HOUSE OF LORDS
European Union Committee

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The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 1 June 2017 – 31 September 2017

EU HOME AFFAIRS SUB-COMMITTEE

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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: SUPPORTING THE PREVENTION OF RADICALISATION LEADING TO VIOLENT EXTREMISM (10466/16)

Letter from the Rt Hon Ben Wallace MP, Minister of State for Security, Home Office

Thank you for your letter of 07 December requesting more information about the Media Services Directive and the UK's international collaboration to tackle radicalisation in prisons. I apologise for the delay in my response. The delay has allowed a more full response on the Audio Visual Media Services Directive as a general approach was only agreed on 22 May. The first trilogue meeting for the Directive will be chaired by the incoming Estonian Presidency on 10 July.

Moving on to your specific questions:

In our previous letter we raised our interest in the proposed amendments to the Audio-visual Media Services Directive (AVMS) as they relate to counter-radicalisation specifically. Can you please explain further the Government's views on those amendments in the proposed Directive relating to counter-radicalisation specifically?

The general aim of the AVMS Directive is to coordinate national legislation on all audio visual media. As you have identified part of the AVMS Directive relates to countering radicalisation. Specifically Article 6 directs Member States, by appropriate means, to ensure that audio visual media services do not contain any incitement to terrorism. Article 28 calls on Member States to ensure that video-sharing platform providers take appropriate, proportionate and efficient measures to protect citizens from incitement to terrorism. We are supportive of both of these articles. In the negotiation we ensured that the wording of the counter radicalisation aspects of the AVMS Directive was aligned with the recently agreed CT Directive.

Can you provide information on the UK's current efforts and how the UK cooperates with other Member States, including multilateral forums on the issue of radicalisation in prisons?

The National Offender Management System (NOMS) works closely with European and other jurisdictions on issues to do with Extremism and Radicalisation. Visits to the UK by officials from foreign jurisdictions are commonplace and NOMS officials regularly travel to meet colleagues abroad. There is routine sharing of experience, of programmes, and of learning. For example we hosted a senior German delegation from both the Federal Government and Lander on 15/16 June. The delegation joined a series of policy discussions and visited HMP Woodhill to see the UK approach to tackling prison radicalisation first hand.

NOMS is a prominent member of The European Organisation of Prison and Correctional Services (*EuroPris*), and regularly sends delegates to events organised by the Radicalisation Awareness Network (RAN) through the European Union.

7 July 2017

Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister of State for Security

Thank you for your letter received on 7 July 2017 regarding prevention of radicalisation leading to violent extremism, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 6 September.

Putting aside the long delay in replying to our letter, I am grateful for the full response given to our questions. In particular, we were interested in hearing about the articles in the Audio-visual Media Services Directive relating to counter-terrorism, and are pleased to note the Government's support for Europe-wide coordination aimed at addressing incitement to violence via video-sharing platforms. The importance of this has been brought home following the tragic terrorist events in recent months throughout Europe.

We are content to clear this document from scrutiny. There is no need to reply to this letter.

6 September 2017

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE (EU) 2015/849 ON THE PREVENTION OF THE USE OF THE FINANCIAL SYSTEM FOR THE PURPOSES OF MONEY LAUNDERING OR TERRORIST FINANCING AND AMENDING DIRECTIVE 2009/101/EC (10678/16)

Letter from the Chairman to Stephen Barclay MP, Economic Secretary to the Treasury, HM Treasury

Thank you for your letter of 24 July about the proposed amendments to the Anti Money- Laundering Directive (Document 10678/16), which the Home Affairs Sub-Committee considered at their meeting on 13 September.

We welcome the progress that you have made on your negotiating priorities in respect of this proposal, and thank you for the answers that you gave to the substantive questions outlined in our letter of 22 February.

Before lifting the scrutiny reserve, we would welcome an update on how the most recent political trilogues progressed, and whether the Government's priorities were met – particularly in respect of your wish to achieve what you describe as a "proportionate" level of access to trust beneficial ownership registers. Could you also clarify for us what such a "proportionate" approach might entail? If the current proposal on trust beneficial ownership registers is too burdensome, what might an effective alternative look like?

In addition, have recent negotiations provided you with any further clarity about the 36- month implementation period for bank and payment account registers? You wrote that this was still "subject to negotiation".

Pending your response, we will continue to hold the proposal under scrutiny.

14 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, ON THE EUROPEAN AGENCY FOR THE OPERATIONAL MANAGEMENT OF LARGE-SCALE IT SYSTEMS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE, AND AMENDING REGULATION (EC) 1987/2006 AND COUNCIL DECISION 2007/533/JHA AND REPEALING REGULATION (EU) 1077/2011 (10820/17)

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE FUNCTIONING OF THE EUROPEAN AGENCY FOR THE OPERATIONAL MANAGEMENT OF LARGE-SCALE IT SYSTEMS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE (EU-LISA) (10873/17)

Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

Thank you for your Explanatory Memorandum received on 20 July 2017 regarding the proposed Regulation for the operational management of large-scale IT systems, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 6 September 2017.

Given that the negotiations for the proposed Regulation were due to begin in July, I invite you to provide an update on the negotiations including the concerns raised in your EM relating to Articles 9, 13(4) and 22. Could you also notify us at the earliest stage whether you intend to request a Council Decision based on the Schengen Protocol and inform us of the deadlines for the UK's opt-out and opt-in decisions?

In the context of Brexit, we would also like to hear more about how eu-LISA will work with non-Member States under the new Regulation and what arrangements you hope to make to allow the UK to participate in eu-LISA post-Brexit.

We will continue to hold document 10820/17 under scrutiny. We are content to clear document 10873/17 from scrutiny. I look forward to hearing from you within 10 working days.

6 September 2017

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service

Thank you for your letter dated 6 September.

The first negotiations on the proposal for the Regulation on eu-LISA were held on 13 and 14 July. Home Office officials attended and raised the points set out in the EM, in particular on Articles 9, 13(4) and 22. We received some support from other Member States, particularly in relation to Article 9 and 22 however the text is yet to move on. We expect a revised text from the Presidency before the next phase of the negotiations in late September, and I will update you on this in due course.

I am happy to confirm that I will notify you at the earliest stage if we intend to request a Council Decision based on the Schengen Protocol – this matter is yet to be discussed during the negotiations.

The deadline for the UK's decisions to opt in and opt out of the proposed eu-LISA Regulation is 31 October. The 8 week period for the Committee to provide an opinion on the opt-in and opt-out decisions ends on 26 September.

In respect of the details of how eu-LISA will work with non-Member States, Article 38 of the proposed Regulation states that participation as a member in the Agency is open to third countries that have entered into an Association Agreement with the EU. Article 17(4), however, allows countries associated with the implementation, application and development of the Schengen Aquis or Eurodac to be represented on the Management Board, without reference to an Association Agreement. Article 23(2) allows any country that is associated with the Schengen Aquis, Eurodac or "the measures related to other large scale IT systems" to appoint a representative to the "Advisory Group" that is responsible for a particular eu-LISA-managed IT Agency in which they take part, again with no mention of an Association Agreement. We will seek clarity on these provisions in the forthcoming negotiations.

We continue to work closely with EU partners and are examining the options for future cooperation arrangements in the field of security and law enforcement once the UK has left the EU, but it would be wrong at this point to set out unilateral positions on specific measures that currently facilitate our practical cooperation.

21 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1683/1995 OF 29 MAY 1995 LAYING DOWN A UNIFORM FORMAT FOR VISAS (DOCUMENT 103141/15) AND PROPOSAL FOR REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL REGULATION (EC) NO. 1030/2002 LAYING DOWN A UNIFORM FORMAT FOR RESIDENCE PERMITS FOR THIRD-COUNTRY NATIONALS (10904/16)

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

Thank you for your letter of 11 January 2017 on the proposals to amend the Regulations on the uniform format for visas and residence permits. I apologise for the delay in our response to the Committee's question to the then Immigration Minister and accept that we must do better.

You asked whether the Government will be looking at post-adoption opt-in of the amendment to the Regulation.

Although it is unlikely that the UK will seek to opt into the Regulation post-adoption, we cannot confirm at this stage until the negotiations on the UK's exit from the EU have been conducted.

13 July 2017

Letter from the Chairman to the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter received on 13 July regarding the proposed amendment to the Regulation laying down a uniform format for visa and for residence permits for third-country nationals, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 6 September 2017.

Putting aside the delayed response in replying, we note that the Government is unlikely to opt-in to the Regulation for laying down a uniform format for residence permits for third-country nationals post-adoption. We would welcome confirmation on this once a decision has been made.

Both documents 10904/16 and 103141/15 have been cleared from scrutiny. I look forward to hearing from you in due course

6 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A UNION RESETTLEMENT FRAMEWORK (11313/16)

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

Thank you for your letter of 26 April.

I would like to assure you that the Home Office is committed to fulfilling high quality and timely parliamentary scrutiny; it remains a priority and we will continue to monitor our handling of scrutiny. The Home Office has put in place a number of measures to improve our scrutiny performance, which includes recruiting staff specifically to work on scrutiny and transposing responsibility for EU scrutiny from the European Team to the Parliamentary Team within the Home Office. I can assure the Committee that the Home Office has adequate resources and processes in place to manage negotiations on the UK's exit from the EU.

In respect of the scrutiny the Government applies to EU proposals, whilst, as you note in your letter, it was unlikely that the Government would choose to opt in to this Regulation, we nevertheless endeavour to consider fully all EU proposals.

You have asked me to confirm whether the UK currently receives EU funding for its national resettlement schemes, what proportion of overall funding for those schemes is currently drawn from the EU, and how any such funding might change as a result of this Regulation were it to come into force while the UK is still a member of the EU. These questions have been addressed in previous correspondence to the European Union Committee (letters of 9 November and 8 December), which were copied to your Committee. For ease, I have set out the same information below:

The UK received a total of £19.3 million for the calendar years 2014 and 2015 from the EU budget as a result of pledging to resettle refugees as part of our resettlement schemes, and the EU has agreed a total of £18 million for the UK for pledges for the calendar years 2016 and 2017. In addition, the UK has allocated a further £28.8 million of funding for resettlement activities from the UK main allocation for the Asylum Migration and Integration Fund (AMIF) for the financial years 2014/15 through to 2018/19. This latter allocation from AMIF comes under the heading of integration activity, and the UK has chosen to put this towards integration of refugees resettled to the UK through our resettlement programmes.

The total spent on resettlement schemes in the financial years 2014/15 and 2015/16 was £9 million and £24 million respectively. This includes the Gateway, Mandate and Syrian Vulnerable Persons Resettlement schemes. As you will be aware, our commitment on resettlement increased significantly

in October 2015 with the announcement of an expansion of the Syrian VPR to resettle 20,000 individuals by 2020. No EU funding has been put towards the Syrian VPR since its expansion.

We do not expect any funding already agreed through either pledges or the AMIF allocation to be affected if the UK does not choose to opt in to this Regulation. This is referred to in Article 17 of the Regulation, which states that "Allocations made before [date of entry into force of [Regulation (EU) (Resettlement Framework Regulation)] shall not be affected." The acceptance of pledges of additional resettlement places for the period 2018 - 2020 has been put on hold by the EU pending proposed changes to resettlement activity across the EU. As a result of not opting into this Regulation, the UK may be prevented from pledging for this period if this aspect is agreed as part of the final Regulation. But this is dependent on the timing of the adoption of this Regulation and on the UK's exit from the EU. In current discussions, the UK and many other Member States have made clear that they are opposed to the ceasing of funding for national resettlement schemes as part of this Regulation.

13 July 2017

Letter from the Chairman to the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter received on 13 July 2017 about the proposal for a Regulation establishing a Union Resettlement Framework, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September.

We are grateful for the information that you provided about how much funding the UK receives from the EU for its national resettlement schemes. Is there any update from the negotiations as to whether funding will be available for national resettlement schemes under the new Regulation? Looking ahead, what impact will this Regulation have on the UK's cooperation with the EU on resettlement? We would invite you to continue to send updates on how the negotiations are progressing, and whether the Government is considering opting-in to the measures post-adoption.

We will continue to hold this document under scrutiny. We look forward to hearing from you within 10 days.

14 September 2017

NEW EUROPEAN POLICE COLLEGE REGULATION: POST ADOPTION OPT-IN DECISION

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

I am writing to inform your Committee that the Government is not minded to opt in to the new Regulation governing the European Police College (CEPOL) following its adoption on 16 November 2015. I wish to apologise to the Committee for the delay in writing, this is due to uncertainties arising as a result of the EU Referendum and more recently due to Purdah.

CEPOL was established as an EU Agency in 2000 by Council Decision 2000/820/JHA and is responsible for supporting the training of Member States' senior police officers. On 16 July 2014 the European Commission published a draft Regulation to repeal and replace the existing Council Decisions governing CEPOL. The UK did not opt in to this Regulation at the outset.

The Government's Position

From a domestic UK policing training perspective, the Government is not convinced of the benefits of CEPOL. Its penetration across UK policing as a whole is limited: around 100 UK senior officers attend CEPOL courses every year. Many more law enforcement officers attend our UK domestic College of Policing. Existing networks, cooperation and working relationships will largely be maintained between our forces and their opposite numbers in other EU Member States, and the College of Policing's own International Academy will continue to work other countries' forces.

The Regulation would require the UK to establish a "national unit" to manage our relationship with CEPOL. We resisted this mandatory obligation during the negotiation but were not able to remove

it. The national unit would need to provide CEPOL with the information necessary for it to carry out its tasks, respond to requests for information and advice from CEPOL, contribute to CEPOL's effective communication and cooperation, and to contribute to and promote CEPOL's work programmes.

CEPOL recognises that national units will play a bigger role in the future and will never simply be 'suppliers of information' but will be 'the main vehicle for the conception and delivery of CEPOL activities'. The College of Policing currently acts as the CEPOL co-ordinator for the UK and is obliged to participate in CEPOL's Governing Board. Any increase in CEPOL activity would therefore increase the pressure on College of Policing resources at a time when it is already facing the need to reduce costs, and divert resources away from support to policing in the UK.

The date of application of the new Regulation was 1 July 2016. Once the Government's decision becomes public, the Commission may start proceedings under Article 4a (2) of Protocol No. 21 to the Treaties to eject the UK from the 2005 CEPOL Decision. However, at the moment we have not been ejected and the College of Policing is still engaging with CEPOL. If the Commission does start ejection proceedings, I do not intend to challenge the inoperability decision in this case – although we would want to ensure the correct process is followed. The Government accepts that the differing management board roles, responsibilities and voting rights in this Regulation compared to the 2005 Decision could make CEPOL 'inoperable for other Member States or the Union'.

20 July 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN UNION AGENCY FOR LAW ENFORCEMENT (CEPOL), REPEALING AND REPLACING THE COUNCIL DECISION 2005/681/JHA (12013/14)

Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

Thank you for your letter received on 20 July 2017 about the Government's post-adoption decision on the CEPOL Regulation, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September 2017.

While noting your apology, we are not convinced that uncertainty arising from the EU referendum and purdah account for the long delay in notifying us of the Government's decision not to opt-in to this Regulation. I note that your predecessor also had to apologise for not informing us in a timely manner of the Government's decision not to opt-in to this Regulation pre-adoption. On the whole, I consider the handling of this dossier to have been unsatisfactory. In the unlikely event that the Government changes its mind on opting-in to the Regulation, we would of course expect you to update us.

We have cleared this document from scrutiny.

14 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE USE OF THE SCHENGEN INFORMATION SYSTEM FOR THE RETURN OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS (15812/16)

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

Thank you for your letter dated 1 February 2017, I apologise the delay in responding.

The negotiations on the proposed Regulation commenced on 6 March 2017. The Commission has stated that Article 3(1) would, in some instances, allow Member States to circulate alerts that are based on removal decisions taken on a basis other than the Returns Directive but only in circumstances where the Directive itself does not require its provisions to be applied (principally

removals following refusal of entry at the border and removals that take place as, or as a consequence of, a criminal sanction).

The question of whether the UK would be able to receive alerts created by Member States on the basis of returns decisions made under the conditions of the Schengen Border Code is yet to be discussed.

So far as Article 6 of the Returns Regulation is concerned, The Commission has advised that an alert would be deleted once the subject left a Member State that was bound by Directive 2008/115/EC ("the Returns Directive") to travel to a country (whether or not an EU Member State) that did not apply the Directive.

We have decided not to opt in to this draft Regulation for the reasons set out in my Written Ministerial Statement today, repeated in the House of Lords by Baroness Williams.

Although in principle there would be some benefit in knowing whether individuals seeking entry to the UK (or who had come here illegally) had been ordered to leave another Member State, it is the Commission's firm view that the UK cannot participate in this measure without also opting in to Directive 2008/115/EC ("the Returns Directive"). The Government has no intention of doing that as it would pose a risk to national control over how we remove people with no right to be here, and would place our returns process under the jurisdiction of the Court of Justice of the European Union.

The Written Ministerial Statement also informed the House of our decision not to opt out of the draft Regulation governing the use of SIS II for Police and Judicial purposes (Document 15814/16).

The Council Working Group that is negotiating the Returns proposal met most recently on 5 July, when it considered arguments that the proposal should have its legal base solely in the border control aspects of the Schengen aquis. The Commission has resisted this approach, and the Council has not yet taken a decision on it. We will keep the Committee informed of any developments.

20 July 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE USE OF THE SCHENGEN INFORMATION SYSTEM FOR THE RETURN OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS (15812/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ESTABLISHMENT, OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM (SIS) IN THE FIELD ON POLICE COOPERATION AND JUDICIAL COOPERATION IN CRIMINAL MATTERS (15814/16)

Letter from the Chairman to Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office

Thank you for your letter received on 20 July 2017 about the proposal for a Regulation on the use of SIS II for the return of illegally staying third country nationals and the proposal for a Regulation on the use of SIS II in the field of police and judicial cooperation in criminal matters, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September.

We note your update on the negotiations and notification of the Government's opt-in and opt-out decisions. We would appreciate updates on the negotiations for both these dossiers as they progress.

On the Regulation on the use of SIS II for the return of illegally staying third country nationals, we would ask whether and how UK citizens might be affected by this Regulation once the UK is no longer a member of the EU, including what data would be collected and what rights UK citizens would have to access to remedy in the case of being wrongly identified as illegally staying in an EU country.

On the Regulation on the use of SIS II in the field of police and judicial cooperation in criminal matters, we would remind you that we are waiting for an update on the Government assessment of the resource implications of this Regulation. Given that the Government has decided not to opt-out, I would think that this assessment would be a priority.

We are holding both these documents under scrutiny. In the meantime I look forward to hearing from you within 10 days.

14 September 2017

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service

Thank you for your letter dated 14 September.

Council Working Groups continue to negotiate the two draft Regulations, with the Presidency hoping to reach a General Approach by the end of the year.

We have continued to press for amendments to the purpose limitation rules in the Police Cooperation measure, as set out in the Explanatory Memorandum. In particular, we have questioned whether Article 53(6) of the proposal should require a Member State to obtain the issuing Member State's permission to use an alert for a different purpose to that for which it was put on even if the requirements set out earlier in that paragraph (the existence of an imminent serious threat to public policy or public security, serious grounds of national security or the need to prevent a serious crime) are met. We have had some support from the Presidency although we do not yet know whether we will succeed in changing the text.

The proposed alert for children who are in danger of going missing (for example, as a result of parental abduction) has led to considerable debate in the Working Group. We support the proposal in principle, as it should provide earlier warning that a child should not be outside his or her home country. But we believe the test for creating such alerts should be set out in Member States' national law, rather than being specified in the Regulation as the Commission proposes. We expect further, detailed, discussion of this part of the proposal to be needed before a General Approach can be agreed.

Negotiations on the Returns measure have focussed on the circumstances in which it should be possible to circulate an alert, and when it should be deleted. Issues include whether the alert should be circulated if the return decision is still subject to appeal (or before any period the person has been given to depart voluntarily has expired), and whether it should be possible to retain the alert for a period after the person has left. The Council has also not yet resolved the disagreement over the proposal's legal base that I explained in my previous letter. Negotiations on these issues will continue and I will provide updates as necessary.

The European Parliament's Civil Liberties Committee (LIBE) will vote on amendments to both proposals on 11 October. No date has yet been set for a plenary vote in the Parliament.

You asked whether and how UK citizens might be affected by the draft Returns Regulation once the UK is no longer a member of the EU, including what data would be collected and what rights UK citizens would have to access to remedy in the case of being wrongly

identified as illegally staying in an EU country. The answers to these questions will depend on the status of UK nationals in EU law after Brexit, and thus on the negotiations on our exit from and future relationship with the EU. As such I do not think it would be right to speculate at this stage.

It is not currently possible to determine the resource implications, if any, for the UK of the proposed Police Cooperation Regulation as it is highly unlikely to enter into force before we leave the EU. Therefore, as with your earlier question, this will be decided by the negotiations on the UK's exit from, and future relationship with the EU.

I am sorry not to be able to provide a fuller response to your questions at this stage, however, I will of course continue to update the committee with further information on these two draft Regulations as the negotiations proceed.

26 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE PROCESSING OF PERSONAL DATA BY THE UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES AND ON THE FREE MOVEMENT OF SUCH DATA, AND REPEALING REGULATION (EC) (5034/17)

Letter from the Rt Hon Matthew Hancock MP, Minister of State for Digital, Department for Digital, Culture Media & Sport

I am writing to inform you about the progress of the "EU Institutions Regulation", which concerns the protection of personal data processed by EU institutions, bodies, offices, and agencies. On 19th April 2017, I wrote to inform you that the proposal had been discussed at Coreper but received insufficient support. Since then, the Maltese Presidency made progress and were able to agree a General Approach to the proposal at the Justice and Home Affairs Council on 8th June 2017.

The General Approach was adopted by consensus at Council. There was no vote and thus no possibility of formally abstaining in the voting procedure. However, the UK did formally reassert its Parliamentary scrutiny reserve prior to the Council with both the Presidency and the Council Secretariat. During the debate only one Member State objected to the proposal and with the UK remaining silent due to its scrutiny reserve, the Presidency concluded there was sufficient support to agree a General Approach.

The Council General Approach text contains a number of changes from the original Commission proposal. The UK succeeded in addressing inconsistencies with the General Data Protection Regulation (GDPR), including removing restrictions to the international transfer provisions for EU institutions that were not permitted to Member States under the GDPR. Another inconsistency with the GDPR was the ability for EU institutions to make "ad hoc" restrictions from various provisions for certain purposes in the absence of Union law or an internal rule.

Lastly, in its General Approach, the Council decided to clarify the scope of the proposed Regulation. The proposal will not apply to processing of personal data by missions. Nor will it apply when there are measures that themselves have comprehensive data protection rules if the processing is for criminal investigation purposes under the scope of Chapters 4 and 5 of Title V of Part Three of the Treaty on the Functioning of the European Union. This means that the rules in this Regulation will not apply to operational personal data processed under Europol, Eurojust, the European Public Prosecutor's Office, and similar bodies, but will apply if the data is administrative, e.g. human resources data.

As the European Parliament has yet to conduct its first reading, I do not expect trilogues between it, the Council, and the Commission to begin until late autumn. I will write with further updates on this proposal as negotiations develop.

4 July 2017

Letter from the Chairman to Rt Hon Matthew Hancock MP, Minister of State for Digital

Thank you for your letter received on 4 July 2017 regarding the proposed Regulation on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies and agencies (EU Institutions Regulation), which the Home Affairs Sub- Committee of the Select Committee on the European Union considered at a meeting on 6 September.

I note the agreement of the General Approach and the positive progress that has been made in addressing some of the inconsistences between the proposed Regulation and the GDPR. Can you confirm that the ability for EU institutions to make "ad hoc" restrictions in the absence of Union law or an internal rule has been removed from the draft?

I also note that other issues of concern have yet to be addressed including the presumption of rejection after three months of complaints made to the European Data Protection Supervisor and discrepancies in the sanctions regime. I look forward to receiving further updates on the progress of the negotiations, and on these issues in particular.

In the meantime we will continue to hold this document under scrutiny.

6 September 2017

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND COUNCIL ON THE JOINT REVIEW OF THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE UNITED STATES OF AMERICA ON THE PROCESSING AND TRANSFER OF PASSENGER NAME RECORDS TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY (6086/17)

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

Thank you for your letter of 16 March in response to the Explanatory Memorandum sent to your Committee about the joint review of the European Union (EU) and the United States (US) of the Passenger Name Record (PNR) Agreement between the US and the EU on the processing and transfer of PNR to the United States Department of Homeland Security (DHS). I apologise for the delay in my response to the Committee's questions to the then Immigration Minister.

Your Committee was concerned about the conclusion of the EU review team in relation to Article 16. This is the Article of the Agreement which provides that DHS may share PNR with domestic government authorities within the US. The Commission Staff Working document that accompanied the report of the joint review includes the number of instances where PNR was shared with US agencies but records that "*Insufficient information was available to the EU team to conclude whether any of these cases would fall within the scope of the Agreement. There was also no opportunity to look in more detail at the disclosure form."*

You asked if any steps have been taken since the review to determine whether PNR data shared with other US authorities fall within the scope of the Agreement and what information is being collected to ensure that information shared with other US authorities is in accordance with the Agreement.

The report of the review called upon the DHS to provide *"further information on exactly what data is being collected under [Article 16] and be in a position to provide further information on data that has been shared with other US authorities, …."*.

This further information will establish clearly which PNR is being shared by the DHS with US authorities falls within the Agreement as it relates to flights between the EU and the US and, where that is the case, the purpose in Article 4 of the Agreement for which it was shared.

The European Commission is working with the DHS to monitor its implementation of the recommendations of the joint review. The Commission is also planning for the joint evaluation of the Agreement later this year. Preparation for that evaluation is providing the opportunity to assess progress made by the DHS to implement the recommendation relating to Article 16.

You also asked what options are being considered for ensuring that the UK and the US will be able to continue to share PNR data after the UK leaves the European Union and is no longer party to the EU-US PNR Agreement.

The Government remains very clear about the importance of processing PNR for countering terrorism and serious crime. Effective security and law enforcement cooperation with our international partners, including the US, is a UK priority and an area where we will continue to play a leading global role. However, it is too early in the process of exit from the EU to say what any future arrangements for UK-US cooperation on PNR will look like.

13 July 2017

Letter from the Chairman to Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter received on 13 July 2017 about the joint review of the EU-US PNR Agreement, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September 2017.

We remain concerned about the EU review team's conclusion relating to Article 16 and note that the joint evaluation due out later this year will assess progress made in this area. The requirement under the EU-US PNR Agreement for regular monitoring is a valuable tool for both sides to ensure compliance with the Agreement. We would like to know whether the Government has had any contact with US counterparts to discuss the joint review.

In your letter you note that while effective security and law enforcement cooperation with international partners including the US is a priority, it is too early to say what any future arrangements for UK-US cooperation on PNR will look like. Has the Government held any discussions with counterparts in the US about possible post-Brexit arrangements for sharing passenger name records?

I look forward to hearing from you within 10 days. We have cleared this document from scrutiny.

14 September 2017

Letter from Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter of 14 September about the joint review of the EU-US Passenger Name Records (PNR) Agreement.

You asked whether the Government has had any contact with US counterparts to discuss the anticipated joint evaluation of the Agreement. The undertaking of the joint evaluation is a matter for the European Commission, on behalf of the EU Member States, and the US Government. The UK Government does not participate in planning of the joint evaluation. However, I understand from officials' conversations with representatives of the European Commission and the US Government that arrangements for the joint evaluation have not been finalised.

You also asked whether the Government has held any discussions with counterparts in the US about possible post-Brexit arrangements on PNR. Officials from the Home Office and the Department of Homeland Security have held preliminary discussions about future arrangements both to ensure the adequate protection of personal data in PNR transferred by air lines to the Governments on both sides of the Atlantic and to meet the objective of safeguarding public security.

25 September 2017

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON A MORE EFFECTIVE RETURN POLICY IN THE EUROPEAN UNION – A RENEWED ACTION PLAN (6943/17)

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

Thank you for your letter of 26 April.

You have asked for the Government's view on how confident we are that the Renewed Action Plan will have an impact on increasing the rate of returns, particularly voluntary returns, across the EU. The Government welcomes the Renewed Action Plan, but we are somewhat sceptical about its impact. In our view, securing good returns cooperation with third countries requires Member States to commit a significant investment of time and resource, as well as high-level dialogue with countries of origin and transit to ensure readmission. Since the recommendations of the Renewed Action Plan are not binding, we are somewhat sceptical about its ability to increase returns, particularly voluntary returns, across the EU.

You have asked if the Government is reviewing the level of support and/or nature of the UK's relationship with the EU and individual Member States on returns, in light of the UK's exit from the EU. Our future relationship with the EU is a matter for negotiation, but we have been clear that we will seek a strong and close future relationship with a focus on operational and practical cross-border cooperation.

You have also asked me to clarify what the implications of Brexit are on the UK's participation in EU Readmission Agreements (EURAs), and whether the UK will need new arrangements with those

countries to establish a basis for returns. Once the UK has left the EU, our participation in EURAs will lapse as participation is based on our EU membership, and therefore we will consider what, if any, further action is required in due course.

13 July 2017

Letter from the Chairman to Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter received on 13 July 2017 regarding the Communication for a more effective returns policy in the EU – A Renewed Action Plan (Document 6943/17), which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 6 September.

We remain concerned about the EU's ability to manage returns in an effective, efficient and humane manner and share your scepticism that the Renewed Action Plan will have the desired impact.

We were disappointed by the lack of detail about your plans for the UK's future cooperation with the EU regarding returns. At this stage of the Brexit negotiations we would expect the Government to be able to explain more clearly its objectives for working with the EU on returns post-Brexit. We are also dissatisfied to hear that the Government has yet to consider the implications of Brexit on the UK's participation in EU Readmission Agreements. We would ask you to provide further information on what options the Government is considering regarding its future participation in EU Readmission Agreements.

We will continue to hold this document under scrutiny. I look forward to hearing from you within 10 days.

6 September 2017

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter of 6 September.

You have asked for more detail on the UK's objectives for working with the EU on returns post-Brexit. The Home Office, along with other government departments, is currently assessing the future of the UK's relationship with the EU on returns and we will notify you in due course when more progress has been made. The UK is committed to continued engagement and cooperation with the EU on migration issues and returns. This has been reiterated at numerous meetings, most recently at the June European Council.

You have also asked for more detail on the implications of Brexit on the UK's participation in EU Readmission Agreements (EURAs). Once the UK has left the EU, our participation in EURAs will automatically be discontinued. The Home Office along with other government departments is currently in the process of considering whether some of these EURAs should be replaced with agreements between the UK and third countries. I will write to you in due course when further progress has been made.

25 September 2017

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – THE PROTECTION OF CHILDREN IN MIGRATION (8297/17)

Letter from the Chairman to the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

Thank you for your EM received on 13 July 2017 regarding the protection of children in migration, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 6 September.

You might recall that we published a report in 2016 on the plight of unaccompanied migrant children in the EU. In that report we noted that the implementation of EU measures to protect

unaccompanied migrant children has been poor, and raised concerns that the EU and Member States had lost sight of the plight of unaccompanied migrant children. We remain concerned that not enough is being done to protect children in migration.

In our 2016 report on unaccompanied migrant children in the EU, the Committee heard evidence that guidelines for age assessment in the UK are not uniformly followed when carrying out age assessments. We raised concerns that age disputes have significant negative consequences for children's lives including being placed in unsuitable conditions on the basis of mistaken age assessments. We would invite you to update us on efforts to improve consistency in assessing age. Can you also provide recent statistics on the number of cases where age has been disputed, how many challenges were successful and how this compares to previous years?

We note that the Commission intends to set up a European Guardianship Network in 2017 to share experiences and good practice in cooperation with the European Network of Guardianship Institutions. Does the Government intend to participate in this Network? We also note that the Communication talked about the need for more effective use of data, research, training and funding. Can you tell us how measures to improve data collection, training and exchanges of best practice will be funded both at the EU and at the UK level?

On the topic of guardianship for children in migration, I note that the Government continues to oppose the implementation of such a system and the reasons given for that. However, in view of the Commission's support for guardians and the role that they can play in safeguarding the interests of unaccompanied children, I would like to take this opportunity to reiterate the Committee's call to establish a guardianship service in England and Wales for all unaccompanied migrant children, which was made in our July 2016 report on unaccompanied migrant children in the EU.

During the debate in the House of Commons on 19 July regarding Section 67 of the Immigration Act 2016, you mentioned plans to travel to Greece and Italy to follow up on discussions with counterparts on the processes being put in place to identify and transfer eligible children to the UK. I invite you to tell us how those meetings went and any decisions that were taken. Please also provide your assessment of the conditions of the camps that you visited and whether you observed any improvements, in particular with regard to conditions and access to services and support for children.

We are content to clear this document from scrutiny and look forward to hearing from you within 10 working days.

6 September 2017

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter dated of 6 September regarding the Communication from the European Parliament and Council on the protection of children in migration.

In your letter you raised the guidelines for carrying out age assessments in the UK. The age of a young person arriving in the UK and claiming asylum is normally established from the documents with which they have travelled. However, many asylum seekers who claim to be children do not have any definitive documentary evidence to support their claimed age. Many are clearly children, but for those where there is uncertainty there is a need to assess their age. Where credible and clear documentary evidence of age is not available and their claim to be a child is doubted by the Home Office, criteria including physical appearance and demeanour are used as part of the interview process to assess age. They will be treated as an adult if two officers have separately determined that the individual's physical appearance or demeanour very strongly suggests they are significantly over 18 years of age. If there remains doubt about whether the claimant is an adult or a child they will be referred to a local authority for a social worker age assessment and treated as a child until further assessment of their age has been completed. The local authority age assessment will be considered by the Home Office alongside other relevant evidence before a final decision is made. This policy is designed to safeguard the welfare of children and ensure that the claimant is treated age-appropriately.

The Home Office publishes statistics where the claimant's age has been disputed and a formal age assessment has been carried out (see table below). The table shows that there were 3,290 asylum claims submitted by unaccompanied asylum seeking children in 2016. In the same period only 28% of

asylum claimants had their age disputed. Of those claimants whose age disputes were resolved in 2016, 61% were assessed to be over 18.

Year	Asylum applications received	Age disputes raised	Age disputes resolved	Age disputes resolved: under 18 when age dispute raised raised	Age disputes resolved: 18+ when age dispute raised		Percentage of asylum applications disputed	Percentage of age disputes resolved which were subsequently assessed to be adults
2012	1125	337	467	226	241		30%	52%
2013	1265	323	406	179	227		26%	56%
2014	1945	318	466	242	224		16%	48%
2015	3253	789	718	274	444		24%	62%
2016	3290	928	945	370	575		28%	61%

You have asked whether the Government intends to participate in the Commissions European Guardian Network. The UK understands that for several Member States guardians provide the legal framework for children to be safeguarded and facilitate their entry into relevant processes. However, the UK has no plans to participate in the Guardian Network. We have robust child protection legislation and processes in place in the UK and consider children's social care professionals in local authorities to be best placed to make assessments on how best to support a child once they are in the UK. The UK supports the important role a guardian plays in helping a child to navigate complex systems and agree that it is important that information is shared with children, through guardians where appropriate, throughout. We are currently working with other EU Member States and relevant partners to ensure the efficient and effective operation of the Dublin Regulation, including guardianship where relevant.

In July I met with my counterparts in Greece and Italy to discuss matters including the process for transfers under section 67 of the Immigration Act 2016 and the Dublin Regulation. I accompanied the Greek Minister for Immigration to the UNHCR camp in Schisto, close to Athens. I found the camp to be of good standard and well organised with a number of facilities available to families and unaccompanied children. As this was my first visit I am unable to comment on the extent of improvements at this camp. The Government is committed to ensuring the efficient operation of the process Dublin and keen to strengthen the UK's relationship with other Member States. I held a number of meetings in Greece and Italy, with government officials and NGOs – they were positive meetings which discussed the issues of unaccompanied children but also the EU response to the migration challenges more broadly. I hope we can work collaboratively in the future to ensure safe and legal routes are accessible for children in Europe.

The Government takes the welfare of unaccompanied asylum seeking children extremely seriously. All of our systems and processes at an EU and domestic level adhere to robust safeguarding laws and children's best interests remain a primary consideration in all of the work that involves migrant children.

I hope this information assists you in your further scrutiny

25 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE CRITERIA AND MECHANISMS FOR DETERMINING THE MEMBER STATE RESPONSIBLE FOR EXAMINING AN APPLICATION FOR INTERNATIONAL PROTECTION LODGED IN ONE OF THE MEMBER STATES BY A THIRD COUNTRY NATIONAL OR A STATELESS PERSON (DUBLIN IV) (8715/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ESTABLISHMENT OF 'EURODAC' FOR THE COMPARISON OF FINGERPRINTS FOR THE EFFECTIVE APPLICATION OF [REGULATION (EU) NO. 604/2013 ESTABLISHING THE CRITERIA AND MECHANISMS FOR DETERMINING THE MEMBER STATE RESPONSIBLE FOR EXAMINING AND APPLICATION FOR INTERNATIONAL PROTECTION LODGED IN ONE OF THE MEMBER STATES BY A THIRD-COUNTRY NATIONAL OR A STATELESS PERSON], FOR IDENTIFYING AN ILLEGALLY STAYING THIRD-COUNTRY NATIONAL OR STATELESS PERSON AND ON REQUESTS FOR THE COMPARISON WITH EURODAC DATA BY MEMBER STATES' LAW ENFORCEMENT AUTHORITIES AND EUROPOL FOR LAW ENFORCEMENT PURPOSES (8765/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN UNION AGENCY FOR ASYLUM AND REPEALING REGULATION (EU) NO. 439/2010 (8742/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON STANDARDS FOR THE QUALIFICATION OF THIRD-COUNTRY NATIONALS OR STATELESS PERSONS AS BENEFICIARIES OF INTERNATIONAL PROTECTION, FOR A UNIFORM STATUS FOR REFUGEES OR FOR PERSONS ELIGIBLE FOR SUBSIDIARY PROTECTION AND FOR THE CONTENT OF THE PROTECTION GRANTED AND AMENDING COUNCIL DIRECTIVE 2003/109/EC OF 25 NOVEMBER 20013 CONCERNING THE STATUS OF THIRD-COUNTRY NATIONALS WHO ARE LONG-TERM RESIDENTS (11316/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A COMMON PROCEDURE FOR INTERNATIONAL PROTECTION IN THE UNION AND REPEALING DIRECTIVE 2013/32/EU (11317/16)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN STANDARDS FOR THE RECEPTION OF APPLICANTS FOR INTERNATIONAL PROTECTION (RECAST) (11318/16)

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration, Home Office

I am writing to update the Committee on the negotiations in Council and the European Parliament on the Commission's proposal to recast the Eurodac Regulation.

In Council, the consideration of the text has continued at pace, following receipt of feasibility papers from eu-LISA, the EU Agency responsible for the management of large-scale IT systems in the field of Justice and Home Affairs. It is clear that in the context of negotiations on the package of measures to reform the Common European Asylum System, successive Presidencies have identified the Eurodac proposal as one in which an early agreement is possible, either in part or as a whole. As a result, increased pressure is being placed on us and other Member States to lift all remaining reserves, including any that concern the recent developments set out below.

The feasibility papers concerned the inclusion of scanned copies of passports and other identity documents in Eurodac, and the possible use of alphanumeric searches for law enforcement access. In discussions as to whether the scanned identity documents should be in colour or black and white, we favoured the use of colour versions, as this would improve accuracy and better support individual identification for returns purposes. Some Member States argued in favour of uploading a wider range of documentation, including documents known to be forgeries: we cautioned against the storage of non-verified and forged documents as we did not believe this would add value. Rather, such documents risked causing confusion. Having too much information, where some of it could be of dubious quality, could hinder identification rather than assist and would also place increased burdens on authorities making the transmissions without clear gain, reducing the cost-benefit ratio; these concerns have been reflected in the latest compromise text.

In a separate development, new text has been proposed to increase the scope of the Eurodac database to include data for individuals who have applied for resettlement in the European Union under the EU Resettlement Framework and where individuals are admitted for resettlement in accordance with a national resettlement scheme. We can see the relevance of taking and storing data on individuals who are admitted to the territories to which the Eurodac Regulation applies on the basis of a resettlement decision as this would enable identification in the event of secondary movements within Europe. However, we were not immediately convinced on the reasoning for storing data for later comparison of persons who have applied for resettlement under the EU Resettlement Framework, but who are not admitted and so remain in the region, as proposed in the text.

During the discussions, arguments have been made by some delegations that there may be added value, even if limited, in storing the data of persons not admitted in terms of identifying those who have previously applied for and been refused resettlement should those individuals subsequently enter Europe. We appreciate the arguments that this supports broader migration objectives, as the availability of such data could help with determining the credibility of any future asylum claim in Europe. For this reason, and as we have not opted in to the EU Resettlement Framework, we will continue to make constructive points in the discussions on resettlement data in general but will not seek to block the approach favoured by those bound by the proposed EU Resettlement Framework. The discussions in Council are ongoing.

In parallel, in the European Parliament, the Rapporteur for the Committee on Civil Liberties, Justice and Home Affairs (LIBE) on Eurodac, Monica Macovei MEP, tabled her report on 9 June. Ms Macovei also acted as Rapporteur for the LIBE Committee in the negotiations leading to the adoption of the Eurodac II Regulation (EU) No. 603/2013. This LIBE Committee's present report reflects compromises from the other groups and related Committees and will allow trilogues to commence. A plenary consideration will take place later, when the text is ready for a formal vote.

The LIBE Committee welcomes the extension of the scope of Eurodac as it will allow Member States to compare data on illegally staying third country nationals who do not claim asylum and make secondary movements. The Rapporteur notes that Member States often experience difficulties in identifying such persons who may use deceptive means to avoid identification and consequently frustrate removal.

The Rapporteur underlines the importance of law enforcement access to Eurodac and proposes a set of amendments aimed at facilitating Europol's performance of its tasks, such as granting Europol simplified and direct access to Eurodac, counterbalanced by amendments to reinforce data protection requirements. The Rapporteur notes that the Commission's original proposal is based on biometric searches under defined conditions and so rules out alphanumeric searches by national law enforcement authorities and Europol. Consequently, and in common with the Council's considerations, the Rapporteur proposes that law enforcement authorities should be allowed to make requests based on alphanumeric data where they possess evidence of personal details or identity documents.

The Rapporteur welcomes the Commission's proposal to lower the age at which children's fingerprints are taken to six years old as it would facilitate tracking of unaccompanied minors in cases where they are separated from their families or abscond from care institutions. With a view to increase the system's potential to trace and reunite missing family members, the Rapporteur also proposes that additional alphanumeric data of applicants for international protection should be

included in Eurodac III, such as information on family links and a particular indication on whether a child is unaccompanied.

13 July 2017

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration

As new Immigration Minister, I have noted the contents of your letter of 10 February on the above and can confirm I will provide the Committee with updates on all of these dossiers as negotiations progress. I have set out responses to your questions below.

Dublin Regulation, Eurodac Regulation and repeal of the European Asylum Support Office Regulation

With regard to the future of the European Asylum Support Office (EASO) and arrangements for UK cooperation with the new European Union Agency for Asylum (EUAA), whilst the UK remains in the EASO Regulation the UK intends to continue supporting EASO via the provision of staff and expertise. You have asked about the UK's ability to operate under the old EASO Regulation by virtue of not participating in the proposed EUAA Regulation; we stated our position on this matter in my predecessor's letter dated 16 March, however we will update you in due course as negotiations continue.

You have also asked if the Government considers it likely that the Commission will use Article 4 of Protocol 21 of the Treaty on the Functioning of the European Union to eject the UK from the existing Regulation. With negotiations ongoing, it is too early to say at this stage if the Commission will seek to use Article 4 of the Protocol.

Asylum Procedures Regulation, Asylum Qualification Regulation and Reception Conditions Directive

In relation to the Government's notification on the decision not to opt in the Asylum Procedures Regulation, Asylum Qualification Regulation and Reception Conditions Directive, I want to reassure the Committee that the Government remains committed to fulfilling our scrutiny commitments in this respect and aims to keep the Committees fully abreast of developments at the earliest opportunity.

You have also asked about the interoperability of the new directives with the 2005 versions. It is the Government's view that the amendments and the new measures in the current proposals are not substantial enough that they would render the two sets of measures inoperable.

On the matter of access to the labour market for asylum seekers, the relevant provisions are found in the proposed recast of the Reception Conditions Directive and it will therefore be for Member States to transpose these provisions into their national law; the Government could not therefore speculate on how EU Member States will implement such measures.

By way of update, I can inform you that discussions are progressing on the six aforementioned measures, although at varying paces. My letter of 13 July provides a more detailed update on the Eurodac Regulation. On the Dublin Regulation, discussions have remained at Council (Ministerial) level and progress has largely stalled given difference of views on the redistribution element. On the EUAA, discussions are at trilogue stage. The Asylum Procedures Regulation and Reception Conditions Directive continue to be discussed at Council Working Party level. On the Asylum Qualification Regulation, on the 17 July, the Presidency invited COREPER to agree on the compromise proposals, with a view to granting the Presidency a mandate to start negotiations with the European Parliament. We understand the mandate will be agreed upon on the understanding that it will be necessary to revisit some parts of the text relating in particular to the on-going discussions of other proposals of the CEAS.

29 August 2017

Letter from the Chairman to the Rt Hon Brandon Lewis MP

Thank you for your letters received on 13 July and 29 August 2017 relating to Council Documents 8715/16, 8765/16, 8742/16, 11316/16, 11317/16, and 11318/16, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September.

We are grateful for your clarification about how the UK is able to operate under the old EASO Regulation. On the Eurodac Regulation we would appreciate further information on the discussions around allowing Europol direct access to Eurodac and the Government view on this. Would Europol have full access to data held in Eurodac? We would also ask for more information about the proposed amendments to reinforce data protection requirements. We note the recent proposal for a Regulation to reform eu-LISA (which manages large-scale IT systems including Eurodac) and would ask whether there are any implications for the UK's participation in Eurodac if the Government decided not to participate in the proposed Regulation to reform eu-LISA.

We would appreciate it if you could keep the Committee updated on the progress of the negotiations of all six documents. In the meantime, we will continue to hold all six documents under scrutiny.

14 September 2017

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN TRAVEL INFORMATION AND AUTHORISATION SYSTEM (ETIAS) AND AMENDING REGULATIONS (EU) NO 515/2014, (EU) 2016/399, (EU) 2016/794 AND (EU) 2016/1624 - GENERAL APPROACH (9763/17)

Letter from the Chairman to the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your EM received on 21 June 2017 regarding the Commission Proposal for a Regulation amending Regulation 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS), which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 12 July 2017.

The Committee was grateful for your update on the Government's position on the proposed ETIAS 'watchlist', and takes note of the Government's support for such watchlists.

While the Committee agrees that it will be important to undertake a full analysis of the advantages and disadvantages of the Regulation to the UK in making an opt-in decision, we would welcome greater detail on exactly what form this analysis will take.

For example, we would be interested to know whether the Government will consider how the proposal plans to ensure that the rights of UK citizens who feature on the watchlist are upheld. We would ask you to confirm whether the Government will seek safeguards or guarantees to ensure that the data of UK citizens is fully protected. In addition, it would be helpful if you could confirm to us whether individuals will be able to find out if they feature on the watchlist. Lastly, we would ask you if you have considered whether it will be possible for an individual to challenge their inclusion on the list.

We understand from the EM, and from subsequent correspondence with your Department, that the deadline for opt-in is as yet unclear. We would be grateful if you could write to us with this date as soon as you are made aware of it.

Pending your response to our queries, and the updates that we have requested, we will retain this document under scrutiny

12 July 2017

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letters of 25 January and 12 July.

As you are aware, a general approach on the European Travel Information and Authorisation System (ETIAS) proposals was agreed at the Justice and Home Affairs Council on 9 June. Additionally, and as set out in my Explanatory Memorandum of 21 June, an ETIAS watchlist will be created and hosted by Europol which means the Europol Regulation will need to be amended to reflect the new function and an opt-in decision will need to be taken by the UK.

I can now confirm that the three month opt-in period was triggered on 22 May when the amending proposal was brought forward. This means that the Government will be required to take an opt-in decision by 21 August.

In undertaking a full analysis of the advantages and disadvantages of this Regulation to the UK, the Government will have particular regard to whether there are operational benefits and whether it is in the national interest for the UK to opt-in. We will write to the Scrutiny Committees once a decision has been taken.

You have asked whether the Government will consider how the proposal plans to ensure that the rights of UK citizens who feature on the watchlist are upheld. The watchlist will be used as part of the process for deciding whether to grant authority to travel to the EU to third country nationals who are exempt from the requirement to be in possession of a visa when crossing external borders. The Committee should note that as the watchlist will be hosted by Europol, it will be subject to the strict data protection controls that are already operated by Europol, as set out in the Europol Regulation.

With regards to your letter of January, I apologise for the delay in replying. You asked a number of further questions about the European Commission's proposal and I have addressed these below.

The impact of the proposals on carriers

You asked whether any carriers have made representations to the Government about the proposed scheme. The Government continues to have a range of discussions with carriers about a number of issues, including matters affecting the EU border. You also asked for further clarification on the responsibilities of rail carriers, and whether any exemption will create a loophole that will need addressing. Article 39 of the general approach text states that air carriers, sea carriers and international carriers transporting groups overland by coach carriers shall send a query to the ETIAS Central System to verify the presence of a travel authorisation. This means that rail carriers, including Eurostar, will not be required to conduct this check. However, unless they fall within the exemption categories in Article 2 of the ETIAS general approach text, all visa exempt third country nationals will be required to obtain travel authorisation regardless of their mode of travel. As with all passengers, border guards will check whether these passengers travelling by rail are in possession of a valid travel authorisation on arrival at the Schengen border, and will still be expected to refuse entry if there is no authorisation.

Grounds for refusing an ETIAS authorisation

You expressed an interest in the level of detail provided about the grounds for refusing an ETIAS authorisation, and asked that we commit to pursuing this issue in the course of negotiations in case the scheme applies to UK citizens in future.

In the general approach text, the grounds for refusing a travel authorisation are if the applicant uses a lost, stolen or invalidated travel document; poses a security, illegal immigration or public health risk; is the subject of a refusal of entry alert on SIS; and/or fails to reply to a request for additional information or documentation within set deadlines. They will also be refused if there are reasonable doubts over the authenticity of the data, the reliability of the statements made/supporting documents provided by the applicant, or the veracity of their contents. Where a travel authorisation has been refused, the applicant will receive a notification via email which will include the travel authorisation application number, the national unit that refused the travel authorisation and its location, the ground(s) for refusal and information on the procedure to be followed for an appeal. The UK will continue to participate in discussions about this and other issues whilst we remain a full member of the European Union with all the rights and obligations of EU membership remaining in force.

The appeals procedure

You stated that you would be interested to know whether there will be any guidelines or rules around the type of appeals procedure that individual Member States must put in place, or whether those procedures will be entirely at the Member State's discretion. As I outlined in my previous letter, Article 31 states that appeals shall be conducted in the Member State that has taken the decision on the application and in accordance with the national law of that Member State.

I will keep you updated on this dossier as it proceeds.

4 August 2017

Letter from the Chairman to the Rt Hon Brandon Lewis MP, Minister of State for Immigration

Thank you for your letter received on 4 August 2017 about the Commission Proposal for establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624 – general approach, which the Home Affairs Sub-Committee of the Select Committee on the European Union considered at a meeting on 13 September 2017.

Although your response to our letter of 25 January 2017 was received after an unacceptable delay, the Committee was grateful for your detailed responses to our questions. We are prepared to clear the first EM (14082/16) from scrutiny.

There was less detail, however, in your responses to our questions of 21 July. You did not provide us with any information about how an individual might find out if they featured on the proposed watchlist; nor did you outline how an individual might challenge their inclusion. We would welcome more detail on these issues.

In addition, it would be helpful if you could clarify the Government's approach to and decision on the opt-in. If the three-month deadline began on 22 May, why were you not aware of this when you deposited your Explanatory Memorandum of 21 June? The Committee has received no notification that the Government has made a decision on the opt-in, despite the deadline passing on 21 August, though we are aware that you have informed the House of Commons that you decided not to opt-in. We would remind you that the Government needs to inform both Houses separately about opt-in decisions.

Finally, may we urge you in future not to include your responses to two separate letters in one letter to us? The Committee's letters that you refer to relate to the scrutiny of two different Explanatory Memoranda.

Pending your response to our queries, we will retain the second EM (9763/17) under scrutiny

14 September 2017

GENERAL CORRESPONDENCE

NETWORK AND INFORMATION SYSTEMS DIRECTIVE

Letter from the Rt Hon Matthew Hancock MP, Minister for Digital, Department for Digital, Culture Media and Sport

I wrote to you on 7 February to update you on our plans to transpose the Security of Network and Information Systems Directive (NIS Directive) into UK legislation. The Government's approach towards transposition of this Directive has progressed since then and we intend to launch a public consultation on our proposals on 8 August. I therefore thought this was a good moment to write to you update you on our proposed approach.

The Department for Digital, Culture, Media and Sport (DCMS), the policy lead on cyber security within the wider economy, has worked hard with relevant Government Departments and the National Cyber Security Centre (NCSC) to establish the most effective way to implement the Directive. The approach set out below is intended to implement the NIS Directive in a manner that minimises the burdens on business, whilst ensuring that it remains effective in delivering real improvements in the cyber security of the UK's essential services.

The consultation document, which can be found on the DCMS website, sets out the key issues and the Government's proposed approach in detail, but I have summarised the most important issues below:

Scope

It is our intention to maintain the Directive's scope in terms of the sectors to which it relates and not gold-plate our implementation by including additional areas. The risks of expanding NIS at this stage outweigh the benefits as the additional sectors are not prepared or have similar existing legislation, and that we should see how effective the NIS Directive is, before we consider widening its scope.

We propose to identify operators using thresholds set out in the consultation document. These thresholds relate to the provision of the essential service, such as the number of persons supplied with the service or the amount of service provided (i.e electricity generated). The proposed thresholds are generally set at such a level as to capture only the most important operators, rather than the whole sector, based on the disruptive effect we consider could result if such operators' essential services were disrupted.

In line with Article 1(7) of the Directive, we are excluding the banking and financial market infrastructures sectors from those aspects of the Directive where provisions at least equivalent to those specified in the Directive already exist. Firms and financial market infrastructure within these sectors will continue to adhere to requirements and standards as set by the Bank of England and/or the Financial Conduct Authority.

National Framework

The Directive requires Member States to have a national framework in place to support and promote national cyber security. This national framework needs to include a national strategy, a single point of contact, a computer security incident response team, and a competent authority (or authorities).

The National Cyber Security Strategy for 2016-2021, with the addition of a technical annex, will be the UK's national strategy for the NIS Directive. The NCSC, in line with its role as the UK's technical authority on cyber security, will be both the UK's single point of contact and the computer security incident response team for the purposes of the NIS Directive.

For the competent authority we have opted for a multiple competent authority approach, where each sector has a specific competent authority. This will encourage the nominated authorities to mainstream cyber security into their roles, allow them to use their greater understanding of the needs and challenges of individual sectors, and allow them to engage more proactively with each sector alongside their other engagement activity.

Security and incident reporting

We propose to take a high-level principles plus guidance based approach for the security measures we expect operators of essential services to comply with. The NCSC have prepared a set of high level principles that establish the overarching requirements, which are set out in the consultation document. These will be underpinned by more detailed guidance that will be produced by the NCSC and competent authorities by the transposition deadline of May 2018. This guidance will be updated over time.

We will expect any incident that impacts the continuity of an essential service to be reported including physical incidents where they have disrupted network and information systems used in the provision of an essential service. We are also encouraging operators to report incidents that do not disrupt the continuity of an essential service on a voluntary basis.

The exact thresholds for the type of incidents that operators will be required to report are still under consideration, as this process can only begin when both the competent authorities and operators of essential services have been identified. This work will therefore begin following the end of the public consultation.

Digital Service Providers (DSPs)

Three categories of DSPs are covered by the Directive - online marketplaces, search engines and cloud service providers. This will only include search engines that search the internet as a whole (i.e. not internal search engines), online shops who transact on behalf of others (i.e. genuine marketplaces not direct retailers), and cloud service providers who offer infrastructure, platforms, or software as a service to other businesses (i.e. providers on whom other businesses rely on to operate).

It is important to note that any DSP with fewer than 50 employees or a turnover of less than €10m a year is automatically excluded, and only those companies whose main establishment is in the UK are within scope.

Penalties

We propose that the UK mirrors the General Data Protection Regulation's penalty regime to ensure consistency across cyber security-related regulation.

Implementing Acts

In my letter of 7 February, I set out the proposed Implementing Acts that the European Commission is committed to produce under the NIS Directive. The Implementing Act creating the Cooperation Group, reported to you in February is now up and running and the Cooperation Group has subsequently met twice.

A second Implementing Act relating to the technical and organisational measures required from Digital Service Providers was intended to be in place by 9 August 2017. However, EU Member States and the European Commission have yet to reach agreement on the content of this Implementing Act and we now expect a draft Implementing Act to be circulated by the Commission by the end of August. I will submit an explanatory memorandum to your committee when we receive the draft Implementing Act.

Transposition

The Government's intention is to implement this Directive through section 2(2) of the European Communities Act. A draft regulation is being drafted and will be submitted to Parliament in the New Year, in time for the regulations come into effect by 9 May 2018.

8 August 2017

FUTURE PARTNERSHIP PAPER ON THE FUTURE OF EU-UK DATA PROTECTION RELATIONSHIP

Letter from the Rt Hon Matthew Hancock MP, Minister for Digital, Department for Digital, Culture Media and Sport

Thank you for the Brexit: EU Data Protection Package report, which you published on 18 July 2017. In your report, you concluded that the Government should seek unhindered and uninterrupted flows of data between the UK and the EU. The report also recommended that the UK should seek a continuing role for the Information Commissioner on the European Data Protection Board.

I would like to draw your attention to the Government's publication of a 'Future Partnership' paper on the future EU-UK data protection relationship, which is enclosed with this letter[1].

This is being published as part of a series of papers over the summer, setting out in more detail the terms of the UK's future relationship with the EU.

The Government's paper sets out how the UK is one of the leading drivers of data protection standards across the globe. After our exit, the UK will remain a global leader on data by promoting both its unhindered flow internationally and appropriate high levels of data protection rules. Data flows are essential for the economic prosperity of both the EU and the UK, and it is estimated that 75 per cent of our cross-border data flows are with EU countries.

This means that as the UK and the EU build a new, deep, and special partnership, it is essential that we agree a model for protecting and exchanging personal data. The model should maintain the unhindered flow of personal data between the UK and the EU as well as offer sufficient stability and confidence for stability and confidence for businesses, public authorities, and individuals.

The paper explores options, including a UK-EU model that could build on the existing adequacy model. This model could enable an ongoing role for the Information Commissioner's Office in the

[1] Not published here.

European Data Protection Board in a way to be agreed which would reassure businesses and consumers.

The Government's paper also reiterates the importance of providing clarity and certainty for businesses and individuals as soon as possible that data flows will not be disrupted when the UK leaves the EU.

24 August 2017

ESTONIAN PRESIDENCY PRIORITIES: HOME OFFICE JUSTICE AND HOME AFFAIRS (JHA) ISSUES

Letter from the Rt Hon Amber Rudd MP, Home Secretary, Home Office

On 1 July Estonia assumed the rotating Presidency of the EU Council of Ministers for the first time, their turn having been brought forward following the UK's decision to leave the EU in June 2016. They will hold the Presidency until 31 December 2017. Their priorities will contribute to a new "Trio" Presidency programme with Bulgaria and Austria.

I write to give you an overview of likely Presidency progress on Home Office dossiers. I hope this will assist your Committee in planning your activities over this period.

I understand that JHA Councils will take place on:

- September 14 (provisional) – Brussels
- October 12-13 – Luxembourg
- November 9 (provisional) – Brussels
- December 7-8 – Brussels

There was also an informal meeting of JHA Ministers on 6-7 July in Tallinn. The outcome of that meeting will be reported to Parliament early this week.

Estonia has indicated that its overarching aim is to ensure that the EU remains united and decisive in values, ideas and actions, whilst balancing the interests and visions of different Member States. The four priorities of the Estonian Presidency are:

- An open and innovative European economy;
- A safe and secure Europe;
- A digital Europe and the free flow of data; and
- An inclusive and sustainable Europe.

In the JHA field, we expect Estonia to focus on strengthening the fight against terrorism and organised crime, as well as strengthening internal security and the protection of the EU's external borders by improving cooperation and information systems. Estonia will continue the work on tackling the migration crisis and reforming the Common European Asylum System. Estonia regards an effective returns policy as the best way to handle the migration crisis and so will focus on improving cooperation with third countries, including considering the use of levers, as well as on tackling the root causes of irregular migration. They will also seek to support and strengthen relations with Eastern partnership countries. As its digital expertise will be a major theme of the Estonian Presidency, cyber security is likely to feature high on the agenda too.

The UK's priorities in relation to security and law enforcement will be to support proposals which enhance data sharing and interoperability of databases, and to work with other Member States in the fight against terrorism to combat radicalisation and deprive extremists of safe spaces to operate online. The UK's priorities in relation to migration will be to continue working with our European partners to tackle the Mediterranean migration crisis by intervening at each stage of a migrant's journey – in source, transit and destination countries. Our specific priorities will be on tackling organised immigration crime, and to ensure that all Member States have effective returns policies that

work as part of wider migration systems and activity, including effective asylum systems, and to tackle the root causes of migration from third countries.

The UK will have JHA opt-in decisions on forthcoming proposals from the Commission on a measure on combating fraud and counterfeiting of non-cash payments, and on a measure providing for the technical capability for the extension of the European Criminal Record Information System (ECRIS) to third country nationals. Although the UK will not participate in the European Travel Information and Authorisation System (ETIAS), it will require an amendment to the Europol Regulation, on which we will have an opt-in decision to take.

The key dossier priorities for the UK are indicated below:

Migration, Asylum and Borders

A key priority for the Estonian Presidency will be to strengthen the EU's external border security. It will seek to do this, primarily, by attempting to finalise the **Entry/Exit System (EES)** and **European Travel Information and Authorisation System (ETIAS)** proposals. The EES will record and store data of third country nationals at external border crossings and the ETIAS will be a system which determines the eligibility to travel of visa-exempt third country nationals wishing to visit the Schengen Area for up to 90 days. As both proposals build upon provisions of the Schengen Acquis, which the UK does not participate in, the UK will not take part in either.

The Estonians will continue the ongoing work on reforming the **Common European Asylum System (CEAS)**. Within this, reaching agreement on a **Recast of the Dublin Regulation** will remain a key aim of the EU. There remains a lack of agreement between Member States over the inclusion of a mandatory redistribution mechanism. The UK does not support a mandatory redistribution system within the EU and so we have not opted into the Dublin recast. The UK has opted in to one CEAS measure, the recast of **Eurodac,** the system for recording asylum seeker (and certain illegal migrants') fingerprint data, on which a partial general approach was agreed in 2016. The Government will keep the Committees updated as CEAS continues to be reformed.

Criminal Justice, Security and Data Sharing

The Estonian Presidency will look to continue the fight against terrorism, including ensuring effective responses to radicalisation, both offline and online. Linked to this, a key priority in this area will be taking forward policy discussions on **criminal justice in cyberspace** to address issues relating to securing **electronic evidence** and to tackle the challenges posed by **encryption** to law enforcement. The UK agrees that preserving and accessing electronic evidence is necessary to make criminal investigations and prosecutions more effective. As the EU Commission and a majority of Member States support new EU legislation in this area, it is likely that proposals will be brought forward during the Estonian Presidency. The UK will continue to monitor these developments.

The Estonians will look to continue discussions on the **retention of telecommunications data**. The UK has been actively involved in the Friends of Presidency group that has been considering how Member States should respond to the December 2016 CJEU judgment (Tele 2 / Watson case) on data retention. The Government is actively engaged in these discussions, with the aims of: ensuring there is a clear evidence base for the need for data retention as a legitimate law enforcement tool; ensuring that any EU guidance on data retention is grounded in the practical requirements of law enforcement; and that the EU ensures that the right to security is taken full account of, alongside the right to privacy.

Creating databases and IT solutions that allow for swift exchange of information are of key importance to the Estonians for further enhancing cross-border cooperation. As part of this, they will look to continue the current efforts to enhance interoperability of EU databases, including taking forward actions resulting from the report of the High Level Expert Group on data sharing, including the introduction of mechanisms that allow searches of multiple databases. The UK supports proposals for increasing interoperability of databases.

The Estonians will aim to make substantial progress on the negotiation on the **extension of the European Criminal Record Information System (ECRIS) to third country nationals** and on the **Terrorist Finance Package**. A General Approach has already been agreed for the **Money Laundering Directive** on harmonising offences and sanctions, which the UK did not opt in to. The UK has opted in to a **Regulation on Controls of Cash Entering or Leaving the Community**

and a **Regulation on Mutual Recognition of Criminal Asset Freezing and Confiscation Orders**, for which negotiations will continue. The Estonians will also begin negotiations on a proposal for **combating fraud and counterfeiting of non-cash payments** later in 2017.

Finally, the Estonian Presidency will open trilogue discussions on the **European Public Prosecutor's Office (EPPO)** and **Eurojust** Regulations with the European Parliament. The Government has been clear that we will not participate in an EPPO. On Eurojust, the Government decided not to opt-in pre-adoption and will consider a post-adoption opt-in in due course.

18 July 2017

SECURITY, LAW ENFORCEMENT AND CRIMINAL JUSTICE: A FUTURE PARTNERSHIP PAPER

Letter from the Rt Hon Amber Rudd MP, Home Secretary, Home Office

I am writing to highlight the publication of a paper setting out the Government's vision for the future relationship between the UK and the EU on security, law enforcement and criminal justice. This publication is one of a series of papers setting out key issues that form part of the UK Government's approach to the future deep and special partnership between the UK and the EU.

The paper outlines the UK's view that it is in the clear interest of all our citizens that the UK and the EU sustain the closest possible cooperation on security, law enforcement and criminal justice after the UK's withdrawal from the EU. The UK and the EU should work together to design new, dynamic arrangements that go beyond the existing, often ad-hoc arrangements for EU-third country relationships in this area – arrangements that reflect our geographical proximity, the volume of cross-border movements between us, and the high degree of alignment in the scale and nature of the threats we face.

The paper has been published on gov.uk today.

I look forward to working with your Committee as we take forward our proposals

18 September 2017

DATA PROTECTION BILL

Letter from Lord Ashton of Hyde, Parliamentary Under Secretary of State, Department for Digital, Culture Medical and Sport

I was pleased to see your Committee's recent report, "Brexit: the EU data protection package" which will greatly inform the debates we will be soon having on the Data Protection Bill. Today we have published a statement of intent to help understanding of what to expect in the government's forthcoming Data Protection Bill. In April we published a "call for views' and with the publication of today's statement, we will continue our dialogue with stakeholders to ensure that we present to Parliament a Bill that provides for the technical needs of UK businesses as well as maintaining the rights of individuals to take control of their data.

The Data Protection Bill will bring our data protection laws up to date. It will both support innovation, and ensure that we can remain assured that our data is safe as we move into a future digital world. The Bill includes tougher rules on consent, rights to access, rights to move and rights to delete data. Enforcement will be enhanced, and the Information Commissioner given the right powers to defend consumer interests.

The Bill will be introduced after the summer recess but in the meantime the enclosed statement of intent sets out our plans to ensure that the UK continues to set the gold standard on data protection[2].

7 August 2017

[2] Not published here.

Letter from Lord Ashton of Hyde, Parliamentary Under Secretary of State, Department for Digital, Culture Medical and Sport

I am writing to inform you that today we have published the Data Protection Bill which has now had its first reading in the House of Lords.

The Data Protection Bill will ensure that our data protection laws are fit for the digital age in which an ever increasing amount of data is being processed. It will empower individuals to take control of their own data, whilst enabling businesses to continue processing data safely and securely. We believe that the Bill achieves better protection for citizens whilst supporting innovation and preparing businesses for the UK leaving the EU.

The UK is a well connected nation. We are on track to extend superfast broadband to 95% of premises by the end of the year. Residential broadband customers used an average of 132GB a month last year, a 30% increase on the previous year. The Data Protection Act 1998 has served us well but was designed when accessing the internet was largely limited to desktop computers in well connected companies or universities, and advanced data science was not possible. Analysis predicts that data will benefit the UK economy by up to £241 billion between 2015 and 2020.By having strong data protection laws and appropriate safeguards, businesses will be able to operate across international borders opening up trade and investment.

The Bill will also provide a bespoke framework tailored to the needs of our criminal justice agencies and national security organisations, including the intelligence agencies, to protect the rights of victims, witnesses and suspects while ensuring we can tackle the changing nature of the global threats the UK faces.

Second reading will take place on 10th October. I will write separately to provide a full briefing pack, and will make further copies available in the usual way via the printed paper office. We have today published several documents on the Data Protection Bill, these can be found at: https://www.gov.uk/government/collections/data-protection-bill-2017.

I am of course happy to find time to discuss the Bill with you. Alternatively if you would like briefing on the Bill then we are happy to make our officials available.

14 September 2017

18 MAY JUSTICE AND HOME AFFAIRS COUNCIL

Letter from the Rt Hon Brandon Lewis MP, Minister of State for Immigration

I am writing to provide a report of discussions at the Justice and Home Affairs Council which took place on 18 May in Brussels, for which the then Immigration Minister, the Robert Goodwill MP, represented the UK.

Prior to the formal Council meeting there was a joint Home Affairs and Defence Ministers lunch. The session was devoted to an exchange of views on strengthening EU action on counterterrorism by enhancing military and law enforcement cooperation and information exchange, especially in relation to battlefield data. The then Immigration Minister welcomed the discussion and emphasised the importance of professional evidence collection and stronger links with NATO.

The main Council began with a discussion on the effective application of the principles of responsibility and solidarity, in the context of the Common European Asylum System (CEAS). The Government supports the Dublin Regulation as it currently exists, with responsibility for an asylum claim generally being allocated to the Member State most responsible for the applicant's presence, but does not support the inclusion of a "burden sharing" or "corrective allocation" mechanism.

The second agenda item covered the fight against serious and organised crime. Ministers adopted Council Conclusions setting the EU's priorities for the fight against serious and organised crime between 2018 and 2021, based on Europol's recent Serious and Organised Crime Threat Assessment. The priorities include UK priorities such as firearms trafficking, as well as tackling cybercrime and human trafficking, drug trafficking, property and environment crime, and fraud and financial crime.

The Commission also provided an update on a recent EU-US meeting on Aviation Security, which discussed the possible extension, to direct flights from Europe to the US, of the ban on Portable Electronic Devices in airplane cabins.

At the end of the formal Council there was a joint Home Affairs and Development Ministers dinner, which the then Immigration Minister attended alongside Lord Bates, Minister of State at the Department for International Development. There was a debate on the external dimension of migration, focused on how development funding can support programmes to tackle migration upstream, and how development aid can be used to encourage better migration cooperation from third countries.

I am placing a copy of this letter in the House library.

23 June 2017