

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy	Staff Searching
EHRIA Lead Person	Operations and Security Policy Manager
Date EHRIA completed	23/04/2015
Review date and frequency	Following a change in legislation or if 5 or more complaints are raised with respect to the policy.
Is this a new or revised policy/practice?	New <input type="checkbox"/> Revised <input checked="" type="checkbox"/>

Scoping	
What are the aims of this policy/practice?	To ensure compliance with Legislation, provide uniformity across the SPS estate and make prisons a safer environment by preventing the introduction of illicit articles.
WHO did you consult with?	SPS Healthcare, Scottish Transgender alliance, Staff equality groups, Partnership agencies including NHS and HR Solicitors. Plus 1. Manager Derek Allison of Central Scotland Regional Equality Council 2. Vince Fletcher of SPS HQ Equality Unit. 3. Research in to Security at Edinburgh Airport (Security Section of Edinburgh Airport Website looking for Industry Standard & comparison
WHAT did you learn?	That there was a need to consider transgender and pregnant staff and other disabilities e.g. pacemakers, wheel chair users etc. 1. Manager Derek Allison of Central Scotland Regional Equality Council is of the opinion that the security laws, rules and procedures that apply cannot be overridden by equality law, and certainly not where individual circumstances are not covered as a 'Protected Characteristic'. He advises in the case of metal joints and pins situated in the limbs/bodies of individuals, and likely to set off any Walk Through Metal Detector, GMA 39A/12 sets out a reasonable alternative allowing individuals to

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go to a private room to remove footwear and metal items to be scanned by a hand held metal detector. This is not deemed excessive as it is clearly an enabler and is clearly linked to a legitimate and unavoidable process i.e. security and continued ability to be employed in a secure environment.

2. SPS HQ Equality Unit advised that the staff searching is consistent with the rules that apply i.e.2(b) – conducting the search decently, 3 – removal of footwear and 4(d) – use of equipment to detect metal objects and that it provides a reasonable alternative for someone setting off a Walk Through Metal Detector due to a metal component in their body.

3. Industry standard and comparison research Edinburgh Airport website notes that, “When security scanners were introduced in 2010, the Department for Transport (DfT) decided no alternative screening method would be offered to those passengers who refused to be screened by a scanner: the so-called no scan no fly policy. This decision was made on operational and security grounds.” And, “An alternative screening method is now in place which will include at least a private search (an enhanced hand-search in private which may involve the loosening and /or removal of clothing). The DfT considers that this alternative offers a comparative security to passengers as being scanned by a security scanner.”
(www.edinburghairport.com/prepare/airport-security/body-scanners)

The Airport as a service with a necessity for a high level of security combined with no choice but to apply this to every individual can in my view provide a reasonably direct comparison to the expectations on a maximum security prisons. On that basis the approach outlined in Staff searching Policy of providing an alternative means for an individual to provide assurance that they have no prohibited items on them is both similar to others in the security field and reasonable. Edinburgh Airport Security Manager David Brown advised, “any activation of the AWMD due to a passenger having metal in their body, then we would invite them for a private search in a Private Search Room. This would be carried out by two Security Officers (for corroboration purposes) and they would also use the Hand Held Metal Detectors as an aid to cover the whole body, but paying particular attention to the area in question. If there was any scarring as a

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	<p>result of an operation then the passenger usually elects to show that. Prior to all this happening the passenger must sign a consent form (in many different languages) for the Private Search to take place.”</p>
<p>HOW will this shape your policy/practice?</p>	<p>We are duty bound to ensure that the manner in which we deliver is consistent with Equality and Human Rights as well as achieving the desired level of security.</p> <p>To that end any ‘shaping’ of how we will deliver the Staff searching Policy will be in relation to implementing it in such a manner that is consistent with Equality Laws and the protected factors including Age, Disability, Gender Re-Assignment, Pregnancy and Maternity, Race, Religion and Belief, Sex and Sexual Orientation. Specifically:</p> <ul style="list-style-type: none"> - Age - no impact identified as there are no ‘minors’ employed by SPS. Anyone with an age related mobility issue would be considered under the disability section. Young visitors are considered under a different policy. - Disability – the Policy affords an alternative to the Walk Through Metal Detector where a combination of physical checks and hand held metal detector scanning allows individuals to provide security assurance on entry, allowing their employ in a secure environment. - Gender re-assignment – This will only become an issue if the individual concerned activates the Walk Through Metal Detector and does not wish to comply with the voluntary aspect of the process, or has a disability meaning they would need to be treated in the manner described above. If this was the case the gender of the person administering the process would need to be consistent with the re-assigned gender of the individual involved. The individual should always be searched in their social gender. If this is not clear then they should be asked which gender staff they would prefer to be searched by and this choice must be respected. - Pregnancy and Maternity – No impact identified. - Race – No impact identified.
<p>What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you</p>	<p>Equality Act 2010 Prison (Scotland) Rules 2011 Central Scotland Regional Equality Council website</p>

Scoping

considered when deciding to develop new or revise current policy/practice?

SPS Searching Procedure Annex A, B, C & D
SPS Staff Surveys

- Religion or Belief – Turbans can be scanned with a hand held metal detector if necessary although if passed through the Walk Through Metal Detector without activation this would not be required. Turbans can be removed but this must be done in private (except search officers). A mirror must be provided for the re-application of the Turban and sufficient time afforded for the individual to do so.

Burka/Hijab – can be scanned with a hand held metal detector if necessary. Can be asked to remove but this should be done in private except the searching officers in attendance, (must be same gender). Sufficient time must be permitted to replace the garment and a mirror must be provided.

- No other impacts identified at this stage. Should an impact subsequently come to light this assessment will be reviewed to take account of this.

- Sex – As detailed in the Prison (Scotland) Rules 2011 Part 16 Rule 142 – (2) (a) in the case of a search mentioned in paragraph (1) (a) or (b) the officer conducting the search must be of the same gender as the person being searched.

- Sexual Orientation – No impact identified.

Impact

Will the impact and outcomes of the new/ revised policy/practice:

Contribute to eliminating discrimination, harassment and victimisation?

E.g.

- Raise awareness of our SPS vision and values for equality and diversity
- Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity

POSITIVE:

It will contribute to eliminating discrimination, harassment, victimisation

NO EFFECT:

It will have no effect on discrimination, harassment and victimisation

NEGATIVE:

It will make discrimination, harassment and victimisation worse

Impact Will the impact and outcomes of the new/revised policy/practice:	
Advance equality of opportunity between those who share a protected characteristic and those who do not? E.g. <ul style="list-style-type: none"> Remove or minimise disadvantage Meet the needs of equality groups that are different from the needs of others participation in public life 	POSITIVE: It will advance equality of opportunity <input type="checkbox"/>
	NO EFFECT: It will have no effect on equality of opportunity <input checked="" type="checkbox"/>
	NEGATIVE: It will reduce equality of opportunity <input type="checkbox"/>
Foster good relations between those who share a protected characteristic and those who do not? E.g. <ul style="list-style-type: none"> Tackle prejudice Promote understanding 	POSITIVE: It will foster good relations <input type="checkbox"/>
	NO EFFECT: It will have no effect on good relations <input checked="" type="checkbox"/>
	NEGATIVE: It will cause good relations to deteriorate <input type="checkbox"/>
Ensure Human Rights Compliance?	It will uphold human rights articles. <input checked="" type="checkbox"/>
	It will breach human rights articles. <input type="checkbox"/>

Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.

Positive Impacts
Protected characteristics affected: Disability, Gender Identity, Religion or Belief, Maternity and Pregnancy, Human rights compliance <p>The Policy will advance equality of opportunity through allowing an alternative means to be security screened in order to enter the secure establishment. This means those who cannot pass through a Walk Through Metal Detector without setting it off due to some mechanical aid in the body, metal plate etc, can still provide assurance that they have no prohibited items on them and as such access the secure area and whatever opportunities that may offer e.g. involvement, service delivery and employment.</p> <p>2.The Policy should in essence foster good relations for the reason outlined in the statement above. This may not in reality be the case as some individuals will object to being screened or searched whether they are non-disabled or disabled, from one background or another. This however does not change the fact that being a maximum security establishment, alternative means of screening should be viewed as an enabler for those with specific requirements or circumstances to be in a position to participate.</p> <p>3. The Policy upholds Human Rights Article 5: the right to liberty and security. This is done through seeking to maintain as safe and secure environment as possible. Without these arrangements in place this would be adversely affected.</p> <p>4. Policy will uphold Human Rights Article 14: the Prohibition of Discrimination. This is achieved through ensuring all groups (detailed opposite) are enabled to meet the security considerations necessary in gaining entry to a maximum security prison allowing access to the</p>

Positive Impacts

secure environment and whatever opportunities that brings, e.g. involvement, service delivery and employment.

The policy makes provisions for variations in searching to account for differing genders, religion or beliefs, disabilities and pregnant women.

5. The Policy upholds Human Rights Article 8: right to respect for their family life. This is done through seeking to maintain as safe and secure environment as possible. Without these arrangements in place this would be adversely affected.

Negative Impacts

Protected characteristics affected:

Impact	Mitigation
<p>Females may trigger the metal detector more often than males due to underwired bras.</p> <p>Individuals with metal within their body e.g. metal plates may trigger the metal detector.</p> <p>-</p> <p>Individuals carrying certain religious artefacts may trigger the metal detector and, depending on the item and its constituent components may be refused permission to take said item in to the prison.</p> <p>The Policy should in essence foster good relations for the reason outlined in the statement in the positive box. This may not in reality be the case as some individuals will object to being screened or searched whether they are able bodied or disabled, from one background or another. This however does not change the fact that being a maximum security establishment, alternative means of screening should be viewed as an enabler for those with specific requirements or circumstances to be in a position to participate.</p> <p>- Prison staff is trained to deliver security. They are trained in Equality and Human Rights issues. They are guided by rule of law process and procedure and can access support and further training if any issues are identified through supervision or performance appraisal. Prison staff are trained and encouraged to de-escalate situations to the best of their ability.</p>	<p>- No available mitigation - process required to ensure the safety of the establishment.</p> <p>No available mitigation - process required to ensure the safety of the establishment.</p> <p>- No available mitigation - process required to ensure the safety of the establishment.</p>

Recommended course of action

Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input checked="" type="checkbox"/>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>
Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).	<input type="checkbox"/>
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.	<input type="checkbox"/>

Summary of Outcome decision and Recommendations

No unlawful breaches identified, any negative impact identified cannot be mitigated as the protocol within the policy is required to ensure the safety of the establishment to which it applies.

Next steps

Introduce an IT solution that will randomly choose staff for searching.

Review the policy if there are changes to legislation or more than 5 complaints following implementation of the revised policy.

Completed an EHRIA on GMA 39A/12

Review SPS Searching policy spread sheet to provide instructions on hand held metal detectors and a separate staff search page.

Include guidance on prescription drugs from a doctor for a medical condition

If you require this document in an alternative format, please contact SPSEqualityandDiversityTeam@sps.pnn.gov.uk