



Home Office

**UK Border
Agency**

STRENGTHENING THE COMMON TRAVEL AREA

GOVERNMENT RESPONSE TO THE PUBLIC CONSULTATION

15 January 2009

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FOREWORD



The biggest shake up of our border protection and immigration system for 45 years is well underway. Our tough checks now start abroad and we are re-introducing mechanisms to count people in and out of the country. Our e-Borders system screens increasing numbers of passengers against watchlists before they land. Anyone requiring a visa - three quarters of the world's population - now have their fingerprints checked against UK databases.

We are seeing the results. Already, thousands of illegal migrants have been barred from entering Britain, while millions of pounds worth of dangerous drugs have been removed from our streets.

The reform of the Common Travel Area (CTA) is part of this wider work being conducted across Government to reinforce our shared values and protect our border and our national interests.

The 'Strengthening the Common Travel Area' consultation, which my predecessor (Liam Byrne MP) announced on 24 July, sets out our proposals. Listening to and responding to the concerns of the British public is at the heart of what we propose. The input from the British public and other key stakeholders will help shape the proposals to change and strengthen the rules and operation of the CTA and to identify the full impact of the potential changes. That is why we have undertaken this consultation; and why officials in UK Border Agency have held a series of industry specific and regional events around the country. This document outlines how we will take forward the reform of the CTA, in light of our consultation.

A handwritten signature in black ink, appearing to read 'Phil Woolas'.

Phil Woolas MP
Minister of State for Borders and Immigration

INTRODUCTION

The UK Border Agency made a public commitment to review and strengthen the Common Travel Area (CTA) arrangements in the 2007 'Securing the UK Border' strategy, and the Cabinet Office's 'Security in a Global Hub' report. Accordingly, in close partnership with the Governments of the Republic of Ireland and the Crown dependencies, we developed a number of proposals for reform.

The UK consultation paper 'Strengthening the Common Travel Area' was published on 24 July 2008 and was subject to a twelve week consultation period.

The consultation document explained the context of the Government's proposed reforms, including the dramatic increase in passenger volumes moving into, out of and within the CTA over the years. The document also acknowledged the important social, economic and political benefits provided by the CTA and the potential impact of any changes, particularly on industry and the travelling public.

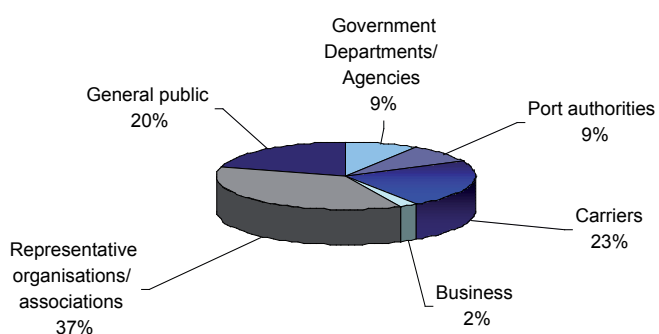
The consultation sought views about the impact of proposed changes to the operation of the CTA and posed important questions for the private sector about the cost and implications of the proposal to introduce border controls on all air and sea routes between the Republic of Ireland and the UK. Amongst other things, it also sought views on the key questions around:

- the forms of acceptable documentation for travel by air and sea; and

- whether those proposed acceptable forms of documentation would be different for travel by air from the Republic of Ireland to Northern Ireland.

The deadline for responses was 16 October 2008. A total of 44 written responses were received¹. The respondents included airlines, ferry companies, port operators and associations, travel companies, public sector organisations, human rights groups and other interested parties as well as members of the public. The Government is very grateful to all those who submitted formal written responses and those who participated in a number of stakeholder events held during the consultation period.

All responses (formal written submissions and views expressed at consultation events) have been analysed carefully and the Government's response to the consultation is set out in this document. It is organised into sections setting out each of the questions posed in the public consultation; a summary of the key themes identified in the responses and the Government's formal response. This document does not attempt to respond directly to all of the specific comments received during the consultation as these cover a wide range of issues about the CTA, immigration in general and other related matters. All views raised during the consultation process have, however, been carefully considered as part of the reform process and the implementation of reforms will be carried out having taken careful note of the range of views expressed.



Total responses = 44

¹ Some were collective responses representing the views of a number of related organisations

SUMMARY OF RESPONSES AND THE GOVERNMENT'S RESPONSE

The following analysis of the consultation responses is structured around the questions posed in the consultation document. The Government's response to the points raised is set out after each section of questions.

AIR AND SEA ROUTES FROM THE UK TO THE REPUBLIC OF IRELAND

Question 1:

Do you agree that new powers to enable border controls on all air and sea routes from the Republic of Ireland to the UK for non-CTA nationals should be introduced?

A number of respondents called for additional information about how the proposed border controls would work in practice and for a clearer evidence base identifying the need for the introduction of such controls. The proportionality of the proposed approach was also of concern in view of the history of the CTA which has been in operation since the 1920s without border controls.

Respondents noted the potential practical implications of the introduction of the proposed border controls. These would seem to include delays and congestion at ports and the displacement of both law-abiding passengers and those of interest to UK authorities across the land border to ports in Northern Ireland. The lack of similar controls at the sea and airports and the land border caused concern for some respondents on the basis that an "open" land border would render controls elsewhere ineffective.

However, responses also highlighted the benefits such controls could play with regard to security and intelligence gathering. Further, the suggestion that tougher controls at the external borders of the CTA could avoid the need for checks within the area was made by some respondents.

Respondents also suggested that a more joined up approach between border agencies could facilitate passenger experience and eradicate duplication.

Question 2:

Do you agree that identity controls should be introduced on all air and sea routes from the Republic of Ireland to the UK for CTA nationals?

The range of responses included an acknowledgment of the border security benefits and the link with the e-Borders programme. Others queried whether identity controls included identification of nationality, with some suggesting that the requirement of such information was inappropriate. Many highlighted the logistical implications of such controls for industry and the need to consider controls on the land border.

Some respondents commented that identity and nationality controls would be a step forward as they would enable authorities to identify more easily those individuals who were not entitled to enter the UK or who wished to cause harm.

Some respondents considered that a lack of controls exercised on the land border would be unfair.

Questions were raised over what identity controls actually meant or whether they would include verification of nationality. Many pointed out that the introduction of the e-Borders programme would require the presentation of an appropriate document which would prove nationality in any case. Others believed that a requirement to confirm one's nationality or identity represented an infringement of liberties.

Some respondents were concerned that any form of check at the border would lead to delays. Many commented that the ferry ports currently servicing UK-Republic of Ireland routes were not designed to hold large volumes of traffic and any checks introduced should carefully consider any adverse impact on ports.

Question 3:

Please indicate which of the following documents should be included in the list of documents permitted for travel by CTA nationals on air or sea routes from the Republic of Ireland

to the UK. Please select all that apply – passport, national identity card, other.

The majority of respondents that expressed a view on this question thought that if controls were introduced on routes between the Republic of Ireland and the UK then a passport or national identity card would be the most appropriate form of documentation. Carriers generally felt that the Government should impose any documentation requirement rather than leave carriers no choice because of the e-Borders programme requirements.

A number of respondents referred to the introduction of the e-Borders programme and considered that any document requirements for the purpose of CTA reforms must also be compatible with e-Borders.

Some respondents commented that any requirement for a passport or identity card could present considerable expense, especially for families.

Question 4:
Please indicate which of the following documents should be included in the list of documents permitted for travel by air or sea from the Republic of Ireland to Northern Ireland. Please select all that apply – Passport, identity card, other.

The majority of respondents considered that a passport or national identity card should be required. As with some of the previous questions, reference was made to the importance of compatibility with document requirement under e-Borders. Some respondents believed that a greater variety of documents should be accepted, with the most commonly cited additional document being a driving licence.

A sizeable minority was opposed to any document requirements. A number of these responses suggested that the lack of fixed controls on the land border would lead to displacement from air and sea routes to land crossings instead, thus undermining the effectiveness of tighter controls on air and sea routes.

GOVERNMENT RESPONSE

The Government has noted all of the comments and concerns that have been raised during the consultation period. Any new measures must be proportionate and take full account of the impact on industry. They must also fulfil the Government commitment to protect the UK border and our national interests. The Government intends to proceed with proposals to:

- a) conduct risk based intelligence led immigration controls on passengers travelling by air and sea between the Republic of Ireland and the UK (including on air and sea routes between the Republic of Ireland and Northern Ireland); and
- b) conduct intelligence-led enforcement operations on the Northern Ireland side of the land border and on passengers arriving from the Crown dependencies.

However, the Government has listened to the feedback received throughout the consultation period, particularly from industry, on the potential impacts of introducing fixed immigration controls and the views expressed on both the difficulty of altering the infrastructure at some locations and the detrimental impacts that additional queuing times could have on business and the travelling public. In light of your feedback we are clear that we will not replicate other international routes by introducing traditional fixed immigration controls on all air and sea routes between the Republic of Ireland and the UK at this stage. Instead, we will continue to work with the Republic of Ireland to strengthen the external CTA border and introduce phased intelligence led controls on these routes, maximising the benefits of the e-Borders system to reduce threats and increase border security. The Government will continue to work with key stakeholders on the implementation of border controls on these routes to ensure that the operational response to controlling the border is both practical and effective and the full implementation of these measures will take place by 2014.

The Government will require all EEA nationals, including those that are British and Irish to prove their identity and nationality with a passport or national identity card. Other nationals, including visa nationals, will be required to carry their passport on routes between the Republic of Ireland and the UK as with all other international routes to/from the UK.

This document requirement concurs with the majority of respondents who felt that if controls were introduced on routes between the Republic of Ireland and the UK then passport or national identity card (documents with a machine readable zone) would be the most appropriate form of documentation due to their compatibility with the e-Borders system. It was also considered more favourable than accepting a wider range of documents as it would be simpler for the carrier to assess whether the document presented by a passenger was genuine and therefore acceptable for travel to the UK and it brings our policy in line with other international routes.

NB: The document requirement on air and sea routes between the Republic of Ireland and Northern Ireland will be the same as all other air and sea routes between Republic of Ireland and the UK.

APPLICATION OF CARRIERS' LIABILITY

Question 5:
What do you think the impact of introducing carriers' liability on routes from the Republic of Ireland to the UK would be?

Some respondents believed that the introduction of carriers' liability would encourage carriers to check the documents of all passengers more carefully, and so help to protect the UK from harm.

However, the majority were concerned that the additional checking required of carriers would lead to additional costs and delays; these costs were generally expected to be passed on to the customer.

It was suggested that concerns about delays might be mitigated to some extent by rearranging port infrastructure but this would not appear possible in every case.

It was suggested that the carriers' liability charge should be applied to the carrier responsible for originally bringing the relevant individual into the CTA and that the Republic of Ireland should also introduce carriers' liability if the UK decided to do so. The potential inequalities if the penalties were only applied to certain carriers was also noted.

Despite a number of comments in response to this question, many respondents noted that clarification over the document requirements on CTA routes was required in order to consider the full impact of the introduction of carriers' liability on these routes. Some respondents pointed out that accepting a wider range of documentation would make the job of the carrier more difficult in trying to assess whether the document presented by a passenger was genuine and acceptable for travel.

Question 6:
What should the timetable for the introduction of carriers' liability be?

A number of respondents suggested that any introduction of carriers' liability should be in line with the roll-out of the e-Borders programme. Others suggested that a timetable should be developed following dialogue with carriers. Proposals were also made for an assessment of the effectiveness of other CTA reforms following a reasonable period of time after introduction to determine whether carriers' liability might be needed or not.

The single view which attracted most support was that the penalties should not be introduced at all. Another sizeable group linked their responses to their replies to question 5: that further clarity was required over the range of acceptable documents before the issue of timing could be considered.

GOVERNMENT RESPONSE

The Government has noted the representations received on the proposal to introduce carriers' liability on routes from the Republic of Ireland to the UK. The Government considers that the application of carriers' liability is an effective tool in contributing to the reduction of inadequately documented arrivals into the UK and a key element of strengthening the UK border. The Government therefore intends to proceed with the concept of introducing carriers' liability on air and sea routes from the Republic of Ireland to the UK to ensure consistency with other international routes. This will be considered alongside plans for operational implementation and be introduced by 2014.

Carriers that meet specific criteria can reduce the number of charges they incur for inadequately documented passengers, through the Approved Gate Check (AGC) status programme. If granted to a carrier, AGC allows certain types of charges to be waived, reducing the number of charges a carrier is liable to pay. We will consider applications from all carriers including sea carriers, charter airlines and carriers who operate certain routes on a seasonal basis.

TRAVEL FROM THE REST OF THE WORLD INTO THE COMMON TRAVEL AREA

Question 7:

Which options should we explore in developing our approach to a common (short stay visit) visa with the Republic of Ireland? Please select from the following - legal recognition of Irish (short stay visit) visas for use in the UK; jointly issued common (short stay visit) visa valid for travel to the Republic of Ireland and the UK; or other

The numbers of passengers moving within the CTA who would require a visa was considered to be relatively low although the concept of a visa which would facilitate movement within the CTA was warmly received.

The proposal for a jointly issued common visa was the most popular; the added benefits of a single application process for travellers and the reduction in training of airline staff if only a single visa were acceptable were both noted. However, significant support was also expressed for legal recognition of Irish visas given the speed and simplicity of implementing this option. The importance of a multi-entry CTA visa product was noted.

GOVERNMENT RESPONSE

The Government notes the generally supportive response to this proposal and will continue to work closely with the Irish Government and key stakeholders to explore this proposal further.

IMMIGRATION LEAVE AND PERMISSIONS

Question 8:

Do you think that 'leave' should be endorsed in the passports of non-Common Travel Area nationals arriving in the UK from the Republic of Ireland?

There was a mixed response to this question with fewer comments received than in relation to other topics.

Some respondents thought that leave should simply be endorsed and checked on entry to the CTA, whether this was in the UK or the Republic of Ireland. Concerns were raised about the practicalities of endorsing leave in the passports of non-CTA nationals entering the UK by crossing the land border into Northern Ireland, for example, where the endorsement would take place and the timeframe permitted.

Question 9:

If 'leave' should be endorsed in the passports of non-Common Travel Area nationals arriving in the UK from the Republic of Ireland, what do you think would be the most effective way to do this?

The majority of respondents were in favour of leave being endorsed at an immigration control on arrival. As above, the practicalities of such an arrangement were questioned, particularly regarding the land border, and concerns about possible delays for passengers were noted.

Those who enter the UK via the Republic of Ireland as it is sometimes cheaper to fly that way thought that having leave endorsed would be useful as they can currently face difficulties having their entry recorded and this may lead to further difficulties when establishing their status for applications for further leave.

GOVERNMENT RESPONSE

The Government welcomes the comments received in response to the questions on leave entitlement. The Government proposes to change the way that immigration leave and permissions apply on air and sea routes between the Republic of Ireland and the UK. The Government recognises the importance of ensuring that any new system is both practical and effective and will ensure that facilities and processes are in place for all those travelling on air and sea routes to the UK who require leave to enter/remain in the UK.

Non-EEA nationals and persons not requiring a visa to enter the UK who arrive in the country via the land border will be granted an automatic period of leave, providing they do not fall under any of the exclusion categories.

IMPACTS ON INDUSTRY

Question 10: How do you think the introduction of border controls would impact on the tourism industry?

The responses were mixed to this question but a greater number believed the impact would be negative rather than neutral. A number of respondents thought that the introduction of border controls should have a minimal or neutral impact if operated effectively. It was also suggested that the

majority of passengers regarded border controls as a necessary security measure and accepted the need to operate such controls at ports of entry.

Others were concerned that added checking and any associated delays could lead to a decline in day trippers and spontaneous travel. Any delays might have an impact on turnaround times for ferries and airlines, resulting in a change to timetables and fewer services.

In addition to inconvenience caused by potential delays, the quality of the welcome visitors would receive was also raised: the greater the burden of checks and delays, the less friendly the UK appeared and the less attractive a location it would be to visit.

Question 11: What benefits are there for the tourism industry from a common (short stay visit) visa?

The majority of respondents believed the introduction of a common visa could be beneficial for the tourism industry, due to reduced bureaucracy and the removal of ambiguity regarding requirements for travel within the CTA. However, the pricing of such a visa would be relevant to the benefits it might deliver.

Some respondents once again questioned the benefits of such a visa on the basis that the numbers of passengers who would require one might be minimal.

Question 12: What do you think the costs to port authorities would be if border controls were introduced on sea and air routes from the Republic of Ireland to the UK?

Many respondents felt unable to comment fully on this question until the exact nature of the controls had been decided upon. However, many thought that major infrastructure costs might be involved and new space might be required or existing space devoted to new controls; there would also be an impact on efficiency. The costs would vary considerably from port to port.

Another further cost highlighted was the potential reputational damage caused to the UK's image as an attractive destination if long queues and disruption to services occurred.

Question 13:

What do you think the costs to carriers would be of introducing border controls on sea and air routes from the Republic of Ireland to the UK?

Although a number of respondents sought further clarity over the nature of proposed border controls, a range of costs to carriers were identified. These included additional labour costs for document checking; costs resulting from port infrastructure changes which may be passed on to carriers; carriers' liability fines should this proposal be introduced; and the reputational damage to the UK as a welcoming and convenient place to visit. Concerns were also expressed about the effect that delays due to border controls might have on the frequency of services; this was a particular difficulty in the case of tidal ferry services. A reduction in services, or in the volume of passengers able to board the vessel before it needed to set sail, would also impact on revenue from "on board spend" i.e. food, drink and shopping. This would be in addition to a possible reduction in people wishing to travel on those routes as a result of a likely increase in ticket prices as carriers passed on the increase in costs.

Question 14:

What other impact might the introduction of border controls on sea and air routes from the Republic of Ireland to the UK have?

Once again, some respondents noted that further clarity about how proposals would be implemented was required. However, congestion at ports and on local roads as a result of tailbacks was raised; the associated impact of a potential increase in carbon emissions resulting from vehicles waiting in queues and increased sailing speeds in order to make up time lost from delays at port was noted too. It was suggested that passengers and freight would switch to using

routes from Northern Ireland to avoid delays, additional documents and controls. The possibility of presentational difficulties was also raised with regard to a sense of special treatment for certain passengers. It was thought possible that business in the General Aviation sector could increase as passengers try to avoid queuing at commercial airport terminals.

Question 15:

How might the introduction of border controls on these routes be phased to ensure that border security is strengthened with minimal impact on legitimate trade and business?

Some respondents questioned the need for controls, seeking further evidence of the risks they aimed to tackle and clarity over what they might involve. There were differences of opinion over timing with some arguing in favour of a slow, phased introduction tackling higher risk routes first and others maintaining that controls should be introduced at all points at the same time. A forum composed of key stakeholders was proposed to aid any implementation and help assess the degree of displacement.

Juxtaposed controls were suggested as a means of border control which would allow checks to be performed before boarding, so allowing prompt departure from the vessel. It was also suggested that the crossing time be used by UK Border Agency officials to process personal data obtained before boarding and so direct only those passengers of potentially greater interest through border controls at the port of arrival.

The importance of the land border was noted again and it was suggested that stronger controls at the external CTA border might allow for fewer or no controls within the area.

A widespread information campaign was advocated to help ensure passengers were aware of any changes and did not unwittingly fall foul of border control requirements.

GOVERNMENT RESPONSE

The Government welcomes the responses to the questions on the impact of the CTA reforms on the public, private and third sector. The Government agrees that a common visa with the Republic of Ireland would be beneficial to the tourism industry and will continue to work with the Republic of Ireland on this proposal.

The Government acknowledges the concerns raised at stakeholder events and through written responses on the cost and potential impact of fixed immigration controls on routes between the Republic of Ireland and the UK, in particular the potential impact on ferry ports. Effective border controls are a necessary measure in securing the UK border and protecting the UK from harm but the Government acknowledges the need to ensure that any new measures are effectively managed to minimise any detrimental impact on industry and ensure that the operational response is both effective and proportionate. As stated previously, the Government does not intend to introduce traditional fixed controls on air and sea routes between the Republic of Ireland and the UK at this stage. The Government intends to benefit from the use of e-Borders technology on these routes, collecting and analysing information on everyone who travels to or from the UK. The information gathered on all travellers, passengers and crew entering or leaving the country by air or sea will allow us to identify passengers who are a potential risk and alert the relevant authorities². The cost and impact of introducing the e-Borders programme on all routes to and from the UK was carried out and consulted on through the 2007 e-Borders Impact Assessment.

The Government will continue to work with key stakeholders on the implementation of border controls on these routes, making full use of intelligence led flexible controls before considering whether to extend to fixed border controls mirroring those on other international routes in the future.

² UK Border Agency, HMRC and/or UK Police force

The Government has previously confirmed that fixed immigration controls will not be introduced on the land border between the Republic of Ireland and Northern Ireland.

GENERAL REMARKS AND STAKEHOLDER EVENTS

Question 16:

Do you have any further comments or suggestions about how movement within the CTA can be made more secure and efficient

There was a general call for further detail about the proposals and more evidence of the need for increased controls. Many respondents raised concerns over consistency, for example, some believed that the land border would present a major gap in border control and that the proposals were incomplete without the inclusion of checks on rail and road routes. Other respondents welcomed the statement that there would be no fixed controls on the land border but queried how the proposed ad hoc checks would work in practice. This led on to some concerns about how certain passengers might be selected for such checks on the land border and whether this approach might lead to racial profiling. The need for a keen awareness of tensions and concerns specific to Northern Ireland was stressed. The possible impact on refugees and asylum seekers was noted and the need for the UK Border Agency to meet its obligations in respect of such passengers.

The impending introduction of e-Borders was noted and the need to ensure that any measures introduced in the CTA were consistent with and complementary to this initiative. CTA reforms might also present an opportunity to review existing controls and remove those that appeared redundant or disproportionate. The chance to provide a more joined-up approach from Government agencies at ports was welcomed.

Some stakeholders highlighted that they were concerned that air and sea carriers may lose business to other forms of transport operating over the land border between the Republic of Ireland and Northern Ireland.

A number of stakeholders asked whether the UK planned to introduce carriers' liability on inadequately documented British and Irish nationals. If so, carriers would find it difficult to establish genuine British and Irish nationals if it is decided that a range of documents would be acceptable to travel between the Republic of Ireland and the UK.

Feedback indicated that it was important that the Government communicated the change of policy/legislation clearly to the travelling public.

The importance of robust external controls to the CTA were raised again, with the suggestion that strong external controls might reduce the need for controls at the internal borders. The benefits of an appropriately priced, multi entry visa were also flagged again.

GOVERNMENT RESPONSE

The Government will continue to work with the Irish and Crown dependency Governments to strengthen the external CTA border through close cooperation and increased data sharing initiatives in addition to taking forward the reform proposals outlined in this document. The Government is committed to working with key stakeholders throughout the implementation of this change programme to ensure that changes are effectively managed and communicated, minimising any detrimental impact on industry and the travelling public.

ANNEX A: LIST OF RESPONDENTS

ABTA - The Travel Association
Airport Operators Association
Belfast International Airport
BMI
Board of Airline Representatives (BAR) UK
British Airports Authority (BAA)
British Airways
British Business and General Aviation Association
(BBGA)
British Ports Association
British Refugee Council
Cardiff International Airport Ltd.
Chamber of Shipping and Passenger Shipping
Association
Flybe
Ibstock Group Ltd
Immigration Law Practitioners Association (ILPA)
Irish Ferries
Isle of Anglesey County Council
London Biggin Hill Airport
Manx Fish Producers
Members of the public x 9
Milford Haven Port Authority
National Co-ordinator Ports Policing
North East Strategic Migration Partnership
Northern Ireland Human Rights Commission
Road Haulage Association
Ryanair
Shearings Holidays
Stena Lines
Translink
TUI Travel PLC
UK Border Agency staff x 2
UK Yankee
United Nations High Commission for Refugees
(UNHCR)
Virgin Atlantic Airways
VisitBritain

