



Equality Impact Assessment

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The EIA Report



EQUALITY IMPACT ASSESSMENT
UK Border Agency
Policy Strategy Group
Central Policy Unit

PRELIMINARY SCREENING

Date of Screening	Monday, 12 October 2009
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Immigration Control Action Against Overseas Visitors With Outstanding NHS Debts	This is a new policy

Policy Aims, Objectives & Projected Outcomes

The creation of the UK Border Agency as a full Agency in April 2009 signals a step change in the way we will protect the UK border – a more integrated and secure approach which incorporates stronger off-shore controls and pre-arrival screening, a stronger UK border and tougher checks in the UK. The Agency’s three strategic objective are to:

- Protect our border and our national interests;
- Tackle border tax fraud, smuggling and immigration crime; and
- Implement fast and fair decisions

It is integral to all three objectives that the Agency has a key role to play in working with others to ensure that UK publicly funded services are shielded against misuse by those who are not permitted free access, enabling providers to focus their resources on delivering services to those who have a right to live in this country or are otherwise entitled to receive them, and providing the public with reassurance that the rules governing access to tax-payer funded benefits and services are fair and transparent and effectively applied. Where non-residents have a responsibility to pay for the public services they use, this should be enforced. Regular polling commissioned by the Home Office reveals that public attitudes favour firm action to enforce our immigration laws. In particular:

- a majority of the public wants us to prioritise the removal of the most harmful people first;
- a large proportion of the public supports increased measures to deport people who are illegally staying in the country.
- there is significant public support for UK Border Agency to work closely with other Government departments to deny benefits and NHS care to those who are here illegally;
- there is clear evidence of increasingly public concern about a perceived growing draw on public services and benefits by immigrants.

It can reasonably be concluded that public attitudes towards inward migration are unlikely to be influenced positively if action to address the misuse of public services is not perceived to be effective.

The UK Border Agency and Department of Health have jointly reviewed the rules governing overseas visitors' access to free NHS services in England, and the review's conclusions were announced on 20 July. The review was wide ranging and in reaching final decisions the Government has had regard to the need to strike the right balance between protecting public health and NHS resources on the one hand by ensuring vulnerable groups receive free treatment at an early stage to head off the risk of the spread of infection and prevent health conditions from exacerbating requiring more expensive downstream medical intervention, and on the other ensuring there are fair rules on free access, recognising that the National Health Service is a national resource for the people of the United Kingdom. One of the review's key conclusions was that the NHS in England and the UK Border Agency should work together to tackle the problem of overseas visitors defaulting on debts they have incurred to the NHS. The Government has proposed to amend the Immigration Rules to provide that non-EEA nationals will normally be refused permission to enter or remain in the United Kingdom if they have significant debts to the NHS. There are two elements to this proposal: that real time data on those with an outstanding debt to the NHS above a certain threshold should be shared by the NHS with the UK Border Agency; and that the Immigration Rules governing entry and stay in the UK should be changed to provide that those with debts above the threshold should be refused if encountered as applicants at any of the principal immigration control points: as visa applicants at the off shore Border Control; as arriving passengers at the UK Border; and as applicants seeking to extend their stay permanently or temporarily in the UK or to acquire British citizenship. The primary objectives of the proposal are to put in place arrangements that:

- deter persons subject to immigration control from accumulating debt to the National Health Service and from misrepresenting themselves as visitors to secure entry for the purpose of accessing NHS services;
- to incentivise individuals subject to immigration control who incur charges from the NHS to settle these as quickly as possible;
- to strengthen the ability of the NHS to recover debt owed by persons subject to immigration control;
- to complement/sit alongside other measures undertaken by the National Health Service to recover debt from overseas visitors who are not subject to immigration control (eg British citizens resident overseas) and to seek reimbursement from other European Member states in the context of operating the European Health Insurance Card arrangements);
- address public concern at the perceived misuse of NHS resources by foreign nationals.

The proposed arrangements simply complement the NHS regulations which are approved by Parliament and govern who is charged for accessing the National Health Service. The proposed immigration rules change does not purport to amend these NHS regulations or otherwise affect the categories of person who are entitled to use the National Health Service free of charge. This document is a preliminary equality impact assessment which forms part of a public consultation on the proposed immigration rule change. A full

equality impact assessment, taking into account responses to the public consultation, will be published alongside the consultation report in the New Year.

Will the policy have an impact on national or local people/staff?	YES
Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy	YES
Are there any aspects of the policy that could contribute to equality or inequality?	YES
Could the aims of the policy be in conflict with equal opportunity, elimination of discrimination, promotion of good relations?	NO*
If this is an amendment of an existing policy, was the original policy impact assessed?	N/A

* The firm and fair enforcement of the UK's immigration laws helps to eliminate unlawful discrimination, build public confidence in the immigration system, and promote good community relations.

PRELIMINARY SCREENING ASSESSMENT

It is important to anticipate the potential for adverse equality impacts that may be experienced by people.

If adverse equality impacts are identified, it allows UK Border Agency to make sure they are either mitigated or eliminated.

In considering potential equality impacts the policy team looked at the following strands:

Equality Target Areas	How might the policy create positive impacts? How would the policy cause any potential or known adverse impacts? If so, how could these be mitigated?
Race (consider e.g. nationalities, ethnic groupings, and command of UK languages)	There may be differing impacts by virtue of race, nationality or ethnic backgrounds. <i>The UK Border Agency will not play any part in a decision as to whether medical treatment is provided or whether this is provided as a free or charged. The Department of Health provides guidance and advice to NHS professionals in deciding the question as to whether treatment should be charged for. Nationality and race are not a material factor in those considerations and (some British nationals resident abroad are also liable to be charged for treatments) there are specific “baseline” questions the NHS professionals should ask the patient. These are designed so as to avoid unlawful discrimination.</i>
Disability (consider social access and physical access)	There may be potential impacts for those suffering with some form of mental impairment, or those with learning difficulties, such as understanding the implications of having an outstanding debt. Disabled individuals may be more likely to require treatment, including needing to undergo procedures, that may be chargeable which were unforeseen. <i>The UK Border Agency deals with a wide spectrum of people with differing needs every day. Officers are trained to identify specific needs and provided with training, guidance and assistance from specialist services in discharging their statutory duties. These will</i>

	<p><i>include seeking an appropriate guardian where necessary (for instance through Social Services). The proposed change to the rules does not impinge on the provision of urgent or necessary, primary or accident and emergency treatment. The matter as to whether a charge is applied is for the NHS professionals to consider. Notice of liability for such charges is given as early as possible, will not prevent the NHS from providing urgent treatment and may in most cases be covered by adequate travel insurance.</i></p>
Gender	<p>Different genders are more likely to require certain treatments, and are therefore more likely to be affected by the proposed changes.</p> <p>Women are likely to require treatment for pregnancy and related issues for examples and may be disproportionately affected.</p> <p><i>The UK Border Agency will not decide upon whether treatment is provided or a charge applied. Where a person is identified as being at particular risk otherwise vulnerable, the Agency will work closely with the NHS professionals in assessing the full circumstances of the case. For example, the UK Border Agency works with a number of non governmental agencies in providing close support to victims of trafficking.</i></p>
Gender Identity	<p>A possible impact on those seeking gender reassignment treatment (assuming that only elective, secondary or non urgent treatment sought)?</p> <p><i>The UK Border Agency will not take medical decisions nor a decision as to whether a charge is payable. The Department of Health's guidance to NHS professionals provides clear advice as to the questions to be asked and supporting information requested.</i></p>
Religion and Belief	<p>Those with certain religious beliefs may be barred from access to certain types of treatment in their countries of origin and may be disproportionately affected if refused entry.</p>

	<p><i>There are no provisions within the immigration rules for people to travel or stay in the UK in order to receive NHS treatment. Those seeking private medical treatment will have entered into a contractual agreement with the health service provider and will have been advised as to the associated costs of staying in the UK during the course of their treatment. Access to NHS services is governed by the relevant regulations in England, Scotland, Northern Ireland and Wales. They are similar in that they impose no requirements as to nationality or belief. The decision as to whether secondary care is provided for free is dependent upon the individual's residence in the UK or being otherwise exempt under the relevant NHS regulations.</i></p>
<p>Sexual Orientation</p>	<p>Against the background of the legal safeguards against discrimination on the grounds of sexual orientation, there is no evidence to date of any disproportionate impact on this basis.</p>
<p>Age (including our obligations to safeguard children under S55 of the Border Citizen and Immigration Act 2009)</p>	<p>A number of different age groups could be affected:</p> <p>Older visitors/patients are more likely to require health care treatment and could be affected by these proposals</p> <p>Young people seeking entry to the UK under the youth mobility scheme could be affected depending on whether they are considered to be exempt or not from charges.</p> <p>Children may face refusal due to a parent's debts.</p> <p><i>Access to the services provided by the NHS is dependent upon the individual's residence status and other factors are, in the main, immaterial. The NHS is not obliged to provide secondary care (excluding Accident and Emergency treatment, other otherwise urgent and necessary treatment or front line public health initiatives such as management of TB and preparing for pandemic Swine flu) to all. UK Border Agency and Department of Health guidance to travellers and short term</i></p>

	<p><i>residents makes this clear and strongly recommends the need for travel insurance in many situations.</i></p> <p><i>The UK Border Agency does not take steps to disrupt family life nor does it seek to separate families unless the families has continually failed to comply with reasonable requests. We expect parents to take responsibility for the care and treatment of their children. Children are only removed from the UK when adequate arrangements are in place for their reception at their home country (such as through Social Services). The Department of Health is proposing to amend existing regulations top make it clear that parents and guardians are to be held liable for costs to the NHS and, therefore, it will be the parents details that are shared by the NHS in the case of any debt.</i></p> <p><i>In dealing with children and in particular those who are unaccompanied, the UK Border Agency has an obligation in law to safeguard and promote the welfare of children who are in the UK. The proposed changes to the NHS charging regulations clarify the position that unaccompanied children in care are exempt from NHS charges. As a consequence a child will not be recorded as a debtor and so will not be subject to the proposed immigration sanctions. Where a parent or guardian is available or becomes known subsequently, the NHS will be able to make charges for services received to the guardian.</i></p>
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Positive impacts identified include greater clarity for NHS professionals and patients in understanding rights to access NHS secondary health care and which services will be provided on a charged basis.

Better controls will both avoid potential for fraud, damage to the resources we all rely upon in the NHS and support the UK Border Agency's desire to have an easily understood compact between travellers and the State. This is based upon a mutual understanding that both the traveller and the State have a duty to discharge certain responsibilities to each other in a fair and equitable manner based upon mutual respect.

What research have you considered commissioning to fill any data gaps?

For example, you may need to ensure quantitative & qualitative data groups include stakeholders with respect to this policy.

N.B Include any recommendations in your action plan

The proposal is the subject of a full public consultation, which provides an opportunity to collect relevant information from stakeholders and interested parties on the potential impact of the proposal.

Who are the stakeholders, community groups, staff or customers for this policy area?

Representative groups for medical practitioners, patients, immigration law practitioners, migrant community groups, travel industry, Equality and Human Rights Commission, Information Commissioner.

What are the overall trends and patterns in this qualitative & quantitative data?

Disproportionality; regional variations; different levels of access, experiences or needs; combined impacts.

There is currently little reliable data available to allow for conclusive assessments around disproportionate impacts. The UK Border Agency does not routinely gather data about race, disability, gender identity, religion or sexual orientation as these factors are rarely pertinent to a decision on immigration applications. The NHS also limits data gathering to information considered pertinent for medical reasons.

It is considered that the additional cost and added administrative burdens of seeking such data from patients and travellers would be disproportionate.

Please list the specific equality issues that may need to be addressed through consultation (and further research)?

- Views are sought as to the potential for disproportionate impacts upon certain classes of people in terms of significance and likely incidence.
- Consideration will be given to reviewing the resultant impacts after 12 months. Views are sought as to how this is best accomplished. The UK Border Agency is concerned that the range of data gathered by current means may prove insufficient and is reluctant to gather additional data. Views are sought as to how the Agency should seek to monitor the impacts of the proposed change to the rules.

ENSURING ACCESS TO INFORMATION

How can you ensure that information used for this EIA is readily available in the future?

(N.B. You will need to include this in your action plan)

- The full EIA will be published on the UK Border Agency website and available in print on request.
- The Department of Health are conducting an EIA taking into account the wider scope of their public consultation.

How will you ensure your stakeholders continue to be involved/ engaged in shaping the development/ delivery of this policy?

(N.B. You will need to include this in your action plan)

- The UK Border Agency works closely with a number of other Government Departments, Government agencies, local authorities, migrant representative groups and representatives from the third sector (charitable or public trusts). The Agency will invite representative groups to contribute to the EIA and seek their views and input after the rules changes have been implemented.

How will you monitor this policy to ensure that the policy delivers the equality commitments required?

(N.B. You will need to include this in your action plan)

- The UK Border Agency will seek the views of our stakeholders on a regular basis and will consider any evidence adduced both before and after the rules changes have been implemented.

ACTION PLAN

Recommendations	Responsibility	Actions required	Success Indicators	Target Date	What progress has been made?
Data Collection					
Publication Arrangements					
Monitoring & Review Arrangements					
List other recommendations that are required					

Please ensure that the action plan is agreed by your Director/ Minister

THE EQUALITY IMPACT ASSESSMENT REPORT

The EIA report is a concise summary of the results of your EIA work. You should ensure that you cover the topics described below.

Background:

- Context of policy/programme
- Link to strategic aims and objectives
- Scope of the EIA work (e.g. if linked to previous EIA or work delivered by another Government Department)

Methodology:

- Approach to data collection and analysis
- Results of consideration of existing evidence

Consultation & Involvement:

- Stakeholder/community involvement in developing proposals
- List of organisations engaged (optional)

Assessment & analysis

- Key Findings from the data collection and community engagement
 - Positive impacts: existing or potential
 - Adverse impacts: existing or potential

Recommendations

- Describe how you will respond to the key findings by:
 - strengthening the potential for positive impact,
 - removing areas that may exacerbate or engender adverse impact
 - including measures to mitigate any adverse impact that may occur
 - including measures that ensure ongoing compliance with statutory obligations
 - monitoring arrangements
 - ensuring continued public access to information about the policy/programme.
 - action plan (optional)

Date of EIA Report

Date of Publication of Results

Ensure that the EIA Report is published on the Home Office website before your policy/programme is implemented.