



To: Secretary of State

Date: 5 May 2020

Deadline: Urgent

BORDER MEASURES' APPLICATION TO COMMON TRAVEL AREA

ISSUE: Cabinet may be considering new mandatory measures for new arrivals at the border. A key issue to decide over the next 24 hours ahead of a potential ministerial meeting tomorrow will be whether those measures apply to travel on routes in the Common Travel Area.

SUMMARY: The Foreign Secretary chaired deep dive on new measures at the border, attended by Minister Walker, agreed to introduce new measures at the border, including a requirement on inward travellers to self-isolate for fourteen days, and to provide details of where they will be self-isolating. These measures will not apply to travel between Northern Ireland and Ireland, but it is unclear whether they will apply to other routes within the Common Travel Area (e.g. travel from Dublin to Holyhead).

RECOMMENDATION: That you agree that we should seek to include CTA route exemptions to the final proposition for ministers over the coming 24 hours.

SPECIAL ADVISER COMMENTS:

NEXT STEPS:

From: Paul Flynn

Sent to SpAds:

SCS: Paul Flynn

Cleared by NIOLA:

Director responsible: Mark Larmour

Onward submission proposed to:

Additional materials:

BACKGROUND

1. The Foreign Secretary chaired a deep dive on borders last week which agreed that new measures should apply for arrivals to the UK. The measures likely to be announced will include mandatory self-isolation for a fourteen day period for new arrivals from outside the UK and a requirement to provide an address at which inward travellers will be self-isolating.

DETAIL

2. The measures will not apply to those travelling from Ireland to Northern Ireland. They will also not apply to certain other exemptions, such as hauliers and those in transit. The measures are likely to be introduced by regulation by the UK Government for England, with DAs being asked to make regulations to apply the restrictions in their nations. NI ministers could make the regulations under the powers introduced by the Coronavirus Act 2020.
3. It is still unclear whether the measures will apply to other CTA routes, such as Dublin to Holyhead. The papers considered by that deep dive included an exemption for all travel within the Common Travel Area (CTA), so that in addition to exempting travel between Ireland and Northern Ireland, travel from, for example, Dublin to Holyhead would also be exempted. The Home Office is now pushing to remove this exemption. A final proposition is likely to be put to a small ministerial meeting tomorrow and we are pushing to ensure NIO ministers are invited.
4. As you know, Ireland introduced very similar measures last week. Their measures did not not exempt CTA routes. Failing to exempt CTA routes carries some risks for us, however:
 - a. there are some political risks, given that the Executive would need to agree to make regulations, including the risk that dFM does not agree to make regulations without a CTA exemption or that the issue causes a divide in the Executive;
 - b. there are potentially practical implications for people of Northern Ireland moving to the rest of the UK where doing so via Dublin is the most suitable option;
 - c. although Ireland did not exempt CTA routes, they are likely to have concerns about their own transit travellers who might be impacted in, for example, connecting through London. This is less of an issue for the Irish regulations since Dublin is less likely to be a hub for transit travellers than London.

5. There are potentially presentational benefits to including an CTA exemption, even though it would be an asymmetric approach when compared with Ireland

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6. Home Office officials do not appear to be motivated by particular concerns, beyond that they do not consider a CTA exemption to be strictly necessary under the rules of the CTA. This is correct: the measures are not immigration controls and would apply equally to British and Irish citizens. But including a CTA exemption does not seem to carry particular risks and our understanding is that the Prime Minister is willing to include such an exemption if there is a good reason. We understand that the Home Office will test the Home Secretary's views tonight, ahead of efforts to finalise a proposition for a small group of ministers tomorrow, possibly ahead of a final decision on Thursday.
7. We are seeking to ensure an NIO minister is part of any discussion both tomorrow and Thursday. On balance, then, there is merit in pushing to include a CTA exemption in the final proposition to be put for ministers. **Do you agree?**

COPY LIST: Minister Walker; PUS; Director General; Directors; Deputy Directors; Covid Preparedness Team, Covid Economy Team, Covid International Team; Political Strategy and Implementation; Special Advisers.