



THE GOVERNMENT REPLY TO THE FIFTEENTH  
REPORT FROM THE HOUSE OF LORDS  
EUROPEAN UNION COMMITTEE  
SESSION 2007-08 HL PAPER 106

## **The Passenger Name Record (PNR) Framework Decision**

**Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty  
August 2008**





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**THE PASSENGER NAME RECORD (PNR) FRAMEWORK DECISION**

**Introduction**

The House of Lords European Union Committee published its Report of session 2007-08, on the Passenger Name Record Framework Decision on 11 June 2008. This Command Paper sets out the Government's response to the conclusions and recommendations in that Report. The Government welcomes the Report and the detailed information and analysis it contains.

The European Commission published the draft Framework Decision in November 2007 and the text remains under negotiation. We look forward to continuing cooperation with the Committee as negotiations progress over the coming months.

**Committee Recommendations and Conclusions**

**66. We are persuaded that PNR data, when used in conjunction with data from other sources, can significantly assist in the identification of terrorists, whether before a planned attack or after such an attack.**

The Government welcomes the Committee's recognition that PNR data can play a significant role in the identification of terrorist suspects. We are grateful for the Committee's understanding and cooperation in finding an appropriate mechanism by which we could provide relevant information on this aspect of our use of PNR data.

**67. PNR data should be used for law enforcement purposes only in the fight against terrorism and in combating other serious crime. There can be no justification for agreeing legislation which does not set out clearly the purposes for which and the conditions under which the data may be used.**

**68. Blanket expressions such as "organised crime" or "serious crime" are inadequate. The offences for which PNR data can be used must be defined as clearly as possible given the differing legal systems involved. If a definition of "serious crime" is possible for the European Arrest Warrant, appropriate definitions can be found for the Framework Decision.**

The Government supports the Committee's recommendation that there needs to be greater clarity regarding purpose definitions. We also recognise the benefits of an agreed definition of "organised crime"; this will be provided by the EU Framework Decision on Combating Organised Crime, when it is adopted.

We welcome the Committee's recommendation that the use of PNR data to combat serious crime should also be permitted. The Committee suggests drawing up a comprehensive list of crimes that could be covered by this definition and cites the European Arrest Warrant as an example. Although we agree on the aim, the Government has concerns about this overly prescriptive approach. From an operational perspective, it can be extremely difficult to identify the type of crime being dealt with at the outset of an investigation. Further, a list of specific offences may be difficult to amend in the light of a changing picture of criminal activity. As a result, the Government is seeking a definition that clearly indicates the potential severity of the crime but does not attempt to list each individual offence.

However, these definitions do not solve the wider question of purpose limitations. The objective of the UK Border Agency is to secure our border and to control migration for the benefit of our country. The e-Borders Programme, which involves the processing of PNR data is a key means of achieving that objective and has had real success in strengthening the UK border. As supported by domestic legislation, in addition to combating terrorism and serious and organised crime, e-Borders also uses PNR data to help detect immigration offences. As currently drafted, there is a real risk that the EU PNR proposal would degrade e-Borders by prohibiting the use of PNR data for combating immigration offences. We will therefore lobby strongly for the Framework Decision not to preclude the use of PNR for this purpose.

**69. The Government should be aware that, by attempting to extend the purposes beyond what is acceptable to other Member States and to the European Parliament, they may be forced to opt out of the Framework Decision. They may then find that, on balance, the ability to use PNR data to assist in the combating of more routine crime, including immigration, revenue and customs offences, is insufficient compensation for an inability to use data collected by other Member States. We hope that the Government will take account of our views in balancing the advantages and disadvantages of participation.**

The Government is keen to play a full part in the EU PNR negotiations and believes that an EU agreement on the processing of PNR data will bring significant benefits to all Member States. We are working hard with EU partners to reach agreement on a text which is acceptable to all. The UK has actively engaged with all of the Member States, the Commission and the European Parliament. All Member States' delegations, along with interested MEPs and Commission officials, have been invited to visit our Joint Border Operations Centre, to understand better the usefulness of PNR data in combating crime and general border security. We have also provided several presentations on our use of passenger data to interested parties in Brussels at both Ministerial and official level. Our approach to negotiations on the dossier has been defined by our efforts to be as collaborative and open as possible.

We cannot speculate on the UK's final position on the EU PNR dossier until a text has been agreed. However, we would like to reassure the Committee that, as with all dossiers, our final position will be reached following very careful consideration.

**70. We believe that adequate and effective rules on data protection should be contained in the PNR Framework Decision itself, and we urge the Government to support this view in the course of the negotiations.**

The Government fully agrees that adequate and effective rules on data protection must be in place for every stage of PNR data processing under any national or EU arrangement. The UK also agrees with the Committee's preferred approach that specific data protection rules should be included in the text of the Framework Decision.

Data protection is a critically important aspect of the UK's domestic use of PNR. Robust safeguards have been incorporated into our e-Borders system to ensure that the rights of data subjects are respected, and that data are processed only when necessary and proportionate. The UK is also working closely with air carriers to ensure the integrity of PNR data transferred to our e-Borders system.

**71. Although we have not received any conclusive evidence on the topic, it seems to us that PNR data could not effectively be collected for rail transport, and that in the case of road transport the data do not exist.**

PNR data is a term used to describe reservation data that is specific to the aviation industry and therefore we use the term Other Passenger Information (OPI) to refer to PNR-type data from sea and rail carriers. Domestic legislation permits collection of these data and Travel Document Information or TDI – taken from the travel document itself and so akin to Advance Passenger Information - from sea and rail carriers (other than in respect of rail services across the Irish land border) entering and leaving the UK.

The e-Borders Programme has worked very closely with operators of international rail services to develop an effective solution to passenger data capture. With Eurotunnel we have established the foundation for a robust, compliant and secure process of data capture. This process focuses on the collection and submission of TDI and Vehicle Registration Mark (VRM) data in advance of arrival at the port to allow efficient processing of data and alert generation. With Eurostar we are exploring a process of data capture based on the model we use with air carriers, but with modifications to allow for shorter reservation and check in times and the high proportion of “turn up and go” passengers.

The report correctly states that reservation data do not exist for most road vehicles, although many coach operators do collect some passenger information. Under UK legislation, road vehicles are not regarded as carriers and the Government does not currently have the power to collect and process any passenger information from coach operators.

**72. If and when negotiations are successfully concluded on a PNR Framework applicable to air travel, work should then begin on extending it to sea travel.**

The Government welcomes this recommendation and UK legislation already provides for the collection of OPI data from sea carriers.













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