public in explaining that the identity verification for the purposes of SAFE registration and the issue of the PSC as a token of SAFE registration is in practice only being performed by DEASP, irrespective of whether the services for which identity is being verified are provided by DEASP or not.</p>	<p>The DPC finds that DEASP has contravened section 2D(2)(d) of the Acts, by failing to provide data subjects with sufficient information concerning the circumstances in which information provided to another public body (not DEASP) will be passed to DEASP and used to update the PSI dataset.</p>
8	<p>The DPC is not satisfied that, in accordance with its transparency obligations under section 2D(2)(d) of the Acts, appropriate information is provided to the public to explain the criteria that govern use of the PSC by other public bodies and in particular that in order to access certain services from public bodies other than DEASP, mandatory identity verification which is in fact to be conducted by DEASP must be performed.</p>	<p>The DPC finds that DEASP has contravened the transparency and fairness requirements of section 2d(2)(c) and (d) of the Acts, by failing to provide data subjects with sufficient information concerning the purposes and justification for indefinitely retaining documents and information used to identify an individual for the purpose of initial SAFE registration.</p>

No.	Preliminary Report	Final Report
9	<p>The DPC finds contrary to the transparency requirements of section 2D(2)(d), DEASP has not provided data subjects with information concerning the possible consequences for a cardholder who fails to update information provided in the context of a SAFE registration.</p>	
10	<p>The DPC finds that, contrary to the transparency requirements of section 2D(2)(c), DEASP has not provided data subjects with information concerning the intended purposes and justification for retaining documents and information used to identify an individual for the purpose of initial SAFE registration.</p>	
11	<p>The DPC finds that contrary to the transparency requirements of section 2D(2)(d) of the Acts, DEASP has not provided sufficient information to enable fair processing of personal data of adopted persons in the context of the SAFE registration process.</p> <p>In particular, DEASP does not warn the public that a person's adopted status may be revealed to them as a consequence of participating in the SAFE registration process.</p>	

3. Summary of Findings and Supporting Analysis

Finding 1

- 1 The DPC finds that arising from the combination of sections 241(1)(b), 242(4) and 263(1) of the Social Welfare Consolidation Act 2005 (hereafter referred to as SWCA), there is legal basis under sections 2A(1)(c)(ii), (iii) and (iv) of the Acts to process certain personal data (as described at paragraphs 175 to 176 of the DPC report) by way of SAFE registration and the issuing of a PSC for the purpose of authenticating the identity of a person claiming, presenting for or receiving a payment.

DEASP summary of DPC stated basis for findings

- 2 As the SWCA specifically provides DEASP with the power to require a person to verify their identity in a manner consistent with the SAFE process and the powers to issue a PSC and to deny and withhold benefits and services where a person does not satisfactorily authenticate their identity, there is a clear legislative basis for DEASP to process data for these purposes. The DPC is of the view that Section 263 of the SWCA involves a data processing function. The DPC considers that a relevant statutory function for the purposes of Section 2A(1)(c)(ii) and/or (iii) could not be a data processing function. This determination by the DPC was not in the provisional report. The DPC considers that a legislative provision is not, of itself, a sufficient legal basis to process data. It must also be established that the processing is necessary.

DEASP Position As Set Out In Response To Draft Report

- 3 DEASP welcomes the DPC's finding that it is lawful for the Department to authenticate people's identity to the SAFE standard and issue a PSC when people are accessing services of the Department.

DEASP does not agree, however, with all of the reasoning of the DPC in respect of Finding 1. DEASP considers that the DPC has failed to properly interpret and to give due significance to section 263(1) SWCA, 2005. This issue is also relevant to Finding 2 and more detailed submissions are set out by DEASP in response to Finding 2.

Finding 2

4 In the context of whether there is a legal basis for the processing of personal data carried out by DEASP in respect of persons engaging in a transaction with a specified body other than DEASP (the 'Specified Body'), the DPC's conclusions are as follows:

(A) In relation to the effect and meaning of Section 263(3) of the SWA 2005:

(1) Section 263(3) does not confer a power on a specified body to insist on the production of a PSC for the purpose of a transaction where a person does not already have a PSC;

(2) Under the SWCA 2005 there is no legal requirement on a person seeking to engage in a transaction with a specified body to submit to having their personal data processed by DEASP for the purposes of SAFE registration and the issuing of a PSC;

(3) The specified body cannot refuse to engage in a transaction with a person who does not have a PSC and who does not obtain one.

(B) Based on the findings at paragraph (A) above, the DPC is not satisfied that there is a legal basis under section 263 SWCA 2005 or otherwise under the SWCA 2005 for the purposes of section 2A(1)(c)(ii), (iii) or (iv) of the Acts or otherwise under the Act, for processing carried out by DEASP for SAFE registration and the issuing of PSCs in circumstances where the specified body has sought to compel the production of a PSC, by a person who does not already have one, for the purposes of a transaction with a specified body. Accordingly, in the circumstances of such processing, the DPC considers that DEASP is in contravention of its obligation under section 2A (1) of the Acts.

DEASP summary of DPC stated basis for finding

5 Although the SWCA empowers DEASP to process data for the purpose of issuing a PSC, this is not equivalent to the performance of a function as is required under the Data Protection Acts. SAFE registration and production of a PSC cannot be considered as being equivalent to having a function to issue PSCs as this would imply that data processing is of itself a function and this creates a problem of circularity.

Therefore, DEASP cannot process data related to SAFE/PSC for other bodies unless there is a separate stated function. (This argument was not set out in the draft report). Section 263(1) is not a function for the purposes of Sections 2A(i)(c)(ii) and/or (iii) of the Acts. Section 263(1) may be a function which falls within the scope of Section 2A(1)(c)(iv) - processing which is necessary for performance of a function of a public nature in the public interest but this depends on whether the processing is necessary. There is no statutory provision which makes it a condition that a person engaging in a transaction with a specified body must have their identity verified by DEASP.

- 6 Section 263(3) of the SWCA provides a basis for other bodies (specified in schedule 1 of the SWCA and known as 'specified bodies') to request production of "*his or her*" PSC. This implies that a person already has possession of a PSC. The legislation does not require a person who does not have a PSC to acquire one. There is, therefore, no obligation on a person to complete SAFE registration/acquire a PSC purely and solely for the purpose of a transaction with a body other than DEASP. As a minimum, if such an obligation was to be introduced, detailed legislative provisions would be required stating that a person must have their identity verified and obtain a PSC for production when requested. A comparison with the provisions in respect of PPSN (see paragraph 8 below) are not of assistance because the legislation requires a person to produce a PPSN '*as required*' by specified bodies, whereas the legislation in respect of the PSC requires it to be produced '*at the request*' of a specified body.
- 7 Following on from the above, there is no obligation or necessity for DEASP to process a SAFE registration and issue a PSC in circumstances where it is not mandatorily required for the purposes of a transaction with another specified body and any such processing is, therefore, without a legal basis.

DEASP Position As Set Out In Response To Draft Report

- 8 Reading the legislation as confining production of a PSC, on request, to other specified bodies to situations where a person already has a PSC is unnecessarily restricted. It is a fundamentally flawed interpretation of the relevant law and is not consistent with the standard approach to statutory interpretation. It is noted that the provisions in respect of the PSC mirror equivalent provisions in respect of production of a PPSN and that it has never been suggested, nor is it suggested now, that production of a PPSN (for example to register with Revenue or access health

services) is in any way limited to people who already have a PPSN. Nor is it suggested that people (e.g. new residents in the State) can avoid providing PPSN details simply by refusing to register for a PPSN while still retaining entitlement to the receipt of state services and benefits.

- 9 In addition, even if other bodies do not have the power to compel a person to acquire a PSC (an assertion which is not accepted by DEASP), DEASP has the function, under section 263(1) SWCA, to issue a PSC in a situation where a person presents to it requesting a PSC. The circumstances which gave rise to that request are not germane to the fulfilment of that function. In this regard, DEASP relies on the plain terms and literal interpretation of the relevant provision which is as follows:

'The Minister may, subject to subsection (1C) issue a card (in this Act referred to as a 'public services card') to a person in such form as the Minister considers fit for the purposes of carrying out a transaction.'

- 10 This provision does not require the identification of any transaction - it simply requires that the card be issued in a manner that makes it fit for the purpose of a transaction. Subsection (1C) requires the Minister to satisfy herself as to the identity of a person before issuing a PSC. In this subsection, the term 'transaction' is defined as applying to transactions with specified bodies. In order for the Minister to satisfy herself as to a person's identity, it is necessary for the Minister to carry out the steps set out in section 263(B) SWCA, which corresponds to SAFE registration. The function is to issue a PSC fit for the purposes of carrying out a transaction, once the Minister is satisfied as to the identity of the person. The processing of the data is necessary for the function as this is how the Minister can be satisfied as to identity.
- 11 Accordingly, even if specified bodies do not have the authority to compel acquisition of a PSC (an assertion which is not accepted by DEASP), DEASP has the function of issuing PSCs. It is operating in full compliance with its legal obligations and within the remit of its legal functions and powers in processing any application it receives from a person to complete SAFE registration and acquire a PSC.

Finding 3

12 The DPC finds that the blanket, indefinite retention of personal data, consisting of documents and information (other than the applicant's photograph and signature) which are originally collected for the purpose of identity authentication in the context of SAFE registration is in contravention of DEASP's obligation under section 2(1)(c)(iv) of the Acts.

DEASP summary of DPC stated basis for findings

13 An underlying principle in data protection law is that personal data should only be retained for as long as it is required to serve the purpose for which it was collected. The purpose of requesting documentary evidence to support authentication of identity appears to be fulfilled once that identity is authenticated. Therefore, there needs to be a valid explanation as to why it is required to retain the documentary evidence and other information (other than the photograph and signature in respect of which specific legislative provision is made) once identity is authenticated.

14 In circumstances where the number of cases dependent on *post facto* production of documentation is very small relative to the overall number of cases and, in circumstances where the PSC itself expires after a period of seven years³ and needs to be renewed thereafter, the DPC does not consider that the reasons put forward by DEASP justify the indefinite and blanket retention of such information.

³ In November 2018 the validity period for a PSC was set at 10 years – consistent with other identity tokens such as driving licences and passports.

DEASP Position As Set Out In Response To Draft Report⁴

- 15 The authentication of identity relies on the information and documentary evidence provided in support of that identity. If a dispute arises (e.g. in the case of a subsequent prosecution for fraud), it is necessary to produce the information/documentation on which the identity was authenticated. It is not sufficient to simply record the fact that evidence was provided and examined - it is necessary to produce that evidence. A case study in relation to an investigation by DEASP's Special Investigations Unit was provided to the DPC to illustrate this point. In the context where an accepted purpose of the SAFE process is to assist in the protection, detection and prosecution of fraud, it is, therefore, appropriate to retain the data and documentation acquired through this process for the purpose of any subsequent prosecution.
- 16 In addition, proof of identity is one of the issues to be determined in any decision with regard to the payment of welfare claims. Under applicable law, any decision in respect of a welfare payment can be appealed or reviewed at the request of a person at any time. Production of the supporting documentation and information is important to the appeal/review process.
- 17 Finally, the retention of the supporting documentation is important for *post facto* quality control and audit purposes.

Findings 4 – 8 relating to 'Transparency' are considered together

Finding 4

- 18 The DPC is not satisfied that the SWCA alone provides data subjects with sufficient information on the PSC and SAFE registration, particularly with regard to the purposes of processing, to meet DEASP's transparency requirements under section 2D of the Acts.

⁴ The position put forward by DEASP is reflected in the July 2019 report of the Office of the Ombudsman where he quoted examples of overturning decisions in respect of benefit payments in circumstances where, notwithstanding that the decision was recorded on the Department's systems, the documentary evidence in support of that decision was not available for review.

Finding 5

19 The DPC is not satisfied that DEASP's privacy statement provides data subjects with sufficient information in relation to processing of personal data in connection with the issue of the PSC and SAFE registration to meet DEASP's transparency obligations under section 2D of the Acts.

Finding 6

20 The DPC finds that DEASP has contravened section 2D(2)(d) of the Acts by failing to provide data subjects with sufficient information concerning the relevant potential consequences for a PSC cardholder who fails to update information in the context of a SAFE registration.

Finding 7

21 The DPC finds that DEASP has contravened section 2D(2)(d) of the Acts, by failing to provide data subjects with sufficient information concerning the circumstances in which information provided to another public body (not DEASP) will be passed to DEASP and used to update the PSI dataset.

Finding 8

22 The DPC finds that DEASP has contravened the transparency and fairness requirements of section 2D(2)(c) and (d) of the Acts, by failing to provide data subjects with sufficient information concerning the purposes and justification for indefinitely retaining documents and information used to identify an individual for the purpose of initial SAFE registration.

DEASP summary of DPC stated basis for findings

23 Article 6 of the Data Protection Directive, taken together with Recital 38 of that Directive, imposes a requirement on data controllers to provide certain specified information (or to make such information readily available) in advance of any processing or transfer of their personal data. This specified information is the identity of the data controller, the identity of any representative appointed by the controller for the purposes of the Acts, the intended purposes for which personal data will be

processed, and any other information, which is necessary, having regard to the specific circumstances in which data are, or are to be, processed, to enable processing in respect of the data to be fair to the data subject. This includes information on the possible consequences of failing to provide personal data, information on recipients of the data and information on the data subject rights of access and rectification.

24 Although it can be argued that primary law can be relied upon to provide this information, the DPC believes that the SWCA, on its own, is deficient in this regard as it is very complex (and therefore not amenable to being read and understood by the general public) and, in addition, does not address all of the purposes of processing associated with the PSC and SAFE.

25 With regard to the privacy statement, the DPC finds that it is not specifically addressed to the particular processing operations carried out in connection with SAFE processing and the issuance of PSCs. This being so, it does not consider it as being sufficient for providing an initial layer of information to data subjects in respect to SAFE processing.

26 With regard to updating of information, the DPC considers that there is insufficient information provided in order that data subjects can understand the potential consequences of not updating their PSI (Public Services Identity) data or how updating one specified body may or may not serve the purpose of updating the underlying PSI database.

27 Related to finding 3, the DPC finds that, although the DEASP privacy statement does indicate that SAFE related data is retained for the purposes of supporting investigations/prosecutions and for audit purposes, this is insufficient to satisfy the requirements of fairness in the Data Protection Act.

DEASP Position As Set Out In Response To Draft Report

28 The Data Protection Act 1988 does not require that each data subject is individually given the full set of information required. Rather, it requires that it is made readily available insofar as is practicable to do so.

29 In addition, the WP29⁵ working group recommends a layered approach to avoid information fatigue among data subjects. This recognises that it may not be feasible that any individual document or source of information, taken on its own, could act as a suitable vehicle for the purpose of ensuring transparency.

30 Therefore, rather than assessing each source of information on its own, the correct approach is to consider the entirety of the information that is readily available to data subjects. While it is contended that the SWCA, on its own, is sufficient to meet the requirements of transparency, DEASP has also provided and made available an abundance of information. This information taken together satisfies the transparency requirements. The sources of information include the face-to-face interviews conducted at the time of SAFE registration, the letter that issues to people participating in the SAFE process, the FAQs and Comprehensive Guide to SAFE Registration and the PSC, a specific PSC website (including explainer videos) and various communications and media campaigns.

31 Notwithstanding that the Department considers that taken together with the Privacy Statement and the SWCA, all of these readily available sources of information serve to meet the transparency requirements, the Department is open to suggestions as to how communications and information can be further improved and would welcome input from the DPC in this regard. In order to respond to the points raised by the DPC, a copy of the DEASP's revised privacy statement (November, 2018) was submitted to the DPC, for consideration.⁶

32 DEASP also submitted the results of a customer survey conducted by a reputable and independent research agency in late 2018 (see appendix 6.4 for details). These indicate, *inter-alia*, that:

⁵ An advisory group on data protection matters comprised of representatives of the data regulatory authorities in each EU state.

⁶ The DPC did not respond to this request for comment/input.

- Almost 9 out of 10 people (87 percent) agree that it is very useful that other government service providers may be able to use the identity information already provided in obtaining the PSC so as to avoid the need to provide the same information again.
- Almost 9 out of 10 people (88 percent) of those surveyed felt that they either had access to the right level of information in respect of the SAFE/PSC process or had access to more than they needed.
- Nearly 8 out of 10 people (77 percent) understand the requirement to retain personal information and do not mind that their documents are retained.

33 Given that any assessment of the sufficiency of information provided is, by its nature, subjective, this survey data provides the best evidence available that the information provided is, in fact, sufficiently transparent to serve the needs of people accessing services.

4. Current Position and Next Steps

DEASP Assessment of the Current Position

1 In summary, DEASP's assessment of the DPC determination is that:

- Processing of personal data by DEASP for SAFE/PSC purposes is valid insofar as it relates to the provisions of services and benefits by DEASP itself.
- Processing of personal data by DEASP for SAFE/PSC purposes is not valid where it relates solely to the provision of services and benefits by other specified bodies in circumstances only where these bodies insist on the acquisition of a PSC, where the data subject does not already hold a PSC, and the specified body will not accept any other form of identity.
- The indefinite and blanket retention of some of the documents and information acquired as part of the SAFE process is not warranted.
- The information available to data subjects in relation to data processing for SAFE purposes is not sufficient to meet the requirements of transparency.

and that the determination of the DPC does not:

- Invalidate use of the PSC or data processing related to PSCs already in issue. Nor does it prevent specified bodies from requiring data subjects to produce a PSC as proof of identity in circumstances where the data subject is already in possession of a PSC.
- Invalidate data processing or issuing of new PSCs by DEASP on request of a data subject in circumstances where the data subject requests one for the purpose of a transaction with another specified body and where that specified body will accept alternative forms of identity.
- Require DEASP to cease requiring SAFE registration and use of PSCs by people accessing and using its own services.

- 2 In setting out this summary, DEASP wishes to be clear that it represents its understanding of the consequences that can be taken from the findings, including from the analysis presented to support them.

Steps Required by DPC to be Taken By DEASP

- 3 In order to give effect to its findings, the DPC would normally issue an enforcement notice. It has not done so in this instance but the DPC has exercised its discretion to defer the issue of such a notice for the reasons set out in the next paragraph. Instead, the Commission has identified in general terms the ends that it would expect to achieve upon issuing an enforcement notice at some point in the future. Perhaps because they are stated to be expressed in “general terms” these ends appear to differ in some important respects from those that are contained in the findings themselves. This is also a matter on which DEASP is seeking clarification.
- 4 Conscious that the development of remedial measures is likely to be complicated and not being in a position to assess the period of time reasonably required to give effect to measures that will address the findings, and also conscious that an enforcement notice that is not informed by some consideration of the practicalities of implementation could impair the capacity of people to access important public services, the DPC specifically asked DEASP to:

- Make an assessment, within six weeks, of the changes required to achieve compliance with the findings contained in the report.
- Submit an implementation plan to the DPC by 1 October 2019 identifying the changes that will be made and the time period for implementation of the required changes (provisional view of the Commission is that the time period in question should not run beyond 31 December 2019).

- 5 In addition, the DPC sought to require that in a shorter time period, of 21 days, DEASP should take steps to achieve the following ends (stated in general terms):

- Cease all processing of personal data in connection with the SAFE registration process and issuing of PSCs, where the PSC is being issued solely for the purpose of a transaction between the applicant and a specified body other than DEASP.

- Notify bodies that require production of a PSC as a pre-condition of entering into transactions with individuals, or the provision of any public service, to the effect that the Department will not conduct SAFE registrations or issue a PSC for persons wishing to transact with, or obtain a service from, any such specified body.

These measures appear to go further than is required by the Findings in the Commission's report. They require, for example, that the Department cease processing data in respect of PSCs for use in services with other bodies even in circumstances where these other specified bodies provide other options by which people may authenticate their identity.

DEASP Response to DPC Requests

- 6 DEASP acknowledges that the DPC has considered the detailed submissions that it made in support of its belief that the SAFE/PSC process is fully compliant with all data protection requirements. It also notes that the DPC has not altered its view on key matters and has concluded that the processing, in particular with regard to reliance on the PSC by specified bodies in certain circumstances, the retention of data and the transparency of information to data subjects is not in compliance with legal requirements. DEASP also notes that the DPC has expressed an opinion, in media interviews, that the issue of use of the PSC/SAFE process by specified bodies may not be resolvable through legislative means.
- 7 As there is a considerable volume of new/revised analysis in the DPC report and as the findings are based, in part, on some complex and technical legal analysis, DEASP took the time necessary to form a definitive view on whether the findings should be accepted, if so the measures that may be required to address the findings and, if not, the appropriate approach towards resolving the differences of opinion with the DPC.
- 8 DEASP responded within seven days to the DPC advising of its intention to publish the report at the same time as it published its own response to the report. It also sought a meeting to discuss the findings. The DPC declined to facilitate a meeting until after the detailed implementation plan was submitted on 1 October.
- 9 In the event, following consultation with DPER and the AGO, the Department remains strongly of the view that Section 263 of the SWCA does, in fact, confer a function on the Minister to issue PSCs to people subject to the proper authentication of their identity. Furthermore, this function is not dependent on

whether or not the person concerned is using the PSC for the purposes of accessing DEASP services or the services of another specified body.

10 DEASP, following this consultation and consideration, is also satisfied that the retention of data is legally valid and that the information provided to the public does meet the requirements of transparency.

11 Given:

- the convenience that use of the PSC offers both to members of the public and public service organisations;
- the strong public support for the PSC as evident from the Department's research, the strong take-up of the card and the very low level of complaints with regard to its use;
- the evidence that people are more than satisfied with the quality of information provided and are satisfied that data should be retained; and,
- the strong legal advice that data processing by the DEASP related to the PSC has a solid legal basis;

It was determined that;

- the Department will continue to operate the PSC/SAFE process as heretofore; **and**
- would, again, seek a meeting with the DPC to explore if there are measures that can be agreed, without prejudice to the respective positions of the two organisations, that would address the DPC's concerns.

12 In this context, DEASP notes that the report, findings and the letter from the DPC have no legal effect and, as a consequence, are not appealable by the Department. It was hoped that engagement with the DPC would facilitate a resolution of the issues in question without the need for the DPC to commence any type of further investigation leading to enforcement proceedings.

However, the DPC has declined to meet with the DEASP/DPER and has indicated its intention to commence enforcement proceedings. In the event that enforcement proceedings are initiated, the Department will consider the terms and scope of those proceedings and determine its response at that time.

5. Other Issues Arising

Arising from the announcement and publication of the report and its findings and given that the Minister for Employment Affairs & Social Protection did not wish to comment on the report or its findings until such time as the DEASP, DPER and the Attorney General's Office had given it careful consideration there has been a considerable amount of speculation and one sided comment – much of it inaccurate. A number of the incorrect claims which have been made are set out below – together with the Department's response.

(a) There has been considerable mission creep given the PSC was intended to just act as an identity card for access to DEASP services.

This is not the case. The PSC was provided for in legislation in 1998 when it was introduced alongside the PPS Number to replace the previous Revenue and Social Insurance Number (RSI) and the Social Service Card (SSC).

The clear and stated objective, as articulated in the Oireachtas at that time, was that the PSC was not to be confined to welfare services but to 'do what it said on the tin' - that is, to act as an identifier to access a broad range of public services.

Successive Governments have reaffirmed this policy both in Government decisions and through legislation. The AGO advises that the legislation is clear and provides a strong basis for the existing and continued use of the PSC across the public service.

(b) There is a great deal of very sensitive personal information shared via the PSC and the underlying computer database.

This is incorrect. The only data stored on the PSC and on the underlying database is basic identity data of the Public Service Identity (PSI) Set. Neither the PSC nor the underlying database contains any information relating to the holder's use of public services. In addition, neither the PSC nor the underlying PSI database contains any biometric data.

The PSC does not contain any information regarding a person's health, financial details, education, or their use of public services nor does it contain any biometric data. Neither does it contain any information on applications made by individuals to public bodies or organisations.

DEASP, separately and strictly for its own purposes, analyses the photographs collected during SAFE registration in order to assess if any person is seeking to register more than once under different identities. This 'biometric' analysis is not stored on the PSI data set, nor is it stored on the PSC. In addition, it is not shared with any other body.

(c) The PSC has been introduced and its use expanded without any debate in the Oireachtas.

This is not the case. The Social Welfare Act 1998 clearly provided for the public service wide use of the PSC and the PPSN. The then Minister (Dermot Ahern), and subsequent Ministers for Social Protection, were clear that the intention was, and that the legislation provided that, the PSC would act as an identifier - with the PPSN - for accessing public services.

Subsequent Ministers were equally clear in proposing legislation that gave effect to the identity authentication process underpinning the PSC in 2007, 2010 and 2012.

(d) The expenditure on the PSC project has not generated the anticipated savings in detecting and preventing social welfare fraud.

This claim indicates an incorrect understanding of the role and purpose of the PSC and also of the control of welfare fraud. Fraud detection is not equivalent to fraud prevention, and the value of the PSC lies more in prevention and deterrence (which of its nature is difficult to measure). Measuring the value of the PSC in terms of fraud detected/prosecuted is equivalent to measuring the value of the passport in terms of detentions at passport control.

It equally ignores the efficiency and service benefits achieved through reducing repeated provision of the same data and enabling online service provision. As an example, every week:

- Payments valued at approximately €150m are made via post offices to over 600,000 people whose identity is verified, on each occasion, by use of the PSC;
- Just under 600,000 free travel journeys are made using the PSC; and
- 1,500 (approximately) people over the age of 18 apply for a passport for the first using the PSC to avoid having to resubmit identity data.
- Approaching 400,000 PSC users (and growing) have registered their SAFE credentials to access online services from bodies such as DEASP, Revenue, SUSI, and the NDLS.

(e) DEASP/DPER had the DPC's draft report for over a year but ignored it.

This is not the case. DEASP received a draft report with preliminary findings at the mid-point of the DPC investigation in August 2018. This draft report was provided on a strictly confidential basis. The Department provided a detailed response in November 2018 to the draft report to help the DPC to complete its investigation. DEASP also offered to elaborate on this response, including in meetings with the DPC.

Positing a potential set of findings based on an initial review of evidence and asking interested parties to comment on those findings is a relatively standard investigative process. Furthermore, it is not uncommon for the final findings to differ considerably from those initially presented.

Having taken the advice of the AGO, both DEASP and DPER were of the view that the processing of personal data for PSC purposes is conducted in accordance with all legal requirements, and set out for the benefit of the DPC, their rationale for this being so.

In this context, it was entirely appropriate that the process of SAFE registration and PSC issuance would continue unchanged pending the receipt of a final report. In any event, it is to be noted that the final report is different to the draft report, with for example, some of the original findings being dropped.

(f) The PSC is a mechanism through which a national identity card will be introduced.

The use of the PSC is circumscribed by legislation and is limited to use in transactions with designated public bodies (civil authorities such as An Garda Síochána are specifically excluded from this list of bodies). Neither does it contain the key features of a national identity card - that it must be carried at all time and be produced to civil authorities on request.

This is set out in primary legislation debated in and passed by the Oireachtas. Any change to the functionality or use of the PSC would need to be introduced by legislative amendment and would be subject to the full rigours of Oireachtas scrutiny.

(g) The Government has made use of the PSC mandatory across a large range of public services.

This is not the case. Other than DEASP services, there are just two services - applications for passports in certain circumstances (e.g. first time applications by people aged over 18 years) and the Irish Naturalisation and Immigration Services (INIS) - that require production of a PSC, as of the date of the DPC report.

(h) DEASP does not have the legal basis to require people to verify their identity via the SAFE/PSC process in order to access welfare services and benefits such as pensions.

This is not the case. Notwithstanding the difference in opinion with regard to the processing of data with respect to the use of the PSC by other bodies, both DEASP and the DPC agree that the Department does have the power to require its clients to verify their identity for the purposes of accessing its benefits and services.

(i) The PSC was meant to be a chip and pin card for use across the public service but nobody uses it as such.

The PSC was developed as an identity token that could be used by a person to show that they had authenticated their identity and that, therefore, they did not need to resubmit identity papers multiple times to multiple different public bodies.

A chip was one form of electronic aid embedded on the card at a marginal cost as a means of future proofing the card for use in the event that any public body decided to develop a chip and pin based service. The fact that no public body has yet developed such an application does not detract from the fact that anticipation of, and provision for, potential future uses was a prudent and correct course of action.

It is also to be noted that the Department, and local post offices acting as its agents, make considerable use of a second form of electronic aid – a magnetic strip - to quickly process payments and appointments (over 600,000 per week). Similarly, public transport service providers rely on a chip embedded in the card for the purposes of ‘tagging’ people, who qualify for free transport, on and off public transport – with nearly 600,000 journeys per week.

With regard to use by other public bodies, the Passport Office, Revenue, SUSI, the NDLS, the Irish Naturalisation and Immigration Service among others all now accept the PSC as proof of identity authentication.

The PSC is also the basis on which many people (approaching 400,000) use the MyGovID platform to access online services from these bodies.

ENDS



6. Appendices





6.1 DEASP and DPER Joint Press Release on the Report of the DPC on the Public Services Card (3 September 2019)

Ministers Doherty and Donohoe brief Cabinet on Report of the Data Protection Commissioner on the Public Services Card and

Reaffirm their Commitment to Continued use of the Card

Tuesday, 3 September, 2019:

During this afternoon's Cabinet meeting, Minister for Employment Affairs and Social Protection, Regina Doherty, T.D. and Minister for Public Expenditure and Reform, Paschal Donohoe, T.D., briefed Government on the recent report of the Data Protection Commission (DPC) on the Public Services Card (PSC).

The Ministers acknowledged the finding of the DPC that the PSC is validly required for the purposes of transactions with the Department of Employment Affairs and Social Protection. About 2.5m of the over 3m active users of the PSC are beneficiaries of Department of Employment Affairs and Social Protection (DEASP) services, such as free transport and pension payments; the DPC report confirms that both DEASP and its clients can continue to rely on the convenience of the PSC for these purposes. The Ministers also welcome the DPC's clarification that nothing in the report or findings undermines or invalidates the use of any PSCs already in issue. This is particularly welcome given the very high level of citizen satisfaction with, and support for, the PSC.

The Ministers also updated the Government on their consideration of the DPC's other findings relating to the legal basis for the issue of the PSC for transactions with bodies other than DEASP and the transparency of information provided to people related to the PSC.

Following very careful consideration of the report and having taken the advice of the Attorney General's Office the Ministers informed Government that they are satisfied that the processing of personal data related to the PSC does in fact have a strong legal basis, the retention of data is lawful and that the information provided to users does satisfy the requirements of transparency.

On this basis the Ministers believe that it would be inappropriate, and potentially unlawful, to withdraw or modify the use of the PSC or the data processes that underpin it as has been requested by the DPC.

Accordingly it is intended, in line with decisions of successive Governments dating back to 1998, to continue to operate the PSC and the SAFE identity authentication process on which it is based.

The Ministers acknowledge that the DPC has reached a different conclusion but are satisfied based on their Departments' consideration of the issue and the advice received from the Attorney General's Office that the correct, and lawful, approach to

take is to continue to provide, and support the use of, the PSC not just by DEASP but by the other public bodies that rely on it.

The Department of Employment Affairs and Social Protection has written to the DPC this evening advising it of this decision. In doing this, and although it is not the Government's preferred outcome, it is acknowledged that it may be necessary and appropriate for the matter to be referred to the Courts for a definitive decision.

The Department is offering, together with the Department of Public Expenditure and Reform, to meet with the DPC to clarify a number of matters and to identify if, without prejudice to their position that the SAFE/PSC process is compliant with legal requirements, there are steps that can be agreed that could address the DPC's concerns.

Minister Doherty commented:

“My Department together with the Department of Public Expenditure and Reform and the Attorney General’s Office have given very careful consideration to the DPC’s findings, and while we respect the office and the good work it does, in this instance based on strong legal advice, we cannot agree with the findings.

Contrary to some reporting on this subject the PSC has not seen any mission creep. When it was first provided for by Minister Ahern in 1998 it was clear then, as it is now, that it was to become and be used as a key identifier for use across a wide range of public services.

It is our sincere and genuinely held belief that social welfare legislation provides a strong legal basis for the Department to issue PSCs for use by a number of bodies across the public sector. Without the PSC process people would not be able to use a single identity verification process but instead would be required to verify their identity on multiple occasions with multiple agencies – a situation which would make access to services more cumbersome for members of the public.”

Minister Donohoe commented;

“The PSC was always intended not just, or even mainly, to reduce identity and welfare fraud but to facilitate people in accessing public services in a streamlined manner without the need to submit the same documentation and information over and over again. The Attorney General’s Office advises that there is a clear legal basis for the continued use of the PSC”.

With regard to publication of the report, the Department of Employment Affairs and Social Protection intends to publish the report immediately following further engagement with the Data Protection Commission. A request for this further engagement was made in correspondence with the Commission this evening.

Further information

Over 3.9 million PSCs have issued to date. This includes replacement cards, renewals e.g. lost, stolen or expired cards. There are approx. 3.2 million people (c 89% of the estimated adult population of the State) using the PSC, of which 2.5m are beneficiaries of DEASP benefits and services.

Approximately 400,000 PSC holders use the PSC to verify their identity on MyGovID.ie to access online services from the DEASP, Revenue, SUSI and shortly the Department of Children and Youth Affairs.

Each week:

- Payments valued at approximately €150m are made via post offices to over 600,000 people whose identity is verified, on each occasion, by use of the PSC.
- Just under 600,000 free travel journeys are made using the PSC.
- 1,500 (approximately) people over the age of 18 apply for a passport for the first time using the PSC to avoid having to resubmit identity data.

Earlier this year, a Customer Survey on the PSC was published. The survey, which looked at customer satisfaction around the processes and procedures involved in applying for a PSC, was undertaken independently on behalf of the Department by specialists in customer experience consultancy. A representative sample of 1,001 PSC holders, in terms of age and gender, were interviewed in December 2018.

The results showed that:

- 96 % of PSC holders surveyed were either very satisfied or fairly satisfied with the process;
- Almost 9 out of 10 (87%) agree that it is very useful that other Government service providers may be able to use the identity information already provided in obtaining the PSC so as to avoid the need to provide the same information again;
- Almost 9 out of 10 (88%) of those surveyed felt that they either had access to the right level of information in respect of the SAFE/PSC process or had access to more than they needed;
- Nearly 8 out of 10 people (77%) understand the requirement to retain personal information and do not mind that their documents are retained

Details are available here: <http://www.welfare.ie/en/pressoffice/pdf/pr010319a.pdf>

Since the DPC announced its findings, there have been no reports of people returning their PSCs nor has there been any reduction in the demand for PSC appointments.

ENDS

Press Office Contact Details

E: press.office@welfare.ie

T: 01 704 3082

Twitter: @welfare_ie



6.2 The PSC: A Timeline of Key Developments



The PSC: A Timeline of Key Developments

Feb 1998 – Minister Dermot Ahern	2 nd Stage SW Bill – ref to PSC to be used as a key identifier by certain specified agencies. Not an ID card
June 1998 – Minister Dermot Ahern	Government Decision – noting the implementation of the PPSN and the introduction of the PSC
June 1998 – Minister Dermot Ahern	PQ – Undertaking a consultation process with other public service bodies re PSC
Oct 2003 – Minister Mary Coughlan	Launch of Major eGovt Initiative “e-Enabling Life Event Data”
Mar 2004 – Minister Mary Coughlan	Dail Debate - consultations underway with other Depts to explore possible uses of a PSC in line with wider Govt strategy
June 2004 – Minister Charlie McCreevy and Minister Mary Coughlan	Government Decision approved the development of a standards-based framework for the PSC
June 2004 – Minister Mary Coughlan	Press Release – Simple Access to Public Services from the State on the Cards
Nov 2004 – Minister Séamus Brennan	Press Release – ref to Information Society – REACH. Single point of access to a full range of services
July 2005 – Minister Séamus Brennan	Government Decision – noted development of the PSC, based on the SAFE standard
Nov 2005 – Minister Séamus Brennan	Press Release – ref to eGovt related projects and new subhead for 3 projects inc SAFE

Nov 2006 – Minister Séamus Brennan	Press Release – ref to eGovt projects inc SAFE moving to design/build
Dec 2009 – Minister Mary Hanafin	Press Release – ref to fraud measures and new PSC with photo ID
Nov 2010 – Minister Éamon Ó Cuív	Press Release – ref to PSC replacing Social Services Card and Free Travel Card and future use by other Depts. and Agencies and also security features
Feb 2011 – Minister Éamon Ó Cuív	Press Release – distribution of 3m cards to begin in coming months
April 2012 – Minister Joan Burton	Press Release – new powers to crack down on SW fraud (phased intro of PSC)
Sept 2013 – Minister for Public Expenditure and Reform, Brendan Howlin	Government Decision – improving data sharing, linking and governance in the public service
April 2014 – Minister Joan Burton	<p>Press Release - €669m control savings (extra identity and authentication measures and capture of e-signature)</p> <p>Compliance/Anti-Fraud Strategy 2014-2018</p> <p>Ref to rollout and further development of PSC</p>
May 2015 – Minister Joan Burton	Annual Report published – ref to 700k PSCs issued bringing total to 1.12m issued in total
Sept 2015 – Minister Joan Burton	Opening Statement at JOC – ref to PSC rollout at 1.6m cards
July 2017 – Minister for Public Expenditure and Reform,	Government Decision – Approval of eGovernment Strategy

Pascal Donohue	2017-2020
Aug 2016 – Minister Leo Varadkar	National awareness campaign for Paternity Benefit. Parents urged to apply for PSC as part of applications process.
Mar 2017 – Ministers Pascal Donohue and Leo Varadkar	Launch of MyGovID
May 2017 – Minister Leo Varadkar	2017 SW Bill published – ref to use of PSC for information purposes and also capacity to include date of birth, if appropriate
Aug 2017– Minister Regina Doherty	<p>25th Aug: Statement on PSC – public service access card not identity card. Also ref to DPC 2010 Annual Report, which acknowledges DPC issues at that time were addressed.</p> <p>29th Aug: Statement on PSC – reassurance that no facial imaging cameras in Local Offices and no fingerprinting process in place.</p>
Feb 2019 – Minister Regina Doherty	Press Release – Launch of new campaign to promote MyWelfare.ie
June 2019 – Minister Regina Doherty	Press Release – Launch of Back to School Clothing and Footwear Allowance and ref to on-line application process using PSC.
July 2019 – Minister Regina Doherty	Press Release – Launch of campaign to promote on-line application process using PSC for Maternity and Paternity schemes as well as Back to School Clothing and Footwear Allowance



6.3 Correspondence between DEASP and DPC relating to SAFE/PSC investigation





6.3.1 Letter from DPC to DEASP notifying the intention to undertake an investigation (27 October 2017)



BY REGISTERED POST

BY EMAIL: john.mckeon@welfare.ie

The Data Controller
Mr. John McKeon
Secretary General
Department of Employment Affairs and Social Protection
Áras Mhic Dhiarmada
Store Street
Dublin 1

Copy by email to Mr Tim Duggan: tim.duggan@welfare.ie

27 October 2017

NOTICE OF THE COMMENCEMENT OF AN INVESTIGATION

Dear Mr McKeon,

I refer to recent correspondence between this Office and the Department of Employment Affairs and Social Protection (the “**Department**”), concerning data protection issues in relation to the Public Services Card (“**PSC**”), to include the Department’s letter of 29 September 2017 responding to certain queries from this Office, the email from Mr Dale Sunderland (Deputy Data Protection Commissioner) to Mr Tim Duggan, sent on 11 October 2017, resting with your email dated 20 October 2017 which attached the Department’s “Comprehensive Guide to Safe Registration and the Public Services Card.”

Having considered the information provided to this Office by the Department, in particular the information provided under cover of the letter of 29 September 2017 and your email of 20 October 2017, the Data Protection Commissioner (the “**Commissioner**”) is of the view that further examination of these matters is required by this Office in order to validate the information which has been received to date from the Department and to assess whether you, as data controller for the Department, are in compliance with your obligations pursuant to the Data Protection Acts, 1988 and 2003 (the “**Acts**”). Accordingly, the Commissioner has decided to conduct an audit of the Department using the powers conferred on her pursuant to Section 10(1A) of the Acts, which provides as follows:

“The Commissioner may carry out or cause to be carried out such investigations as he or she considers appropriate in order to ensure compliance with the provisions of this Act and to identify any contravention thereof.”

Cuirfear fáilte roimh chomhfhreagras i nGaeilge

Teach na Canálach, Bóthar an Stáisiúin, Cúil an tSúdaire, Co. Laoise
Canal House, Station Road, Portarlington, Co.Laois

www.cosantasonraí.ie | www.dataprotection.ie
eolas@cosantasonraí.ie | info@dataprotection.ie

LoCall 1890 252 231 | +353 57 868 4800 | +353 57 868 4757

The purpose of this letter (the "Notice") is to notify you, as the data controller for all personal data held by or on behalf of the Department, that the Commissioner is hereby commencing an investigation pursuant to Section 10(1A) of the Acts (the "Investigation").

Scope of Investigation.

The Investigation commenced by this Notice will examine the extent to which you, as data controller in respect of all personal data held by and on behalf of the Department, have complied, and are complying, with your responsibilities as a data controller for the purposes of the Acts in connection with the processing of such personal data in respect of the following datasets/ databases/ mechanisms/ facilities (collectively referred to as the "Systems", and which shall include any other relevant or related systems or sub-systems):

- a) the Standard Authentication Framework Environment ("SAFE") registration process;
- b) the Public Services Identity ("PSI") dataset;
- c) the Public Services Card ("PSC");
- d) the Single Customer View ("SCV") database; and
- e) the MyGovID account facility.

The scope of the Investigation will comprise of the following matters set out below at (1) to (5). However, should further ancillary or related matters arise during the course of the Investigation in connection with any of the matters set out below, the Investigation shall also extend to cover such additional matters:

1. In respect of the personal data processed for the purposes of each of the Systems referenced above, the Investigation will seek to establish the parameters and the extent of the collection of/ sharing of/ transfer of/ disclosure of/ access to personal data (to include sensitive personal data and biometric data) within and across the Systems, in particular between different Government agencies/ bodies;
2. In respect of the personal data processed for the purposes of each of the Systems referenced above, the Investigation will seek to establish the security measures in place in respect of the processing and the extent to which such measures have been/ are in compliance with the obligations on you as a data controller under the Acts with regard to organisational and technical security;
3. In respect of the personal data processed for the purposes of each of the Systems referenced above, the Investigation will seek to establish the control, oversight and governance measures (including in relation to the use by you of data processors) in place in respect of the processing of personal data and the extent to which such measures have been/ are in compliance with the obligations on you as a data controller under the Acts with regard to the processing of personal data;

4. In respect of the personal data processed for the purposes of each of the Systems referenced above, the Investigation will seek to establish the measures in place to facilitate the exercise of data subject rights and the extent to which such measures have been/ are in compliance with the obligations on you as a data controller with regard to the exercise of data subject rights under the Acts; and
5. In respect of the personal data processed for the purposes of each of the Systems referenced above, the Investigation will seek to establish (i) whether the respective legal bases previously identified by the Department constitute a sufficient legal basis in relation to the respective aspects of the processing of personal data concerned, and (ii) whether the processing complies with relevant EU law principles relating to the processing of personal data by public bodies, to include: respect for the essence of the right to protection of one's personal data, necessity, proportionality and the right to be informed, amongst others.

Investigation Process

In the first instance, the Investigation will seek to establish the relevant facts as they relate to the particular matters for investigation, as set out above. To that end, the Commissioner now requires you to respond in a comprehensive manner to each of the queries set out in the request for information at Appendix A (the "Queries") and to provide all relevant documentation informing/underpinning those responses, including any relevant information and/or documentation which may be required to be procured by you from third parties, to include your data processors. You may also provide us with any other additional information which you consider to be relevant to the Queries and/or the matters under investigation, as set out in this Notice. The Commissioner requires that responses be provided by close of business on **1 December, 2017**.

The Commissioner will assess all information provided by you in response to the Queries, together with all relevant information previously received by this Office from/ on behalf of you, including the information contained in the Department's "*Comprehensive Guide to Safe Registration and the Public Services Card*" which was published by the Department on its website on 20 October, 2017. Having considered all such information, the Commissioner may request responses from you to follow-up queries/ requests for information. Please note that the Commissioner may also, or alternatively, take any further/ other steps which she may deem appropriate in order to progress the Investigation and, in that regard, she may authorise the carrying out of an inspection or series of inspections of any or all of the Systems by her Authorised Officers using their statutory powers under Section 24 of the Acts.

Outcomes of the Investigation

In the event that the Commissioner determines at the conclusion of the Investigation that there have been, are being or are likely to be contraventions of the Acts, she may exercise any of her powers as provided for under the Acts. These powers include the serving of an Enforcement Notice under Section 10 of the Acts, pursuant to which the

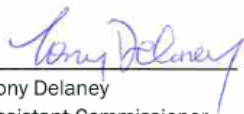
Commissioner may require you to take such steps as she considers necessary to ensure compliance by you with your obligations as a data controller under the Acts in relation to the processing of personal data held by the Department.

Contact Point

We would be obliged if you would nominate a contact point within the Department with whom this Office may directly liaise for the purposes of this Investigation.

We look forward to your full cooperation, and that of the Department, with this statutory investigation.

Yours sincerely



Tony Delaney
Assistant Commissioner
Special Investigations Unit

Email: tdelaney@dataprotection.ie



6.3.2 Letter from DPC to DEASP accompanying draft report (28 August 2018)





Strictly Confidential

Mr. Sean Treanor
Assistant Principal Officer
Department of Employment Affairs and Social Protection
Goldsmith House
Pearse Street
Dublin 2

28 August 2018

Re: Investigation commenced by the Data Protection Commission (formerly the Data Protection Commissioner) (the "DPC") by notice of 27 October 2017 concerning the processing of personal data (and sensitive personal data) by the Department of Employment Affairs and Social Protection ("DEASP") in connection with the Public Services Card ("PSC")

Dear Sean,

I refer to previous correspondence in this matter.

Draft Report

As you are aware, subsequent to the commencement of this investigation by the DPC, we wrote to DEASP on 30 January 2018 informing you of the DPC's intention to proceed with this investigation by way of two separate modules. Module 1 was to cover the following:

- (a) the legal basis for processing data in connection with the PSC;
- (b) the appropriateness of the technology and organisational measures employed in relation to security and other personal data processing operations carried out in connection with the PSC; and
- (c) the transparency of information provided to data subjects in relation to the processing of personal data in connection with the PSC.

Please now find attached the DPC's **draft** investigation report in respect of these matters. Please note that this is a strictly confidential document and is not to be shared with any third parties without the prior agreement in writing of the DPC.

As appears from the draft report, the DPC has made a number of "**Provisional Findings**" in relation to each of the matters set out at (a) to (c) above. The attached report is being provided to DEASP in draft form so as to allow it an opportunity to make submissions to the DPC in relation to any of the matters set out in the report, including the Provisional Findings. We request that any such submissions be provided to us within one month of today's date.

As will also be evident from this draft report, further information is required from DEASP on particular matters in order to enable the DPC to form final views on a number of issues. These matters are highlighted throughout as "**Requests for Further Information**" and are summarised (together with the Provisional Findings) in the table in Part 6. We request that DEASP also revert to us within one month of today's date with its responses to those Requests for Further Information.

On receipt of any submissions from DEASP in relation to this report and any responses to the Requests for Further Information, the DPC will proceed to make such revisions, amendments and additions to this draft report as are appropriate, and to issue a finalised report with conclusive findings. However, in the event that such submissions or responses from DEASP result in *additional findings* being made by the DPC or *substantial changes* being made by the DPC to the Provisional Findings in the attached draft report, DEASP will be given an opportunity to make submissions on the revised form of the report, prior to the DPC proceeding to issue the finalised report with conclusive findings.

Matters originally intended to be covered in Module 2

When this investigation was commenced on 27 October 2017 it was anticipated that the investigation of all of the issues within its scope would be completed prior to 25 May 2018, being the date on which the GDPR was due to come into force as the relevant data protection law in the State. That remained the position as at 30 January 2018, the date on which we notified you of our intention to split our investigation into two modules.

In the event, due to the complexities of the investigation and ongoing developments in relation to the PSC, it was not possible to complete Module 1 (as defined in our letter of 30 January 2018)

prior to the coming into force of the GDPR and the adoption of the Data Protection Act 2018 (the “2018 Act”). As indicated in our letter of 30 January 2018, while at that point we had received information provided to us by DEASP on foot of a series of questions posed, and had carried out a preliminary review of that information, the investigative work into the matters comprising Module 2 (as defined in the letter)¹ had not commenced. That letter indicated that investigative work in relation to Module 2 would take place during February and March 2018. However, due to the ongoing work up to this point in relation to the Module 1 matters, the DPC has not yet commenced the investigative work in relation to Module 2.

We wish to draw your attention to the fact that, in light of the timing issues referred to in the preceding paragraph, Module 1 has been completed in accordance with the Data Protection Acts 1988 and 2003 (the “Acts”) rather than the GDPR, albeit that observations and comments are included in this report for the purpose of assisting DEASP towards achieving compliance with data protection law under the GDPR and the 2018 Act. (As set out in the draft report itself, these observations and comments are not binding in circumstances where the investigation was carried out under, and by reference to, the Acts rather than the GDPR and the 2018 Act).

We also wish to draw your attention to the fact that, while the investigation and underlying analysis set out in the draft report has been conducted by reference to the legislation in force as at 24 May 2018 (i.e. the Acts rather than the GDPR and the 2018 Act), the factual position as regards the processing of personal data by DEASP in connection with the PSC has been analysed up to **20 August 2018**. The reason for this approach is that Section 8(3)² of the 2018 Act specifically contemplates (and authorises) the application of the Acts (rather than the GDPR and/or the 2018 Act) to the facts as they are found to be, in the context of an investigation commenced prior to 25 May 2018 but which is not completed until after that date.

As noted above, the DPC has not yet commenced its examination of the issues to be investigated under Module 2 (the “**Module 2 Matters**”). In light of its tasks and functions as a supervisory

¹ Module 2 was to focus on the Single Customer View (SCV), MyGovID and PSI dataset and was to cover the following three central issues: (a) the legal basis for processing data in connection with the SCV, MyGovID and PSI dataset; (b) the appropriateness of the technology and organisational measures in relation to security and other personal data processing operations carried out in connection with SCV, MyGovID and the PSI dataset; and (c) the transparency of information provided to data subjects in relation to the processing of personal data in connection with the SCV, MyGovID and PSI dataset.

² Section 8(3), 2018 Act – ‘(3) An investigation under section 10 of the Act of 1988 that was begun but not completed before the commencement of this section shall be completed in accordance with that Act and that Act shall apply to such an investigation.’

authority under the GDPR and the 2018 Act, the DPC considers that, as a matter of principle, it would not be in the public interest, nor in the interests of data subjects in the State generally, for the DPC to conduct its investigation of the Module 2 Matters by reference to legislation that (with certain limited exceptions) no longer applies in the State. Instead, it proposes to investigate the Module 2 Matters under and by reference to the GDPR and the 2018 Act. Such an inquiry would allow for the DPC to examine those matters by reference to the law currently applicable in the State rather than by reference to legacy legislation which no longer applies to the data processing operations of DEASP. The DPC therefore proposes that, once Module 1 has concluded with the delivery of our finalised report, the investigation commenced by notice of 27 October 2017 will be deemed to have been completed. In the meantime, and prior to the finalisation of that report, the DPC proposes to commence an 'own volition' inquiry under section 110 of the 2018 Act into the Module 2 Matters.

Should DEASP wish to make submissions to us on the intended approach in relation to the Module 2 Matters as outlined above, we would request that you revert to us within one month of today's date. If we do not hear from you in relation to the DPC's intended approach in this regard, we will take it that DEASP is satisfied for the DPC to treat its current investigation under the Acts as being complete following the delivery of the *finalised form* of the attached draft report, and for the DPC to commence a new inquiry under section 110 of the 2018 Act in respect of the Module 2 Matters.

We look forward to hearing from you within one month of today's date; (i) in response to our Requests for Further Information (ii) with any submissions you may have on the attached draft report and (iii) any submissions you may wish to make on the DPC's proposed approach to the Module 2 Matters.

Yours sincerely,



Tony Delaney
Assistant Commissioner



6.3.3 Letter from DEASP to DPC (3 September 2018)



**An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí**
Department of Employment Affairs
and Social Protection



Mr Tony Delaney
Assistant Commissioner
Data Protection Commission

Issued by email

Strictly Confidential

Re: Investigation commenced by the Data Protection Commission by notice of the 27th October 2017 concerning the processing of personal data (and sensitive personal data) by the Department of Employment Affairs and Social Protection in connection with the Public Services Card.

Dear Tony,

I refer to your letter dated 28th August 2018. Your office has requested that the Department make its submissions on the draft report, provide additional information and respond to the preliminary findings arising from this Investigation within a one month timeframe.

While the Department wishes to respond as expeditiously as possible, the timeframe provided to deal with the range and complexity of all elements contained within such a comprehensive draft report is extremely tight. In particular, as you are aware, the draft report details a number of issues related to the legislative basis underpinning the SAFE registration and the Public Services Card which will require very detailed consideration by this Department with the assistance of the Office of the Attorney General and other Departments.

We would therefore ask that the timeframe for a response be extended to three months. If this is agreed, I can confirm that the Department will use its best endeavours to provide a detailed response to the draft report on or before 28th November 2018, i.e. within three months of the date received.

We also wish your office to note that in order for the Department to comprehensively respond to the issues raised in the draft report, it is necessary to share it with the Department of Public Expenditure & Reform. I would ask you to confirm your agreement to this.

The Department has no objection to your Office's investigation of Module 2 being conducted with reference to the GDPR.

Yours sincerely,

Joan McMahon
Principal
Business Information Security Unit
03 September 2018

An Roinn Gnóthaí Fostaíochta agus Coimirce Sóisialaí
Department of Employment Affairs and Social Protection
Grianán na Stionna, Cara Droma Rúisc, Co. Liatroma, N41KD81
Shannon Lodge, Carrick on Shannon, Co Leitrim, N41KD81

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6.3.4 Letter from DEASP to DPC accompanying response to the draft report (30 November 2018)



Mr Tony Delaney
Assistant Commissioner
Data Protection Commission

Issued by email

Strictly Confidential

Re: Investigation commenced by the Data Protection Commission by notice of the 27th October 2017 concerning the processing of personal data (and sensitive personal data) by the Department of Employment Affairs and Social Protection in connection with the Public Services Card.

Dear Tony,

I refer to previous correspondence regarding the above matter.

The Department's response to the DPC's draft report has just issued to the DPC's electronic file share facility which was arranged yesterday. The response comprises submissions on the draft report, responses to the 13 Provisional Findings and responses to the 17 Requests for Further Information.

The format of the Department's response is as follows:

- Part One:
 - I. Preliminary: DEASP's Engagement with the DPC
 - II. Background to the PSC – Response to Part One of the Draft Report
 - III. Summary of Responses to the Provisional Findings
 - IV. Requests for Further Information
- Part Two: Responses to 13 Provisional Findings
- Part Three: Responses to 17 Requests for Further Information

The Department's response, including 27 appendices, runs to 470 approx. pages. In an effort to make the response as accessible as possible, it was thought best to associate relevant appendices to each Provisional Finding/ Request for Further Information, rather than inserting the appendices at the end of a full document. This, however, made pagination impossible as appendices include corporate documents which are themselves paginated.

In your letter dated 28 August last you advised that, in the event that submissions or responses from DEASP result in additional findings being made by the DPC or substantial changes being made by the DPC to the Provisional Findings, the Department would be given an opportunity to make submissions on the revised form of the report, prior to the DPC proceeding to issue the finalised report with conclusive findings. Given the substantial



clarification and information provided, the Department requests that it is provided with this opportunity.

The Department has made every effort to provide the DPC with as comprehensive a response as possible in order for your office to fully consider the important and complex matters set out in the draft report. If, however, the DPC considers that further information or clarification is needed, please contact me and requests/ queries will be dealt with fully and expeditiously. Alternatively, or in addition, Department officials would be very willing to meet with DPC representatives if you think that would, in any way, be of assistance.

I look forward to hearing from you

Yours sincerely,

A handwritten signature in blue ink that reads "Joan McMahon".

Joan McMahon
Principal
Business Information Security Unit
30 November 2018



6.3.5 Letter from DPC to DEASP (9 August 2019)



Ms. Joan McMahon,
Data Protection Officer,
Department of Employment Affairs & Social Protection,
Shannon Lodge,
Carrick on Shannon,
County Leitrim
N41KD81

By email only to: joanm.mcmahon@welfare.ie; deirdre.shanlev@welfare.ie;
edel.mcglain@welfare.ie

9 August 2019

RE: Public Services Card Investigation

Dear Ms McMahon,

I acknowledge receipt of your letter of yesterday's date, from which it appears that three issues arise.

1. Letters exchanged between us dated 15 July 2019 and 2 August 2019, respectively.

I note that the Department is said to remain concerned about the matters canvassed in the letters exchanged between us dated 15 July 2019 and 2 August 2019. The Commission does not propose to enter into further correspondence in relation to those matters at this point, having set out its position in very clear terms in my letter to you of 2 August.

2. Subject matter of the report to be delivered shortly

As noted in your letter, Module 1 of the Commission's investigation comprises three discrete elements, as follows:

- (a) An examination of the **legal basis** for the processing of personal data undertaken in connection with the PSC;
- (b) **Security** issues, i.e. an assessment of the technology and organisational measures employed in relation to security and other personal data processing operations carried out in connection with the PSC;

- (c) **Transparency** issues, i.e. an assessment of the information provided to data subjects in relation to the processing of their personal data in connection with the PSC.

The report to be delivered shortly will contain the Commission's final assessment (and findings) in relation to the matters identified at items (a) and (c) only.

A separate (draft) report will follow in early course in relation to item (b). That (draft) report will contain a number of provisional findings addressing issues relating to security, biometric data and related matters. The Department will be invited to make further submissions in relation to those provisional findings.

It follows from the above that, whilst Module 1 has been further split into two parts (for the reasons identified below), there has been no change to the module's overall scope.

3. The Department's request for sight of a further draft of the investigation report

The Department was given a copy of our draft report under cover of letter dated 28 August 2018. As you know, the draft report contained a number of provisional findings relating to all three elements of Module 1 as identified above; it also contained a number of requests for further information.

Amongst other things, our letter of 28 August 2018 invited the Department to make submissions to the Commission in relation to its provisional findings and to revert with its response to the Commission's requests for further information.

Reflecting the possibility that any further information received from the Department might give rise to the making of additional findings, our letter acknowledged that the Department would need to be given sight of any such additional findings in draft format so that it could make submissions in relation to them before they were finalised. That is to say, the Commission acknowledged that, in the same way as it had invited submissions in relation to the provisional findings contained in the draft report circulated on 28 August 2018, it would also need to invite submissions in relation to any additional findings formulated following receipt and consideration of the Department's replies to our requests for further information.

Our letter also acknowledged the possibility that the Department's replies to our requests for further information could conceivably impact materially on the provisional findings contained in the draft report of 28 August 2018. With that possibility in mind, our letter acknowledged that, if such an eventuality came to pass, the Department would be invited to make submissions on any substantial changes to the provisional findings contained in the draft report prior to those findings being finalised.

Our letter of 28 August 2018 dealt with these matters in the following terms:

"On receipt of any submissions from DEASP in relation to this report and any responses to the Requests for Further Information, the DPC will proceed to make such revisions, amendments and additions to this draft report as are

appropriate, and to issue a finalised report with conclusive findings. However, in the event that such submissions or responses from DEASP result in additional findings being made by the DPC or substantial changes being made by the DPC to the Provisional Findings in the attached draft report, DEASP will be given an opportunity to make submissions on the revised form of the report, prior to the DPC proceeding to issue the finalised report with conclusive findings.”

The Department duly made submissions to the Commission in relation to its provisional findings under cover of letter dated 30 November 2018. The same letter also enclosed replies to the Commission’s requests for further information. Referencing the Commission’s letter of 28 August 2018, the Department asked that it be afforded an opportunity to make further submissions if any additional findings were made by the Commission in due course and/or if the provisional findings contained in the draft report were the subject of substantial changes.

It is important to note that at no time did the Department call for the tabling of a further draft report covering all elements of Module 1, in respect of which the Department would then have a right to make further submissions. It is also important to say that, if such a request had been made, it could not have been acceded to. While it is both necessary and appropriate that the Department would be afforded an opportunity to make submissions in relating to the Commission’s provisional findings, it does not follow, either as a matter of law, or otherwise, that the Commission is required to facilitate a series of successive submissions, all targeting the same basic subject matter. It follows that I respectfully disagree with the suggestion in your letter of yesterday’s date that the Commission could and/or should present a further draft on all of the Module 1 issues at this point and afford the Department an opportunity to table further submissions in relation to that draft.

The Commission has carefully considered the submissions and further information received from the Department on 30 November 2018. As indicated, it intends to deliver its final report very shortly in relation to two of the three elements of Module 1, i.e. items (a) and (c) as identified above. I can confirm that no findings will be made in relation to those matters that could be considered “additional” to the provisional findings contained in the draft report of 28 August 2018.

The Commission is also satisfied that the additional information submitted by the Department on 30 November 2018 does not give rise to substantial changes to any of the (provisional) findings made in relation to items (a) and (c).

It follows from the above that the Commission does not consider it necessary or appropriate to call for any further or other submissions in relation to its findings concerning items (a) and (c) prior to the delivery of its final report (and findings) in relation to those particular matters.

The position in relation to item (b) is different.

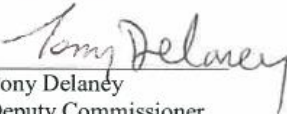
As flagged above, the Commission is satisfied that, in light of the contents of the submissions and further information received from the Department on 30 November 2018, it is appropriate that it would proceed in the following way:

- After it has delivered its final report in relation to items (a) and (c) of Module 1, the Commission will issue a further draft report containing a series of provisional findings, limited to the security and related issues described at item (b) above. Some of those provisional findings may be identical to those contained in the draft report of 28 August 2018; others may have been substantially changed on the basis of the Commission's consideration of the additional materials received from the Department on 30 November 2018; a number of new or additional provisional findings may also be contained within the draft report.
- The Commission will invite the Department to make further submissions in relation to its provisional findings concerning item (b), as contained within its further draft report.
- The Commission will then consider those submissions and deliver its final report (and findings) in due course.

Conclusion

The Commission is satisfied that adoption of the course of action described above is fully consistent with the terms of our letter of 28 August 2018. It follows that it will now proceed to deliver its final report (and findings) on items (a) and (c) of Module 1 within the time period noted in our letter to you of 2 August last.

Yours sincerely,


Tony Delaney
Deputy Commissioner



6.3.6 Email from DEASP to DPC (12 August 2019)

From: Deirdre Shanley
Sent: 12 August 2019 15:51
To: 'Tony T. Delaney' <TTDelaney@dataprotection.ie>
Cc: Edel McGloin <edel.mcglain@welfare.ie>; Joan McMahon - Carrick-on-Shannon <joanm.mcmahon@welfare.ie>
Subject: RE: Public Services Card Investigation

Re: Public Services Card Investigation

Dear Tony,

The Department refers to your letter dated 9th August 2019 addressed to Joan McMahon, Data Protection Officer in the Department.

It is noted that it is the intention of the DPC to issue the final report in respect of two discrete elements of Module 1 of the investigation, namely the issues of legal basis and transparency within the time-frame indicated in your letter of 2 August 2019.

The Department recognises and respects the independence of the DPC. However it would be appreciated if you would provide the Department with a reasonable period of time within which to consider the final report in advance of public comment on the details of the findings. In that context it would be considered very helpful if the DPC would advise the Department of its plans in respect of public comment about the specific findings contained in the final report. -

Also as previously advised, Joan McMahon is on annual leave therefore please send any correspondence in respect of the investigation to myself and Edel McGloin (copied on this email).

Regards

Deirdre

Deirdre Shanley

Chief Financial Officer

Department of Employment Affairs & Social Protection 3rd Floor, Áras Mhic Dhiarmada
Store Street , Dublin 1 Deirdre.shanley@welfare.ie

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Designated Public Official under the Regulation of Lobbying Act 2015



6.3.7 Letter from DPC to DEASP (14 August 2019)



Ms. Deirdre Shanley,
Chief Financial Officer,
Department of Employment Affairs & Social Protection,
3rd Floor, Áras Mhic Dhiarmada,
Store Street,
Dublin 1

By email only to: Deirdre.shanley@welfare.ie & edel.mcglain@welfare.ie

14 August 2019

RE: Public Services Card Investigation & Report

Dear Ms Shanley,

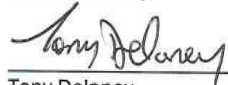
Thank you for your email, received at 15:51 on the afternoon of Monday, 12 August 2019.

The position in relation to the timing of the delivery of the Commissioner's report is as follows.

- The report will be delivered to the Department on the morning of Thursday, 15 August.
- The Commission will not be making any public statement on the report on that date.
- The report itself will not be published by the Commission without the prior agreement of the Department. Given that it clearly involves matters of public interest (and considerable public importance), the Commission does, however, consider it appropriate that the report would be published as soon as practicable. To that end, the Commission will be asking the Department to confirm, within a period of not more than 7 (seven) days from the date on which it receives the report, that it will either publish the report on its own website or, alternatively, that it will agree to the publication of the report on the Commission's website.
- Consistent with public statements previously made to this effect, the Commission intends to publish details of the report's findings on its website on Friday morning, 16 August 2019. A brief statement will be published on its website at the same time. Thereafter, the Commission reserves its right to comment publicly on the report's findings, as appropriate.

I trust this is in order.

Yours sincerely,



Tony Delaney
Deputy Commissioner



6.3.8 Letter from DPC to DEASP (15 August 2019)



Deirdre Shanley,
Chief Financial Officer,
Department of Employment Affairs & Social Protection,
3rd Floor, Áras Mhic Dhiarmada,
Store Street,
Dublin 1

By email to: Deirdre.shanley@welfare.ie & edel.mcglain@welfare.ie

By hand

15 August 2019

RE: Public Services Card Investigation
Report of the Data Protection Commission (“DPC”)

Dear Ms Shanley,

I refer to the investigation (“the Investigation”) conducted by the DPC in relation to certain data protection issues concerning the Public Services Card (“PSC”).

You will be aware from previous correspondence issued by the DPC to the Department of Employment Affairs & Social Protection (the “Department”) that the Investigation was split into two modules, with Module 1 in turn comprising three discrete elements, as follows:

- (a) An examination of the legal basis for the processing of personal data undertaken in connection with the PSC (“the Legal Basis Issue”);
- (b) an assessment of the technology and organisational measures employed in relation to security and other personal data processing operations carried out in connection with the PSC (“the Security Issues”); and,
- (c) an assessment of the information provided to data subjects in relation to the processing of their personal data in connection with the PSC (“the Transparency Issues”).

For the reasons set out in a letter to your colleague, Joan McMahon, issued by Deputy Commissioner Tony Delaney on Friday last, 9 August, I determined that it was appropriate to further split Module 1 into two parts. Following on from the position set out in that letter (and in Deputy Commissioner Delaney’s further letter to you of yesterday’s date), I now enclose a report (“the Report”) containing the DPC’s final

assessment (and findings) in relation to the matters identified at items (a) and (c) above, i.e. the Legal Basis Issue and the Transparency Issues.

A separate (draft) report will follow in early course in relation to item (b), i.e. the Security Issues.

Legislative framework

The Investigation was commenced on 27 October 2017 under Section 10(1A) of the Data Protection Acts, 1988 and 2003 (“the DP Acts”). Prior to the completion of the Investigation, however, the following changes in law occurred:

- On 24 May 2018, the Data Protection Act, 2018 (“the 2018 Act”) was enacted which, amongst other things, effected the cessation of the application of the DP Acts save where expressly provided to the contrary.
- On 25 May 2018, the General Data Protection Regulation (Regulation (EU) 2016/679) took effect within the State and throughout the European Union; Directive 95/46/EC was also repealed as and from the same date.

Notwithstanding the coming into effect of the GDPR (and the enactment of the 2018 Act), the Investigation is one that, in light of the express terms of Section 8(3) of the 2018 Act, *must* be completed in accordance with the DP Acts; moreover, the DP Acts continue to apply to the Investigation in all respects.

Consideration of submissions received from the Department

The DPC provided the Department with a draft report containing provisional findings under cover of letter dated 28 August 2018. Amongst other things, that letter invited the Department to provide submissions to the DPC in relation to our provisional findings.

Submissions were duly received from the Department on 30 November 2018.

The finalised findings contained in the Report enclosed with this letter were made following careful examination and consideration of all correspondence, information and submissions received from the Department in the course of the Investigation, to include the submissions received on 30 November 2018.

The findings

As will be seen from the Report, the DPC has made a total of 8 findings in relation to the Legal Basis Issue and the Transparency Issues.

Those findings are set out collectively at page 12 of the Report. As will be apparent, 7 of those 8 findings are adverse to positions advanced by the Department, insofar as the DPC has found that there is, or has been, non-compliance with the provisions of the DP Acts in the following terms:

- i. It will be seen that, in relation to the **Legal Basis Issue**:
 - The DPC has found that the processing by the Department of personal data in connection with SAFE registration and the issuing of PSCs for the purposes of transactions with specified bodies¹ does not have a legal basis under the Acts and therefore contravenes Section 2A of the Acts (**Finding 2**).
 - The DPC has found that the Department's blanket and indefinite retention of underlying documents and information as may be provided by a person for the purposes of SAFE registration and the issuing of a PSC contravenes the obligation in Section 2(1)(c)(iv) to retain personal data for no longer than is necessary for the purposes for which it was collected (**Finding 3**).
- ii. In relation to the **Transparency Issues**, the DPC has found that the Department is not in compliance with Section 2D of the DP Acts having regard to the nature and/or extent of the information provided by it to data subjects, concerning the processing of their personal data by the Department in connection with SAFE registration and the issuing of PSCs, as required by Section 2D of the DP Acts (**Findings 4 – 8**).

Consequences of adverse findings

In the light of the findings contained in the Report, I am of the opinion that the Department has contravened (and is continuing to contravene) Sections 2(1)(c)(iv), 2A and 2D of the DP Acts insofar as it has processed (and continues to process) personal data in connection with SAFE registration and the issuing of PSCs.

In the usual course, the forming of such an opinion requires me to consider whether or not to exercise the discretion conferred on me under Section 10 of the DP Acts to serve notice on the Department requiring it

¹ As referred to in Section 263(3) and listed in Schedule 5 of the Social Welfare Consolidation Act 2005

to take specified steps to bring itself into compliance with the requirements of Sections 2(1)(c)(iv), 2A and 2D within such time period as may also be specified therein.

Having regard to the nature and extent of the particular contraventions identified through the findings contained in the Report (being matters that can fairly be said to be fundamental to the data processing operations at issue), and in light of the volume of data at issue and the number of data subjects whose rights and interests have been (and continue to be) the subject of wrongful interference, my provisional view is that it is both necessary and appropriate that I would exercise my discretion to serve an enforcement notice under Section 10 of the DP Acts requiring the Department to take specified steps to address its non-compliance with the requirements of Sections 2(1)(c), 2A and 2D of the DP Acts.

In general terms, and subject to what I say below, I consider it appropriate that those steps would be formulated in terms intended to achieve the following ends:

- (1) Pending the development and implementation of measures remedying the full extent of the non-compliances identified in the findings contained in the report, and in order to remedy the particular contravention identified in [Finding 2](#), the cessation of all processing of personal data carried out by the Department in connection with the SAFE registration process and the issuing of PSCs, where the PSC is being issued solely for the purpose of a transaction² between the applicant and a specified body (other than the Department)³.
- (2) Again pending the development and implementation of measures remedying the full extent of the non-compliances identified in the findings contained in the report, the provision of notice by the Department to those specified bodies that require the production of a PSC as a precondition of entering into transactions with individuals, or of the provision of any public service, to the effect that the Department will not conduct SAFE registration or issue PSCs for persons wishing to transact with, or obtain a service from, any such specified body.
- (3) In order to remedy the contravention set out in [Finding 3](#), the deletion of all personal data contained in such underlying documents and information as may be held by the Department, having been collected for the purposes of SAFE registration and the issuing of a PSC, other than in circumstances where the Department can point to the existence of a specific justification in an individual case for the continued retention of such material.

² For the avoidance of any doubt, the reference to “transaction” in this context includes transactions conducted through MyGovID that are conditional upon the possession and production of a PSC.

³ In the light of [Finding 1](#), data processing by the Department for the purposes of conducting SAFE registration and issuing PSCs to [benefit claimants](#) does not fall within the scope of this point (1).

- (4) By way of further measure to remedy the particular contravention set out in [Finding 3](#), and taking into account the effect of [Finding 1](#), the cessation of the practice of retaining, on a blanket and indefinite basis, personal data contained in such underlying documents and information as may be held by the Department, having been collected for the purpose of SAFE registration and the issuing of PSCs to benefit claimants;
- (5) In order to remedy the particular deficiencies identified by the DPC in [Findings 4 – 8](#), the implementation of all necessary changes to the range and content of the information provided by the Department to the public in relation to its processing of personal data in connection with SAFE registration and the issuing of PSCs.

Deferral of enforcement action in the form of a statutory enforcement notice

Notwithstanding my provisional view that it is both necessary and appropriate that I would exercise my discretion to serve an enforcement notice under Section 10 of the DP Acts, I am concerned that the DPC does not have visibility (nor could it) on at least some of the changes that will be required at a granular level to bring all relevant data processing operations into compliance with the DP Acts. It necessarily follows that I am not in a position to assess the period of time reasonably required to implement at least some of the remedial measures required. In general terms, however, I consider it reasonable to anticipate that the development and implementation of measures to bring all relevant data processing operations into compliance with the DP Acts is likely to require the convening of one or more project teams within the Department (and/or specified bodies) with a view to identifying (for example) what changes will be required, whether from an administrative, organisational and/or ICT perspective, or otherwise; how those changes will be implemented; and the time-frame(s) within which such changes can be made. Equally, I consider it reasonable to anticipate that the Department will need to engage closely with those specified bodies that are engaged in the provision of public services in respect of which the PSC has been relied on to establish and/or verify identity.

On any objective assessment, these things will take some time.

With this mind, and subject to what I say below in relation to the particular matters addressed at points (1) and (2), I have determined that it is appropriate that I would defer the issuing of a statutory enforcement notice and afford the Department a period of 6 (six) weeks within which it will be required to do the following:

- (a) make an assessment of the changes required to achieve compliance with the findings contained in my report; and,

- (b) submit an implementation plan to the DPC by 1 October 2019 identifying the changes that will be made and the time-period within which such changes will be made. (My provisional view is that the time period in question should not run beyond 31 December 2019).

Subject to consideration of that assessment and report (and, in particular, the time period for the implementation of the required changes), I will consider further whether it would be necessary and/or appropriate to proceed to issue a statutory enforcement notice.

Exceptionally, however, I consider that the Department should implement specific measures at a much earlier point to achieve the particular ends identified at points (1) and (2) above. The arrangements necessary to achieve those ends should be capable of being identified and implemented within a comparatively short period. In the circumstances, I consider that a period of 21 (twenty-one) days is appropriate. Confirmation that such measures have been taken, to include a summary of the measures in question, should be confirmed to my office, in writing, within that period of 21 days.

Please submit the implementation plan to be delivered within 6 weeks and the confirmation of measures taken in respect of points (1) and (2) to be submitted within 21 days of this letter to Tony Delaney at TTDelaney@dataprotection.ie.

Matters informing the deferral of the issuing of a statutory enforcement notice

In coming to the view that it would be appropriate to defer the issuing of an enforcement notice (and to make provision for the grace periods described above), I have had regard to the following points, amongst others:

- i. The possibility that the issuing of a statutory enforcement notice at this point, expressed in generalised terms only and affording a period of time for the taking of remedial steps that is not achievable, could operate, in practice, to impair the capacity of individuals to access important public services in a timely fashion. In that context, and strictly for illustration purposes only, I understand that, at present, applications for third level grants can only be made on-line through the MyGov.ie portal and, further, the on-line application process specifically requires the inputting of details contained on the applicant's PSC. While fully satisfied that changes will need to be made to the application process so that applicants can establish and/or verify their identity otherwise than by means of a PSC, I am acutely conscious that the development and implementation of such changes will need to be handled in a way that does not impact adversely on (a) the making of timely decisions on individual grant applications; and (b) the release of grant payments to individual applicants.

- II. The possibility that the implementation of the requisite changes could potentially have other unforeseen (and adverse) consequences for the public and/or public service provision.

I should also say that I have carefully considered whether, rather than deferring the issuing of a statutory enforcement notice and granting periods of grace in the manner described, it would be appropriate to proceed immediately to serve a statutory enforcement notice making provision for a more substantial lead-in time than would typically be the case. I also considered the possibility of issuing an enforcement notice, limited to a binding instruction referable to points (1) and (2) above, with all remaining issues being dealt with through the alternative mechanism described in this letter. Ultimately, however, I came to the view that, in light of the complexity of the issues associated with the findings contained in my report, and the challenges that may be presented by the need to develop and implement measures to address those findings, the better course would be to proceed as I have suggested above.

Reservation of right to issue a statutory enforcement notice

For the avoidance of doubt, I fully reserve my right to exercise all such statutory powers as are available to me under the DP Acts, to include the service of an enforcement notice under and in accordance with sections 10(2) and/or 10(3) of those Acts.

Publication of report

Given that the issues addressed in my Report clearly involve matters of public interest (and considerable public importance), I consider it appropriate that the Report would be published as soon as practicable. To that end, I would be obliged if you would confirm, within a period of not more than 7 (seven) days, that the Department will either publish the Report on its own website or, alternatively, that it will agree to the publication of the Report on the Commission's website.

For completeness, and consistent with public statements previously made to this effect, I should say that the Commission intends to publish details of the findings on its website on the morning of Friday, 16 August 2019.

Yours sincerely,



Helen Dixon
Commissioner for Data Protection



6.3.9 Letter from DEASP to DPC (22 August 2019)



An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí
Department of Employment Affairs
and Social Protection



By Hand - Confidential

22nd August 2019

Dear Helen

I refer to the final version of the investigation report on Module 1 of the Public Services Card investigation - Legal basis and Transparency received on Thursday last (15 August 2019) together with a cover letter signed by yourself.

The Department notes your request that we would indicate to you within 7 days our intention regarding the publication of the Report.

We are currently reviewing your report together with DPER and the AGO. This process is not yet complete and is expected to take another week or so.

I wish to confirm that it is the Department's intention to publish the report on our website, together with our response, once this consideration is complete. We will provide you with advance notice of the timing of the publication in due course.

The Department would welcome an opportunity to meet with you and in this regard myself and Deirdre Shanley, Assistant Secretary are available to meet you at your earliest convenience.

Yours sincerely

Jacqui McCrum
Deputy Secretary

Mobile: +353 86 8542220
Jacqui.mccrum@welfare.ie
www.welfare.ie

Jacqui Mc Crum is a Designated Public Official within the meaning of the term in the Regulation of Lobbying Act 2015

cc- by email to Tony Delaney, Deputy Commissioner

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6.3.10 Letter from DPC to DEASP (22 August 2019)



Jacqui McCrum,
Deputy Secretary,
Department of Employment Affairs & Social Protection,
3rd Floor, Áras Mhic Dhiarmada,
Store Street,
Dublin 1

By email to: Jacqui.McCrum@welfare.ie

22 August 2019

Re. Public Services Card Investigation – Report of the Data Protection Commission (“DPC”)

Dear Ms McCrum,

I acknowledge receipt of your letter of today’s date, in reply to mine of 15 August 2019 (directed to your colleague, Deirdre Shanley).

As well as enclosing a report containing the DPC’s final assessment (and findings) following the completion of its investigation of certain data protection issues concerning the Public Services Card (“PSC”), my letter of 15 August dealt with the following two matters:

- (1) It identified the steps the Department is now required to take on foot of the findings made and the time-period within which those steps are to be taken; and,
- (2) It called on the Department to write to this Office within a period of 7 (seven) days to confirm that it would either publish the report on its own website or, alternatively, agree to its publication on the Commission’s website. That request was made on the basis that the issues addressed in the report clearly involve matters of public interest and are of considerable public importance.

I note from your letter that the Department does not intend to publish the report today. On the basis of your letter, I understand you to say that the Department needs more time to consider the report, in conjunction with the Department of Public Expenditure and Reform and the Attorney General, before it is published.

The Department's decision to defer publication is regretted.

While it is accepted that the relevant Departments and the Attorney General require a reasonable period of time to examine the report and consider how best to address the findings made, it is not clear how publication of the report at this point would cut across that assessment.


For the avoidance of doubt, however, I do wish to emphasise that, in circumstances where the findings of the investigation are in the public domain, and in light of the public debate that followed upon their release, it is important that members of the public are given an opportunity to examine and consider the analysis on which those findings rest. Moreover, I consider that this material should be made publicly available well before the expiry of the 21-day period within which specified steps are to be taken by the Department in response to the findings. In that regard, it is, at the very least, undesirable, that arrangements directly impacting on the interests of such a large body of individuals in the State would be amended in circumstances where the *reasons* why such amendments are required have not been the subject of public scrutiny.

Two further points arise.

- i. Firstly, and by way of clarification, I wish to make it clear that it is the position of this office that my letter of 15 August last should also be published along with the report, given that the letter identifies the specific steps to be taken by the Department in response to the report's findings, as well as the time-table within which those steps will be taken.
- ii. Secondly, and for the avoidance of doubt, I would ask you to note that issues around the publication of the report (and/or the timing of same) will not be permitted to cut-across the time-table outlined in my letter of 15 August 2019 for the implementation of those measures necessary to address the findings made in the Commission's report. It is the Commission's intention to proceed strictly by reference to that time-table.

Finally, I note the proposal made in your letter that we would meet. I agree that it may be helpful for us to meet and would suggest that we arrange to do so at the point at which the Department has tabled the implementation plan referred in my letter of 15 August. That plan will provide a useful context for our discussions.

Yours sincerely



Helen Dixon
Commissioner for Data Protection



cc. *Deirdre Shanley* (Deirdre.shanley@welfare.ie)
Edel McGloin (edel.mcaloin@welfare.ie)



6.3.11 Letter from DEASP to DPC (3 September 2019)





Oifig an Ard-Rúnaí, An Roinn Gnóthaí Fostaíochta agus Coimirce Sóisialaí
Office of the Secretary General, Department of Employment Affairs and Social Protection

**Ms Helen Dixon,
Commissioner for Data Protection,
Data Protection Commission,
21 Fitzwilliam Square,
Dublin 2**

By Hand - Confidential

3 September 2019

Dear Helen,

The Minister for Employment Affairs and Social Protection has asked me to convey her decision, taken together with the Minister for Public Expenditure and Reform and having considered the advice of the Attorney General, with respect to the steps you asked the Department to take in your letters of 15 August and 22 August 2019.

Having carefully considered the report setting out the findings from the Commission's investigation into both the legal basis underpinning personal data processing related to the issue of Public Services Cards and the transparency of information available to data subjects in relation to that processing, the Minister remains of the view that the Department's processing of personal data does, in fact, have a strong legal basis and that the information available to data subjects satisfies the requirement for transparency.

The Minister accepts that the Commission has reached a different conclusion and notwithstanding her own, and the Minister for Public Expenditure and Reform's assessment of the position, is cognisant of the authority vested in your office and the expertise of your office in matters related to data processing. However given the advice received from the Attorney General's Office with regard to the Commission's findings and given the import of these findings, including as set out in your letter with respect to the ends to be achieved, the steps that you now require the Department to take to achieve these ends, and the impact on citizen access to and use of services, the Minister believes that it would be inappropriate, and potentially unlawful, for her to take the measures you require.

Accordingly the Minister has determined that the Department will continue to operate the SAFE 2/PSC process as heretofore.

In reaching this determination both the Minister and her colleague the Minister for Public Expenditure and Reform are concerned to stress their respect for your office. However given the strong and sincerely held difference in opinion between your Office and both Departments (based on the advice received from the Office of the Attorney General), as to the correct interpretation and

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application of the relevant legal text and given the import of this difference in interpretation not just for the PSC and SAFE 2 and the organisations and citizens that rely on them, but potentially with regard to the correct interpretation of legislation more generally they are satisfied that their decision is the correct decision.

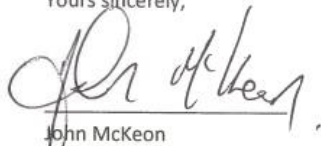
The Minister notes that the Commission has deferred the issue of Enforcement notice pending its consideration of the Department's response. The Minister wishes it to be known that she is anxious that her officials, and officials from the Department of Public Expenditure and Reform should engage in discussions with your office to determine if there are any measures that can be agreed, without prejudice to our respective positions, that might address the Commission's concerns and negate the requirement for any Enforcement proceedings. I can advise that officials are available at your convenience to engage in such discussions.

In this regard the Minister notes that the Commission's findings and the letter which accompanied them do not appear to have any legal effect and that there is, as yet, no formal appeal mechanism available to the Department. There are also a number of other matters that it is believed would benefit from further discussions with your office and which may be relevant to any consideration of whether or not an Enforcement notice is necessary or appropriate. For example there appear to be some differences between the import of the findings as would be inferred from the Investigation Report and the import which is inferred from the "ends" and "steps" in your letter of 15 August. There are some further differences in import to be inferred from public comments which have been made since the report was delivered. The Department would also like to clarify the time period covered by your report and findings. It is considered that all of these are matters that could usefully be clarified in the proposed engagement between officials.

With regard to the issue of publication of your report, it remains our intention to publish the report and we would like to do so as soon as possible following the engagement proposed above with your office.

As indicated above the Minister is concerned that the differences in our respective views are settled *via* discussion and in as amicable a manner as possible. We are available to meet with you at your convenience and remain,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John McKeon', written over a horizontal line.

John McKeon
Secretary General



6.3.12 Letter from DPC to DEASP (5 September 2019)



Mr John McKeon
Secretary General
Department of Employment Affairs and Social Protection
Áras Mhic Dhiarmada
Store Street
Dublin 1

By Email only: secretary.general@welfare.ie

5 September 2019

Re: Public Services Card Investigation
Final Report of the Data Protection Commission

Dear Secretary General

I refer to your letter of 3 September 2019 which responds to certain of the matters addressed in my correspondence of 15 August 2019, under cover of which I delivered the final report of the Data Protection Commission (DPC) (the Final Report) in relation to the DPC's investigation into the Public Services Card (PSC). My letter of that date also set out the steps I require the Department of Employment Affairs and Social Protection (the Department) to take in order to remedy identified contraventions of the Data Protection Acts 1988 and 2003 (the Acts) as found by the DPC and set out in the Final Report (the Compliance Steps). My further letter of 22 August 2019 also referenced those Compliance Steps.

In addition to the contents of your letter, I have also noted the press release dated 3 September 2019 issued by the Department on its website (the Press Release) in relation to the same matters addressed in your letter.

Proposed continuation of the operation of the SAFE 2/ PSC process "as heretofore"

Your correspondence and the Press Release indicate that the Department does not intend to voluntarily comply with the Compliance Steps and that it intends to "continue to operate the SAFE 2/ PSC process as heretofore". The DPC is extremely surprised by the Department's position, not least insofar as it mischaracterises the legal standing of the findings made in the Final Report and the legal context in which

the DPC indicated its willingness to defer enforcement action, on terms, to enable the Department to formulate plans for the timely implementation of the Compliance Steps.

The true position is of course that, acting as the statutory, independent supervisory authority for data protection in the State, established under EU law, the DPC has delivered a report containing 7 findings to the effect that, in the particular context at hand, the Department has contravened, and is continuing to contravene, relevant provisions of the Acts.

Reflecting the context and legal framework in which those findings of non-compliance were made, your contention that the findings in question *“do not appear to have any legal effect”* is difficult to understand. While it is a matter for the Department to take its own legal advice in relation to these matters, I do wish to emphasise that the DPC does not agree with the Department’s assessment and its position is that, as is clear from the Final Report, the findings contained therein are statutory findings of the DPC made pursuant to Section 10(1A) of the Acts..

Proposed meeting

Your letter suggests that, notwithstanding the stated refusal of the Department to abide by the findings of the DPC and implement the Compliance Steps, the DPC should meet with officials from the Department and the Department of Public Expenditure and Reform, amongst other things to determine if there are measures that *“might ... address the [DPC]’s concerns and negate the requirement for any “[e]nforcement proceedings”* and so that *“the differences in our respective views are settled via discussion and in as amicable a manner as possible”*. With respect, the DPC finds this to be an extraordinary and entirely inappropriate proposal in the context of a statutory investigation that has now been concluded by DPC as the independent, statutory regulator. The DPC cannot and would not engage in such arrangements with any other controller, whether in the public or private sector, in an equivalent scenario where the controller was clearly seeking to negotiate in some manner with the DPC to bring about a change in its findings where those findings were made after affording a full right to be heard to the controller. Equally the DPC will not do so in the current circumstances. The DPC’s position in this regard was set out in my letter of 22 August 2019 addressed to Deputy Secretary General McCrum which indicated that the DPC was prepared to meet with the Department in the context of the Department already having tabled an implementation plan for the Compliance Steps. In circumstances where you have made it clear that the Department does not intend to implement the Compliance Steps at all, the DPC sees no basis for meeting with officials from the Department at this time, nor indeed from the Department for Public Expenditure and Reform.

Enforcement

In light of the Department's stated refusal to accept the findings of the DPC, the reasons for the deferral of enforcement action by the DPC, as set out in my letter of 15 August 2019, have been rendered moot. Accordingly, in circumstances where the Department clearly does not intend to submit any implementation plan in furtherance of the Compliance Steps, it is both necessary and appropriate that the DPC would now exercise those particular rights which were reserved in my correspondence of 15 August 2019.

Publication of the Final Report

Finally, I note from both your correspondence and the Press Release that the Department's current position on publication of the Final Report is that it will publish it following engagement with the DPC. Quite aside from the DPC's stance, as stated above, on the suggestion of further engagement with the Department, the DPC sees no connection whatsoever between that matter and the matter of the Department's publication of the Final Report. Insofar as the Department considers that there may be such a nexus, your letter fails to clarify what that may be. Accordingly, I reiterate the DPC's position as set out in my previous correspondence, particularly in my letter of 22 August 2019, as to the importance of publication and again call on the Department in the public interest to immediately publish the Final Report together with my correspondence of 15 August 2019.

Yours sincerely,



Helen Dixon
Commissioner for Data Protection



6.4 Findings of Customer Experience Research on the PSC





An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí
Department of Employment Affairs
and Social Protection

PSC Public Services Card

Findings of the customer experience research of Public Services Card (PSC) holders

26/02/2019



Powering customer experience

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Research findings - attitudes to PSC

- Staff
- The level and quality of information received about the purpose of SAFE/PSC
- Views on usage of the provided information by government service providers
- Views on retaining personal information
- PSC as proof of identity

Introduction and research approach

The Department of Employment Affairs and Social Protection wanted to undertake **research to measure and evaluate the customer experience** of people who have recently gotten a Public Services Card (PSC).

Specifically, the Department wanted to assess:

- *Overall satisfaction with the SAFE (Standard Authentication Framework Environment) registration process*
- *Easiness of interview and face-to-face registration*
- *Satisfaction with staff*
- *Views of PSC holders on accessing their information in the future by other government service providers*
- *Views on using PSC for proof of identity when dealing with a non-government body (e.g. bank, mobile phone provider).*

The Sample:

A representative sample of 1001 PSC holders in terms of age and gender were interviewed over the phone.

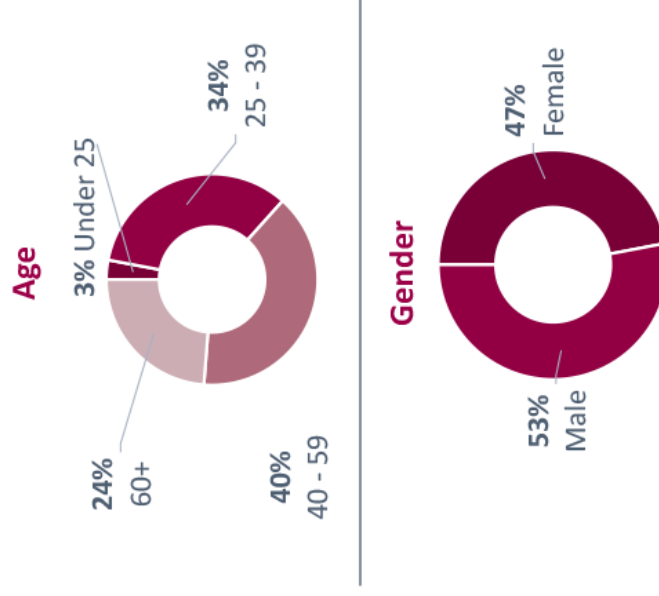
Fieldwork dates:

4th – 18th December 2018



Sample distribution

Age	
Under 25	26 (3%)
25-39	337 (34%)
40-59	398 (40%)
60 +	240 (24%)
Total	1001
Gender	
Female	473 (47%)
Male	528 (53%)



Executive summary – Key messages

Very strong positive assessment of Public Services Card (PSC) registration process. 96% of PSC holders who attended one of the Department's offices and went through the face-to-face registration were fairly or very satisfied with the SAFE process. 98% felt the process was fairly or very easy. The small proportion (2%) who were dissatisfied complained mostly of delayed appointments.

1. Staff were praised. Overwhelming majority of PSC holders completely agreed that staff who carried out their SAFE registration/PSC interview were friendly, efficient and knowledgeable.

2. Nearly 8 out of 10 PSC holders felt they had the right level and quality of information in respect of the purpose of SAFE/PSC during the interview. Just a little over one third asked a question during the interview and majority felt the answer fully addressed their query.

3. The most frequently claimed single reason for obtaining a PSC was to access a PPS number followed by driving licence, travel card and passport. Over one third claimed to have obtained the PSC to access another government service.

4. Majority believe they should have the option to offer their PSC as proof of identity when dealing with a non-government body.

5. Almost 9 out of 10 agree it would be very useful if certain government departments were able to use the provided information to confirm their identity in the future thus avoiding the need for the applicant to provide the same information again.

6. In order to ensure that the customer's identity is protected and that services can continue to be provided nearly 8 out of 10 PSC holders said they do not mind their documents being retained and understand the requirement.

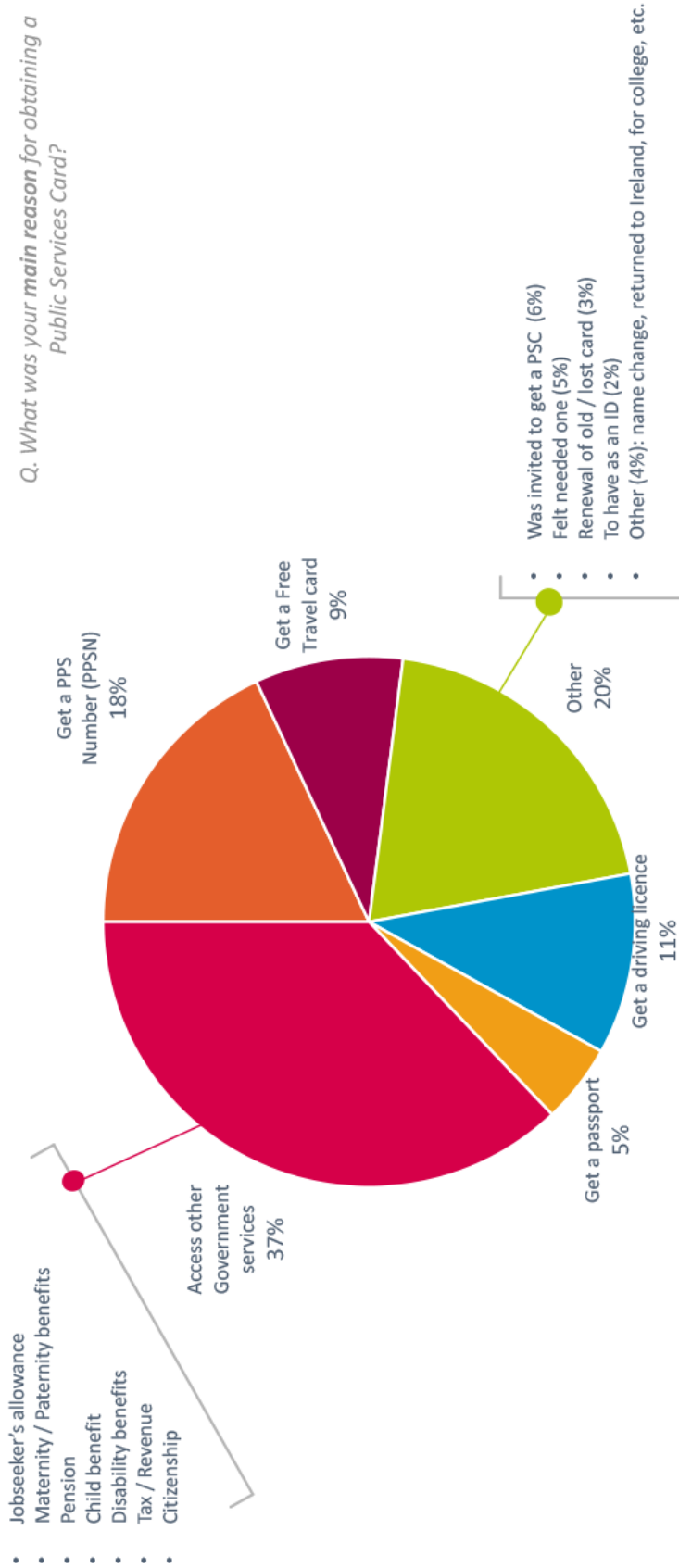
Research Findings – registration process

2015 © WS

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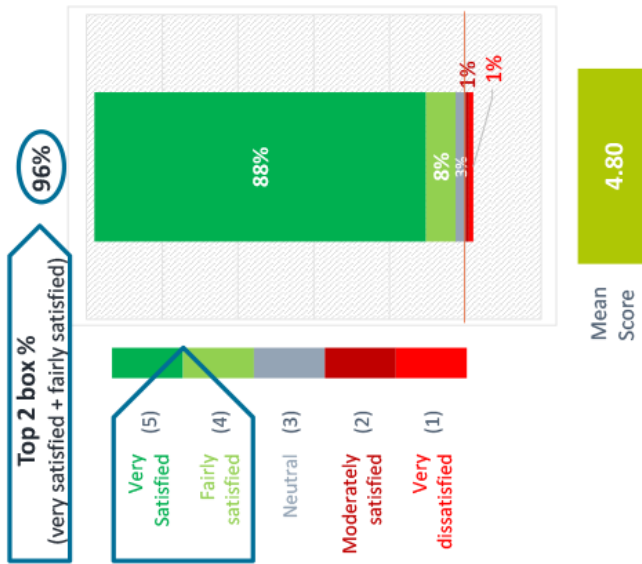
Main reason for obtaining a Public Services Card (PSC)

Reasons for obtaining a PSC varied from getting a PPS number, driving licence, free travel card to accessing other government services like jobseeker's allowance or maternity/paternity benefits



Overall Satisfaction

Majority were very satisfied with the SAFE registration process



Q. In order to get your Public Services Card, you attended one of the Department's offices and went through a face-to-face registration, which is called SAFE (Standard Authentication Framework Environment). How would you rate your **overall satisfaction** with the SAFE registration process?

	Top 2 box %	Mean score	
By Age			
Under 25*	88%	4.69	26
25-39	95%	4.76	337
40-59	96%	4.81	398
60+	96%	4.85	240
By Gender			
Female	95%	4.78	473
Male	96%	4.82	528

* Caution small base

Reasons for satisfaction/dissatisfaction

Satisfied PSC holders praised staff, seamless experience and efficient process. Delayed appointments were the most likely reason for the small number of dissatisfied customers

Very very well informed staff, well trained. I went in with my two eldest children and they were in and out in half an hour.

I went to Nutgrove and they weren't taking any appointments. There were only 2 people.

The whole experience was very pleasant. Everyone I dealt with were lovely and kind.

System went down and had to return office again

Very straight forward and simple. Was in and out in 5 minutes.

Staff were very helpful as my English isn't great

Very good service, no problems, very fast

Very prompt. Lady who helped me in Dungarvan was absolutely brilliant.

Took awhile as the computers weren't working it took me a few appointments

Very discreet and professional

I had a great experience. I was extremely satisfied. The girl explained everything to me as I had never been in there before and had never had a PSC and wasn't sure who was entitled to have it. The staff were very informative and I was told what to bring in before the appointment and had received the card within 5 days.

Staff were like bullies. I went up to the counter as it was my first time there and lady shouted at me to take a ticket and take a seat. I took a ticket and waited only to discover I was in the wrong department. I was asked to make another appointment and bring my reference number and ID. When I went back they asked for my birth certificate which I wasn't told to bring in but they eventually found me on the system.

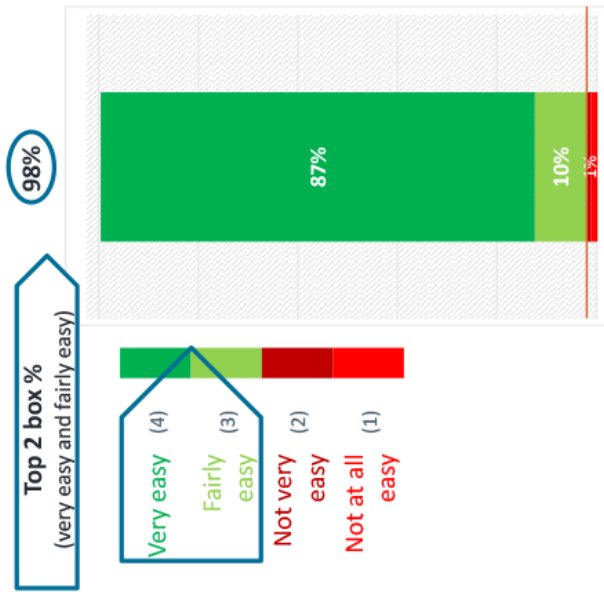
I got wrong information and walked out. I wanted to use my maiden name. I have a card but not what I want

It was seamless and straightforward

Very easy, I had the card within 5 working days.

Easiness of interview and face-to-face registration

Nearly 9 out of 10 felt the interview and face-to-face registration process was very easy



Q. Thinking again about the interview and face-to-face registration, how easy was that process for you?

By Age		Top 2 box %	Top 2 box %
Under 25*		88%	26
25-39		97%	337
40-59		98%	398
60+		99%	240
By Gender		Top 2 box %	Top 2 box %
Female		97%	473
Male		98%	528

* Caution small base

Research Findings – Attitudes to PSC

2015 © W5

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Staff

Staff very well regarded. Majority completely agreed that staff were friendly, efficient and knowledgeable



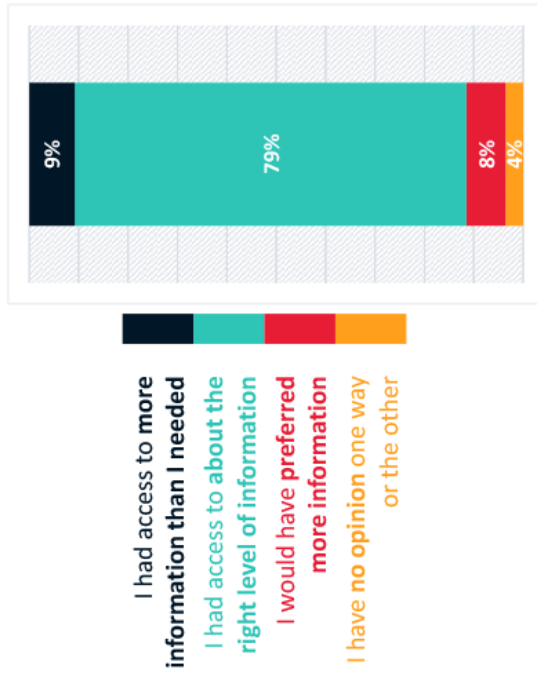
Q. Thinking about the staff that carried out your SAFE registration/Public Services Card interview. Please indicate your level of agreement with the following statements. Using a scale of 1 to 5, where 1 is 'Disagree Completely' and 5 is 'Agree Completely'.

	Staff were friendly		Staff were efficient		Staff were knowledgeable about the PSC		Staff were knowledgeable about the SAFE Registration process		n
	Top 2 box %	Mean score	Top 2 box %	Mean score	Top 2 box %	Mean score	Top 2 box %	Mean score	
By Age									
Under 25*	100%	4.96	100%	4.96	100%	4.96	100%	4.96	26
25-39	97%	4.85	98%	4.84	98%	4.83	97%	4.83	337
40-59	98%	4.88	98%	4.86	99%	4.88	99%	4.88	398
60+	98%	4.92	97%	4.89	99%	4.92	98%	4.87	240
By Gender									
Female	97%	4.86	97%	4.84	98%	4.85	98%	4.85	473
Male	98%	4.90	98%	4.89	99%	4.90	98%	4.89	528

* Caution small base

Purpose of SAFE/PSC – The level and quality of information

Nearly 8 out of 10 PSC holders felt they had the right level and quality of information in respect of the purpose of SAFE/PSC



Q. Thinking back to the registration process how do you feel about the level and quality of information available to you in respect of the purpose of SAFE/Public Services Card?

	I had access to more information than I needed	I had access to about the right level of information	I would have preferred more information	I have no opinion one way or the other	
By Age					
Under 25*	8%	77%	8%	8%	26
25-39	14%	73%	10%	3%	337
40-59	7%	82%	8%	3%	398
60+	7%	83%	5%	5%	240
By Gender					
Female	9%	79%	8%	4%	473
Male	9%	81%	6%	4%	528

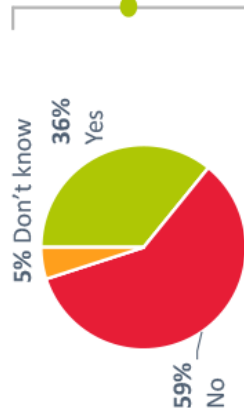
* Caution small base

PSC/SAFE registration interview

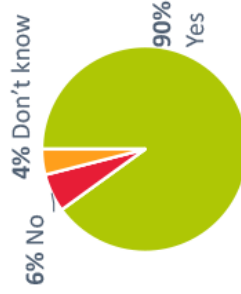
Just little over one third asked a question and majority felt the answer fully addressed their query

Q. Did you ask any questions during your Public Services Card/SAFE registration interview?

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Q. Were your questions fully dealt with?



By Age	Yes	No	Don't know	Count
Under 25*	27%	69%	4%	26
25-39	40%	53%	7%	337
40-59	37%	60%	4%	398
60+	30%	65%	5%	240

By Gender	Yes	No	Don't know	Count
Female	36%	59%	5%	473
Male	36%	59%	5%	528

* Caution small base

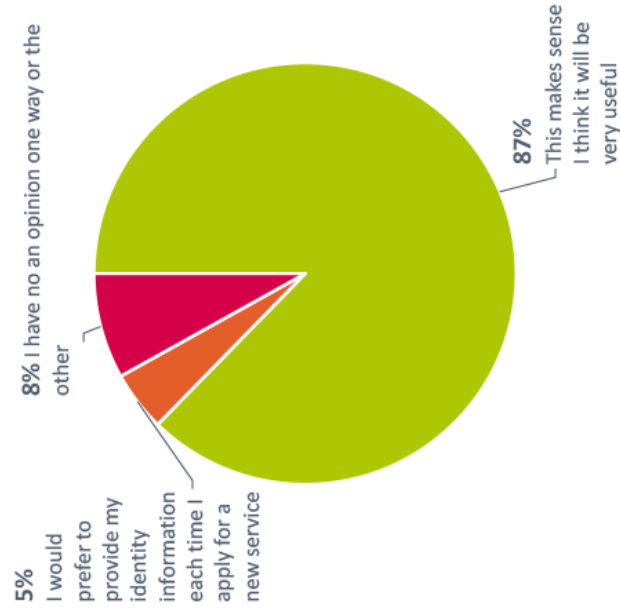
By Age	Yes	No	Don't know	Count
Under 25*	100%	-	-	7
25-39	89%	8%	2%	142
40-59	94%	4%	2%	151
60+	84%	5%	11%	80

By Gender	Yes	No	Don't know	Count
Female	88%	8%	5%	184
Male	93%	4%	3%	196

* Caution small base

Use of the provided information by government service providers

87% agree that it would be very useful if certain government service providers would be able to use the information provided to confirm their identity



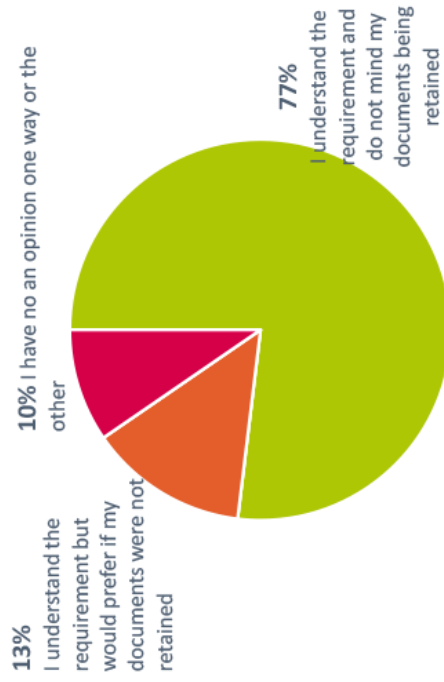
Q. Having completed the SAFE registration process and received your Public Services Card, certain government service providers (e.g. passport applications, driving licence applications etc.) may be able to use the information provided to confirm your identity in the future when you access their service. This would mean that you would not have to provide the same identity information (birth certificate etc.) all over again.

How do you feel about this?

	This makes sense I think it will be very useful	I would prefer to provide my identity information each time I apply for a new service	I have no opinion one way or the other	
By Age				
Under 25*	81%	4%	15%	26
25-39	89%	5%	6%	337
40-59	86%	6%	8%	398
60+	88%	2%	10%	240
By Gender				
Female	86%	6%	8%	473
Male	88%	4%	8%	528

Retaining personal information

Nearly 8 out of 10 PSC holders understand the requirement to retain their personal information and do not mind their documents being retained



Q. In order to ensure that your identity is protected, that services can continue to be provided and that you can access new services easily it is necessary to retain the personal information you provided, including scanned copies of documents, on the Department's secure computer systems.

How do you feel about that?

By Age

Age Group	I understand the requirement and do not mind my documents being retained	I understand the requirement but would prefer if my documents were not retained	I have no opinion one way or the other	Count
Under 25*	58%	12%	31%	26
25-39	74%	13%	14%	337
40-59	79%	16%	5%	398
60+	80%	11%	9%	240

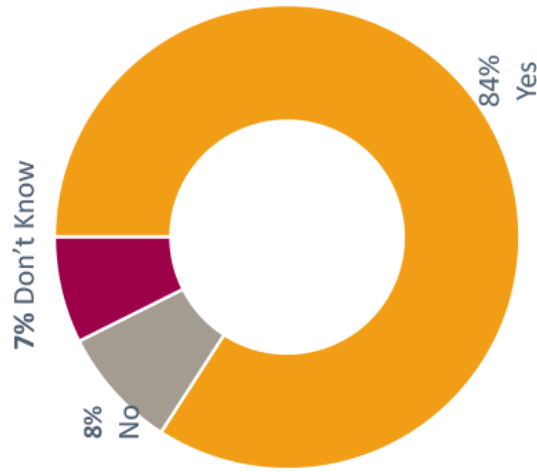
By Gender

Gender	I understand the requirement and do not mind my documents being retained	I understand the requirement but would prefer if my documents were not retained	I have no opinion one way or the other	Count
Female	74%	16%	10%	473
Male	79%	11%	9%	528

* Caution small base

Public Services Card as proof of identity

Majority believe they should have the option to offer their PSC as proof of identity when dealing with a non-government body



Q. At present you can offer your driving licence or passport as proof of identity when dealing with a non-government body (e.g. bank, mobile phone provider). You cannot currently do the same with your Public Services Card. Do you believe that you should also have the option to offer your Public Services Card as proof of identity?

	Yes	No	Don't know	
By Age				
Under 25*	89%	8%	4%	26
25-39	84%	9%	7%	337
40-59	86%	9%	6%	398
60+	81%	8%	11%	240
By Gender				
Female	85%	8%	8%	473
Male	83%	9%	7%	528

* Caution small base



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Department of Employment Affairs
and Social Protection

PSC Public Services Card

Findings of the customer experience research of Public Services Card (PSC) holders

26/02/2019



Powering customer experience



6.5 Press Release (1 March 2019) In-Depth Customer Survey Finds Strong Satisfaction with Public Services Card (PSC)



In-Depth Customer Survey Finds Strong Satisfaction with Public Services Card (PSC)

Large majority believe they should have the option to offer their PSC as proof of identity

Friday 1 March 2019

The Department of Employment Affairs and Social Protection today (Friday 1 March 2019) published the findings of a Customer Survey on the Public Services Card (PSC). The survey, which looked at customer satisfaction around the processes and procedures involved in applying for a PSC, was undertaken independently on behalf of the Department by W5, specialists in customer experience consultancy. A representative sample of 1,001 PSC holders, in terms of age and gender, were interviewed in December 2018.

Acknowledging the results of the survey, the Minister for Employment Affairs and Social Protection, Regina Doherty, T.D., said:

“The results of the survey are very positive and show strong support for the Public Services Card and very high levels of customer satisfaction with the information provided and the processes involved in applying for a Public Services Card. The results also show that people welcome and support the sharing of identity information between public bodies because it makes their life easier when they are applying for public services - which is one of the main reasons why we invested in the Public Services Card.”

The report is being published today and is available at (insert link).

The results show that 96 percent of PSC holders surveyed were either very satisfied or fairly satisfied with the process. In addition, the survey found that:

- Almost 9 out of 10 (87%) agree that it is very useful that other government service providers may be able to use the identity information already provided in obtaining the PSC so as to avoid the need to provide the same information again;

- Almost 9 out of 10 (88 percent) of those surveyed felt that they either had access to the right level of information in respect of the SAFE/PSC process or had access to more than they needed;
- More than 8 out of 10 people (84 percent) believe they should have the option to offer their PSC as proof of identity when dealing with a non-government body;
- Nearly 8 out of 10 people (77percent) understand the requirement to retain personal information and do not mind that their documents are retained;
- Nearly everyone (98 percent) rated the Department's staff highly and agreed that they were friendly, efficient and knowledgeable regarding the PSC process.

A full copy of the report can be accessed at [LINK]

ENDS

Notes for editors

The purpose of the identity registration process, known as SAFE level 2, is to verify a person's identity to a substantial level of assurance. This is a necessary step when providing access to valuable state services, including the income supports provided by the Department of Employment Affairs and Social Protection (DEASP). A Public Services Card (PSC) may issue when a person's identity is verified to SAFE standard.

A PSC enables individuals to gain access to public services more efficiently and with a minimum of duplication of effort while, at the same time, preserving their privacy to the maximum extent possible. To date, over 3.7 million PSCs have been issued by the Department.

For this survey, the Department took a stratified random sample of everyone who had been issued a PSC in September 2018. This sampling method ensures that the resulting sample reflects key population distributions, which in this case, was everyone aged over 18 who received a PSC in September 2018. The population was stratified by sex and age band (18-24, 25-39, 40-59, 60+), and then randomly sampled. In total, 5,000 people were in the random sample and 1,001 people took part in the survey.

An invite letter was sent to everyone selected to take part in the survey. The letter outlined that participation is entirely voluntary, and that their answers, participation, or refusal to participate, cannot and will not affect any services or payments the customer might avail of. Amongst other things, the contact letter also outlined how and why they were selected to take part, details of the company commissioned to conduct the survey, and channels for customer queries regarding the survey.

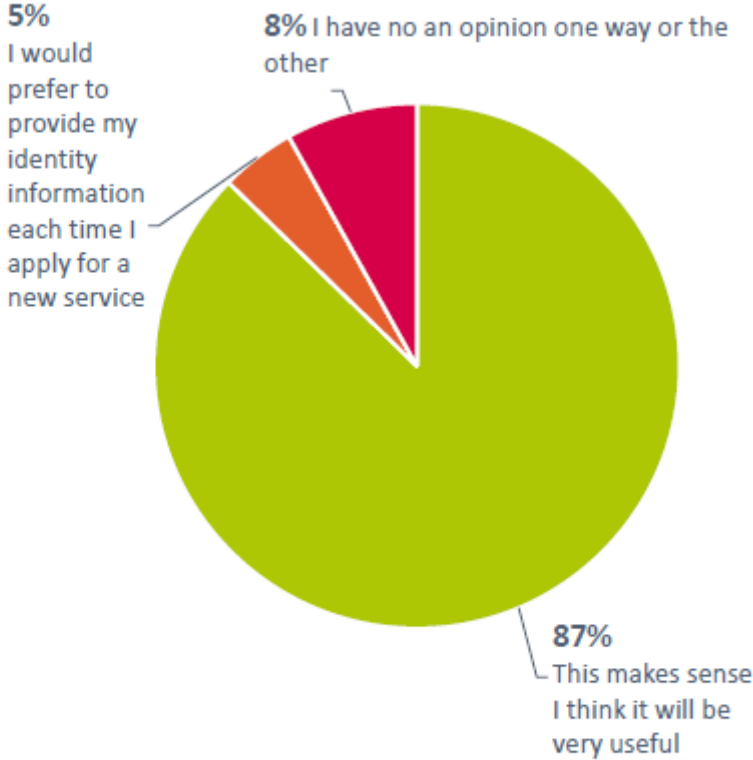
The survey was undertaken independently on behalf of the Department by W5, specialists in customer experience consultancy via telephone interviews. The questions measured satisfaction with the process of undergoing SAFE authentication and how customers may use their PSC and customer understandings of the SAFE authentication process.

Some of the main findings from the survey follow.

Extract from report

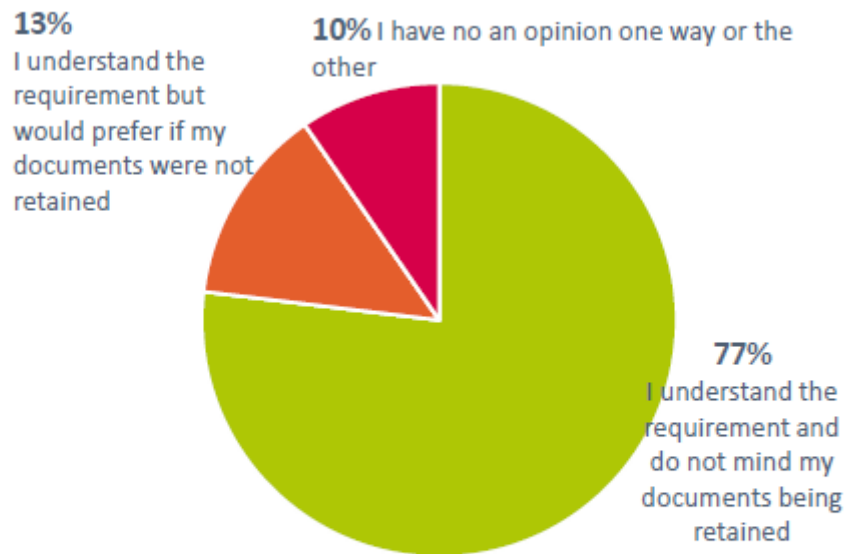
Use of the provided information by government service providers

87% agree that it would be very useful if certain government service providers would be able to use the information provided to confirm their identity



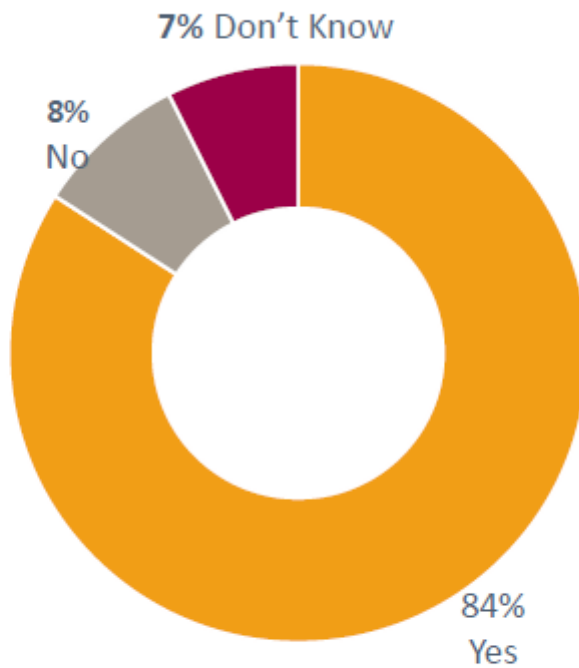
Retaining personal information

Nearly 8 out of 10 PSC holders understand the requirement to retain their personal information and do not mind their documents being retained



Public Services Card as proof of identity

Majority believe they should have the option to offer their PSC as proof of identity when dealing with a non-government body



ENDS

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