Response to the consultation on the use of security scanners in an aviation security environment.

Introduction

- Security scanners were introduced to UK airports in February 2010 as part
 of a package of measures that were considered necessary in response to
 the attempted attack on Northwest flight 253 to Detroit on Christmas Day
 2009.
- Security scanners were introduced at some UK airports in the months
 following the Detroit attack. At the same time, an interim code of practice for
 their use was issued to airport operators and a consultation was then
 launched by the Government as a key part of engaging with the public about
 this security measure.
- 3. The interim Code addresses the following issues:
 - Privacy
 - Data protection
 - Health and safety
 - Equipment approval
 - Training of staff
 - Communications
 - Selection criteria
 - Protocols
 - Review
- 4. The consultation closed on 19 July 2010 and over 6,000 responses were received. There were some 70 specific or detailed responses, with the remaining responses being made up of three types of 'petition' style letter received en masse. The vast majority of the 'petition' style responses were received by email, a large number of which appeared to come from outside of the UK.
- 5. All of the responses have now been analysed and the Government has carefully considered them, along with assessments of the risks and impacts (including an equality impact assessment), in reaching the decisions set in this document. A summary of responses is attached in annex to this document.

The Government's response

Privacy

- 6. The Government accepts that security scanners could be regarded by some people as a breach of their privacy. However the Government believes the use of security scanners is justified on grounds of national security. The threat from terrorism to the aviation industry remains significant, and the Government is responsible for ensuring that effective aviation security measures are put in place to mitigate that threat.
- 7. The Government is doing all it can to ensure that the scanning process is designed with privacy in mind. The code of practice makes clear that the viewing of images must be done in a closed room, and that viewers must not be able to see the passengers being scanned, and vice versa. Passengers also have the right to request a screen viewer of the same gender.
- 8. A significant improvement in privacy standards will be achieved with the introduction of a new generation of scanners with automatic threat recognition (ATR) software, which does not generate images to be viewed by a human screener. As soon as this technology is approved for use, the Government will require it to be purchased for all new scanner installations. The existing scanners will be replaced with ATR systems when they are life expired.
- 9. Many respondents asked for a 'pat down' hand search to be offered as an alternative. The Government does not believe that a 'pat down' search offers an acceptable alternative to scanning in security terms and has therefore decided not to permit it in place of a security scan.
- 10. The Government has considered carefully whether there are other screening methods which might deliver equivalent levels of security to a security scan. A full private search involving the loosening and/or removal of clothing in the presence of security staff in a private room would deliver a reasonable level of assurance. However, the Government believes that this is likely to represent a greater intrusion of privacy than a security scan, and that nearly all passengers, if they fully understand the procedures, would be unlikely to opt for this alternative.
- 11. The Government has also considered carefully the likely impact providing a private search alternative would have on airport operators and other passengers. Such searches are time consuming and require the presence of at least two trained staff. Airport operators would either have to provide such staff at a significant additional cost, or divert them from the main security search area, thus lengthening the queues for the vast majority of passengers who are content to pass through security in the normal way. Balancing these factors, the Government believes that the operational and cost impact on airports and passengers would be disproportionate.

12. Given these considerations, the Government has decided to retain the current policy whereby no alternative screening method will be offered. However, the Government will do all that it can to facilitate the introduction of less intrusive scanning equipment as soon as possible.

Data Protection

13. Because the safeguards in the interim code of practice provide a high level of protection, the Government sees no need for major changes to be made. However, because we recognise that it is very important to ensure that personal data continues to be protected the Government has decided to require airports to undertake twice yearly checks of scanner equipment to ensure that data (including any images) cannot be saved, copied or transmitted.

Health and Safety

14. Because we believe that the existing safeguards are sufficient to protect the health and safety of passengers and staff, the Government sees no need to make any changes in this area.

Equipment approval

15. Because we believe that the current system for assessing and approving equipment is sufficient, the Government sees no need to make any changes in this area.

Training

16. We believe that it is important to ensure that staff training programmes are appropriate and effective. Airport security operatives must pass EU and DfT-mandated security training in addition to their employer's own training requirements, which will include training on how to appropriately deal with passengers. This is in addition to specific security scanner training and Government Security vetting.

Communication

17. Because we believe that it is important that passengers have a good understanding of what security processes they can expect to undergo at the airport, the Government will continue to encourage airlines to provide suitable information about the presence of security scanners at the ticketing stage.

Selection criteria

18. Because we believe that it is important that everyone is fully aware of all forms of potential discrimination, the Government intends to amend the code of practice to make it clear that passengers should not be selected for security scanning on the basis of the following personal characteristics:

disability, sex, gender reassignment, age, race, religion or belief or sexual orientation.

Protocol

19. Because we believe that it is important that passengers can make themselves aware of the relevant legislation regarding the use of security scanners at UK airports, the Government has redrafted the legislation such that more information about selection for scanning and the scanning process is in the public domain. This information is published on the DfT web site.

Summary of consultation submissions

Privacy

20. Regarding privacy, the interim code of practice requires:

'An effective privacy policy must be put in place by the airport operator to protect passengers when being screened by body scanners. The policy must include a requirement that the equipment is sited in such a way to ensure that the security officer(s) conducting analysis of the image (the screener) must not be able to see the person whose image they are viewing and the security officer(s) resolving any issues identified by the body 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 sex as the person. If further resolution is required (i.e. a targeted hand search), an appropriate method of communication must be employed between the screen reader and the body searcher that does not include the use of the image to ensure that this privacy is protected.'

- 21. The questions relating to this section of the code in the consultation were:
 - Question 1: Do you agree with this approach? If not, what changes to the code of practice do you propose?
 - Question 2: Do you agree that the safeguards outlined in the interim code of practice address all potential privacy concerns? If not, what else should be included?
- 22. Approximately 50% of consultation responses submitted the view that the use of security scanners was an infringement of the right to privacy and/or the right to practice their religion. A further 30% of responses submitted that view, and also the additional view that a 'pat-down' hand search should be offered as an alternative to security scanning. The vast majority of these responses referred to religious-based beliefs and customs about modesty and the covering of the human body being inconsistent with the use of security scanners that create images for a person to analyse.

Data protection

23. Regarding data protection, the interim code of practice states:

'In order to classify a passenger's security status when using a body scanner, it is necessary to capture an image for analysis. The analysis is currently conducted by a security officer and in the future it may be possible to be analysed automatically by the machine. Immediately after the scanning analysis is completed and the passenger moves away from the body scanner, all images of the passenger must be destroyed and irretrievable. Whilst an image is being analysed, it must only be possible for the screener to 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. There must be no method of copying or transferring images.'

- 24. The question relating to this section of the code in the consultation were:
 - Question 3: Do you agree that the safeguards outlined in the interim code of practice satisfactorily address any potential data protection concerns? If not, what else should be included?
- 25. A small number of consultation responses raised concerns that images would be retained or misused in some way, and some suggested that scanners should be fitted with software to enable the computer to analyse the scan without images being viewed by an operator. A very small number suggested that software be used to blur faces and intimate body areas, or to convert the image of the passenger into a stick figure before analysis by the security operative.

Health and safety

26. Regarding health and safety, the interim code of practice states:

'The Department for Transport ("DfT") has the results of an independent assessment of the risks to health from the effects of the deployed body scanners. This assessment provides evidence that the use of body scanners is a negligible risk to health from exposure to ionising radiation. The assessment compares the risk from body scanners to other everyday risks and is available via the DfT website

(http://www.dft.gov.uk/pgr/security/aviation/airport/)

The airport authority deploying the use of a body scanner must ensure that all appropriate local risk assessments have been conducted for the type of body scanners being deployed and that the equipment conforms to all relevant health and safety requirements. Before deployment of body scanners that produce ionising radiation, a measure of the ambient radiation dosage and the effective dose that a passenger receives when being scanned, must be conducted by qualified persons. Local rules must be agreed and applied to mitigate the risks that a body scanner is used outside of normal operating conditions (whether through incorrect use or malfunction).'

- 27. The question relating to this section of the code in the consultation was:
 - Question 4: Do you agree that the safeguards outlined in the interim code of practice and HPA assessment satisfactorily address any potential health and safety concerns? If not, what further analysis would you wish the Government to undertake?

28. Approximately 10% of responses raised general or specific concerns about the potential health risks from security scanners. The most common concern expressed was the risk that x-ray backscatter scanners might lead to a higher risk of cancers for those who have been scanned. A small number of responses raised concerns that millimetre wave scanners might also be harmful to health.

Equipment approval

29. Regarding equipment approval, the interim code of practice states:

'Airport operators must discuss all prospective use of body scanners with the DfT before deployment to ensure that security standards are maintained.'

- 30. The question relating to this section of the code in the consultation was:
 - Question 5: Do you agree that requiring airport operators to discuss with the DFT all prospective use of security scanners as outlined in the interim code of practice satisfactorily addresses the requirement for all equipment to undergo a suitable approval process? If not, what else should be included?
- 31. The maker of a scanner technology that is not at present included on the list of approved equipment responded with views on how this method of screening should be used and on alternative scanner technologies.

Training

32. The question relating to this section of the code states:

'Security officers who are to be screeners must obtain appropriate security clearances before receiving training and receive training in accordance with an approved package. Training packages should be developed in partnership with manufacturers and must be approved by the DfT. Before being deployed to use a body scanner, a security officer must have completed the appropriate training including how to deal with issues sensitively and to protect privacy. Records of training undertaken must be maintained and made available upon request by the DfT.'

- 33. The question relating to this section of the code in the consultation was:
 - Question 6: Do you agree that requiring security officers operating security scanners to hold government security clearance and to have received training delivered in accordance with a DfT mandated security scanning training module before deployment satisfactorily addresses the issues of vetting and training? If not, what else should be included?

34. A small number of responses raised concern that airport staff did not have the skills to deal appropriately with passengers sensitively, and in a way that protects their privacy. Some were concerned that, given that children are subject to security scanning, the vetting controls are adequate and comparable to those for people who routinely work with children.

Communication

35. To keep the passenger informed, the interim code of practice states:

'An effective communication strategy should be developed to inform people of the security requirements where body scanners are deployed. It should be made clear at the earliest possible stage that all passengers selected for screening by a body scanner must be scanned. If a passenger declines to be scanned that passenger must be refused access to the restricted zone, with the result that the passenger will not be able to fly. Information should be adequate, clear and provided ideally before ticket purchase. In any event it must be provided prior to entering the passenger screening area. Information should also be readily available in a number of languages appropriate for passengers using the airport.'

- 36. The question relating to this section of the code in the consultation was:
 - Question 7: Do you agree that the requirements for keeping passengers informed outlined in the interim code of practice are sufficient? If not, what else should be included? And what additional means of communication do you suggest the Government or the travel industry should put into place?
- 37. A very small number of responses suggested that more information regarding security scanners be made available to passengers at the time of ticket purchase and check-in.

Selection criteria

38. On this point, the interim code of practice states:

'Passengers must not be selected on the basis of personal characteristics (i.e. on a basis that may constitute discrimination such as gender, age, race or ethnic origin).'

- 39. The question relating to this section of the code in the consultation was:
 - Question 8: Do you agree that selection criteria defined in the interim code of practice provide an appropriate safeguard to ensure that passengers are selected for screening on a non-

discriminatory basis? If not, how do you suggest passengers should be selected?

40. Many of the 80% of consultation responses that were concerned about the invasion of privacy caused by scanners were also concerned about the potential for discrimination in the selection of passengers. An additional 10% of responses raised solely this issue. The concerns were almost exclusively that passengers who appeared to be Muslim would be disproportionately selected more often. A couple of responses suggested that the Police and Criminal Evidence Act (PACE) code of practice on the stop and search of persons should be adopted for the use of security scanners.

Protocol

41. On protocols, the interim code of practice states:

'Body scanners must be operated in accordance with detailed protocols which contain security sensitive information on the operation of the body scanner including selection criteria for those to be scanned. The details of the protocol are not published due to the security sensitive content but will comply with the requirements contained in this interim code of practice.'

- 42. The questions relating to this section of the code in the consultation was:
 - Question 9: Do you agree that the guidance provided in the Protocol section of the interim code of practice is satisfactory? If not, what else should be included?
 - Question 10: Are there any other issues that you would like to see the final code of practice consider? If so, what and why?
- 43. A very small number of responses wanted to understand more clearly the legal basis for the use of security scanners, the way they are used and the criteria for the selection of passengers for scanning.

List of respondees

A Baroo

A.gender staff network

Aberdeen Airport

Aberdeen Airport Consultative Committee

ABTA

Air Transport Users Council

Alison Steward

Amar Latif

Andrew Pease

Bangladesh Women's Association in Haringey

Big Brother Watch

Bolton Council of Mosques

Breast Cancer Care

Charlotte Rose

Cheshire East Council

Child Exploitation and Online Protection Centre

Civil Service Islamic Society

Danny Mitchell

David Mery

Dean Khwaja

Denise Ham

Disabled Persons Transport Advisory Committee

Dr Colin Moughton

Dr H Kanabar

Dr K R Akhtar

Dr Liagat Natha

Dr Rahman Mohammed

Dr Tim Jacoby

Engage

Equalities and Human Rights Commission

Farida Salam

Fiona Gallagher

Gatwick Airport

Gatwick Airport Consultative Committee

Geraint Huw Evans

Health and Safety Executive

Heathrow Airport

Heathrow Airport Consultative Committee

Helen Batty

I Hussein

Indian Muslim Welfare Society

Information Commissioners Office

Igbal Bhana OBE DL

Islamic Human Rights Commission

Jack Shaw

Janet Botham

JUST West Yorkshire

Ken Harrow

Kent Muslim Welfare Association

Khalid Khan

Khalilah Khan

L3 Communications

Lancashire Council of Mosques

Liberty

Liverpool Airport

London City Airport consultative Committee

Lothian and Borders Police

Lynn Morris

Maha El-Metwally

M Boyce

Manchester Airport Group

Mia Mantri

Muslim Council of Britain

Muslim Council of Scotland

Muslim poverty relief

N Nanaz

Nafis Lodhi

Naosheen Pervez

Peel Airports Group

Privacy International

Sagulain Firdoose

Shabeer Ahmad

Shabibir & Co. Chartered Accountants

Simon Mcleod

The Consumer Council

The Federation of Student Islamic Societies

Thruvision systems

UK Airport Consultative Committees

Virgin Airways

Waltham Forest Noor UI Islam Trust

Plus 6000+ 'petition' style responses.