Title:	Impact Assessment (IA)
Impact Assessment of proposed amendments to the Immigration Rules; refusing entry or extensions of stay to NHS debtors **Lead department or agency:** UK Border Agency, (an executive agency of the Home Office) **Other departments or agencies:** Department of Health	**IA No:** **Date: 18th March 2011** **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Primary legislation **Contact for enquiries:** NHSUKBAConsultation@homeoffice.gsi.gov.uk

Summary: Intervention and Options

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

Health regulations across the UK specify those who may receive NHS treatment free of charge. In the main, secondary or elective care may attract a charge where a patient is not ordinarily resident in the UK or otherwise exempt. Initial research by the Department of Health found that over £10m was owed in debts to a sample number of hospitals by those not ordinarily resident in the UK. There is also evidence from health and immigration professionals that non residents are travelling to the UK in order to access NHS services. In many cases, these debts are left unpaid and the costs borne by the NHS.

What are the policy objectives and the intended effects?

It is proposed to amend the Immigration Rules to provide for refusal of entry or extensions of stay to non-EEA foreign nationals where they owe a debt above a prescribed amount to the NHS. Currently, the UK Border Agency and NHS do not routinely share data on these debtors. Having this information available will allow the Agency to make better informed decisions and assist the NHS in protecting vital national frontline services (£10m equates to the salary of 300 nurses in a year).

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

There are two options under consideration. The "Do Nothing" option would involve no changes to the Immigration Rules. There are currently no provisions in the Immigration Rules for visitors seeking free NHS treatment. New Health regulations were introduced in 2004 (England), however, it is apparent that there are small numbers of debtors who are determined to return to the UK repeatedly and have no intention of paying off their debts.

The alternative Option involves UK Border Agency and the NHS sharing data on these debtors and changing the Immigration Rules as described above. This is the preferred way forward, as these steps will help in protecting public resources, incentivise the payment of outstanding debts and encourage compliance with the Immigration Rules and Health Regulations. Option 2 considers a debt threshold of £1,000. Options previously considered included as option 2 but with a debt threshold of £500.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2013 **What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month/Year	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes/No

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: ..... Date: .....

Summary: Analysis and Evidence

Policy Option 1

Description: Do Nothing

Price Base Year 2009	PV Base Year 2009	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate	0		0	**0**

Description and scale of key monetised costs by 'main affected groups'

No additional costs

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

No additional costs

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate	0		0	**0**

Description and scale of key monetised benefits by 'main affected groups'

No additional benefits

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

No additional benefits

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

No additional risks.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	**Benefits:** 0	**Net:** 0	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/04/2011		
Which organisation(s) will enforce the policy?			UKBA		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** 0	**Non-traded:** 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0	**Benefits:** 0	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro** 0	**< 20** 0	**Small** 0	**Medium** 0	**Large** 0
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence

Policy Option 2

Description:

Amend Immigration Rules to prevent re-entry or extensions of stays to NHS debtors with debts over a threshold of £1000.

Price Base Year 2009	PV Base Year 2009	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: : 0.12	**High:** 19.3	**Best Estimate: 6.1**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		1		
High				
Best Estimate	0.15		0.5	**2.33**

Description and scale of key monetised costs by 'main affected groups'

To Department of Health: initial set up cost; £150,000; hosting and data transfer costs £467,000

To UK Border Agency: costs of sharing data with DH £15,000; immediate removals from ports £879,000; potential enforced removals in-country £700,000; time costs of processing additional re-applications for leave to enter/remain £124,000

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

Additional written guidance for UK Border Agency staff.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		1		
High				
Best Estimate	0		1.7	**8.40**

Description and scale of key monetised benefits by 'main affected groups'

To NHS: recovered debt £8.4m

To UK Border Agency: fees from out-of-country reapplications £34,000

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

Benefit to NHS of reduction in future debt due to deterrence; better data to UK Border Agency allows for more informed assessment of immigration decisions.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

Potential costs and benefits depend on debt threshold, average debts above threshold, number of debtors encountered, proportion who pay back debt when encountered, and medium-long term behavioural changes – for example fewer intended debtors entering the UK. In absence of robust volume data, the central estimate is based on no behavioural changes: constant debtor volumes over 5 years.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	**Benefits:** 0	**Net:** 0	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/05/2011		
Which organisation(s) will enforce the policy?			UK Border Agency		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** 0	**Non-traded:** 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0	**Benefits:** 0	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro** 0	**< 20** 0	**Small** 0	**Medium** 0	**Large** 0
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	Yes	19
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	Yes	19
Human rights Human Rights Impact Test guidance	Yes	19
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	*Charging for Immigration and Nationality Services 2009-10*, UK Border Agency.
2	Consultation; Refusing entry or stay to NHS debtors. (**ISBN:** 978-1-84987-107-5)
3	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0.15									
Annual recurring cost	0.1	0.1	0.1	0.1	0.1					
Total annual costs	0.25	0.1	0.1	0.1	0.1					
Transition benefits	0									
Annual recurring benefits	0.36	0.36	0.36	0.36	0.36					
Total annual benefits	0.36	0.36	0.36	0.36	0.36					

* For non-monetised benefits please see summary pages and main evidence base section

Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

Checks are currently made on people subject to immigration control wishing to enter and remain in the UK which include steps to establish identity and details of any previous stay in the UK. In some instances there may be grounds to suspect the misuse of NHS services but it is not currently possible routinely to conduct such checks for all arriving passengers. These enquiries, which are resource intensive, would continue under the do nothing option but would continue to be incidental to the central purpose of immigration enquiries and many cases of debt would be missed. Amending the rules, as detailed below, would allow the fact of a debt to be immediately identified immediately by electronic means allow an immigration decision maker to take account of any outstanding charges in assessing the person's application for a visa, entry to the UK or application to remain.

Analysis of sample data from the Department of Health in England suggested that around 3,600 people in one year had incurred unpaid NHS charges of over £1,000, and around 4,500 people had outstanding NHS charges of over £500. For the purposes of this IA, and to avoid overly speculative assumptions on behavioural changes, we assume that this would be a constant across all 5 years, but if the policy is effective, this should fall over time.

Some of these outstanding debts will already be recovered if the rules are not changed. Based on anecdotal evidence from the Department of Health in England, we make a central estimate of 33% recovery under Do Nothing. In addition, only a proportion of debtors will apply to re-enter or remain in the UK and hence be encountered at the immigration control. Again, we make a central estimate of 33% passing through the immigration control. These figures are both largely speculative, although based on discussion with the Department of Health, and a range is included in the Sensitivity Analysis to highlight the potential range of volumes.

A.2 Consultation

Public Consultation

The UK Border Agency undertook a public consultation "Refusing entry or stay to NHS debtors" which was around proposed changes to the immigration rules. The consultation ran from February 2010 – June 2010.

The purpose of this consultation was to obtain input and opinions as to whether the proposed changes to the Immigration Rules are an appropriate and proportionate response to the perceived problems of inappropriate access to free NHS services, and to seek views on the way in which the new arrangements should be implemented and operated. We are committed to identifying, exploring and preparing for any unintended adverse impacts of these changes

The consultation was available online to the general public on our website: www.ukba.homeoffice.gov.uk

Key stakeholders were notified of the consultation - eighty-three from our Corporate Partner Group and thirty-two from the National Migration Group were informed via email. The Department of Health also informed their stakeholders of the UK Border Agency consultation, as did the relevant devolved health departments.

Organisation respondents

The following organisations responded to the consultation:

- British Medical Association (BMA)
- Council of Ethnic Minority Voluntary Sector Organisations (CEMVO)
- George House Trust (GHT)
- Immigration Law Practitioners Association (ILPA)
- National AIDS Trust (NAT)
- North West Regional Strategic Migration Partnership

- Terrence Higgins Trust (THT)
- UK Council for International Student Affairs (UKCISA)
- West Midlands Strategic Migration Partnership
- Great Ormond Street Hospital for Children NHS Trust, (International Division)
- NHS Scotland Counter Fraud Services
- Overseas Visitor Advisory Group, (OSVAG)

B. Rationale

The proposal to change the Immigration Rules to allow for refusal of applications to those seeking to re-enter or extend their stay in the UK will assist in protecting our public services from misuse and assist in tackling fraud. Initial research by the Department of Health in England found outstanding debts of over £5m owed by non-resident patients to a small sample of hospitals (approx 16% of hospitals in England). Growing evidence from health professionals and immigration staff has identified that there is a relatively small number of non-resident patients who appear determined to access NHS services and are not paying charges they owe. In some instances, people are visiting the UK primarily to seek free medical treatment. There is also evidence, for instance, that some women travel here in the late stages of pregnancy in order to secure maternity care.

C. Objectives

The over arching strategy to ensure closer working between UK Border Agency and the Department of Health is based on a foundation of existing dialogue which highlighted a need for more consistent and efficient methods of communication. Work at some of our main ports of entry has demonstrated the potential savings that can be accrued. Officers at Gatwick Airport were able to identify over 1000 suspected NHS debtors over a two year period and it is believed that their actions in identifying such debtors led to over £500k recovered by the NHS (these figures are indicative only).

In taking forward the proposed rules change, the UK Border Agency and Department of Health in England has agreed, in principle, to the sharing of data on NHS debtors. This impact assessment covers the costs in England in implementing the proposed change in the immigration rules. Similar agreements in principle have been secured with the devolved authorities. It is not envisaged that there will be any significant further costs to the UK Border Agency. Making this data available to Border staff will allow for NHS debtors to be identified when they apply for visas at our missions abroad, when they arrive into the UK and where they apply for an extension of stay. The data will also allow the NHS and UK Border Agency to gather information as to areas where there is evidence of systematic abuse of NHS services and further assist in tackling possible fraudulent activity.

D. Options

Option 1 is to make no changes (do nothing).

Option 2 Amend Immigration Rules to prevent re-entry or extensions of stays to NHS debtors with debts over a threshold of £1,000

E. Appraisal (Costs and Benefits)

General Assumptions and Data

This Impact Assessment compares two options. Option 1 is “Do Nothing”: to make no changes to the Immigration Rules to specify refusal of entry or extensions of stay to those with a debt to the NHS above a prescribed threshold.

Option 2, outlined above, involves changing the Rules to allow for refusal of entry or extensions to those with an NHS debt above £1000. In Option 2, the proposed change would take the form of an additional

factor to an existing Immigration Rule (para 320) that allows for refusals of visas, entry and extensions on a number of "general" grounds (that is pertaining mainly to past behaviour, conduct or character).

Option 1 is used as the baseline, and the costs and benefits of the other option (2) are considered below. The Department of Health is also taking forward an impact assessment relating to the wider scope of their proposed changes to charging regulations.

Data from the Department of Health in England suggests around 3,600 people in one year incur unpaid NHS debts over £1,000, and around 4,500 people have outstanding NHS debts over £500. For the purposes of this IA, and to avoid overly speculative assumptions on behavioural changes, we assume that this is constant across all 5 years, but if the policy is effective, this should fall over time.

Some of these outstanding debts will already be recovered under Do Nothing. Based on anecdotal evidence from the Department of Health in England, we make a central estimate of 33% recovery under Do Nothing. In addition, only a proportion of debtors will apply to enter or remain in the UK and hence be encountered at UK Border Agency checkpoints. Again, we make a central estimate of 33% passing through UK Border Agency checkpoints. These figures are both largely speculative, although based on discussion with the Department of Health, and a range is included in the Sensitivity Analysis to highlight the potential range of volumes. These assumptions imply around 800 per year under Option 2.

In addition to the assumptions above, we also need to estimate how those encountered will be split across UK Border Agency checkpoints. This requires assumptions around the breakdown of applicants into in-country, at port, and at visa post. We assume that 10% of the total encountered would be in-country. We assume that 70% of the remainder would be at port, and 30% at visa post. This is on the basis of approximately 70% of non-EEA visitor journeys to the UK being from non-visa national countries in 2008, implying that any debtors from these countries would be encountered at port

The majority of the costs and benefits for Option 2 are heavily dependent on the volumes of debtors encountered at UK Border Agency checkpoints, the proportion of people who repay their debt when encountered, costs of removals, and on behavioural changes as a result of the policy. One of the main aims is deterrence. If fewer people come to the UK with an intention of utilising the NHS without paying, the volumes of people encountered will fall. The operating costs and removals costs associated with the policy would fall, as would the future debt incurred. The amount of debt recovered would also fall if those who have existing debts do not return to the UK; however, this would also mean that no further debts were accrued and there would be less abuse of the NHS services.

The volume of debtors encountered by UK Border Agency will depend on the debt threshold. During the initial consultation phase two trigger levels were considered, £500 and £1000. It was found that the £500 threshold involved larger costs and secured only marginal additional benefits over the £1,000 threshold. The Government opted for a £1000 threshold and an analysis of the costs and benefits of each are set out in the summary costs and benefits table on page 13.

In considering the appropriate level of debt at which to trigger action against debtors we considered the available data on likely volumes and average debt. Because of uncertainty regarding volumes it was assumed that the level of debtors encountered would remain constant over the projected period of five years. We conducted a sensitivity analysis using a range of assumptions and evidence of volumes in England. The analysis was based on estimates from the Department of Health in England and initiatives in Gatwick Airport. This Sensitivity Analysis can be found on page 13. The figures it contains relate only to England, as they are based on Department of Health data which does not include information on NHS debt incurred in Scotland, Wales and Northern Ireland.

Option 2 – Amend Immigration Rules to prevent re-entry or extensions of stays to NHS debtors with debts over a threshold of £1,000

Policy Costs (excluding OIOO)

Costs to UK Border Agency

1. Technical costs – ongoing - £0

Technical costs to UKBA are relatively insignificant as existing systems can be integrated electronically. The technology utilised by both the NHS and UK Border Agency allows for a straightforward transfer of

data in a form that the Agency can readily use. It is assumed that the technical costs of sharing data are not higher under Options 2.

Existing technology will be used so as to provide safeguards in preventing the inappropriate or unlawful use of this data and the data will be supplied through a central point of contact at the NHS in a format agreed by both parties. The data the Agency will share will relate to personal identifiers only, the fact that a debt exists and the relevant Health Authority details.

2. Processing or transferring of data – ongoing - £1300pa

There will be some wage costs to UK Border Agency of transferring the data, as there will be a need for regular processing or transferring of data. For Option 2 this is assumed to take one person half an hour per day, valued at the overtime rate of £10 per hour.

3. Reviewing data – ongoing - £1800pa

There may also be additional costs to UK Border Agency of reviewing data to ensure that only non-EEA foreign nationals with outstanding charges of over £1000 are included. As a rough estimate, this is assumed to take 5 people one working week (per annum), valued at £10 per hour per person.

4. Higher operating costs at ports – ongoing – unit/opportunity cost per additional removal @£750. Total additional costs not quantifiable

Additional refusals of entry will entail higher operating costs at ports, as some non-visa nationals will be apprehended at port. Some will decide to pay their NHS debt, using the existing direct 24-hour NHS helpline (for England), but some will return to their country of origin.

Evidence from officers at ports, however, shows that in most cases the incidence of NHS debt often leads to discovery of other infringements of the Immigration Rules (providing evidence of a hidden intention to a visit, proof of other financial irregularities or casting doubt upon the passenger's ability to maintain and accommodate themselves through their own means). For example, there may be evidence of benefit fraud or illegal working. It is envisaged that this strong pattern will be replicated across other cases encountered and that many will be refused entry on a number of grounds. The impact of the proposed rules change on the number of removals is therefore unclear.

The unit cost of removing a person directly from a port ranges from around £500 to £1,000. The £500 is a rough estimate of the cost of a single flight from the UK[3], and £1,000 includes an estimate of overnight detention and processing costs[4]. The central estimate is accordingly taken as £750.

There will be no change to enforcement budgets in response to this Rules change, but cases will be prioritised for removal according to the UKBA Harm Matrix. The direct enforcement cost is hence £0, as shown in the summary boxes, but the estimated unit cost is the opportunity cost of removing one NHS debtor from a port.

5. Increased in-country removals- ongoing – unit/opportunity cost per additional removal @£12.500. Total additional costs not quantifiable

The identification of NHS debt, and thereby of other infringements of the Immigration Rules, in-country may result in an increase in forced removals of those within country applying for leave to remain. The NAO (2005) estimate the cost of an enforced removal to be £12,500 (up-rated to 2009 prices using the Treasury GDP Deflator). For each Option, and in the Sensitivity Analysis, in-country removals were assumed to be 30% of those apprehended at the Leave to Remain stage that refuse to pay their debts[5].

[3] Internal estimate based on Civil Aviation Authority statistics.

[4] Internal estimate.

[5] This 30% is in line with the proportion of failed asylum seekers removed in the 2007 cohort (source: *Control of Immigration Statistics 2008*). However, this included voluntary departures, and is not necessarily representative of the proportion of NHS debtors who would be forcibly removed upon failing to obtain LTR.

6. Time cost to UK Border Agency of processing re-applications for leave to enter and remain – ongoing – published unit cost of processing an application for a Non-Student Leave to Remain (Postal)[6]: £392. Total additional costs not quantifiable

Applicants who apply for leave to enter from outside the UK, or those applying for leave to remain in the UK, will need to re-apply should their case be refused on the grounds of NHS debt. This will entail an additional processing cost for UKBA for those who choose to pay their debts and reapply.

The majority of those encountered in the Gatwick initiatives entered the UK as a visitor. The average cost of processing an application for a short term visitor visa[7] is £101. As these visitors form the largest proportion of those ineligible for free NHS access, this is a good estimate of the appropriate figure for handling out-of-country reapplications.

7. Cost to foreign nationals of re-applying for leave to remain – ongoing - Unit cost £465 per case

Foreign nationals in the UK that have to re-apply for leave to remain face both a time cost of reapplying and an additional fee. We do not include in Impact Assessments the time cost to individuals of regulation. We do include the fee, which is a transfer to UK Border Agency. The fee of £465 for Non-Student Leave to Remain (Postal) is the unit cost to each foreign national who reapplies. The higher the volume of people caught at Leave to Remain and the higher the proportion that decide to reapply, the larger is this transfer.

8. Cost to UK Border Agency of providing guidance to staff – one off - £0

Whilst there will be a need for additional written guidance for staff, they are already familiar with the provisions within paragraph 320 and extending the criteria to cover NHS debt fits and complements existing rules comfortably. It is assumed that there would be no additional training cost of the Rules change.

This policy should not lead to higher operating costs for immigration caseworkers in UK Border Agency as all officers involved in making immigration decisions are required to make routine security checks on all applications. However, this policy adds the legal ability to recover NHS debt and remove non-compliers.

Total Costs to UK Border Agency

Total costs to UKBA are estimated at £3,100 per annum (option 2 + additional unknown unit costs dependent on cases identified).

Cost to the Department of Health and the NHS

1. Technical costs – ongoing - set-up cost, estimated at £150,000 in the first year for Option 2. Their ongoing hosting and data transfer costs are estimated at £100,000 per year for Option 2.

Under current proposals, NHS debtors (for England) identified by the UK Border Agency will be referred to the NHS in England. The NHS and those providing debt collection services to the NHS will be able to take payments electronically. Whilst it is envisaged that more patients will be referred to the NHS by the UK Border Agency, the NHS is already involved in collecting debt and employing search agencies at cost. There may be costs to the devolved health authorities in setting up similar models of data sharing.

2. Total costs to DH/NHS

Total costs to DH/NHS are estimated at £100,000 per annum (Option 2 + £150,000 start up costs).

3. Administrative Burdens (excluding OIOO)

No additional administrative burdens identified.

[6] Source: *Charging for Immigration and Nationality Services 2009-10*, UKBA.

[7] Source: *Charging for Immigration and Nationality Services 2009-10*, UKBA.

Policy Benefits (OIOO)

Reduced immigration crime and future NHS debt – not quantified

The clear signal that the UK Border Agency is policing firm borders may influence the behaviour of those who may be contemplating coming to the UK through irregular means. As outlined above, this signal should also reduce those travelling to the UK to access NHS services by fraudulent or other irregular means. The identification of an outstanding NHS charge can also act as a trigger for identification of other immigration irregularities, such as the incidence of illegal working or irregular access to public funds which are difficult to quantify without further research but borne out from the anecdotal evidence of immigration officers and pose further risk to the economy of the UK; meaning that such people will be denied entry or leave to remain in the UK. This will help protect resources for vital frontline services, and help protect our services and communities.

Better data for UK Border Agency – not quantified

For the UK Border Agency, the additional data on NHS debts will allow for more informed assessments of immigration applications, a better understanding of where risks to our community and public services are arising and, in many cases, act as an impetus for further investigation given the potential for further financial or immigration irregularities.

Recovered NHS debt – ongoing - £8.4m (present value) over 5 years

Our intention is to achieve significant savings to the NHS in recovered charges. Some limited experience at our Ports has demonstrated the clear potential for significant cost recovery by the NHS; however, it is not clear whether other Ports would encounter the debtors of the same scale or volumes seen in at Gatwick. It is also difficult to assess the potential impact the rules change may have "upstream". That is, as potential travellers become aware of the rules change, there may be changes to behaviour on their part. This could lead to some travellers seeking to access NHS services by fraudulent means and, conversely, to a drop in overall numbers of debtors as the majority come to understand that failure to pay NHS debts will lead to an immigration sanction; this is the primary policy intention behind the proposed rule change. The respective Departments of Health and NHS will be better able to quantify the debt recovered as a result of the rules change in the medium to long term.

Data from the Department of Health in England suggests that with a debt threshold of £500, the average debt above the threshold is around £3,800. With a debt threshold of £1,000, the average debt above the threshold is around £4,500. However, the volume of people encountered above the threshold will be lower with the £1,000 threshold. The amount of debt recovered not only depends on the average debt above the threshold and the volume of people encountered by UK Border Agency, but also on how repayment behaviour varies with a person's debt. It is implicitly assumed that the probability of repayment is uniform across the debt distribution, but this may not be the case. We take the central estimate of debt repayment as 50%, based on anecdotal evidence from UK Border Agency.

Benefit to UKBA of fees from re-applications – ongoing - £34,000 (present value) over 5 years

Those who reapply for Leave to Enter or Leave to Remain after paying their NHS debts will incur an application fee. Internal re-applications are a transfer to UK Border Agency, with a Non-Student Leave to Remain (Postal) fee of £465 per person[8] in 2009-10. External re-applications are a benefit to UK Border Agency, at the Short Term Visitor fee of £67 per person[9] in 2009-10.

Administrative Savings (OIOO)

No additional administrative savings identified.

[8] Source: *Charging for Immigration and Nationality Services 2009-10*, UKBA.

[9] Source: *Charging for Immigration and Nationality Services 2009-10*, UKBA.

Summary Costs and Benefits

Using the volumes above, the tables below show the additional total monetised costs and benefits of Option 2a (£500 threshold) and Option 2b (£1000 threshold).

CENTRAL ESTIMATES	**Option 2: £500 Threshold**	**Option 2: £1,000 Threshold**
Monetised Costs (Present Value over 5 Years)		
To Department of Health		
Set-up cost	£150,000	£150,000
Hosting and data transfer costs	£467,000	£467,000
To UK Border Agency		
Sharing data with Department of Health	£15,000	£15,000
Immediate removals from ports	£1,098,000	£879,000
Potential enforced removals in-country	£875,000	£700,000
Time costs of processing additional reapplications for LTE and LTR	£155,000	£124,000
Total Monetised Costs	**£2.76m (over 5 years)**	**£2.33m (over 5 years)**
Monetised Benefits (Present Value over 5 years)		
To NHS: Recovered debt	£8.8m	£8.4m
To UK Border Agency: Fees from out-of-country reapplications	£42,000	£34,000
Total Monetised Benefits	**£8.88m (over 5 years)**	**£8.40m (over 5 years)**
NPV over 5 years	**£6.12m (over 5 years)**	**£6.07m (over 5 years).**

Under the above assumptions, the £500 threshold will involve higher costs in applying the proposed sanctions and accrue slightly higher benefits than the £1,000 threshold. Taking into consideration, however, the complexity of some immigration cases, the costs of removing some person refused at a port may be larger than the average represented here and there is a greater risk that the aggregate costs of applying the sanctions fail to outweigh the benefits accrued. For these reasons and the concerns raised by some respondents to the consultation that the sanctions may disproportionately affect those unable to pay (as opposed to unwilling to pay) the preferred option is to set a debt threshold of £1,000. However, it should be noted that this result is heavily assumption-driven, and may not hold under a different distribution of repayment probabilities across the distribution of debts.

Sensitivity Analysis

To highlight the scale of potential costs and benefits which might arise under different assumptions, this section presents a high-cost, low-recovery scenario and a low-cost, high recovery scenario for Option 2.

We vary some of the key factors which determine overall costs and benefits, in line with best estimates from UK Border Agency, Department of Health and existing initiatives. These factors are:

- The proportion of debt that would be collected under Do Nothing and the proportion of debtors who apply for leave to enter or remain in the UK: thereby the volume of debtors encountered at UK Border Agency checkpoints;

- The proportion of people who repay their debts when encountered by UK Border Agency, and thereby the amount of debt recovered and the removal costs of those who do not comply;
- The cost of an immediate removal, as outlined on page 10.

The table below shows the assumptions made for each of these factors, and the costs and benefits estimated to arise as a result.

SENSITIVITY ANALYSIS	**Option 2: £500 Threshold**		**Option 2: £1,000 Threshold**	
	High-cost, low-recovery	Low-cost, high-recovery	High-cost, low-recovery	Low-cost, high-recovery
Proportion of debtors apprehended under Do Nothing:	50%	25%	50%	25%
Proportion of debtors who apply for Leave to Enter or Leave to Remain at UK Border Agency checkpoints:	25%	50%	25%	50%
Proportion who repay debt:	25%	75%	25%	75%
Cost of immediate return at port:	£1,000	£500	£1,000	£500
Total Monetised Costs (Present Value over 5 years):	£2.7m	£2.4m	£2.3m	£2.0m
Total Monetised Benefits (Present Value over 5 years):	£2.5m	£22.6m	£2.4m	£21.4m
NPV over 5 years:	**- £150,000**	**£20.2m**	**£122,000**	**£19.3m**

One major driver of the costs and benefits of the policy is the proportion of people who pay their debts when encountered. The higher the proportion of people who pay their debts, the greater are the potential benefits in terms of debt recovery, and the lower are the removal costs. A person's willingness to repay the debt will depend on the size of that debt and whether he/she has any desire to return to the UK. The highest estimated debt repayment is 75%, and the estimated worst case scenario is 25% repayment, which would result in the largest removal costs at port and in-country.

It should be noted that high removal costs and low average debts could result in negative NPV, as debt recovery may not cover removal costs for those who do not repay. For example, with a £500 threshold and average above-threshold debts of £3,800, and other assumptions as in the central estimate, about 21% of people would have to repay their debt in order for the policy to break even in terms of the monetised costs and benefits included above. With a threshold of £1,000 and average above-threshold debts of £4,500, and other assumptions as in the central estimate, around 19% of people would have to repay when encountered in order for the policy to break even in terms of monetised costs and benefits[10]. It is difficult to estimate potential future savings to the NHS with the data available at present, as passengers come to understand that inappropriate use of the NHS services will attract a sanction, fewer will attempt to do so.

F. Risks

Option 1 – Do nothing – maintain status quo

Risk	**Sensitivity**	**Mitigation**
That action to recover NHS charges is inconsistent and currently taken in only a small number of cases.	Identification of debt is a by-product of existing immigration enforcement rather than an integral part of its process. Action to identify debtors is more likely in larger offices with greater resources.	The availability of targeted data via existing data processes will achieve a wider penetration and awareness.
Some enquiries are conducted	No inspection of data should take	Existing processes dictate a

[10] These estimates hold as long as the breakdown of debtors encountered into port, visa post and in-country is as in this IA.

unnecessarily	place without a reason. Existing processes are not targeted at specific known debtors.	succession of checks designed to identify the person and then check against records of debt. While this militates against unnecessary disclosure of data it is resource intensive and inefficient for both organisations.
Management and auditing of requests for data discloser are inconsistent and/or fail to provide necessary safeguards.	Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take. Requests for disclosure of data must be shown to be necessary and managed via properly accountable processes	Existing arrangements meet these criteria but a risk remains that the processes are cumbersome and resource intensive. Data delivered via an existing data process allows closer management and monitoring of hits and a more efficient audit trail for data requests.

Option 2 - Amend Immigration Rules to prevent re-entry or extensions of stays to NHS debtors with debts over a threshold of £1000.

Risk	Sensitivity	Mitigation
That data is inaccurate or out of date	Potential to breach Data Protection Act provisions, risk to UK Border Agency reputation, unnecessary use of resources and potential action for negligence.	The processes to select and transfer data are governed by agreed limits on the data sufficient to identify the individual and the fact that a specified level of debt is outstanding. Data will be verified at the point of contact with the data owner.
That the decision to recover debt is not in the interests of public health	Potential risk of deterring necessary emergency medical care or that necessary for wider public protection, e.g.: from communicable disease.	Action to recover is separate to the needs of the individual and the wider community. Action to identify and recover debt will not debar the individual from further legitimate or necessary care. NHS charging regulations include exceptions for certain particularly vulnerable groups, and broad public health charging exemptions in relation to specified communicable diseases.
That confidential medical data may be improperly disclosed	No inspection of data should take place without a reason. Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take	Only that data necessary to identify the individual and the level of debt is disclosed
That the new process is a worse use of resources or duplication of existing processes	New policies should be enforced using existing systems and data to minimise the administrative burden imposed	The proposed option uses existing data tools. Inspection of the new data is governed by existing security protocols and DPA.

G. Enforcement

The proposed option seeks to ensure a more proportionate and efficient approach to identifying those who have misused the NHS and one which ensures compliance with principles of the Hampton Code. We will achieve this by:

- More targeted distribution of data focussed on specific, current levels of debt. The selection of a specific limited data set allows for a more proportionate level of access to data;
- Providing for a more consistent process of management and auditing of requests for data;
- Reducing the administrative burden on both organisations attached to multiple avenues of enquiry and better utilises existing data tools;
- Ensuring that the new process fits within existing tools, procedures and resources;
- The data held on an individual's NHS charges will be conveyed in full to that individual.

H. Summary and Recommendations

The table below outlines the total 5 year costs and benefits of the proposed changes.

Table H.1 Summary Costs and Benefits

Option	Costs	Benefits
2	£2,335,000	£8,435,000
	Cost to Department of Health: Set-up cost £150,000 Hosting and data transfer costs - £467,000 Cost to UK Border Agency: Sharing data with DH £15,000 Immediate removals from ports £879,000 Potential enforced removals in-country £700,000 Time costs of processing additional reapplications for LTE and LTR £124,000	Benefits to Department of Health: Recovered debt £8.4m Benefits to UK Border Agency: Fees from out-of-country reapplications £34,000
Source: Home Office		

Our preferred option is Option 2 with an assumed trigger for debt recovery of £1000.

Making this data available to UK Border Agency staff will allow for NHS debtors to be identified when they apply for visas at our missions abroad, when they arrive into the UK and where they apply for an extension of stay. The data will also allow the NHS and UK Border Agency to gather information as to areas where there is evidence of systematic abuse of NHS services and further assist in tackling possible fraudulent activity. Changing the Immigration Rules to account for NHS debts could bring considerable benefits to the UK, but could lead to higher operational and opportunity costs of enforcement.

With a debt threshold of £500, the current best estimate of the net present value over 5 years is a net benefit of £6.12m over Do Nothing, based on no behavioural changes over time. With a debt threshold of £1,000, the current best estimate is a net benefit of £6.07m over Do Nothing with the potential for lower operational and opportunity costs, also based on no behavioural changes over time. It should be noted that the more successful is the policy, the greater would be the deterrence effect, and hence the volume of debts incurred and recovered should fall over time.

Sensitivity analysis was used to vary the volumes apprehended, the proportion of those repaying from 25% to 75%, and the costs of immediate return from £500 to £1,000. This indicates that the possible

NPV with a £500 threshold ranges from a net cost of £150,000 over 5 years, to a net benefit of £20.2m over 5 years. With a £1,000 threshold, the corresponding range is from £122,000 to £19.3m over 5 years. It should be stressed that these figures are indicative only.

I. Implementation

The Government plans to implement these changes in Spring 2011.

J. Monitoring and Evaluation

Monitoring

The UK Border Agency will work closely with the Department of Health and devolved health ministries to develop appropriate measures to monitor and evaluate the impact of the new immigration rule. The UK Border Agency and Department of Health will:

- Take stock of the composition of the case group where data about NHS debtors has been shared by Department of Health with the UK Border Agency,
- Will examine both whether the incidence of un-cleared NHS debt owed by overseas visitors subject to immigration control has changed and whether the rate at which overseas visitors clear their debts has also changed.
- Further discussion will take place with Department of Health and NHS on other additional methods for measuring potential impact of the new rule.

Evaluation

The success of the policy is governed by a: the numbers of debtors encountered as result of greater data availability and, b: the recovery of costs. Success will be determined according to:

- Whether there is evidence of a decrease in level of unpaid foreign national debt as a percentage of overall unpaid debt and/or there is evidence of a trend towards a future decrease.
- Whether the numbers of foreign nationals detected with unpaid debts increases during the period and/ or there is evidence of a trend towards a future decrease.

We will measure:

- Numbers of those with unpaid debts encountered during the process of applying for visas overseas;
- Numbers of those with unpaid debts encountered during the process of applying for entry to the UK;
- Numbers of those with unpaid debts encountered during the process of applying for further leave to remain;
- The increase in costs recovered from the date of implementation against a baseline of costs known to have been identified by UK Border Agency during 2009;
- Costs recovered as a percentage of known outstanding debts by foreign nationals;
- Numbers of foreign debtors within the control group being posted or deleted each month.

Data will be collected for a pilot period of 12-24 months following implementation and evaluated at the end of that period. Interim evaluations will take place monthly.

K. Feedback

The post-implementation pilot will conduct interim reviews monthly and a final review after 12-24 months.

Data will be collected from UK Border Agency data sources that will use existing automated queries to notify numbers of cases circulated and/or deleted from the system during the period, positive hits on cases encountered abroad or in the UK respectively.

Department of Health will collate data on levels of debt recovered during specified periods.

UK Border Agency will seek feedback from frontline users on the trends identified during the process, e.g.: the types of cases most likely to agree payment.

Annexes

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review: Post-Implementation review
Review objective: Proportionate check that regulation is operating as expected to tackle the problem of concern and achieving the desired outcome
Review approach and rationale: Interim monitoring and ongoing evaluation of operation after 12 months. This will include review of collated data, trends, money recovered, Data Protection Act issues identified, process issues identified. Rationale based on using existing tools and processes to conduct reviews where possible.
Baseline: The baseline is as set out in the do nothing option.
Success criteria: See “Evaluation” section above. Success will be defined against the stated policy objectives to reduce abuse of the immigration system.
Monitoring information arrangements: Planned arrangement to utilise existing data reporting mechanisms to evaluate data posted to UKBA systems. Existing systems allow evaluation of numbers of entries, deletions, hits against enquiries and audit of enquiries by users.
Reasons for not planning a PIR:

Annex 2. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

The Equality Impact Assessment can be found on the UK Border Agency website at the link below:

http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/nhs-debtors/

The above Equality Impact Assessment is being updated, and will be published again alongside implementation of the rules.

Social Impact - Human Rights assessment

It is recognised that there is a potential impact on human rights, in particular with regards to Articles 8 (family and private life) and 14 (discrimination) ECHR, where a person is coming to join a family member or wishing to undertake activities which affect their private life. The proposals are however, proportionate to achieve a legitimate aim, i.e. that of protecting the NHS and its budget from abuse. The legislation does not override existing regulatory controls and does not affect either UK Border Agency or Department of Health in their statutory duty to comply with Human Rights and equality legislation.

The proposed legislation acts within an existing framework of processes designed to ensure that the most vulnerable are not denied essential medical treatment. The legislation acts to create a better understanding of existing rules that treatment may be chargeable in certain circumstances and that steps may be taken to recover costs in accordance with charging regulations that have been approved by the UK Parliaments or devolved administrations.

The direct application of the new legislation is to create a cooperative framework to manage the imposition of costs to foreign nationals who are liable to be charged. The legislation allows the fact of outstanding debt to be factored into the consideration of applications to enter or remain in the UK but does not override the existing requirement by either Department of Health or the UK Border Agency to comply with the Human Rights Act.

The application of proposed restrictions on medical services needs to be seen in the context of existing immigration case consideration which fully encompasses consideration of Human Rights legislation and allows discretion to be made in order to comply with it.

Access to free NHS treatment is already allowed for asylum seekers whose cases are under consideration and children. UK Border Agency provides free health treatment to immigration detainees. None of these provisions will be adversely affected by the legislation. The Department of Health propose to change the NHS charging regulations in England to provide that destitute failed asylum seekers who have children or face recognised barriers to return and therefore qualify for UK Border agency support should have free access to NHS secondary care services.

Where payment for medical services remains outstanding beyond the published threshold then this fact will be made available to UK Border Agency officers responsible for considering grants of entry or stay in the UK but the evidence of debt is one of many factors that will be taken into account in reaching a decision to grant of refuse.

There is a potential positive impact on health of UK and other residents who may have easier access to the NHS, or face less congestion.

Social impact – Public Health assessment

Safeguards to foreign nationals using UK health services are detailed to some extent within the Human Rights assessment (above).

- It is recognised that there may be an impact on those seeking health services where the potential cost of treatment may act as a deterrent to seeking advice or treatment. Existing safeguards ensure the

ongoing provision of treatment of vulnerable people and those where treatment is urgent or immediately necessary.

- It is not intended that treatment will be refused where urgent or immediately necessary but it is reasonable and proportionate to seek to recoup costs. These measures, together with the need to protect the public purse ensure that the impact is mitigated and is proportionate to the risk.
- The proposed Immigration Rules change will not affect the rights of people to register with doctors and seek medical opinion. Where there is a perceived wider public interest in providing treatment, eg: in the case of communicable disease, the proposed legislation does not restrict General Practitioners in their ability to treat patients.
- UK Border Agency will take steps to warn travellers to the UK of their liability to be charged for health services at the earliest stage of consideration.