

**British-Irish
Parliamentary
Assembly**



**Tionól Parlaiminteach
na Breataine agus
na hÉireann**

**‘Protecting the Common Travel Area in the
post-Brexit era’**

Committee A – Sovereign Affairs

British Irish Parliamentary Assembly

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1. Introduction

- 1.1. The British-Irish Parliamentary Assembly (BIPA) plays a key role in promoting cooperation between political representatives in the United Kingdom (UK) and Ireland. Committee A in BIPA is responsible for considering sovereign matters. Over the last ten years, the Committee have examined and made recommendations on the implementation of the Belfast/Good Friday Agreement; extradition and transfer of prisoners; cross-border police co-operation; freedom of movement between the UK and Ireland; and the bilateral relationship.
- 1.2. The Common Travel Area (CTA) is a long-standing set of arrangements between Ireland and the UK. In the first instance, these arrangements relate to immigration control and facilitate free movement between the UK, Ireland, the Isle of Man and Channel Islands. In the second instance, the CTA, further to the 2019 Memorandum of Understanding post-Brexit, allows citizens of the UK and Ireland to enjoy associated rights and entitlements including access to employment, healthcare, education, social benefits, and the right to vote in certain elections.
- 1.3. The CTA predates the Belfast/Good Friday Agreement and helps to underpin it, in particular by ensuring the unimpeded movement of British and Irish Citizens and certain others across the island of Ireland. It facilitates the cross-border nature of many people's lives on these islands, reflects the totality of relationships between the UK and Ireland, and is essential to realising the right of the people of Northern Ireland to identify and be accepted as Irish or British or both, as they might choose.
- 1.4. The UK's decision to leave the European Union (EU), broader legislative divergence and policies relating to visa nationals (predating Brexit) inherently poses challenges for the day-to-day operation of the CTA. Over recent years, the Irish and UK governments, and EU partners, have taken significant steps to protect the operation of the CTA in the face of Brexit challenges.



1.5. The Committee believes now is the right time to focus on the importance of the CTA and to offer a number of constructive suggestions to ensure the continued smooth operation of the CTA, enabling the freedom of movement on these islands, and reciprocal rights which is vital for many UK and Irish citizens across these islands on a day-to-day basis.

1.6. In January 2023, the Committee visited London and met the following:

- Lord Murray of Blidworth, Parliamentary Under Secretary of State at the Home Office responsible for the CTA;
- Professor Bernard Ryan, Professor of Migration law, University of Leicester;
- Mike O'Connor CBE, Vice Chair,
- Bernie Dolan, Head of Information and Advice,
- Flora Faith-Kelly of the London Irish Centre;
- Simon Hoare MP, Chair of Northern Ireland Affairs Committee,
- Sir Robert Buckland MP, Northern Ireland Affairs Committee,
- Stephen Farry MP, Northern Ireland Affairs Committee,
- Claire Hanna MP, Northern Ireland Affairs Committee,
- Jim Shannon MP, Northern Ireland Affairs Committee,
- Carla Lockhart MP, Northern Ireland Affairs Committee,
- Brian Dalton, CEO, Irish in Britain
- Christian Zik Nsonwu, Irish in Britain.

On this visit the Committee also had an informal meeting with the:

- HE Martin Fraser, Irish Ambassador to the United Kingdom,
- Fiona Flood, Director of Brexit, EU Affairs and Administration,
- Stephen Fagan, First Secretary, at the Embassy of Ireland.

1.7. In June 2023, the Committee visited Derry-Londonderry and met the following:

- Dr Joanne Stuart OBE of the Northern Ireland Tourism Alliance,
- Siobhan McManamy Interim CEO of Tourism Ireland,
- Councillor Lilian Seeno Barr, Director of Programmes at the North-West Migrants Forum,
- Daniel Holder, Director, at the Committee on the Administration of Justice,
- Úna Boyd, Immigration Project Solicitor & Coordinator at the Committee on the Administration of Justice,
- Toni Forrester, CEO of Letterkenny Chamber of Commerce,
- Selina Horshi, President of Londonderry Chamber of Commerce,
- Professor Duncan Morrow, Director of Community Engagement at Ulster University,
- Professor Sandra Moffett, Head of Department of Global Business and Enterprise at Ulster University,
- Paul Hannigan, Head of College at Atlantic Technological University,



- Caitríona Mullan, Regional Development Consultant on Atlantic Futures Project,
- Neil Guckian, Chief Executive, Western Health & Social Care Trust,
- Stephen McLaughlin, Assistant Director for Social Work & Governance, Western Health & Social Care Trust,
- Wesley Henderson, Manager in Planned Services, Western Health & Social Care Trust.

On this visit the Committee also held an informal meeting with local elected representatives from Derry and Strabane Council as well as Donegal County Council where a broad range of challenges and opportunities facing the North West Region were discussed.

1.8. The Committee wishes to extend its sincere gratitude to all stakeholders and representatives who met and assisted us with this inquiry. Their insights and engagement with the Committee was invaluable to the compilation of the following report.

2. Electronic Travel Authorisation

2.1. Since the UK decided to leave the EU there has been an increased divergence between the two jurisdictions over who has the right to reside and enter. In Ireland, European Economic Area (EEA)/Swiss nationals have a broad range of entry and residence rights that they do not have in the UK. However, EEA/Swiss nationals do not need a visa to enter the UK.

2.2. The UK's Nationality and Borders Act 2022¹ provides for the establishment of a scheme under which non-Irish and non-UK citizens would need to obtain an Electronic Travel Authorisation (ETA) before travelling to the UK. Following engagement with the Government of Ireland who highlighted the variety of challenges this proposed scheme poses for non-Irish and non-UK citizens living on the island of Ireland, the UK Government has exempted persons who are lawfully resident in Ireland from the requirement to obtain an ETA for travel within the CTA. The Committee welcomes this

¹ [Nationality and Borders Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



decision by the UK Government as a practical improvement to the scheme that addressed the real concerns of people on the island of Ireland.

2.3. The Committee met with Lord Murray of Blidworth, Parliamentary Under Secretary of State at the Home Office responsible for the CTA, who said that ETAs had become commonplace in recent years. The Committee heard of similar schemes in the United States and plans for an EU scheme, in which Ireland is not partaking. The Minister said it was the view of the UK Government that an ETA was compatible with Article 2 of the Northern Ireland Protocol. He said that the UK Government was not seeking to undermine Strand Two of the Belfast/Good Friday Agreement. The Minister also said that the UK Government did not wish to damage tourism to Northern Ireland with the introduction of the ETA.

2.4. Under the 1998 Belfast/Good Friday Agreement, the North South Ministerial Council (NSMC) was established to develop consultation, cooperation, and action on matters of mutual interest within the competence of the administrations, North and South, on an all-island and cross-border basis. Tourism Ireland, which promotes Ireland as a destination internationally on an all-island basis, represents a major element of this cooperation and is overseen by the NSMC. Ireland's North West region tourism industry is connected to Northern Ireland's tourism industry, in particular to its North West region. Impact on one area will have an economic and social impact on the other. If the introduction of an ETA results in a negative impact on the volume of tourists to Northern Ireland it will, for example, have an impact on Co. Donegal's tourism industry, as it shares over 90% of its border with Northern Ireland.

2.5. Tourism stakeholders shared their deep concerns with the Committee about the potential impact of the ETA system on Northern Ireland where 70% of tourism spend was by people from outside of Northern Ireland. Moreover, 70% of visitors to Northern Ireland arrived into Ireland first. The Committee heard that Dublin Airport is the main airport on the island and that it has the most direct flights, including many from the United States. Of the million visitors Northern Ireland receives in each year, approximately 500,000 stay overnight, with the rest being day-trippers. Tourist industry representatives felt that day-



trippers would be particularly badly affected by the introduction of an ETA. Ultimately, there is a risk that the new ETA would affect up to 1 million visitors to Northern Ireland annually. Tourism stakeholders have also highlighted these challenges directly to the UK Government and the Government of Ireland.

2.6. The tourism stakeholders emphasised both the £10 per person cost and the administrative burden imposed by the ETA risked acting as a barrier to tourists visiting Northern Ireland. This was particularly the case for coach and group tours, which is a market particularly sensitive to both additional cost and additional administrative burdens.

2.7. The Committee heard from stakeholders that the operation of the ETA scheme in Northern Ireland remains unclear. The UK Government has provided assurances that there will not be checks on the land border with Ireland. However, it is unclear whether travel companies will be liable if their passengers do not have an ETA. Likewise, it is unclear whether drivers would be insured in traffic incidents if they required an ETA and did not have one. It is also unclear as to how the requirement for an ETA would be enforced in Northern Ireland.

2.8. The Committee recommends that the introduction of an ETA for visitors to Northern Ireland, who arrive in Ireland first, be suspended until appropriate measures have been introduced to mitigate the negative impact on people temporarily visiting these islands, as well as on Ireland and Northern Ireland's tourist industry. Stakeholders expressed their view that a tourism exemption to the ETA would be the best way to tackle the issues raised. The Northern Ireland Tourism Alliance informed the Committee that they asked the UK Home Office for a short-term tourist exemption of up to seven days. They stated that this exemption would apply to 93% of tourists entering Northern Ireland. The Committee endorses this recommendation. The Committee recommends that the UK Government considers options to reduce the cost and administrative burden on organised coach tours and groups visiting Northern Ireland via Ireland. Furthermore, the creation of a special application process for group travel, which would allow tour group operators to



submit applications on behalf of a group would serve to further alleviate the concerns of the Northern Irish tourist industry.

2.9. The challenges of introducing an ETA scheme are indicative of a need for a greater understanding of the potential impact on Northern Ireland of legislation introduced in sovereign parliaments. In Ireland, Ministers are required when bringing a memo or new legislation to Cabinet to declare whether that legislation will impact North-South or East-West relations. The adoption of a similar requirement in the UK might be beneficial in the future.

2.10. The Committee acknowledges the security concerns of the UK Government that motivated the introduction of the ETA scheme. We recommend that the Government of Ireland works with the UK Government to explore whether measures could be taken to address these concerns while having a minimum effect on the ability to travel freely throughout the island of Ireland and between the islands of Ireland and Britain.

3. Immigration Controls and Visas

3.1. Changes to immigration legislation in both UK and Ireland have affected the operation of the CTA. In 1997, the Government of Ireland introduced immigration controls on persons arriving from the UK by air or sea. Furthermore, immigration control may be applied to those who arrive by land from Northern Ireland. Immigration checks on the land border operate intermittently, especially on Belfast-Dublin routes.

3.2. The Committee heard that these checks had a disproportionate impact on UK and Irish citizens from visible racial minorities who are most likely to be targeted for checks on the border. Civil society organisations and legal professionals expressed the view that the operation of such checks was discriminatory and fundamentally incompatible with the CTA arrangements.



3.3. The Committee heard that in terms of crossing the border between Ireland and Northern Ireland there is an invisible border that predates Brexit for visa nationals with an onerous visa application. This effects the following:

- Visa nationals settled in Northern Ireland with no time/indefinite leave to remain,
- Visa nationals with UK visas which allow them to live, work, or study in Northern Ireland,
- Skilled workers with tier 1, 2 and 5 visas working in Northern Ireland,
- Spouses and families of British and Irish citizens who are visa nationals resident in Northern Ireland, and
- Refugees and their families living in Northern Ireland.

The Committee heard that this leaves visa nationals living in Northern Ireland feeling trapped inside a border that is invisible to others.

3.4. Furthermore, the Committee heard of the challenges posed by diverging visa lists in Ireland and the UK. Migrants who are legally permanently resident in one jurisdiction cannot always cross into another, even for a short visit, due to their type of visa. This poses challenges for the everyday movement across the border that most people living in border areas take for granted as well as in accessing cross-border services. Particularly in recent years as the cross-border provision of healthcare services has increased. For instance, paediatric cardiology services which are provided on an all-island basis. In the North-West region the Government of Ireland has made significant investments in cancer care on a cross-border basis, however not everyone can access these services. An example of this issue was highlighted to the Committee. In October 2022, some ambulances from Northern Ireland could not assist during the explosion that occurred in Cresslough, Co. Donegal because not all of the paramedics had the necessary visas to cross the invisible border.

3.5. The Committee also heard concerns from health-care providers in relation to divergences in immigration and residency requirements, which can pose a challenge in the recruitment of health-care professionals. They saw this as a particular barrier to cross-border consultant appointments who provide services to hospitals on both sides of the border.



- 3.6. Divergences in immigration and residency regimes also poses challenges for the education sector. Children in one jurisdiction who do not have the relevant visa cannot travel into or through the other jurisdiction on school tours. Difficulties in crossing borders also poses challenges for international university students, particularly in the North-West, where the fastest route to places, such as Dublin Airport, can often involve multiple border crossings. The Committee also heard that this can be an issue for students' access to work placements as part of their course.
- 3.7. Both Ireland and the UK have co-operated closely on immigration controls in the past. However, there appears to be increased divergence in recent years. Nevertheless, since 2011, Ireland has unilaterally recognised short-stay visas issued by the UK to nationals of some states and since 2014 there has been a joint UK-Irish visa for Chinese and Indian nationals. There is also co-operation on information sharing and the refusal of entry to persons who would not be admitted to another jurisdiction.
- 3.8. The Committee recognises that immigration controls are important tools for sovereign governments, and that the UK and Ireland have different immigration requirements. Nevertheless, the Committee believes that there is scope for closer cooperation with regards to visa lists. Furthermore, the Committee believes that persons who are permanently resident in either Ireland or the UK should be exempt from the requirement to obtain a visa for short visits to other jurisdictions.
- 3.9. The Committee also recommends that both the Irish and the UK governments explore the possibility of creating joint work visas that would allow persons to take up appointments in both jurisdictions. This would be of particular use in the health sector.

4. Cross-border working

- 4.1. The Committee heard from representatives from the Derry/Londonderry Chamber of Commerce and the Letterkenny Chamber of Commerce where some challenges facing companies with a cross-border workforce was discussed and the divergence in remote working policy that has arisen between the two jurisdictions. One challenge is cross-



border tax of staff as some companies are confused if they should have an UK payroll and an Irish payroll if they have staff from both sides of the border. The Committee heard that this is an additional administration burden on small companies in particular. The issue of tax difference between the two jurisdictions also effects remote working policies as the Committee heard that UK residents can work remotely for 60 days a year outside of their jurisdiction. This has been beneficial to companies in Ireland who have staff resident in Northern Ireland. Whereas residents in Ireland who work for a company in Northern Ireland are not permitted to work remotely at all without potential tax implications. The Committee heard that divergence in policy is having an impact on small businesses in attracting and retaining staff as there is the benefit of remote working for cross-border workers in one jurisdiction and not the other.

4.2. The Committee recommends that Governments in both jurisdictions on the island of Ireland should work together to develop a policy which would allow companies in Ireland and Northern Ireland to be able to offer their staff in both jurisdictions the same allowance in remote working. The Committee also recommends that clarity needs to be brought for companies in both justifications with regards to payroll requirements when they have a cross-border workforce.

4.3. The need for closer cooperation on the registration of professionals was highlighted by a number of witnesses. This is particularly the case in the health and social care sector, including nurses, doctors, and social workers operating in border regions. For instance, challenges facing social care workers in Northern Ireland who operate or care for patients near border areas was raised. Currently, social care workers in Northern Ireland have to register with both the Northern Ireland Social Care Council (NISCC) and Ireland's body CORU to provide services across the border. The Committee was informed that the Western Health & Social Care Trust has an average of eight young people placed across the border in Ireland at any one time, which means that the Trust will have to register up to 30 staff on CORU due to the variety of roles that social workers will have in one case in order to continue to provide care to these children. This causes additional administrative and financial burden on the Trust.



4.4. The Committee recommends that the UK and Irish governments should work together to develop practical solutions in the best interest of children and patients within both Northern Ireland's and Ireland's social care and health care system. This should include an examination of ways to streamline registrations for associated professionals coming from Ireland or Northern Ireland.

5. Citizens' Rights

5.1. Since the formation of the Irish state in 1922, the norm has been for each jurisdiction to grant full economic, social and political rights to the other state's citizens, with only limited exceptions.

5.2. In May 2019, the UK Government and Government of Ireland agreed a Memorandum of Understanding to reaffirm the rights and privileges of each state's citizens in the other jurisdiction. This included recognition of rights of entry, residence, and employment, and of equal treatment in respect of health care, social protection, education and voting in local and parliamentary elections. However, there are no specific official mechanisms outlined through which citizens can complain if they are denied access to rights provided for under the CTA.

5.3. The Committee welcomes the continued mutual recognition of citizens' rights and we also acknowledge the importance of flexibility in the context of CTA arrangements. We propose that both Governments explore dedicated mechanisms for citizens to seek remedies if they have been denied rights provided for under CTA arrangements.

6. Public Awareness

6.1. The Committee heard from a number of organisations representing Irish communities in Great Britain who spoke positively about the benefits of the CTA. The Irish community in Great Britain is changing and while there has been a reduction of 150,000 of Irish born



people living in Britain, the number of Irish passport holders has increased. The changing nature of community has meant that traditional channels of communication are not always as effective as they once were.

6.2. Representatives spoke of the need to ensure that all service providers are aware of rights under the CTA. They spoke of particular challenges faced by renters from landlords who would only accept UK passports as forms of identification. Likewise, they said that some within marginalised groups, including the travelling community, do not have access to documents.

6.3. The Committee recognises the sensitivities regarding the CTA in the wider relationship between the EU and the UK. Nevertheless, the Committee believes that targeted engagement to inform groups, like landlords representatives, of the CTA could be of use to Irish citizens in the UK, as well as to British citizens in Ireland.

7. Summary of Recommendations

Following its examination of Common Travel Area and the Electronic Travel Authorisation the Committee has made the following recommendations and observations:

1. The Committee welcomes the continued mutual recognition of citizens' rights in Ireland and the UK in the 2019 Memorandum of Understanding. However as there is no official mechanisms outlined the Committee recommends that both Governments explore dedicated mechanisms for the citizens to seek remedies if they have been denied rights provided for under CTA arrangements.
2. The Committee acknowledges the security concerns of the UK Government that motivated the introduction of the ETA scheme and that immigration controls are important tools for sovereign governments. It recommends that the Government of Ireland works with the UK Government to explore whether measures could be taken to address these concerns while having a minimum effect on the ability to travel freely throughout the island of Ireland and between the island of Ireland and Britain.



3. The Committee believes that there is scope for closer cooperation with regards to visa lists and it believes that migrants who are permanently resident in either Ireland or the UK should be exempt from the requirement to obtain a visa for short visits to other jurisdictions.
4. The Committee also recommends that both Governments explore the possibility of creating joint work visas that would allow persons to take up appointments in both jurisdictions which would be particularly beneficial in the healthcare sector.
5. The Committee believes that the ETA is currently unworkable on the island of Ireland and is at odds with long-standing CTA arrangements and principles that underpinned the Belfast/Good Friday Agreement. The potential negative impact on the Northern Ireland, North West and all-island tourism must be addressed. The ETA should be suspended until appropriate measures have been introduced to mitigate the negative impact on Ireland and Northern Ireland's tourism industry. A short-term tourist exemption of up to seven days which would apply to 93% of tourists entering Northern Ireland from Ireland was suggested by the Northern Ireland Tourism Alliance. The Committee endorses this recommendation. In the event that a full exemption is not possible, the Committee recommends that the UK government considers options to reduce the cost and administrative burden on organised coach tours and groups visiting Northern Ireland via Ireland.
6. The Committee recommends when new legislation is brought to either Government Cabinet consideration must be given to its potential impact on Northern Ireland. The introduction of the ETA is indicative of a need for a greater understanding of the potential impact on Northern Ireland of legislation introduced in either sovereign parliament.
7. Clarification is needed for companies who have a cross-border workforce in Northern Ireland and Ireland in relation to payrolls requirements. The Committee also



recommends that Governments in both jurisdictions work together to develop a policy which allows companies in Ireland and Northern Ireland to be able to offer their staff in both jurisdictions the same allowance in remote working.

8. In the best interest of children and patients within both Northern Ireland's and Ireland's social care and health care system, the Committee recommends that both Governments work together to develop practical solutions including examining ways to streamline registrations for associated professionals working in Ireland and Northern Ireland.
9. The Committee believes that more public awareness is needed in Ireland and the UK regarding the CTA and citizens' rights. In line with this the Committee recommends that targeted engagement is conducted in particular to groups such as landlord representatives, to clarify that an Irish or British passport can be used as a form of identification. This would be beneficial to Irish citizens in the UK, as well as to British citizens in Ireland.