

Immigration Act 2016

Power to supply information to Secretary of State

Section 55 of the Immigration Act 2016 commences on 12 July 2016.

This amends the existing information gateway set out in **section 20 of the Immigration and Asylum Act 1999** which has been expanded to enable the supply of information (including documents and articles) held by **a public authority or someone acting on behalf of a public authority** - other than some named exceptions - to the Home Office for immigration purposes.

It ensures that public authorities, which may find themselves in possession of information or documents which may be used for immigration purposes, have a clear statutory authority to pass these on to the Home Office in addition to existing common law data sharing powers.

It does not apply to information held by, and documents or articles which come into the possession of, the Crown Prosecution Service (CPS) in order to avoid duplication with an existing information gateway in respect of revenue information (section 40 of the UK Borders Act 2007).

A “**public authority**” is defined as a person with functions of a public nature, but it specifically excludes:

- Her Majesty’s Revenue and Customs (HMRC)
- The Houses of Parliament
- The Scottish Parliament
- The National Assembly of Wales
- The Northern Ireland Assembly

or persons exercising functions in connection with those bodies’ proceedings

The definition of “**immigration purposes**” remains unchanged and includes the administration of immigration control under the Immigration Acts, the prevention, detection, investigation or prosecution of criminal offences under those Acts, the imposition of carrier’s liability penalties and charges, and the provision of asylum support.

Nothing in this section overrides any existing restriction on the disclosure of information however imposed (e.g. the Data Protection Act 1998, Regulation of Investigatory Powers Act 2000.)

Key Questions and Answers

➤ **Why are you amending your information sharing powers?**

A number of different public authorities come into contact with migrants as part of their daily business. This power allows them to share information or documents with immigration officials if they wish to do so.

➤ **What information / documents would you expect public authorities to identify as being used for immigration purposes?**

Obviously this will depend on the public authority in question and what documents they might hold. Examples could include, but are not limited to: passports, expired passports, identity cards, birth, marriage or civil partnership certificates, divorce documents, adoption papers, biometric residence permits (BRPs), national insurance cards, educational certificates, maritime or military discharge certificates, tickets for travel in and out of the UK, stubs of boarding passes, employment or student IDs, immigration status documents, visas and vignettes, employment time sheets and wage slips.

➤ **How will public authorities know whether to share information / documents with the Secretary of State?**

If public authorities are unsure then it is open to them to check with immigration officials as to whether the information, document or article can be used for an immigration purpose, and also whether it is necessary or whether the information it contains is already held by the Home Office.

➤ **Does this affect existing common law powers to share data?**

No, section 20(6) of the Immigration and Asylum Act 1999 preserves the ability of the Secretary of State and the Crown to share data under existing common law powers.

➤ **Why are Houses of Parliament, Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly carved out of the definition of public authorities?**

We do not consider it necessary or appropriate for the gateway to extend to these public authorities. This does not prevent these authorities from relying on existing legal bases to share information with the Secretary of State.

