Summary: Intervention & Options

Department: **Department for Transport**	Title: **Impact Assessment on the use of security scanners at UK airports.**	
Stage: Consultation	Version: 1.0	Date: 29 March 2010
Related Publications: Interim Code of Practice for the use of security scanners at UK airports.		

The full consultation is available to view or download - please see footnote[1]

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What is the problem under consideration? Why is government intervention necessary?

The DfT believes that it is necessary to use security scanners at UK airports in order to provide enhanced levels of security. The DfT wishes to ensure that this is done in a manner consistent with passengers' rights balanced against the need to protect passengers.

What are the policy objectives and the intended effects?

It is the DfT's objective is to enhance security levels at airports by having security scanner capabilities deployed UK-wide, with the roll out depending on purchase of equipment and the necessary staff training. The DfT wishes to have a final code of practice on the use of security scanners that adequately and appropriately provides for the protection of the privacy and health of passengers, and staff, and which is consistent with equality legislation.

What policy options have been considered? Please justify any preferred option.

The main identified options are:

Base case - do nothing (make no changes to the interim code of practice).
a) To require airport operators to use security scanners, but rescind the interim code of practice and allow airport operators to determine their own practices.
b) To require airport operators to use security scanners in accordance with a code of practice that takes into account the views of stakeholders.
c) Remove all requirements on the use of security scanners, thus allowing operators to deploy it if they wished without regulation . **The Government believes that option b) offers the best way of ensuring that security scanners are used appropriately, safely and equitably.**

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy position will be reviewed in the light of the consultation and ongoing risk analysis.

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[1] http://www.dft.gov.uk/consultations/open/xxxx

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

....Date:

Summary: Analysis & Evidence

Policy Option: a	Description: Rescind the interim code of practice and allow airport operators to determine their own practices.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	2 security scanners, initial outlay of approx £100,000 per security scanner (cost of machine and staff training) (£200,000). Ongoing maintenance costs of £10,000 per year per security scanner (£20,000). Enforcement costs to airport operators approx £50,000 per year.
£ 200,000	1	
Average Annual Cost (excluding one-off)		
£ 70,000	10	**Total Cost** (PV) £ 820,000

Other **key non-monetised costs** by 'main affected groups'

Costs to airports to develop their own codes of practice. No Government intervention likely to lead to inconsistent practice and increased risk of inappropriate operation of security scanners.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	
£		
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) £

Other **key non-monetised benefits** by 'main affected groups'

Enhanced security benefits (but less certainty as to method of use than option b)

Key Assumptions/Sensitivities/Risks

Risk if airports are left to determine their own policies passenger confidence and protection will be lower than with a DfT code of practice. Assume 2 security scanners would be purchased under this option. Sensitivity tests have been conducted around this central figure with a range 50% above and below presented below.

Price Base Year 2009	Time Period Years 10	**Net Benefit Range** (NPV) £ -640,000 to £-1,000,000	**NET BENEFIT** (NPV Best estimate) £ -820,000

What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	Q2 2010			
Which organisation(s) will enforce the policy?	None			
What is the total annual cost of enforcement for these organisations?	£ 53,000			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	Yes			
What is the value of the proposed offsetting measure per year?	£ n/a			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	Yes			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 460,000	Decrease of £ 0	**Net Impact**	£ -460,000

Key: **Annual costs and benefits: Constant Prices**   (Net) Present Value

Summary: Analysis & Evidence

Policy Option: b	Description: To have a DfT-mandated code of practice that reflects the views of stakeholders.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups
One-off (Transition)	**Yrs**	4 security scanners, initial outlay of approx £100,000 per security scanner (cost of machine and staff training) (£400,000). Ongoing maintenance costs of £10,000 per year per security scanner (£40,000). Enforcement costs to Government approx £50,000 per year.
£ 400,000	1	
Average Annual Cost (excluding one-off)		
£ 90,000	10	**Total Cost** (PV) — **£ 1,170,000**

Other **key non-monetised costs** by 'main affected groups'

Costs to industry of complying with regulatory regime (though there is no regulatory requirement to install security scanners).

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	
£		
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) — **£**

Other **key non-monetised benefits** by 'main affected groups'

Option with greatest number of security scanners in use so added security benefit. Code of practice enhances stakeholder ability to influence practices and gives airports greater confidence in using security scanners. Also provides assurance for passengers that the use of security scanners is being properly regulated and used with the appropriate privacy and equality controls.

Key Assumptions/Sensitivities/Risks

Assume that 4 security scanners would be purchased under this option as the DfT code of practice is expected to offer greater reassurance to the airports and induce investment in security scanners. Sensitivity tests have been conducted around this central figure with a range 50% above and below

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ - 820,000 to £-1,530,000	NET BENEFIT (NPV Best estimate) £ -1,170,000

What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	Q2 2010
Which organisation(s) will enforce the policy?	DfT
What is the total annual cost of enforcement for these organisations?	£ 53,000
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	Yes
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ 0
Will the proposal have a significant impact on competition?	Yes

Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £ 460,000	Decrease of £ 0	**Net Impact**	**£ -460,000**

Key: Annual costs and benefits: Constant Prices   (Net) Present Value

Summary: Analysis & Evidence

Policy Option: c	Description: Remove all requirements on the use of security scanners.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	2 security scanners, initial outlay of approx £100,000 per security scanner (cost of machine and staff training) (£200,000). Ongoing maintenance costs of £10,000 per year per security scanner (£20,000).
£ 400,000	1	
Average Annual Cost (excluding one-off)		
£ 40,000	10	**Total Cost** (PV) £ 360,000

Other **key non-monetised costs** by 'main affected groups'

Costs to airports to develop their own codes of practice. No Government intervention likely to lead to inconsistent practice and increased risk of inappropriate operation of security scanners, likely fall in passenger confidence.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	
£		
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) £

Other **key non-monetised benefits** by 'main affected groups'

Assumes airports would voluntarily purchase 2 security scanners. Absence of a code of practice enables greater flexibility for airport operators. No cost for Government or airport operators in

Key Assumptions/Sensitivities/Risks

Risk if airports are left to determine their own policies passenger confidence and protection will be lower than with a DfT code of practice. Also risk of airports leaving themselves open to legal challenge by not using appropriate privacy and equality controls. Assume 2 security scanners would be purchased under this option. Sensitivity tests have been conducted around this central figure with a range 50% above and below presented below.

Price Base Year 2010	Time Period Years 10	Net Benefit Range (NPV) £ -£180,000 to -£540,000	NET BENEFIT (NPV Best estimate) £ -£360,000

What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	Q2 2010
Which organisation(s) will enforce the policy?	DfT
What is the total annual cost of enforcement for these organisations?	£ 0
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	Yes
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ 0
Will the proposal have a significant impact on competition?	Yes

Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ 0	**Net Impact**	£ 0

Key: **Annual costs and benefits: Constant Prices** | **(Net) Present Value**

1   Title of proposal

Impact assessment on the use of security scanners at UK airports.

2   Purpose and intended effect of the measure

To have security scanner capabilities deployed UK-wide, and to have a final code of practice on the use of security scanners that adequately and appropriately provides for the protection of the privacy and health of passengers, and is consistent with equality legislation.

3   Background

On 1 February 2010 the DfT, on the basis of a risk assessment, served a direction on UK airports relating to the use of security scanners. Security scanners are used for the screening of departing passengers for prohibited articles, alongside other long-standing measures such as screening by metal detector, by hand and by explosive trace detection. Security scanner equipment, and the other electronic and manual screening processes, are owned and operated by the aviation industry.

4   Rationale for government intervention

As part of the direction the DfT issued an interim code of practice on how to use security scanners at UK airports. The DfT believes that public confidence and public protection can best be achieved by bringing security scanners within its regulatory regime. In particular, the DfT believes that it is essential to have a code of practice on the use of security scanners that has been informed by stakeholder views. Key stakeholders are likely to be: groups representing minority communities, airport operators, airlines, industry representative groups and passenger groups.

5   Consultation

This impact assessment forms part of the Government's consultation on the use of security scanners. The main consultation document seeks views on where and how the interim code of practice might be enhanced to provide greater passenger confidence and protection in the use of this technology.

6   Options Analysis

Base Case: 'Do nothing' (make no changes to the interim code of practice)

Base case costs over time: Low costs for Government. No additional regulation and associated costs/burdens for industry.

Base case benefits over time: Keeps regulatory burdens and costs low. However, this option reduces stakeholder ability to influence practice. The confidence of industry operators and passengers in the code of practice is likely to reduce quickly over time if it is not informed by stakeholder views and maintained regularly. It is possible that industry operators would need to develop and maintain additional practices to retain effectiveness and passenger confidence, with associated administrative costs.

Option a) Rescind the interim code of practice and allow airport operators to determine their own practices.

Costs: Reduces regulation. No costs on Government. Possible costs to airports of producing (and consulting) on their own practice.

Benefits: Enables greater flexibility for airport operators. However, it would likely to lead to inconsistent practice and increased risk of inappropriate operation of security scanners. This option also reduces stakeholder ability to influence practice.

Option b) To have a DfT-regulated code of practice that reflects the views of stakeholders.

Costs: Costs to government of maintaining and enforcing a regulatory regime. Costs to industry of complying with regulation.

Benefits: Enhances stakeholder ability to influence practices and provides airports with greater confidence in operating security scanners. Reduces the risk of inappropriate operation of security scanners. However, this option maintains a high level of regulation.

Option c) Remove all requirements for the use of security scanners.

Costs: Reduced costs for Government. No regulatory burdens.

Benefits: This option may, at least temporarily, remove concerns about the use of security scanners. <u>This impact assessment and the wider consultation do not, intentionally, discuss the risk assessment which underpins the decision to deploy security scanners as it is security sensitive and inappropriate for public release. However, in light of the risk assessment it is believed that some airport operators would still use security scanners outside of any regulatory requirement,</u> <u>as operators have the right to do.</u> The absence of a regulatory regime to control the policy and practice on security scanners would likely lead to inconsistent and uncoordinated practice. This would likely lead to lower passenger confidence that security scanners were being used with appropriate privacy and equality controls.

7   Small Firms Impact Test

The DfT understands that no small firms (those employing under 20 employees) would be directly affected by any of the policy options.

8   Competition Assessment

Implementation of the any of the policy options may have an indirect impact on small or medium sized businesses. The impact of Government intervention is difficult to quantify and the Department is, therefore, seeking information from stakeholders to help it better understand the impacts on the industry. **The DfT is keen to receive comments from industry operators on the cost assumptions set-out above, particularly on the ongoing costs of deploying security scanners.**

9   Equality and Human Rights Impact Assessments

Equality and human rights impact assessments are annexed to this document.

10 Health Impact Assessment

A health impact assessment has been conducted by the Health Protection Agency and can be viewed at http://www.dft.gov.uk/pgr/security/aviation/airport/securityscanners/securityscanner/

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	**Yes**
Race Equality	No	**Yes**
Disability Equality	No	**Yes**
Gender Equality	No	**Yes**
Human Rights	No	**Yes**
Privacy impact assessment	No	**Yes**
Rural Proofing	No	No

Equality Impact Assessment (EIA)

1. Purpose.

Government departments have a public duty to promote equality. The function of this EIA is to determine the extent of differential impact upon the relevant groups and, in turn, whether that impact is adverse, which is to say: whether it has a negative impact on groups or individuals in relation to one or more of the following equalities categories (gender, disability, sexual orientation, age, religious belief or race). The aim is to identify which option most effectively removes or reduces inequality, and best achieves the promotion of equality of opportunity, and takes account of the need to promote good relations between people of different ethnic groups.

2. Background.

The Government announced on 1 February that security scanners have begun to be deployed at UK airports. This followed a review of aviation security and the need for quick action to be taken in response to the threat raised by the attempted attack on a flight to Detroit on 25 December 2009. In announcing the deployment of security scanners the Government was mindful of the potential for the use of this type of screening to give rise to concerns by passengers, and staff, about the scope for inequality. As a first step the government has required provisional controls as set out in an interim code of practice for the use of security scanners at UK airports - http--www.dft.gov.uk-pgr-security-aviation-airport-securityscanners-codeofpractice-pdf-cop.pdf

The interim code of practice is part of a Direction, made pursuant to the Aviation Security Act 1982, which has been issued to those UK airports deploying security scanners. The Direction is a legal instrument which sets down mandatory controls for the use of security scanners. The Direction requires passengers to be selected for screening by security scanner on a random basis, or as part of the process of resolving concerns arising from other security controls in operation at the airport. In selecting passengers at random, the Direction requires that the decision to select is not made on the basis of personal characteristics such as age, race, gender or ethnic origin.   The Direction also requires security scanners to be operated in accordance with a protocol containing security sensitive information including selection criteria for those to be scanned.

This assessment is part of the next step of policy development, and forms a central part of the consultation on the use of security scanners that will inform policy and practice. The Government feels that consulting on this initial EIA is vital to ensuring that the most effective and proportionate ways of meeting the general equality duties can be identified and implemented.

3. The approach to this EIA.

This EIA has been drawn-up by DfT policy officials in consultation with equalities advisers, legal advisers and drawing on guidance material published by the Equalities and Human Rights Commission. However, it is not enough merely to identify what can and should be done; ministers have been clear that action shall be taken as a result of this and other assessments in the consultation. Policy and practice will be revisited in light of the responses to the consultation, which will inform the development of policy in this area.

Stage one of this assessment aims to identify the groups which are likely to be affected by the

policy options. Stage two aims to determine whether and how they might be affected, and which option best helps to ensure that equality is achieved and promoted.

4. Stage one of this consultation EIA.

It is understood that the full range of equality categories travel through UK airports as passengers and, thus, would fall within the scope of the identified options. The Government also understands that the security staff at UK airports broadly reflect the make-up of the local community and that all of the equalities groups are represented among the security staff operating security scanning equipment.

The Government is aware of concerns relating to particular groups and for the operation of any policy around the use of security scanners to cause concern about the potential for discrimination. The Government is also alive to more general concerns about the privacy issues around the use of security scanners (which is covered in the privacy impact assessment below) and that some equality categories, such as transgender persons, may have concerns about the use of security scanners notwithstanding the existing privacy controls.

The Government also notes that, under its preferred option (option b), all equality groups will enjoy a greater level of protection against terrorist attacks.

5. Stage two of this consultation EIA.

The base case option (leaving the existing code of practice in place) seeks to guard against discrimination on the basis of actual or perceived personal characteristics (age, gender, race, disability, sexual orientation and religious belief). However, without taking account of representations from stakeholders there is a risk that the code of practice may not be as comprehensive and effective as it could be in protecting privacy and ensuring equality. These risks would apply to all equality categories, with perhaps certain racial groups perceiving to be the most discriminated against. Without such consultation it is also possible that an opportunity to promote good relations between people of different racial groups may be missed.

Option a) (requiring airport operators to use security scanners but rescinding the DfT code of practice) is likely to significantly increase the risk that practices around the use of security scanners are inconsistent and inequitable as it reduces the ability of stakeholders to influence practice by requiring them to engage on several fronts, with little guarantee that practice would be coordinated across all airports. Again these risks would apply across all equality categories, with certain racial groups perhaps being the most affected.

Option b) (requiring airport operators to use security in accordance with a code of practice that takes into account the views of stakeholders) probably provides the best opportunity of ensuing that a comprehensive and effective code of practice is created, maintained and implemented as it gives stakeholders the most effective way of influencing policy and practice. Whilst it may be unreasonable to believe that discrimination, or perceived discrimination, can be prevented entirely, a centrally controlled and mandated code of practice which has been informed by stakeholders, would seem to offer a high degree of assurance that passengers will be treated sensitively and equitably.

Option c) (removing the requirement to use security scanners) the risk with this option is that airport operators would not require passengers to be liable to be screened by security scanner thus making it much easier for persons to conceal and carry on board aircraft items which may potentially be dangerous. The possibility of being scanned is a necessary deterrent to ensure the safety of passengers.

6. Comments and provisional conclusions.

The staff who operate security scanners are security officers employed by private sector companies. Airport security staff have all cleared government security vetting, which includes a check of criminal and security service records. Staff have received comprehensive initial training and regular refresher training in aviation security and customer service. Staff have been trained in how to conduct their duties in a sensitive and proportionate manner. The employers for whom they work operate their own equalities policies, as well as processes for handling complaints from passengers and staff and, where necessary, taking disciplinary action.

We note that concerns have been expressed that images of children taken by security scanners might fall within section 1(1)(a) of the Protection of Children Act 1978. Whether security scanner images would in fact be regarded as indecent, applying the recognised standards of propriety, may be open to debate. But even if images from security scanners technically fall within section 1(1)(a) of the Protection of Children Act 1978 , the security scanning process is likely to come within the statutory defence in section 1B(1)(a) of the Act as being necessary for the purposes of prevention, detection or investigation of crime.

Airport operators have been instructed to provide to persons selected for screening the opportunity to provide details of their age, gender, race, ethnic origin and religion or beliefs for the purpose of diversity monitoring, although it is not compulsory for passengers to do so.

It is recognised that inequality of treatment may potentially be an issue for the staff operating security scanners, as well as passengers being scanned. It is with this in mind that the Government is keen to receive the views of the trades unions so that it can consider how best to address any concerns relating to staff. Selection for screening by security scanner is done on a random basis and is usually by automated numerical random selection, or in response to evidence-based concerns about a passenger, for example the passenger has caused other security controls or equipment to react.

In issuing this EIA for consultation the government is particularly keen to hear suggestions for practical steps that can be taken to increase the compliance with the Government's equality duties.

The Government believes that option b) can offer the best way of ensuring that security scanners are used equitably. In doing so it recognises that the vital element of this option is the seeking of views from stakeholders.

Human Rights Impact Assessment

To the extent that human rights are engaged, the Government believes that the use of security scanners as an aviation security measure at UK airports is a proportionate and legitimate interference of human rights. In relation to the right to privacy as provided for in Article 8 of the European Convention on Human Rights, security scanners have been deployed in the interests of protecting national security, public safety and the prevention and detection of crime**.** The use of scanners must be in accordance with a Direction to airport operators made under the Aviation Security Act 1982.

Given the need to maintain high standards of security, the Government does not propose to offer an alternative screening method to those who decline to be scanned. There is no viable alternative that would reveal carefully concealed items, short of a search involving removal of clothing and direct physical contact. The Government considers that this, by its nature, would be far more intrusive and a much greater invasion of privacy than the use of security scanners. Also training and having the necessary staff available to carry out such searches would impose a burden on airport operators which would be disproportionate to the benefit.

In light of the attempted attack on Christmas Day and the recent heightening of the threat level we believe that it is necessary and justified to heighten security measures at airports in order to better protect the travelling public. In order to achieve this, use of security scanners is justified. Security scanners are necessary because it is the best means of revealing concealed items with the least invasion of privacy. The Government believes that operation of security scanners in accordance with the code of practice is the best way of achieving the required heightened security measures with the least interference with human rights. Ultimately the rights of individuals must be balanced against the need to protect passengers and potential terrorist targets on the ground and the Government believes that the use of security scanners is proportionate in these circumstances.   It must also be borne in mind that when persons chose to fly they accept that they must comply with security requirements and that if persons do not want to be subject to security scanners, then they do not have to fly.

The measures set out in the Code of Practice and as further explained in the Equality Impact Assessment contained at Annex A, meet the requirements in Article 14 of the European Convention on Human Rights to secure enjoyment of rights and freedoms without discrimination

Privacy Impact Assessment.

Security scanners capture an image of a passenger for analysis by a security officer for the purposes of identifying whether the passenger has any prohibited items (e.g. explosives) located on his or her security. In the future it may be possible that the analysis can be conducted automatically by the machine.

All images must be destroyed and are irretrievable immediately after the scanning analysis is completed and the passenger moves away from the security scanner. Whilst an image is being analysed, only the screener can view that image. In exceptional circumstances where a screener believes there is a viable threat to the safety of passengers or staff, an additional appropriate security officer may be required to view the image. The regulations require that security scanners must not be set-up to save, copy or transfer images.

Airport operators have taken steps to make passengers aware of the presence of security scanners and why and how they are used. Airport operators provide to persons selected for screening the opportunity to provide details of their age, gender, race, ethnic origin and religion or beliefs for the purpose of diversity monitoring, although this is not compulsory for passengers to do so. Security scanners must be sited in such a way to ensure that the security officer(s)

conducting analysis of the image must not be able to see the person whose image they are viewing and the security officer(s) resolving any issues identified by the security scanner should not be able to see the image of the person being searched. A person selected for scanning may request that the screen reader is of the same gender as the person. If further resolution is required (i.e. a targeted hand search), the screen reader and the security searcher must ensure that they do not use of the image in their communication about the scan.

Security staff have been instructed to ensure that images of passengers shall not be left on unattended machines, and that image screens are positioned in a way that protects the screen from being overlooked. The government believes that the data and privacy controls in place will, where fully and properly implemented, result in the use of security scanners being in accordance with the Data Protection Act 1998

The Government is keen to receive comments and suggestions on how these data (privacy) controls might be further strengthened.