

EXPLANATORY MEMORANDUM ON THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE SHARING OF VISA, IMMIGRATION, AND NATIONALITY INFORMATION

Title of the Treaty

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the Sharing of Visa, Immigration, and Nationality Information

Command Paper Number: 8651

Subject Matter

The purpose of this Agreement is to put in place a binding framework to enable the exchange of information between immigration organisations in the United Kingdom and the United States of America. It provides the overarching basis upon which such exchanges may take place as well as the necessary safeguards to ensure that exchanges are undertaken securely and with the appropriate protection of data as the primary concern.

Ministerial Responsibility

The Immigration Minister is responsible for this Agreement. The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for UK policy relating to the UK's relations with the United States of America.

Policy Considerations

(i) General

Effective co-operation between immigration organisations is essential to tackling abuse of our respective systems, and there are many benefits that can be realised by immigration organisations exchanging information on individuals with whom they both come into contact.

The UK and USA already exchange immigration information under the provisions of a Memorandum of Understanding signed between the two countries in June 2010. This allows each country to ask the other for immigration checks to be made on up to 3,000 individuals each year, and where the individual's identity is unknown or uncertain; where the individual's whereabouts are unknown; or where there is a reasonable belief that the individual has previously been encountered by the other country.

There are significant benefits derived from information exchange with the USA. Between June 2010, when the MoU was signed, and the end of 2012 the UK has submitted 4,512 biometric enquiries to the US. This has resulted

in a satisfactory 7.2% match rate (327 cases) with around half providing useful/actionable information. For instance, there were 105 biographic discrepancies identified – changes in the name, nationality or date of birth – and 117 cases of travel documents that were previously unknown to us. In addition, as a result of the match against US databases it was possible to close 49 asylum cases and to cancel 110 visas.

On the basis of the demonstrated benefits of targeted immigration exchange, the UK and USA are establishing a Secure Real Time Platform, which will allow both for larger numbers of exchanges to be made and for a more automated selection of those cases to exchange. However, despite these advances, the business rules which sit behind case selection will remain targeted at those individuals where experience shows we are most likely to achieve a match; and will need to comply with relevant legislation – such as the Data Protection Act – to ensure that the exchanges remain proportionate and appropriate.

US legislation requires that where automated exchange of visa information is anticipated, the proposed activity should be set out in a Treaty. This Agreement will therefore provide a binding framework to support and develop co-operation between the two jurisdictions on immigration exchanges, building on the existing exchanges of information which already take place. By ensuring Ministerial accountability, information can be shared on issues of mutual concern and interest, whilst ensuring that the exchanges give due regard to the expectations of the individual for the appropriate processing of data.

(ii) Financial

No additional cost to the UK is anticipated. Costs for implementing individual exchanges will be incurred within existing operational budgets.

(iii) Reservations and Declarations

None.

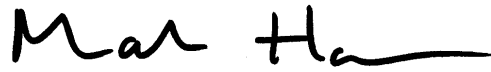
Implementation

No legislation is required to implement the terms of this Agreement.

A Working Group on Data Sharing comprising officials from the UK and the United States of America – together with those from Australia, Canada and New Zealand – meet regularly to take forward work on progressing existing co-operation, and to identify areas in which co-operation on immigration exchanges could be enhanced or initiated, as appropriate. Specific exchanges which are identified will be the subject of individual Implementing Arrangements and will similarly comply with the Data Protection Act.

Consultations

The Information Commissioner's Office is aware of the exchanges undertaken with the United States, and is routinely consulted when new exchanges are established.

A handwritten signature in black ink, appearing to read "Mark Harper". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Harper

Minister of State for Immigration