

Title: Impact Assessment of Biometric Residence Permits: Leave to Remain including Indefinite Leave to Remain, Asylum, Protection, Statelessness and Discretionary Leave IA No: HO0049 Lead department or agency: The UK Border Agency Other departments or agencies:	Impact Assessment (IA)		
	Date: 25/11/2011		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
Contact for enquiries: Eleanor West, The UK Border Agency, Tel: 020 8760 2244			

Summary: Intervention and Options **RPC Opinion:** RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£37.3	£0m	£0m	No
			NA

What is the problem under consideration? Why is government intervention necessary?
 EU regulations require member states to issue foreign nationals from outside the European Economic Area (EEA) who are granted residency on their territories for more than 6 months, a stand-alone residence permit containing the biometric features of the holder stored in a chip in the permit. This document is known as a Biometric Residence Permit (BRP) in the UK and is issued by the UK Border Agency. To date the UK has only partially complied with the EU regulation as the rollout of the permit is being undertaken incrementally by immigration application category. To enable the rollout of the BRP to continue to more categories of non-EEA foreign nationals granted an extension of stay in the UK, further secondary legislation is required.

What are the policy objectives and the intended effects?
 To introduce a secure immigration document that provides a foreign national with evidence of their status and entitlements. This in turn provides employers and other organisations with a secure document that they are able to readily recognise and easily check. The permit makes it easier and simpler for employers to check whether non-EEA foreign nationals are entitled to work in the UK, while making it more difficult for those not entitled to be in the UK to access employment and benefits to which they are not entitled. Issuing the permit to further categories of non-EEA migrants extending their stay in the UK enables the UK to meet its legal obligations under EU legislation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 1: Do nothing: this is not recommended as this would continue to leave many different immigration documents which employers would have to check. It could also leave the UK open to infringement proceedings from the European Commission as we would fail to comply with the EU regulation.
 Option 2: Implement Biometric Residence Permits and phase out older, less secure types of immigration documents. Continue the incremental rollout of a high quality secure document that is easily recognisable for employers and others to all non-EEA nationals who are here legally for more than six months.

 The issue of BRP cards to out of country applicants is not within the scope of this impact assessment. This will be assessed in a further impact assessment specific to out of country applications.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 11/2012					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

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) that the benefits justify the costs.

Signed by the responsible Minister: Dominic Green Date: December 3rd 2011

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing, this option breaches EU legislation so is not a realistic choice. It could leave the UK open to infringement proceedings from the European Commission and the costs of this are unknown but presumed to be large.

FULL ECONOMIC ASSESSMENT

Price Base Year 2007	PV Base Year 2007	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: -39.0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	1	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	0		10.0	-39.0

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

The UK Government is highly likely to face an annual fine of approximately £10 million per year (constant prices) over the period 2012/13 to 2016/17. This is an estimated cost of the fine that the UK may be subject to from the EU Commission as it would be in breach of EU legislation it opted into. This is likely to cost in the region of £39.0 million (present value) over the five year period.

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

Employers will continue to use a wide variety of documents to check if an individual is eligible for employment. There will continue to be costs and risks associated with non-EEA nationals who do not have a BRP including: unnecessary burdens on employers, abuse of the immigration system, adverse impacts on the taxpayer and wider negative impacts including reduced social cohesion and reputational risk to both the UK Border Agency and the Home Office.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	1	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	0		0	0

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

No additional monetised benefits are identified. The £25.5 million (PV) of benefits from Option 2 would not be realised.

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

Benefits accrue to individuals who continue to abuse the immigration system (ultimately a burden on government, the taxpayer and employers). It would not allow a critical mass of BRPs for non-EEA nationals to exist, costs will have been underestimated in previous Impact Assessments and benefits would not be fully realised. This may lead to problems arising from treating sub-groups of non-EEA nationals differently. Option 1 may lead to more costs and problems for the Government than foreseen.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
<p>The key assumptions include the following.</p> <ol style="list-style-type: none"> 1. The volume of immigration abuse that currently occurs from this group continues at the same level. 2. Going forward immigration may become a growing threat as this loophole becomes more widely known as a successful route to exploit the system. 3. The EU imposes the fine from year 1 and that the UK pays the fine. 		

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Implement BRP and phase out older, less secure immigration documents. Continue the incremental rollout of a high quality secure document that is easily recognisable to all non-EEA nationals who are here legally for >6 months.

FULL ECONOMIC ASSESSMENT

Price Base Year 2007	PV Base Year 2007	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -37.3

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	1	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	12.5		7.4	62.8

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

This is the final group of categories in the implementation of BRP cards for in-country applicants. This is 45 per cent of all grants and of all costs. The cost of enrolling biometrics (social costs) for these groups is £14.6 million (PV). The proportion of set-up costs for the categories in scope is £12.5 million (PV). Operational costs account for £35.7 million (PV) over a 10 year period.

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

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	1	N/A	N/A
High	N/A		N/A	N/A
Best Estimate			5.1	25.5

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

The key monetised benefits are:

Improvement in efficiency by employers for checking employment status (employers), reduction in benefits fraud (UK economy), fewer removals of illegal immigrants (the UK Border Agency), reduction in foreign national migrant prison population (UK economy) and the cessation of vignette production (the UK Border Agency). The benefit value (PV) is affected by the ramped growth in later years and heavier discounting.

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

Income to the Post Office (for biometric enrolment fees) is excluded.

Fee income is excluded, as it is assumed that this is from income earned in the UK.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
IT development costs of £1.7 million (constant prices) have been assumed for the financial year 2011/12. With the introduction of 'Front Office Services' (FOS), the majority of applicants will have biometrics enrolled through the FOS (98% from 2012/13 onwards).		
Asylum and humanitarian protection categories will not be charged fees and will not pay for enrolment.		

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

Foreign nationals come to the United Kingdom for a wide range of reasons such as to study or work. The Biometric Residence Permit (BRP) uses technology that enables UKBA to comply with European Union legislation, reinforce its business processes, cut illegal working, protect legal migrants and identify those trying to evade our rules and laws. In addition, it provides employers and other organisations with a simple means of checking whether a foreign national is entitled to work in the UK or access certain services and/or benefits.

EU regulations (EC regulation 380/2008), require member states to issue foreign nationals subject to immigration control and granted residency on their territories for more than 6 months a standalone residence permit of a uniform format and containing fingerprints and a digital photograph stored on a chip on the permit. This document is known as a Biometric Residence Permit (BRP) in the UK and is referred to as a Biometric Immigration Document within the UK Borders Act 2007. As BRPs are governed by European legislation, the UK Border Agency is required by European law to issue BRPs if it is to avoid infringement proceedings by the EU.

The Government plans to implement these changes on 29 February 2012. The Biometric Residence Permit Central Operations Unit will oversee the operational implementation.

A.2 Groups affected

This impact assessment supports regulations that widen the categories of applicant required to enrol their biometrics and apply for a Biometric Residence Permit as part of an immigration application. Since the UK Border Agency began the rollout of Biometric Residence Permits on 25 November 2008, the Agency has issued Biometric Residence Permits to just under 600,000 non-EEA migrants. Only applicants who are successful in their applications and granted permission to stay in the UK are issued with a Biometric Residence Permits. Previous phases of the incremental roll out of BRPs have covered applicants extending their stay in the UK under the points-based system for migration, as spouses or partners of persons present and settled in the UK and a number of other smaller categories of temporary application resulting in a grant of Leave to Remain (LTR).

These regulations incorporate all in-country applications for more than six months stay not already rolled out, including: settlement (or Indefinite Leave to Remain - ILR), asylum, humanitarian protection, stateless persons, temporary protection, discretionary leave. They also incorporate any LTR categories of temporary applicant not already rolled out. Applicants who already have ILR but make an application to replace or upgrade their lost, stolen or old immigration status document from the next rollout date will need to enrol their biometrics and apply for a Biometric Residence Permit. Applicants for a Home Office Travel Document (Convention Travel Document, Stateless Person's Travel Document, Certificate of Travel) who do not already hold a valid BRP will simultaneously apply for one. Dependants of any category applying for a stay of more than six months will also be covered.

Applicants making a relevant application will be able to make premium applications including having their biometric details taken as from 29 February 2012. Postal applications will also be able to be made on 29 February 2012 but will not be able to have their biometric details taken until their application has been received and they are notified.

A.3 Consultation

Within Government

In 2008 there was a wide ranging consultation with Government departments when Biometric Residence Permits were first discussed and full details of this can be found in the impact assessment '*Impact Assessment of Identity Cards for Foreign Nationals – Student and Marriage Categories*' (May 2008). The main departments consulted included: Ministry of Justice, HM Courts, Devolved Administrations in Wales, Northern Ireland, The Scottish Executive and the Ministry of

Defence, Department for Work and Pensions, plus the Child Exploitation and Online Protection Centre (CEOP) and Association of Chief Police Officers (ACPO).

Further government department consultations took place in 2009 and January 2010 for each particular rollout of the the BRP (see '*Impact Assessment of Identity Cards for Foreign Nationals - PBS Tier 4 (Student), Marriage Categories and others*' (January 2009) and '*Impact Assessment of Identity Cards for Foreign Nationals - Tier 2 of Points Based System*' (October 2009).

In October 2010 there was a further consultation which included the following departments: Ministry of Justice, Health, Work and Pensions, Business, Innovation and Skills, Culture Media and Sport, Children, Schools and Families and other agencies, the devolved administrations of Scotland, Wales and Northern Ireland, Identity and Passport Service plus the Association of Chief Police Officers and the Child Exploitation and Online Protection agency.

Public consultation

As well as engaging with other government departments the Agency has consulted and continue to work with employers, student organisations and groups representing those affected including those that represent all the equality strands and other vulnerable groups such as refugees. Each set of regulations and amendments has been supported by Equality Impact Assessments and directed consultation with those impacted, and each Equality Impact Assessment gives details of the partners invited to feed back their views on the impacts at each stage (see in particular '*Impact Assessment of Biometric Residence Permits - Tiers 1 and 5 of Points Based System*' (October 2010), which provides an overview of communications and partnership activity and details of who was consulted and the partners we have worked with from 2008 within the annexes to the Equality Impact Assessment).

We have consulted representative groups in relation to equality strands and civil rights, including A: Gender and Liberty, employers, sports representatives, religious organisations, overseas governments and their embassies and organisations representing foreign nationals and those impacted, liaising with external partners through the Agency's established partnership forums such as the Employers Taskforce, Arts & Entertainment Taskforce, Joint Education Taskforce, Business Advisory Panel and we continue to do so. These included agencies, non-departmental public bodies, interest groups and focus groups plus staff and community engagement.

A consultation was held on the Code of Practice in 2008 with respect to sanctions and the biometric registration regulations. This material was made available to over 180 parties including the House of Commons.

Building on earlier consultations, in respect of the draft regulations for the proposed 2012 rollout, the UK Border Agency sought views from a range of key sources and representative groups from across our business areas about the impact of Biometric Residence Permits. During 2011, the UK Border Agency launched two surveys. The first was to around 500 relevant organisations representing both voluntary, local government and employer/trade organisations. The second survey was launched in response to a recommendation from the Equality Impact Assessment for the 2010 roll out. It invited existing and previous holders of the biometric residence permit to comment upon their experiences to enable them to inform us of the potential impacts of holding a biometric residence permit. These consultations have informed the high level policy and will continue to inform the implementation of this next stage of the rollout.

B. Rationale

In May 2008, the EU approved the regulations that require member states, including the UK, to issue uniform format BRPs to (non-EEA) foreign nationals granted leave for more than 6 months by May 2012. The EU Commission is seeking to raise the minimum standards of immigration documents issued by member states to improve the security of documentation. These regulations act as another significant milestone towards complying with the regulation by extending the BRP to all qualifying in-country applications.

BRPs support the Government's commitments to secure the border and control migration. They help strengthen immigration controls, reduce the burden on businesses and those required to check the status of foreign nationals and enable migrants lawfully in the UK to access employment and other benefits to which they are entitled. As more BRPs are rolled out, it will become even easier for employers and others to establish whether their foreign nationals are entitled to work or access public benefits or services in the UK.

Use of biometrics is already well established by the UK Border Agency both overseas during the visa application process and in-country. Using biometric technology has helped the Agency to identify and take action against those submitting fraudulent or multiple applications.

C. Objectives

1) Complying with EU regulations

In June 2002, Council Regulation (EC) 1030/2002 laid down a uniform format for vignettes issued to foreign nationals subject to immigration control. This set out the format and security features of the vignette (sticker) in a passport or as a standalone permit. These regulations were amended on 18 April 2008, by Council Regulation (EC) No 380/2008, which introduced a time-frame of 3 years from the agreement of technical standards to implement the later regulation requiring that member states only issue as standalone Biometric Residence Permits containing fingerprints and digital facial image. The EU Commission signed the technical specifications on 20 May 2009.

This Impact Assessment is concerned with amending the Biometric Registration Regulations made under the 2007 Act to deliver the last phase of the in-country rollout of BRPs in accordance with the UK Border Agency's business plans based on existing and new category types which match up to the Agency's expanding biometric enrolment capability. This is to enable the Government to meet its obligations under EU legislation.

The EU is updating the residence permit to improve its security and usage for migrants with permission to stay on a member state's territory.

2) Expanding coverage

Biometric regulations rolled out incrementally to date enable the UK Border Agency to require those applying to extend their stay in the UK under certain immigration categories to enrol their biometric features (ten fingerprints and facial image) as part of that application. Already covered by the scheme are applications made under the immigration rules to extend for more than 6 months in the categories presented below.

- Tier 1 of the points-based system for migration – highly skilled workers, investors, entrepreneurs and post-study work.
- Tier 2 of the points-based system for migration - skilled worker (general), minister of religion, sportsperson and intra-company transfer.
- Tier 4 of the points-based system for migration - student (general, including postgraduate doctors and dentists) or student (child).
- Tier 5 of the points-based system for migration – temporary workers.
- Spouses and civil, unmarried or same-sex partners of a person present and settled in the UK.
- Academic visitor.
- Visitor for private medical treatment.
- Domestic worker in a private household.
- United Kingdom ancestry.
- Retired persons of independent means.
- Representative of an overseas business.
- Dependant of a main applicant in a category that requires a BRP.
- Transfer of conditions (from a passport or other such document).

The new regulation will introduce the requirement to enrol biometrics to foreign nationals applying in the UK for more than six months stay under any category not already incorporated. As stated above, this includes settlement (ILR), asylum or protection applicants and those granted

discretionary leave and any temporary (LTR) applicants not already covered. Successful applicants will be issued a BRP to evidence their immigration status and entitlements in the UK. In addition, the regulation will extend the BRP to those already holding settled status replacing or upgrading their immigration status document and those applying for a Home Office Travel Document if they do not already hold a BRP. Dependants of any of the above categories applying in the UK for more than six months will also need to enrol biometrics and simultaneously apply for a BRP.

In addition, migrants who apply in country before 29 February 2012 in a non-biometric category will continue to receive a sticker (vignette) as evidence of leave until 1 December 2012 but after this date they will be required to apply for a biometric residence permit (if they have not already applied for one). This will ensure that from this date there will only be one such format of document issued in-country by the Home Office, making it simpler for employers and others required to check them. The addition of these categories in the regulations will enable all in-country migrants from outside the EEA to be required to apply for a BRP when making these applications in the UK. This approach will enable the continued roll out to expand in a manageable means and continues to support the Government objective of meeting its obligations under EU legislation.

D. Options

Option 1: Do nothing – This option is not possible, as the UK must comply with EU regulations on the format of biometric residence permits. There are no additional costs and benefits associated with Option 1 – do nothing. However, Option 1 is not recommended for two reasons: firstly, it would continue to leave a multitude of immigration documents which employers would have to check and secondly, it could also open up the UK to infringement proceedings (and probably a large fine) from the EU as we would fail to comply with the EU regulation.

Option 2: Implement EU regulations by completing the phased rollout of BRPs to in-country applicants (*phase out older, less secure types of immigration document*) – This means the UK Border Agency will issue a high quality secure document to those legally here, easily recognisable by employers and others which includes fingerprints before the deadline, set by the EU, of May 2012.

The preferred option

The preferred option, as in previous impact assessments, is to fully implement the policy (Option 2). Previous impact assessments have included and rejected a third option allowing for consideration of an interim period of issuing BRPs without fingerprints in accordance with the EU regulations which were subsequently amended to add fingerprints. As the deadline for including fingerprints is May 2012, there is no value in considering the third option for the current impact assessment. In proceeding, the UK Border Agency has considered the impact of this policy and the costs and benefits of implementing the scheme, and considers the benefits to justify the costs.

E. Appraisal (Costs and Benefits)

Overall approach to costs and benefits

The impact assessment covers a 10 year period in line with the guidance from the Regulatory Policy Committee (RPC) and the Better Regulation Executive (BRE). The aim is to set out the best estimates of the policy impacts for BRPs for the groups affected as described in **A2**. In this impact assessment, we have included the proportion of costs and benefits of the full Biometric Residence Permits Programme that are relevant for the groups covered by this phase. This approach has been used in previous impact assessments (see **Annex 3**). The costs set out in this IA are part of the wider costs of introducing BRPs. The latest estimate of costs for the whole scheme are shown below (costs have been scrutinised by Parliament's EU scrutiny committee as part of the introduction of BRPs). The volumes assumed for the 10 year period covered in this impact assessment for these regulations are a subset of the whole BRP implementation which has covered several other categories. Benefits are calculated with expected volumes (or changes in volumes) for the groups covered by this phase and are only considered if relevant for groups within this rollout. The key uncertainties are highlighted in **Annex 2**.

Full costs

For clarity, the full cost estimates of rolling out BRPs over 10 years, including categories that are already rolled out are presented in Table 1 as are the apportioned costs. As with any estimates, these are reviewed against actual costs, and will be changed as new and revised information becomes available.

Table 1

Costs and benefits of the BRP Programme (£ million), present value (PV) and constant prices (CP)

	Full BRP programme costs (£m, PV)	Costs proportioned to this rollout (£m, PV)
Costs		
Total one-off costs over 5 years	27.7	12.5
Total running costs over 10 years	79.3	35.7
<i>Average annual costs (excluding one-off) (CP)</i>	9.4	4.2
Social costs	32.4	14.6
Total Costs	139.4	62.8
Benefits		
<i>Average annual (constant prices)</i>	11.4	5.1
Total Benefits	92.8	25.5
Net Present Value	-46.6	-37.3
Net Present Value excluding social costs	-14.2	-37.3

Note: Where benefits are wholly attributable to categories not in scope for this last group, these benefits have not been apportioned.

The total cost over a 10-year period (on a present value basis) is £139 million (PV) and includes:

- Set-up costs £ 27.7 million
(to design, build and roll out the BRP system)
- Operational costs £ 79.3 million
(costs of making appointments, processing applications, enrolling applicants' biometrics, validating identity, production and despatch of permits, continuing IT and application support)
- Social costs £ 32.4 million
(cost of applicants' travel and enrolment time, these are included in the total costs as although costs to the individuals, they reflect the opportunity cost of this time which could be put to productive use.)

The case for BRPs has been developed over a number of years. The key assumptions that support the modelling of impacts are documented in **Annex 2** and are presented below.

- A discount rate of 3.5%.
- The modelling is based on a 10-year time horizon from 2007/08 to 2016/17.
- Benefits are estimated for specific groups on the basis that the benefits are relevant to this group(s) affected within this rollout and there is no apportioning of benefits by a simple pro-rata rule. All the benefits calculations relate to specific impacts.
- We assume no migrants are deterred by the cost of the application and BRP fee.
- There will be a commercial arrangement in place from February 2012, whereby the majority (98%) of biometric enrolments will be carried out by a commercial partner. There will be a fee payable for this service for the majority of applicants.

General assumptions and data

The general assumptions are set out below.

- Forecasts of applicants are based on data provided by the UK Border Agency and are used in the business case and economic model. The forecasts are not published because they are used for business planning purposes and are commercially confidential.
- Fee income is not included as a benefit for those applying in country.
- For compatibility with previous impact assessments, costs and benefits relate to the 10-year period that includes all investment costs, that is from 2007/08 onwards.
- Costs of biometric enrolments are based on the assumption that the UK Border Agency enter into a commercial arrangement with a third party supplier in spring 2012.
- Some categories of applicants will not be charged application or enrolment fees (for instance, asylum and humanitarian protection).

OPTION 1 – Option 1 is not to implement Biometric Residence Permits any further.

Option 1 is to retain the current system. As explained in the options section above, this is not a feasible option as it will result in the UK facing infringement proceedings from the EU. There are two main problems with this option. Firstly, it does not leave employers with a single secure document to check the employment status of a non-EEA migrant seeking work in the UK. This means business would have to continue to bear the burden of the current number of biographical documents that are in circulation. It is not possible to make an estimate of the time and cost that employers currently spend on this due to the uncertainty of the data. Secondly, the UK could be open to infringement proceeding from the EU as it would be in breach of EU legislation after May 2012. The best estimate of the fine we have is around £50 million over the 5 year period. Volumes of migrants who abuse the system are unlikely to change and the benefits that may occur under Option 2 would not be realised.

Further, not all the benefits listed in this impact assessment would be realised as BRP programme costs are apportioned to successive rollouts to specific groups of applicants and would be underestimated (because costs are apportioned on a volume basis) so £22.5 million of spend (sunk costs) would need to be reallocated to the groups already rolled out. It may be possible not to carry out the development work for this tranche thus not spending £1.7 million (constant prices) but this entails sacrificing all the associated benefits (£25.5 million, PV) that go with Option 2.

Costs and benefits are apportioned to the groups affected by volume. All of the direct costs and set-up costs were fully committed in 2007/08. As they are apportioned by volume each group shares a proportion of these costs and the relevant benefits are estimated for each specific group. The costs for Option 1 appear very high but this is because they reflect almost the entire cost of the full programme as these costs have been spent.

Direct costs

The direct costs were implemented in the beginning of this programme and only refer to the year 2007/08. Nearly all of the public sector training (the UK Border Agency) and private sector familiarisation was undertaken as part of 'normal training updates' and the additional costs arising out of this were almost negligible.

Set-up costs

The set-up costs included ICT over the years 2007/08 to 2010/11 at £15.0 million, salary costs at £7.9 million over 2007/08 to 2010/11 and non-pay costs at £3.4 million (all PV) over 2007/08 to 2009/10. These costs are sunk costs. Nearly all transition costs applied to the years 2007/08 to 2010/11 when the system was set up.

Operational costs

Operational costs have been incurred every year since 2007/08 as subsequent groups have had BRPs rolled out to them. The operational costs have been committed over the period 2007/08 to 2011/12 (these costs include the end of the year financial projection). The main operational costs over the years 2007/08 to 2011/12 are presented below in £ million (PV).

- £15.3 million on card services.
- ICT costs are £7.6 million.
- £6.6 million for salary and non-salary costs.

- Accommodation and utilities account for £3.7 million.
- Postage and secure communications amount to £2.2 million.
- £1.9 million was required for secure procedure testing.

While the BRP programme is being rolled out vignettes still have to be printed until all groups have moved to BRPs. This is reflected in a cost of approximately £7 million (PV) for this secure procedure. Operational costs tend to be proportional to the volumes in each BRP stream and set-up costs are apportioned in this manner.

Benefits

The total value of benefits that have accrued due to the introduction of BRPs is considerable and ongoing. The benefits are described in each impact assessment for the different groups being enrolled on BRPs. However, if the system does not continue to rollout to all groups only part of the benefits will be secured and this will be sub-optimal. There have not been any estimates of (a) partial benefits or (b) of any ensuing continued abuse of the immigration system, due to a partial rollout of the scheme, as these are not the preferred options and will continue to impose costs on the UK. £1.7 million (constant prices) may not be spent on IT if Option 1 were chosen.

OPTION 2 – Implement BRP and phase out older, less secure immigration documents.

Option 2 will mean the UK Border Agency will issue a high quality secure document to those legally here, which will be easily recognisable by employers and others and will include fingerprints before the deadline set by the EU, in May 2012. Unlike other EU member states the UK has not previously issued a standalone residence permit. This option to enrol and check migrants' fingerprints is necessary to reduce abuse of the system as it allows the UK Border Agency to verify the customer journey.

TOTAL COSTS

Direct costs

All the costs are borne by the public sector so there will be no additional private sector administrative burdens. The main costs of Option 2 are presented below. These costs only reflect the additional implementation of the rollout to the current group, not the entire programme.

Set-up costs

Set-up costs – the proportion of all costs attributed (by volume) to additional categories including additional IT costs to change the IT systems to enable BRPs to be produced without biometrics is £12.5 million.

Operating costs

This includes the capture and verification of migrant identities plus the provision of BRPs to applicants and is estimated to be £35.7 million. These include contributions to salary and non-salary costs, card services, contact centres and charges from the third party biometric enrolment service.

Enforcement costs are covered in business as usual and there is not a very significant change in the costs to this activity. When a critical mass is reached and interrogation of BRP cards by hand held readers is achieved this may result in a further future benefit not yet realised (see Benefits section).

Other costs

Commercial partners will be able to provide services associated with the enrolling of biometrics. Businesses will make a decision whether to invest on this or not. It is assumed that a firm entering this market does so, on a commercial decision, that the profit from the services they supply will exceed their investment. While there is a cost involved here it is outweighed by the benefit to the firm and to the UK economy overall. It is not possible to estimate the costs and benefits associated with this change for businesses providing enrolment capability. The fee paid by applicants is not included as it is a transfer of income within the UK. Fees are assumed to be £30 (application) and £35 (issuing), a total of £73.9 million (PV) over the 10 year period.

In addition, there are additional wider social costs associated with BRPs as individuals spend time travelling to locations where they can enrol their biometrics. These wider impacts are estimated at £14.6 million over 10 years for the additional categories. These are costs to the individual and are included in the overall summary cost because the individual could be doing some other productive activity with this time. This is in line with previous methodologies agreed with the National Audit Office (NAO).

The total cost of Option 2 is estimated at £62.8 million (PV), including the wider social costs to individuals, over 10 years for the groups that this rollout applies to. If the social costs were excluded then the cost of this rollout would be £48.2 million (PV) over 10 years.

TOTAL BENEFITS

The total value of benefits for Option 2 is estimated at around **£23.7m** over 10 years.

The monetised benefits are presented below.

- **Not replacing vignettes stolen in the post** – a small number of vignettes that are issued by post are lost every year. The introduction of BRPs means they will have to be delivered securely and not by normal post. The saving is calculated here as the replacement cost (£20) multiplied by the number of BRPs lost. This benefit totals £16,500 (PV) over 10 years.
- **Less migrants intending to abuse UK immigration laws and rules coming to UK** – publicity surrounding the introduction of BRPs will make it clear that life in the UK for an illegal migrant will be increasingly difficult without a BRP. As a result, fewer illegal immigrants will come to the UK and therefore there will be a reduction in the costs as these people will not need to be detained and removed by UK Border Agency. The assumption is that 1 per cent of illegal immigrants will be deterred by the introduction of BRPs and that this benefit is calculated as the volume that will not need to be removed from the UK multiplied by the average cost of removal (£11,000, which is taken from the National Audit Office report of 2005). We note that this is an average and that costs here could vary significantly). Over 10 years this is expected to be close to £1.4 million.
- **BRPs will deter some illegal immigrants from entering the UK and will therefore reduce crime** – it is likely that a small proportion of non-EEA nationals who intend coming to the UK to commit crime will be deterred by the introduction of BRPs. Some of those seeking to abuse the system will therefore decide not to come and this will help to reduce crime. This is approximately £2.4 million over 10 years.
- **Reduction in immigration related benefit fraud** – similarly, a small number of non-EEA migrants commit benefit fraud and the introduction of BRPs will make this much tougher. This deterrent effect will reduce the amount of benefit fraud. This will be a benefit to the wider UK economy and other government departments who are able to crack down on abuse as a result of checking more secure documents. This benefit is calculated as the average cost of benefit fraud per citizen (£0.93) multiplied by the volume of non-EEA migrants who will have a secure BRP thus preventing benefit fraud. The proportion of BRP holders this will apply to is estimated to be only 4 per cent in 2008/09, rising to 34 per cent in 2009/10, increasing to 52 per cent in 2010/12, then escalating to 97 per cent the following year and finally becoming 98 per cent by 2015/16. This benefit is estimated to be £0.7 million (PV) over 10 years.
- **Reduced administrative burden for employers** - employers will be able to check the employment status of applicants for jobs by checking their BRP card. This benefit is calculated as the proportion of non-EEA migrants working multiplied by the gross cost of the hourly wage of an employee having to carry out these checks (£15, ASHE, 2010). Benefits to employers are estimated to be £6.4 million (PV) over 10 years.

- **BRPs will deter some non-EEA migrants from entering the UK who will commit crime and end up as foreign national prisoners** – it is likely that a small proportion of non-EEA nationals who intend coming to the UK to commit crime will be deterred by the introduction of BRPs. Some of those seeking to abuse the system will therefore decide not to come and this will help to reduce crime. This benefit has been estimated by using the cost of keeping a prisoner (£27,000) multiplied by the number of non-EEA migrants deterred and therefore from entering the UK FNP prison population. This is approximately £4.7 million (PV) over 10 years.
- **Savings in enforcement operations** - enforcement teams would benefit if less non-EEA migrants were to come to the UK by being deterred by the BRP system. The number of illegal working operations that enforcement teams could mount may increase with the growing availability of BRPs and the use of handheld fingerprint and BRP readers allowing officers to quickly establish the status of foreign nationals, their entitlements to work and public benefits and the authenticity of their BRP. The production of the BRP by the holder and the fingerprint record on the UK Border Agency's databases will mean that officers can clear legitimate workers and identify illegal migrants faster. The BRP will be a secure means that officers can clear identify legitimate workers by and identify illegal migrants easily. This was calculated by using UK productivity which grew by 1 per cent in 2010 (ONS, 2011) and this is held constant and multiplied by the number of illegal workers that are deterred. This benefit is estimated at around £750,000 (PV) over the 10 year period.
- **Not producing vignettes** –the ability to capture, store and match biometric information and cost savings from not having to produce vignettes is very clear. This is estimated at around £7.3 million (PV) over 10 years using business planning information.

Non-Monetised Benefits

There is a significant number of additional non-monetised benefits associated with Option 2, over and above those identified for Option 1. These are described below:

- **Alignment with EU partners** – this will include a common standard for the design of the BRP and will allow the UK to introduce systems which are interoperable with those in place across the EU. The BRP will also be interoperable with other international standards and systems. There is benefit to the UK and the EU by using standards aligned with the EU whereby all migrants can establish their status and entitlements through the use of secure BRPs. Aligned standards enable all BRPs to be checked for authenticity with the same readers loaded with the appropriate certificates. This would be realised immediately.
- **Increased volume of biometric records** - it is intended that the additional information that will be provided by the recording of biometric data for non-EEA nationals could be made available to other bodies, such as the police within the limits of legislation (see the UK Borders Act 2007 and the Immigration (Biometric Registration) Regulations 2008). The information will contribute to the strengthening of border controls and help reduce crime.
- **Greater increase in confidence in the immigration system** – this includes fingerprint enrolment which enables checks against police fingerprint records and plays an important part in increasing confidence. It is not possible to quantify this but there is a clear intuitive case for increased confidence in a system that is more robust compared to one which is not performing as well as it should.
- **Identify multiple and fraudulent applications** - biometric data is tied to an individual applicant so checks undertaken when a person applies for a residence permit will automatically identify individuals who have previously had their biometrics recorded (either in-country or out-of-country) and who are now claiming as someone else. This will benefit the wider UK economy. This also links with initiatives such as the 'Five Countries Conference' approach.

- **Secure documents** - the BRP is designed in such a way that it is inherently more secure than the old style paper based immigration documents. The secure BRP design is supported by more secure issuing processes and the verification of biometric data, as well as the ability to 'lock' an individual to their biometric data. This will be a benefit to the wider UK economy and to individuals who are non-EEA national migrants.
- **Additional criminal and counter terrorism record checks** - the additional steps introduced to enable all applicants' biometrics to be checked against criminal and counter terrorism records. In addition, the biometrics registered from foreign nationals can be checked against scene of crime fingerprint records.
- **Income to organisations capturing biometrics** – this benefit applies to commercial partners who can provide services associated with the introduction of BRPs.
- **Social cohesion** – as all groups of non-EEA migrants would have a BRP then this may increase social cohesion as all non-EEA migrants are treated similarly. There may be less of an adverse effect from those individuals who abuse the immigration system and cause division in their communities. It also makes it easier for them to have access to employment and services, such as banking.

F. Risks

Option 1: Do nothing

Option 1 (do nothing) has no additional costs if it is not taken further but there is the risk of a potential punitive fine from the EU for non-compliance. The UK Border Agency legal advice is that £10 million a year is a reasonable assumption for this fine as it is likely to be set at a rate that at least matches the cost of progressing the roll-out of BRPs. **There is a significant risk of increased costs to the UK Border Agency from this option and by not complying with EU legislation.**

Option 2: Implement EU regulations with a phased rollout of BRPs

This option is based upon issuing BRPs containing fingerprints to the remaining qualifying in-country applicant categories not already incorporated before the EU deadline in May 2012. If the rollout of BRPs were delayed it would risk increased costs to the UK Border Agency through a punitive fine from the EU for non-compliance, as described in Option 1.

Option 2 makes use of technology and processes that have already supported the implementation of previous categories of BRP cards. There is a very high level of confidence that this rollout will be successful in meeting the objectives.

The main area of uncertainty is around the projected volumes of applicants. If these are either significantly higher or lower than the current projected volumes, there will be adverse impacts to the UK Border Agency. However, the effect is not significant in terms of costs.

Operational challenges resulting from changes in volumes, and any peaks of activity would have to be managed through issuing of existing paper products if BRPs were not introduced. As some operational processes are managed by commercial partners, the operational burden on the agency is lessened.

The effectiveness of the new policy of BRPs will be monitored by the UK Border Agency through the collection and analysis of management information. Similar data for previous rollouts is already used to monitor demand, identify trends and to analyse and assess the effectiveness of the policy.

Feedback of the impact of the policy to rollout BRPs has been invited from BRP holders in September and October 2012 and is being assessed. The UK Border Agency has engaged with corporate partners throughout the rollout of BRP and continues to do so. Further feedback will be invited after the BRP is rolled out to all the categories required by the EU regulations after May 2012.

Table 2 Summary table of BRP costs and benefits

Option	Costs		Benefits	
2	£62.8 million (PV over 10 years)		£25.5 million (PV over 10 years)	
	Transition cost	£12.5	Cease production of vignettes	£7.3
	Operational cost	£35.7	Reduced administration for employers	£6.4
	Total social costs	£14.6	Reduction in FNP	£4.7
			Reduction in benefit fraud	£2.6
			Crimes avoided	£2.4
			Fewer removals of illegal immigrants	£1.4
			Other benefits	£0.7
	Total cost	£62.8	Total benefit	£25.5
The Net Present Value of Option 2 is -£37.3 million.				
Source: Scenario Model for BRP v 1.01 v0.4. The financial model that identifies costs and benefits associated with BRP. Note: numbers may not add due to rounding.				

G. Impact on business

Costs are apportioned to the groups affected by the volumes covered and benefits are estimated separately for each individual rollout according to the benefits identified for those particular groups. All of the direct costs and set-up costs were fully committed in 2007/08. There are no direct costs on the private sector as the public sector bears all of the costs. Nearly all of the public sector training (the UK Border Agency) and private sector familiarisation was undertaken as part of 'normal training updates' and the additional costs arising out of this are almost negligible.

The UK Border Agency already manages BRPs on behalf of the Government. It interacts with business, migrants and employers in a proportionate, fair and transparent way to deliver on its objectives to secure the UK's border and control migration.

Annex 1. Specific Impact Tests

Statutory Equality Duties

Policy Equality Statement

A Policy Equality Statement has been completed has been approved by Neil Hughes, (Acting) National Lead: Temporary Migration.

Economic Impacts

Competition Assessment

The proposals for BRPs will have virtually no effect on competition at all as the policy is focussed on the public sector. This has been tested using the guidance on competition assessment from the Department for Business, Innovation and Skills.

The conclusion is that there are no serious or significant adverse competition effects with reference to the 'competition guidance' framework set out by the Office of Fair Trading (see the Department for Business, Innovation and Skills website).

There are four main questions that are used to assess the impact of the policy change on competition:

- Will the policy proposal directly limit the number or range of suppliers?
- Will it indirectly limit the number or range of suppliers?
- Does it limit the ability of the suppliers to compete? and
- Does the policy change reduce the suppliers' incentives to compete vigorously?

Directly limit the number or range of suppliers

The supplier in this case is the UK Border Agency so there is no impact here.

Indirectly limit the number or range of suppliers

Similarly there will be no indirect restrictions or adverse impacts as the policy will affect how the UK Border Agency operates and what documentation non-EU applicants will require.

Limit the ability of the suppliers to compete

There will be no controls, limits or restrictions that will impede suppliers competing geographically or in specific channels.

Reduce the supplier's incentives to compete vigorously

The UK Border Agency is the sole supplier of the BRP so there will be no reduction in incentives for suppliers to compete vigorously.

Small Firms Impact Test

The policy on BRPs will be applied to all non-EU nationals in the same way across all nationalities by the published criteria. Overall, the impacts of these proposals on non-EU nationals should not be any greater than the normal adverse impacts they would encounter from the implementation of regulations when they are first introduced.

This policy is focussed on the public sector and should not have any significant impact on the private sector (even though non-EU BRP applicants use someone from the private sector as an agent then the impact will be negligible). Therefore it could not be argued that the effect of these changes is to place an unfair additional burden on smaller firms. There will be very little impact on the private sector at all. This means there is no discrimination against smaller firms or institutions and that the impacts will not be any greater than any previous legislative changes. The Government and the UK Border Agency are minimising the impact of the burden on small businesses by simplifying the documents issued to migrants and are reducing the burden on businesses that employ or check them.

Annex 2. Evidence Base

Evidence Base

Category			Source
Volumes (in country)	2011/12	2016/17	
Current rollout percentage	45%	45%	Internal modelling
Volume ramp			
2011/12	4%		Internal modelling
2012/13	34%		Internal modelling
2013/14	52%		Internal modelling
2014/15	97%		Internal modelling
2016/17	98%		Internal modelling
Assumption	No migrant is deterred by the introduction of BRPs.		UK Border Agency Identity Management Services
Assumptions and key uncertainties			
Discount rate	3.5%		HM Treasury (2003)
EU fine assumption	To be similar to the cost of the policy		UK Border Agency internal advice (2011)
Optimum bias range	Lowest 11%	Highest 108%	Internal Modelling, Mott & McDonald report (2002)
Illegal immigrant deterrence	1.0%		Modelling assumption
Deterrence of FNPs	0.5%		Modelling assumption
FNP average sentence length	3 years		Ministry of Justice, 2011
Unit Costs			
Fees	Application £30.00	Issuing £25.00	UK Border Agency Identity Management Services
BRP replacement cost	£20.00		UK Border Agency Identity Management Services
Average removal cost	£11,000		NAO Study (2005)
Average cost of benefit fraud/citizen	£0.93		Department of Work and Pensions, 2008
Administrative staff gross wage (for checking employment documents)	£15.00		ONS Annual Survey of Hours and Earnings (2010)
Average cost of keeping a prisoner (public prison) 2007/08	£27,000		Ministry of Justice, 2008
UK GDP per hour worked (%) (Productivity measure)	1%		ONS, International Comparisons of Productivity, 2011
Cost/mile from biometric centre	£0.20		Internal modelling
Time spent in biometric centre	30 mins		Internal modelling
Social cost per hour	£6.70		Internal modelling

Annex 3 References

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ISBN: 978-1-84987-592-9



**IMPLEMENTING THE PUBLIC SECTOR
EQUALITY DUTY**

&

**COMPLETING POLICY EQUALITY
STATEMENTS**

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Introduction

The Equality Duty, introduced by the Equality Act 2010, is a duty on public bodies and others carrying out public functions. The aim of the Equality Duty is to **embed equality considerations into the day to day work of public authorities**, so that they tackle discrimination and inequality and contribute to making society fairer.

The Equality Duty consists of a **general duty**, with three main aims (set out in section 149 of the Equality Act 2010 and detailed below); and specific duties (set out in secondary legislation accompanying the Equality Act 2010). The specific duties are designed to help public bodies meet the general duty.

The Equality Duty replaces the three previous duties on race, disability and gender. The Equality Duty covers the following **protected characteristics**:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race – this includes ethnic or national origins, colour or nationality
- Religion or belief – this includes lack of belief
- Sex
- Sexual orientation

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

The General Duty

The new Equality Duty requires public bodies to have **due regard** (*see section below*) to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Specific Duties

In addition to the general Equality Duty, set out above, Section 153 of the Equality Act gives the Government a power to impose specific duties on certain public bodies to enable them to perform the Equality Duty more effectively. The new specific duties focus on reducing burdens and bureaucracy on public bodies, and moving away from a process-driven approach to focus on transparency. The intention is to free up public bodies to do what is appropriate in their circumstances, to take responsibility for their own performance, and to be held to account by the public. The result is a **shift in approach – a focus on performance, not process**.

Equality Duty and Due Regard

Having **due regard** means consciously thinking about the three aims of the Equality Duty as part of the process of policy development and decision-making. This means that consideration of equality issues must influence the decisions made by the department – such as in how we act as an employer; how we develop, evaluate and review policy; how we design, deliver and evaluate services; and how we commission and procure from others.

Having due regard to the need to **advance equality of opportunity** involves considering the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics;
- Meet the needs of people with protected characteristics; and
- Encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the Equality Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic – such as providing computer training to older people to help them access information and services.

Taking account of people's disabilities

The Equality Duty also explicitly recognises that the needs of people with disabilities may be different from those of people without disabilities. Public bodies should therefore take account of people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating people with disabilities better than people without disabilities in order to meet their needs.

The requirement to have 'due regard' touches on every aspect of the department's work. It would therefore be useful to remind those making decisions/developing policies that it is for all staff to have an appreciation of the practical implications and challenges that are ultimately the responsibility of everyone.

Demonstrating Compliance with the Equality Duty

There has been good progress and understanding of equality promoted by the completion of Equality Impact Assessments, and the new Duty acknowledges this by affording greater flexibility by removing legal obligations that were not always applicable to all circumstances, and seen by many as too burdensome.

The legal position maintains it is essential that a public body complies with the general duty by having **due regard** to the equality issues set out in the Act **and** that, in the event that the decision is challenged, it can **demonstrate that it has had due regard**. Through case law there exist various principles that explain what is essential in order for the Equality Duty to be fulfilled. In summary we should therefore ensure:

- Those who exercise our functions are aware of the requirements of the Equality Duty
- The Equality Duty must be complied with before and at the time that a particular policy is under consideration or a decision is taken
- Consideration of the three aims of the Equality Duty must form an integral part of the decision making process
- Decision makers must consider what information they have and what further information may be needed
- We are responsible for ensuring that any third parties which exercise our functions are capable of complying with the Equality Duty
- Regard to the Equality Duty must be given when a policy is implemented and reviewed.

The weight given to the Equality Duty will depend on how that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed.

While there is no explicit requirement to refer to the Equality Duty when recording the process of consideration it is acknowledged as good practice to do so. Keeping a record of how decisions were reached will help the department demonstrate that we considered the aims of the Equality Duty.

Recording and Evidencing Compliance

Policy Equality Statement (PES)

A Policy Equality Statement (PES) is the tool for capturing the evidence to demonstrate that due regard has been paid in the delivery of our services. Evidence must be gathered as the policy is developed and/or to inform decisions. This lighter touch approach should offer greater flexibility to policy leads in meeting the public sector equality duty whilst taking into account the need to minimise unnecessary bureaucracy and ensuring relevance and proportionality. This means there is no longer a requirement to carry out Equality Impact Assessments (EIA's).

There is a separate process for the equality considerations for changes to policies that affect our staff and organisation during restructuring. This process should continue to be followed until new guidance, where appropriate, is available. Please liaise with you HR business partner team.

The Home Office Executive Management Board has made it a **mandatory requirement for officials to complete a Policy Equality Statement** (see Annex A) for all policy decisions and development. For “policy” – take this in an expansive sense, because it includes: new & existing policy, strategy, services, functions, work programme, project, practice and activity - whether written, unwritten, formal or informal. It includes decisions about budgets, procurement, commissioning or de-commissioning services, allocating resources, service design and implementation.

PES Sign-off

The PES can be completed throughout the development of a policy but is only signed at the point the policy is made public i.e. finalised and implemented.

The completed PES must be signed by the appropriate SCS responsible for the policy and for confirming that sufficient evidence has been produced to demonstrate due regard to the Equality Duty. This should be completed at the conclusion of the relevant policy. **Known and emerging equality issues should be included in any advice to ministers** where they may form a relevant aspect of the consideration or decision.

The person providing sign-off must satisfy themselves that the evidence is sufficient and the PES contains details of key questions that can assist in their assessment. There are also further resources available through Horizon which includes the Case Law Principles and Equality Assurance table.

Governance

The relevant policy team must retain the completed statement/s for their records. In addition a copy must be sent to the Strategic Diversity Action Team (and cc'd to the relevant business area Equality & Diversity lead) who, through sampling, will ensure adequate equality considerations are evidenced.

Advisory Notices

Failure to provide adequate evidence will result in the issue of an Advisory Notice. Advisory notices are the formal mechanism through which the department, on behalf of the Secretary of State, ensures that business areas at risk of not meeting our equality duties are advised and supported in taking appropriate action. The issuing of notices is reflected in the quarterly returns for the purpose of the Diversity Strategy assessments against the department’s Diversity Strategy and will adversely affect the ratings under strategic aim 4 for statutory duties. The ratings will form part of any operating review scorecard on diversity.



HOME OFFICE

POLICY EQUALITY STATEMENT (PES)

Name of Policy/Guidance/Operational Activity**Biometric Residence Permits – November 2011****Aims and background**

A new regulation, planned for implementation from 29th February 2012 will introduce the requirement to enrol biometrics to foreign nationals applying in the UK for more than six months stay under any category not already incorporated. Foreign nationals come to the United Kingdom for a wide range of reasons such as to study or work. The biometric residence permit (BRP) uses technology that enables the UK Border Agency to comply with European Union legislation, reinforce its business processes, cut illegal working, protect legal migrants and identify those trying to evade our rules and laws. In addition, it provides employers and others required to check whether a foreign national is entitled to work in the UK or access certain services and/or benefits, such as public benefit providers, with a simple means of checking immigration status and entitlements.

The UK Border Agency has been issuing biometric residence permits since 25 November 2008. The roll out of a secure and trusted document reflecting a legal migrants status in the UK and increasingly familiar to both the public and service providers helps to build social cohesion by building confidence in the system and ensuring that those with little biographical footprint in the UK are able to demonstrate their entitlements.

EU regulations (EC regulation 380/2008), require member states to issue foreign nationals subject to immigration control and granted residency on their territories for more than 6 months a standalone residence permit of a uniform format and containing fingerprints and a digital photograph stored on a chip on the permit. This document is known as a biometric residence permit (BRP) in the UK and is referred to as a biometric immigration document within legislation. As biometric residence permits are governed by European legislation, the UK Border Agency is required by European law to issue biometric residence permits if it is to avoid infringement proceedings being taken against it by the EU. Biometric residence permits are being rolled out incrementally by means of ministerial regulations and these enable the UK Border Agency to require those applying to extend their stay in the UK under certain immigration categories to enrol their biometric features (ten fingerprints and facial image) as part of that application.

Only applicants who are successful in their applications and granted permission to stay in the UK are issued with a biometric residence permit. Previous phases of the roll out of biometric residence permits have covered applicants extending their stay in the UK under the operational categories of the points-based system for migration, as spouses or partners of persons present and settled in the UK and a number of other smaller categories of temporary application resulting in a grant of leave to remain (LTR).

Already covered by the scheme are applications made under the immigration rules to extend for more than 6 months in the categories presented below:

- Tier 1 of the points-based system for migration – highly skilled workers, investors, entrepreneurs and post-study work.

- Tier 2 of the points-based system for migration - skilled worker (general), minister of religion, sportsperson and intra-company transfer.
- Tier 4 of the points-based system for migration - student (general, including postgraduate doctors and dentists) or student (child).
- Tier 5 of the points-based system for migration – temporary workers.
- Spouses and civil, unmarried or same-sex partners of a person present and settled in the UK.
- Academic visitor.
- Visitor for private medical treatment.
- Domestic worker in a private household.
- United Kingdom ancestry.
- Retired persons of independent means.
- Representative of an overseas business.
- Dependant of a main applicant in a category that requires a BRP.
- Transfer of conditions (from a passport or other such document).

Scope and purpose of regulation

The new regulation will cover settlement (Indefinite Leave to Remain or ILR), asylum or protection applicants and those granted discretionary leave and any temporary applicants for leave to remain not already covered. Successful applicants will be issued a biometric residence permit to evidence their immigration status and entitlements in the UK. In addition, the regulation will extend the biometric residence permit to those already holding settled status replacing or upgrading their immigration status document and those applying for a Home Office Travel Document if they do not already hold a valid biometric residence permit. Dependants of any of the above categories applying in the UK for more than six months leave will also need to enrol biometrics and simultaneously apply for a biometric residence permit.

The addition of these categories in the regulations will enable all in-country migrants from outside the EEA to be required to apply for a biometric residence permit when making applications in the UK on or after 29th February 2012.

Any migrant who applied in country before a requirement to apply for a biometric residence permit will continue to receive a sticker (vignette) as evidence of leave. However, migrants granted permission to stay in the UK from the 1st December 2012 for more than six months will have to apply for a biometric residence permit if they have not done so already.. This will ensure that from this date there will only be one type of document issued in-country by the UK Border Agency to those from outside the EEA or Switzerland here for more than six months, making it simpler for employers and others required to check them.

Use of biometrics is already well established by the UK Border Agency both overseas during the visa application process and in-country. Using biometric technology has helped the Agency to identify and take action against those submitting fraudulent or multiple applications.

Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

As part of the development of the legislation the UK Border Agency has worked with the devolved administrations in Scotland, Wales, Northern Ireland and the Crown Dependencies and sought and continues to seek views from the broadest possible range of

interested parties. The agency has engaged with other government departments, employers, student organisations and groups representing those affected including those that represent those covered by the protected characteristics and other vulnerable groups such as refugees.

Each set of regulations and amendments which have implemented each stage of the roll out have been supported by Equality Impact Assessments and directed consultation with those impacted, as detailed in the links below. Although the Equality Impact Assessment for the biometric residence permit rollout relating to tier 2 of the points-based system for migration was not published, it is available on request. Annex C of the Equality Impact Assessment for the rollout to points-based system tiers 1 and 5 in particular provides an overview of communications and partnership activity and details of who was consulted and the partners we have worked with from 2008, and each Equality Impact Assessment gives details of the partners invited to feed back their views on the impacts at each stage. The Equality Impact Assessment for tiers 1 and 5 reflects detail on actions in response to specific concerns around each quality strand and any general concerns raised.

Biometric residence permit roll out to points-based system tiers 1 and 5 in January 2011:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/ia/biometric-impact-assessments/brp-equality-impact-assessment?view=Binary>

Biometric residence permit roll out to points-based system tier 4 and other leave to remain categories in March 2009:

<http://webarchive.nationalarchives.gov.uk/20100422120657/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/idcards/equalityimpactassess?view=Binary>

Biometric residence permit roll out to students and marriage and partnership categories – November 2008

<http://webarchive.nationalarchives.gov.uk/20100422120657/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/idcards/eia?view=Binary>

These EIAs identified possible adverse impacts on equality grounds. These were addressed and ameliorative action considered. No new considerations on these grounds have been identified for implementation of the new regulation.

Building on earlier consultations, in respect of the draft regulations for the proposed 2012 rollout, the UK Border Agency sought views from a range of key sources and representative groups from across our business areas about the impact of Biometric Residence Permits. During 2011, the UK Border Agency launched two surveys. The first was to around 500 relevant organisations representing both voluntary, local government and employer/trade organisations. Many of these organisations worked with categories of migrants affected by this next stage of the roll out. The response to the survey was low and therefore cannot be taken as being representative. However, the majority of those that did respond thought that there would not be an impact due to the equality indicators or they did not know whether there would be an impact. Of the responses that indicated specific concerns in relation to protected characteristics, these will be considered and acted upon as appropriate and if not already addressed through earlier stages of the roll out.

The second survey was launched in response to a recommendation from the Equality Impact Assessment for the 2010 roll out. It invited existing and previous holders of the biometric residence permit to comment upon their experiences to enable them to inform us of the potential impacts of holding a biometric residence permit. The high level analysis of both surveys is attached below and specific areas of concern will now be addressed. No adverse trends in relation to any of the protected characteristics have been identified as a

result of these surveys.

Evaluation

Where concerns have been raised in previous Equality Impact Assessments, the UK Border Agency has been proactive in its attempt to address them, for example there were concerns about the biometric enrolment process requiring business people to take time out of work and pressure on the system as a result of the increased volume of applicants. The UK Border Agency took steps to mitigate against such concerns by increasing the number of Home Office centres that enrol biometrics and launching a pilot for third party biometric enrolment services at 17 Crown Post Offices. Following the success of this pilot a procurement was conducted and UK Border Agency awarded the Front Office Service (FOS) contract to the Post Office Ltd on 31st October 2011. The Post Office Ltd will collect biometric data (fingerprints and digital photograph), an electronic signature and supporting documents from the applicant and send these securely to the UK Border Agency through a network of 100 Post Office Ltd branches from Spring 2012 and will continue to use the 17 trial locations in the interim. They will also operate the mobile biometric enrolment service that the UK Border Agency launched in response to the need to accommodate applicants who are physically unable to attend premises due to health or incapacity, for example by visiting them at home.

We recognise that this rollout will include vulnerable groups and have been working with those representing refugees and those in need of protection. In addition to inviting the views of these groups referenced above through the survey we have also engaged through the agencies established partnership forums including the National Asylum Stakeholder Forum and its subgroups. We have been seeking to address sensitivities in this area through partnership working and will continue to do so to implement our policy in the most effective way possible.

SCS sign off	<i>[Considerations are detailed in Part 2]</i>	Name/Title	Neil Hughes (Acting) National Lead for Temporary Migration
I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that <u>due regard</u> has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.			
Directorate/Unit	Identity services	Lead contact	Eleanor West
Date	27/11/2011	Review Date	27/11/2013

Retain the completed PES for your records and send a copy to SDAT@homeoffice.gsi.gov.uk and your relevant business area Equality and Diversity Lead.

Part 2 - Policy Equality Sign-off

N.B. The PES can be completed throughout the development of a policy but is only signed at the point the policy is made public i.e. finalised and implemented.

To assist in evaluating whether there is robust evidence that could withstand legal challenge, the following questions must be asked prior to sign-off.

- Q.** Has 'due regard' been made to the three aims of the General Duty (Section 149 of the Equality Act 2010)?
- **Eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
 - **Advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
 - **Foster good relations** between people who share a protected characteristic.
- Q.** Have all the **protected characteristics** been considered – age; disability; gender reassignment; pregnancy and maternity; race (includes ethnic or national origins, colour or nationality); religion or belief (includes lack of belief); sex; and sexual orientation?
- Q.** Have the relevant stakeholders been involved and/or consulted?
- Q.** Has all the relevant **quantitative and qualitative data** been considered and been subjected to **appropriate analysis**?
- Q.** Have lawyers been consulted on any legal matters arising?
- Q.** Has a date been established for reviewing the policy?

Further resources including: Case Law; Equality Assurance Table; examples of best practice are available on Horizon.

ISBN: 978-1-84987-616-2