



JUSTICE

**Supplementary Briefing for House of Lords
Consideration of House of Commons amendments
Identity Cards Bill**

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1. JUSTICE is an independent all party law reform and human rights organisation which seeks to advance human rights, justice and the rule of law. JUSTICE is also the British section of the International Commission of Jurists.
2. Members of the House of Lords will be aware of the familiar arguments about the Identity Cards Bill. This supplementary briefing restates JUSTICE's position, focusing on our support for the amendments previously inserted by the Lords.
3. JUSTICE has consistently maintained that an identity card scheme and national identity register could be introduced in a way which is in accordance with our main concerns: namely, compatible with human rights, politically and socially acceptable and able to be practically implemented. We have, however, remained critical of the scheme established by the current Bill, despite the amendments made in both Houses.¹
4. It is essential that the scheme comply with human rights, particularly the right to respect for private and family life under the European Convention on Human Rights.² We are not convinced that the present proposals meet the appropriate threshold as a proportionate response to address a clearly and perceived need.
5. We have argued for an incremental approach to reform, recognising the acceptability of biometric information being held on passports³ and urging for a series of less ambitious measures, such as greater checks on those applying for passports and the tightening up of existing registers of births, marriages and deaths. The scheme could then be developed by establishing a voluntary card, before the possible introduction of primary legislation to create a register and a compulsory card.
6. We therefore strongly support the amendment to require primary legislation before the scheme becomes compulsory. However, we are concerned about the detail on how the scheme is to be made compulsory. Although the Labour Party manifesto 2005 states linking the scheme to the renewal of passports, the wording does refer to this being on a voluntary basis.⁴ Making passports a designated document (under clause 4 of the Bill) linked to the register means that the scheme will apply to 80 per cent of the population of the United Kingdom who will be required to become part of the scheme when renewing their documents. This is not voluntary.
7. We also support the amendment to require the project to be fully costed before the Act would come into force. The report from the London School of Economics⁵ has led to much press and public speculation about the cost of the scheme. The

¹ JUSTICE responded to the two Home Office consultations on identity, or entitlement, cards which were published prior to the Identity Cards Bill being introduced (*Entitlement Cards and Identity Fraud*, Cm 5557, July 2002 and *Identity Cards: The Next Steps*, Cm 6020, November 2003) and have monitored and briefed at various stages on the current proposed legislation.

² Article 8(1) Everyone has the right to respect for his private and family life, his home and his correspondence, Article 8(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

³ The International Civil Aviation Organisation has approved the use of biometric information on passports. We agree that 'British citizens will increasingly need to possess secure biometric travel documents' (Home Office memorandum to Home Affairs Committee Inquiry on identity cards, ID52, January 2004).

⁴ 'We will introduce ID cards, including biometric data like fingerprints, backed up by a national register and rolling out initially **on a voluntary basis** as people renew their passports'. The Labour Party Manifesto 2005, p52, emphasis added.

⁵ *The Identity Project: an assessment of the UK Identity Cards Bill and its implications*, LSE, June 2005.

government estimates £584 million⁶ but this refers to the average annual running costs for issuing passports and identity cards to UK nationals. The LSE figures, the median of which is £14.5bn, appear to be the cost of rolling out the whole scheme. It does seem that the government estimate excludes the cost of card readers and their installation. The issue of cost is little clearer than at the beginning of the Parliamentary process.

8. Public support for the scheme should be regarded as highly volatile, particularly in relation to cost. Whilst the government has consistently quoted that 80 per cent of the population are in favour of the scheme,⁷ all research indicates cost resistance from individuals when asked to pay more than £20 for an identity card.⁸ The current estimated cost is £30 for a standalone identity card.⁹ A YouGov study in February 2006 conducted on behalf of *The Daily Telegraph* shows public support for identity cards at 52 per cent, although there was also strong support for seven negative statements against identity cards. The difference between public support of the scheme in principle, but agreement with many of the arguments against the scheme, raise the possibility of an entrenched backlash against the introduction of identity cards.¹⁰
9. We support the amendments made to the Bill by the House of Lords in relation to the National Identity Scheme Commissioner, having continually argued that the powers of investigation and reporting should be widened from those granted under the Bill. It is essential that such a major scheme has adequate and independent oversight. The Commissioner should have the power to lay before each House of Parliament an annual report and must be able to review the whole scheme. He or she must be, and be seen to be, independent.
10. The Identity Cards Bill is a major piece of enabling legislation, setting the framework for a highly ambitious scheme. It has become, and remains, apparent that much of the detail is uncertain, requiring the Bill to contain wide powers for the Secretary of State to determine the detail at a later stage. This is unsatisfactory, both in terms of principle and practice, in relation to such an enormous undertaking.

⁶ Para 19 of the Home Office Regulatory Impact Assessment introduced to the House of Commons on 25 May 2005.

⁷ For eg, *Identity Cards: A Summary of Findings from the Consultation on Legislation on Identity Cards*, Home Office, Cm3658, October 2004.

⁸ For eg, MORI poll 22 April 2004 commissioned by Detica found initial 80% public support for ID cards dropped to 20% if the cost of the card was over £25.

⁹ See House of Commons Hansard, 13 February 2006, Column 1117.

¹⁰ 'We make not like ID cards but we'll put up with them', *The Daily Telegraph*, 27 February 2006.