E-VISAS:
HOSTILE AND BROKEN

September, 2024

ABOUT ORG

Open Rights Group (ORG) is a UK based digital campaigning organisation working to protect fundamental rights to privacy and free speech online. With over 40,000 active supporters, we are a grassroots organisation with local groups across the UK.

We believe technology should be harnessed for social good and oppose repressive policies that exacerbate racism and discrimination.

Our work on data protection and privacy includes challenging the immigration exemption to UK data protection law, defending the General Data Protection Regulation (GDPR) from attempts to water down its provisions, and challenging uncontrolled and unlawful data sharing by online advertisers.

openrightsgroup.org

ACKNOWLEDGEMENTS

GLOSSARY

e-Visas: An e-Visa is an online record of a person's immigration status and the conditions of their permission to enter or stay in the UK. It is not an online version of a person's immigration documents but a digital status, generated anew each time it is inspected. People needing to prove their immigration status will need to create a UKVI account to be able to access their e-Visa.

Visa nationals: Migrants and visitors coming from around the world who require a visa to enter the UK.

Non-visa nationals: Migrants and visitors coming from a country such as any EU/EEA country, who do not need to apply for a visa in order to enter the UK.

Mismatching / Entanglement: Without a unique identifier to denote each individual with an e-Visa, the details of multiple people can be conflated and displayed on the same page. This means that, when generating a person's immigration status, the system may display the correct name alongside another person's photograph, or a completely different person's record. This can be because the logic of the automation is flawed, leading it to gather the data of two people who share the same name, or the same date of birth, or some other unknown link.

Data Protection Impact Assessment (DPIA): an assessment made by an organisation when large amounts of personal data are being processed to ensure that the data is used safely, fairly and in compliance with data protection law.

Information Commissioner's Office (ICO): the statutory organisation charged with ensuring public and private organisations comply with data protection law in the UK.

Independent Chief Inspector for Borders and Immigration (ICIBI): a public appointee who is asked to make sure that borders are secure, and immigration rules are enforced fairly and safely.

1EU Settlement Scheme/ EUSS: A scheme set up for migrants, and their families, from the EU, Switzerland, Norway, Iceland or Liechtenstein that requires them to apply online to continue living in the UK. Only once a person has applied and received their certificate of application to the EU Settlement Scheme are their rights protected, including access to the NHS, work or study.

Biometric residence permit (BRP): A physical card that can be used to confirm someone's i) identity, ii) right to study, iii) right to any public services or benefits to which they are entitled. It is normally held by people who have applied to come to the UK for longer than six months, including to settle.

According to new Home Office guidance, all BRPs are set to expire on 31 December 2024.

Biometric residence card (BRC): Another physical card, also called a 'UK residence card'. These are commonly held by people who are in the UK as a family member of someone from the EU, Switzerland, Norway, Iceland or Liechtenstein. BRCs have 'residence card' printed on them.

Legacy documents: A term used to describe older forms of immigration documents issued in the UK, such as the vignettes in passports, 'wet-ink' passport stamps or paper documents confirming the indefinite leave to remain held by many migrants.

Indefinite leave to remain: Also described as 'settlement', indefinite leave to remain gives migrants to the UK the right to live, work and study here for as long as they like, and apply for benefits if they are eligible. This can be used to apply for British citizenship.

View and Prove: A system whereby people can access and evidence their immigration status by generating a 9-digit 'share code' through a government account. Once generated, this share code can be given to employers, landlords and other service providers to show their immigration status.

"The Home Office has had many years to prepare for the phasing out of physical proof of immigration status for millions of people in the UK. It has failed to heed repeated warnings from experts in the sector. We remain deeply concerned that the woeful lack of planning and poor implementation of the digital-only immigration system will lead to a repeat of the Windrush scandal: countless migrants will have immigration status but will be unable to prove it. If mitigating measures are not put in place as a matter of urgency, from 1 January 2025, people could be denied re-entry to the UK after travelling abroad and be unable to access services and prove their right to work, rent and study in the UK, as a result of the UK's hostile environment. The Home Office must listen and act now to safeguard the rights of all those impacted by this cliff-edge switch to eVisas."

Zoe Bantleman, Legal Director, Immigration Law Practitioners' Association (ILPA)

EXECUTIVE SUMMARY

In this report, we have compiled Home Office communications, expert opinions, case studies and technical explainers about the new e-Visa scheme, reflecting concerns felt across the migrants' rights and digital rights sectors.

The e-Visa will be used to demonstrate someone's ability to enter the UK, to prove their right to work and to access banking, mortgages and secure housing rental agreements. As a result, any problems with accessing or using e-Visas will have very serious consequences for those who are dependent on them.

While it is inevitable that, in this digital world, the government will try to leverage digitalisation to make services more efficient, it appears that the Home Office has chosen to make 'real-time' online checks each time the 'e-visa' is accessed, which are unnecessary and create scope for many technical errors, from network outages through to data mismatching. Insistence on digital-only creates a number of threats to, and potential violations of, human rights by not providing alternative means to prove a person's immigration status, especially for vulnerable groups.

Among the many issues with the new e-Visa scheme, we have identified the following:

PROBLEMATIC DESIGN CHOICES

The e-Visa scheme is online only, rather than just digital, meaning that a digital visa cannot be stored on a device in advance of a meeting or application for a service, unlike a paper visa. Research shows that the e-Visa system in fact makes complicated live checks across databases, leading to potential additional and new errors each time a check is made. The potential for errors is exacerbated by the fact that datasets are not tightly linked by single identifiers, meaning that data can be mismatched and incorrect results returned during a live e-Visa check.[1] The policy is due to the Home Office's desire to rescind e-Visas whenever possible and as soon as possible, without sufficient regard for the consequences for holders of e-Visas.[2]

POOR PLANNING

The Home Office, in setting its own deadline, has had up to five years to prepare for the phasing out of physical immigration documents. Despite this reasonable time-frame for implementation, we now find ourselves months away from the cliff-edge deadline of 31 December 2024 with many migrants in the UK still unaware of the changes.

There seems to be little support in place for those with specific vulnerabilities, such as people experiencing homelessness, older people, those living in care, and those with complex mental health needs. There is also no evidence that sufficient legal advice has been made available to those who need it. It remains to be seen if the Home Office will consider how these needs will be met through the transition.

POOR IMPLEMENTATION

Those people who have been made aware of the need to transition to the e-Visa scheme are met with countless technical issues, the result of poor planning and implementation, as observed by case studies gathered by grassroots organisation, the3million. Many of these errors may relate to a lack of data integrity, such as failure to update records when new decisions are made; to the real-time matching of data noted above; the complexity of the systems used as data sources being matched, and to the underlying architecture of the system, focused on "decisions" rather than user records.[3] Errors and problems include, but are not limited to:

- people seeing incorrect details on their accounts;

- invitations being incorrectly sent to British citizens, a group who do not require e-Visas;

- people being unable to access their status when they need to because the system has crashed, or their status has been entangled or conflated with someone else's;

- a lack of technical competency by those people tasked with checking someone's immigration status via the new e-Visa scheme;

- airlines and international carriers not yet willing to adopt the e-Visa scheme.

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1   Jablonowski, Kuba and Hawkins, Monique (2024) "Loss and liability: Glitching immigration status as a feature of the British border after Brexit". Journal of Immigration, Asylum and Nationality Law, **36 (4)**. 254-274. London: Bloomsbury Academic.

2   Jablonowski & Hawkins (2024), p. 261

3   Jablonowski & Hawkins (2024), p. 261

HOME OFFICE'S EXCLUSION OF LIABILITY

In reference to the above technical issues, the Home Office states in its terms and conditions for the e-Visa that they take no liability for any problems, disruptions or direct or indirect losses when using a UKVI account.[4] This implies that the Home Office is already aware of the many technical issues with the e-Visa scheme and is pre-emptively protecting itself against legitimate legal claims.

HUMAN RIGHTS AND DATA PROTECTION CONCERNS

For such a large-scale undertaking, we would expect both human rights and equality impact assessments to be carried out, as well as a Data Protection Impact Assessment (DPIA), which should cover similar concerns regarding the consequences of any errors in data processing. We would assume a DPIA does exist, but it is not clear that either of the others has been conducted, despite the following risks:

■ Its users will include people with poor digital literacy skills, who may struggle to access or use the digital system.

■ The target group for this technology is particularly vulnerable to cybercrimes, in that language barriers and lower digital literacy mean they are less likely to be able to recognise phishing attempts, trojans and malware, potentially exposing their accounts, and therefore their immigration status, to hacking.

■ Requiring both a stable internet connection and a recent smartphone (the e-Visa sign-up calls for an iPhone 7 or newer, or an Android with contactless payment technology) creates a high barrier to access for many migrants.

■ The Home Office's suggestion that those applicants without a smartphone can "borrow a friend's or family member's phone" is naive and opens people up to exploitation, especially women, young people and people with disabilities.

■ There is a lack of additional support for the most vulnerable, including people with disabilities, learning difficulties, language barriers, older people, children, young people in care and people who have been victims of abuse and other crimes.

It is vital that all three assessments are both made and published. It is also important that the results from the ICO's investigation into the Atlas database noted in March are communicated to the public as soon as possible, and well before e-Visas become compulsory on 1 January 2025.

NO CONTINGENCY PLAN OR MITIGATIONS

There is no published backup plan in place, no transitional period after the deadline, nor any safety net for people who are unable to comply by the cut-off date at the end of this year. Given the Home Office's poor communication, it is fair to assume that thousands of people will not apply for the required UK Visas and Immigration (UKVI) account in time. It may only be at the point when those people urgently need to prove their permission to be in the UK that they discover their inability to do so. This could well result in them losing a home they wish to rent, being passed over for a job opportunity, missing out on education or being unable to travel back to the UK.

The only mitigations in place are an interactive chatbot on the e-Visa page and an outsourced, English language-only helpline, which is only available during working hours in the UK (9am-5pm). If experience of the EU Settlement Scheme is anything to go by, this phone line is very likely to be insufficient.

The technical errors from poor planning and the outstanding human rights impacts all point to a lack of consideration of serious mitigations to deal with such issues. While there is a history of poor data management at the Home Office, there must also be a suspicion that the Home

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4   https://www.gov.uk/government/publications/ukvi-account-terms-and-conditions/ukvi-account-terms-and-conditions

Office has deliberately failed to mitigate risks, for reasons of policy, particularly regarding creating a 'hostile environment'. Whatever the reasons, the scheme is not fit for purpose as a result of these failures to fully understand and mitigate risks to individuals.

NO LEARNING FROM PREVIOUS MISTAKES

The government appears not to have taken any lessons from previous failings in its immigration policies and schemes. Despite the 2018 Windrush scandal, and the myriad issues with the even more recent EU Settlement Scheme, neither the government nor the Home Office have implemented the key learnings or recommendations from past mistakes. Despite warnings of problems with data management from the ICO and the Independent Chief Inspector for Borders and Immigration, these problems persist.

RECOMMENDATIONS

Short term recommendations

▮ Stop the e-Visa scheme immediately, and provide emergency alternatives or extend the use of expired BRPs and BRCs.

▮ Provide an alternative to the digital-only, online-only status and allow people to use physical documents and digital systems that can be viewed offline to prove their right to be in the UK.

▮ Start meaningful engagement with stakeholders and the migrant community through tailored, personalised communication and learning lessons from the EU settlement scheme and Windrush scandal.

▮ Ensure that human rights and equality impact assessments are carried out, alongside a Data Protection Impact Assessment, and publish all three.

▮ The ICO should communicate the findings from its March investigation into the Atlas database and associated visa and border issues as soon as possible, given the likely need for urgent remedial action.

▮ The Home Office should explain to Parliament and the ICO what remedial work is needed to ensure the Home Office's border systems, Atlas database and Visa services are fit for purpose. These will need to cover areas including software integrations, data integrity , reliance on probabalistic data matching of user records, error rates and user support.

INTRODUCTION

Long-term recommendations

▌ Ensure that any digital system works offline to ensure that people can prove their rights in all circumstances.

▌ Consider the proposal from the3million[5] where digital status can be proved through digital tokens akin to the QR codes used for COVID-19 certification. These tokens could be accessed without an Internet connection or even printed out onto cards. The use of such a secure QR-based alternative is in line with the recommendations of the International Civil Aviation Organisation.

▌ Ensure that any new scheme has sufficient technical support for users from the Home Office, including a helpline that can be reached in the UK and abroad for free, 24/7, with translation services for migrants, carriers, employers, landlords and others in order to a) obtain a certified, on-the-spot confirmation of a person's UK immigration status when the usual mechanisms fail; b) receive one-off assistance with the transition to an e-Visa; and c) access support for users with ongoing problems when trying to prove their status.

In less than four months' time, the UK is poised to face a crisis that could lead to a second Windrush scandal. The new Labour government, along with the Home Office, is pressing ahead with a flawed policy initiated by the previous Conservative administration: the e-Visa scheme, building on failing and broken technologies that the Home Office is still in the process of rolling out, in particular the Atlas Database. The e-Visa scheme replaces migrants' physical documents, such as Biometric Residence Permits (BRPs), Biometric Residence Cards (BRCs) and legacy documents, with an online status. These physical documents are critical for proving the right to enter the UK, as well as the rights to work, rent and access services within the country. When the new scheme is enforced from 31 December 2024, it will affect up to four million people. Immigration organisations have repeatedly warned the Home Office over the impact of this flawed scheme, but their concerns appear to be falling on deaf ears.

The Home Office says that migrants will be given a 'digital status', but this is a misleading term. This plan does not replace physical documents with digital equivalents, but rather introduces an online and real-time process heavily reliant on automated decision-making to generate a new result determining individual's status. This automated process, which appears to recalculate the person's status each time a user needs to prove it, also appears to be generating incomplete and inaccurate records, giving users very little opportunity to challenge, appeal or correct their status or deal with problems from the underlying mistakes in data held about them. Research suggests that mistakes are in large part generated because the live data matching being attempted is simply incapable of being

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5   https://the3million.org.uk/our-proposal-fixing-digital-status

done accurately, and instead is done on a best-efforts basis to match names and identities in different databases.

There is no technical reason why a digital e-Visa could not be generated from known accurate data and then stored on a device, much like any other electronic document. The reasons for reprocessing the e-Visa status check each time a request is made are likely to include a desire to eliminate supposed fraud, and a desire to change or update someone's eligibility to work or to remain in the UK as often as possible, to reduce the numbers of people able to live in the UK and presumably to thereby reduce 'net migration' figures. However, such an approach comes at the cost of accuracy, fairness and predictability for those dependent on proving their right to live and work in the UK.

Furthermore, there appears to have been little to no assessment of the impact the transition to this digital-only, online-only, repeatedly rechecked status will have on vulnerable groups, including those with protected characteristics. No adequate measures have been taken to shield these individuals from being unfairly excluded from essential opportunities and services such as employment, housing, healthcare and banking. To date, no Data Protection Impact Assessment, human rights or equality impact assessment have been published. The only publicly-available assessments that include considerations of digital-only services in the context of right-to-work and rent checks,[6] as well as the EUSS,[7] highlight the risk of indirect discrimination - particularly against older individuals or people with disabilities who will be required to rely on digital-only services to prove their rights by the end of 2024.

CONTEXT

HOME OFFICE, BORDERS AND DATA

The e-Visa scheme is one among many IT projects that the Home Office has attempted to deliver, which have frequently failed or encountered very significant difficulties. Large IT projects can often be very risky, whether in the private or public sector. However, the impacts and difficulties are often exacerbated at UK government level, leading to cancellations, delays and cost over-runs. The reasons can include:

- the lack of specialist knowledge within civil service departments;

- over-reliance on consultants, over-ambition such as trying to solve too many problems simultaneously;

- prioritising the needs of policy ambition over user needs;

- a lack of focus on the needs of end users;

- a lack of clarity from government about what is needed, including changes to specifications and needs;

- complex software systems and the need to integrate multiple often ageing systems.

Particular attention is therefore needed to ensure good delivery of IT within government. Initiatives to improve delivery have included the creation of the Government Digital Service (GDS) in 2010, which was initially based at the Cabinet Office, and is now part of the Department of Science, Innovation and Technology.[8]

The Home Office's record regarding handling of IT systems and personal data is known to be very poor. When IT systems are badly

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6   https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment/digital-only-right-to-work-and-rent-checks-equality-impact-assessment-accessible

7   https://www.gov.uk/government/publications/eu-settlement-scheme-policy-equality-statement/policy-equality-statement-eu-settlement-scheme

8   https://gds.blog.gov.uk/about/

designed or delivered, and they are designed to deliver services to individuals, there are significant risks of poor handling of personal data. Problems with "customer experience" were highlighted in the handling of UK visas in 2020-21.[9] Nevertheless, the Home Office data strategy claims to place user needs high within its digital strategy and references GDS design principles placing user experience as the first priority in digital service design.[10][11]

Concerns with Home Office data handling reflected in high volumes of complaints and reports of data breaches led to the ICO deciding in December 2020 to conduct an audit, which was published in March 2022.[12] At a basic level, the Home Office has a legal duty to make sure that data that is held is accurate, corrected when necessary, kept safely and only processed for lawful reasons.[13] The ICO's report covered various obligations that flow from its data protection duties, including the Home Office's "Information Risk Handling", "Project Management and DPIAs" and "Records Management".[14] Although the report records its findings at quite a high level, it showed, for example, that:

▌ Data mapping being carried out by the Home Office is not yet complete; there is no detailed record of end-to-end processing across all business areas and, in some areas of the Home Office, historical assets have not yet been fully mapped. (p8)

▌ The organisational framework for records management is not sufficient to meet the requirements of the organisation, nor is it consistently applied across the breadth of the Home Office, which may prevent the Home Office from demonstrating compliance with Articles 5(2) and 24 of the UKGPDR (p8)

▌ The governance of data sharing activities is fragmented, risking a lack of oversight by staff with relevant expertise, and in some cases preventing effective ongoing review and updating of sharing agreements. (p9)[15]

Overall, the ICO was not satisfied that the Home Office understood the scope of its data handling, nor that it had recorded the legal bases for all of its data processing, nor that all of its activities were lawful.

Regarding borders and visas, the ongoing concerns with Home Office data handling remain particularly sharp. The former Independent Chief Inspector for Borders and Immigration (ICIBI), David Neal, warned in his 2022-23 report that:

"A perennial theme of my inspections is poor data. I described it last year as 'inexcusably awful'. It remains an accurate description in many areas of Home Office business. Without accurate data the Home Office will struggle to prioritise and respond to situations and people will suffer. Steps are being taken to address this at a strategic level, and future inspections will see how effective this is. The transition from the case working system CID to Atlas is often cited as the reason but poor data is everywhere"[16]

9   "An Inspection of UK Visas and Immigration Front End Services (August 2020 – June 2021)", (2021) Neal, David. Independent Chief Inspector of Borders and Immigration. https://www.gov.uk/government/publications/an-inspection-of-uk-visas-and-immigration-front-end-services-august-2020-june-2021

10   "Home Office Digital, Data and Technology Strategy 2024" (2021) https://www.gov.uk/government/publications/home-office-digital-data-and-technology-strategy-2024/home-office-digital-data-and-technology-strategy-2024#our-6-principles-for-change Note that the document as of September 2024 was last modified in 2021.

11   "Government Design Principles" (2012) Government Digital Services. https://www.gov.uk/guidance/government-design-principles GDS is now known as Central Digital & Data Office.

12   "The Home Office: Data protection audit report" (March 2022) ICO https://ico.org.uk/media/action-weve-taken/audits-and-advisory-visits/4019714/home-office-audit-summary-202203.pdf

13   UKGDPR Articles 5 and 6 define the principles of data protection and the legal bases for processing respectively https://www.legislation.gov.uk/eur/2016/679/chapter/II

14   ICO (2022), p.4

15   ICO (2022), p.8-9

16   Annual Report for the period 1 April 2022 to 31 March 2023, Independent Chief Inspector of Borders and Immigration, (2023) Neil, David p. 6 https://www.gov.uk/government/publications/independent-chief-inspector-of-borders-and-immigration-annual-report-2022-to-2023

Neal was subsequently sacked for disclosing problems with border enforcement.[17]
The ICIBI report for 2023-4, covering the year just beyond his removal, shows problems with Home Office data handling remain common in many of the areas the Inspectorate investigated.[18]

Many recent concerns with Home Office and borders have centred on the transition from the Casework Information Database (CID) to the new Atlas database to handle visa applications, on which the e-Visa scheme is dependent. Concerns over the roll out of Atlas and with general poor data handling were raised by David Bolt, in his final 2020-21 report as Independent Chief Inspector of Borders and Immigration.[19] £1.5m was spent on contractors in 2021-2 in order to deal with duplicate and missing entries in Atlas resulting from the transition from CID; the database was by this time already live and in use.[20] The Atlas roll-out was due to be complete by 2021, but data was not fully transferred as of early 2024.[21]

Problems with the Atlas database continued into 2024. A *Guardian* report stated that 76,000 records included incorrect information due to incorrect mergers with suspected duplicates, including incorrect names, immigration status and photographs. Prior to the *Guardian*'s report, the3million had contacted the Home Office multiple times with its concerns about the EUSS, which depends on the data held in the Atlas database. the3million had received many complaints from people being met with incorrect details andinformation on their accounts, which had led to people losing jobs or job opportunities, being denied access to the rental market, being refused boarding at airports and struggling to get or renew driving licences. Individuals have been refused bank accounts, mortgages and student finance. Others have had trouble convincing their university that they have the right to enrol.[22]

While the Home Office has sought to downplay the problem, stating that the 76,000 records represented just 0.02% of the records on the Atlas database, this reflects the simple mathematical consequence of even a small error rate on a very large dataset; and, as demonstrated by the3million, in each case of error, wrong decisions can result from the mistake. A further ICO investigation was reported to be taking place in March 2024.[23]

Data integrity issues are an obvious problem when recombining very large datasets concerning very large numbers of people. Problems with data integrity are very serious given the life-changing impact that such errors can have. Mitigations should have been identified through any Data Protection Impact Assessment that has been conducted, and should be in place for all errors and faults that have been observed. ORG has requested a copy of any DPIA conducted for the e-Visa scheme and Atlas database through FOI requests, as a step to understand how risks were understood and why mitigations have been missed.

17   David Neal: Immigration and borders watchdog sacked for leaking critical reports (20 February 2024) May, Callum. BBC News, https://www.bbc.co.uk/news/uk-68354377

18   Independent Chief Inspector of Borders and Immigration, Annual Report 2023 to 2024 (2 September 2024) Bolt, David https://www.gov.uk/government/publications/independent-chief-inspector-of-borders-and-immigration-annual-report-2023-to-2024

19   Independent Chief Inspector of Borders and Immigration, Annual Report 2020 to 2021 (16 September 2021) Bolt, David. p. 13 https://www.gov.uk/government/publications/independent-chief-inspector-of-borders-and-immigration-annual-report-2020-to-2021

20   Home Office retains £1.5m contractors to manually fix data issues with immigration systems (4 August 2022) Trendall, Sam. Public Techology.net https://www.publictechnology.net/2022/08/04/society-and-welfare-home-office-retains-15m-contractors-manually-fix-data-issues-immigration-systems/

21   ICO probes Home Office over immigration system woes, (15 March 2024) Trendall, Sam. Public Techology.net https://www.publictechnology.net/2024/03/15/society-and-welfare-ico-probes-home-office-over-immigration-system-woes/

22   https://youtu.be/wbdgiKoHm8s?feature=shared&t=1069 from minute 17:49 .

23   Home Office immigration database errors hit more than 76,000 people (14 March 2024) Dyer, Henry, The Guardian https://www.theguardian.com/uk-news/2024/mar/14/home-office-immigration-database-errors-hit-more-than-76000-people

TRANSITION TO E-VISA SCHEME

The transition to the e-Visa scheme began pre-Brexit, when the EU introduced a requirement of all EU member states to upgrade their encryption technology for immigration documents by the end of 2025. Following the UK's departure from the EU, the need to upgrade, or phase out, existing BRPs no longer applied to the UK. However, the Home Office decided to continue to issue BRPs with a maximum validity date of 31 December 2024, with the intention that these would be phased out and replaced with digital status by this date.[24]

The Home Office has been issuing e-Visas for several years. EU citizens who applied to the EU Settlement Scheme (EUSS) after Brexit were the first to receive e-Visas. Since then the Home Office has been steadily rolling out e-Visas to other visa applicants, such as those living in the UK who are applying for a Skilled Worker visa, and to people from Hong Kong applying for the British National (Overseas) visa (BNO).[25]

There were many problems with the EUSS (see above) and BNO schemes, including difficulties setting up and accessing the system, and then accessing passports or ID documents in order to secure proof of immigration status.[26] And, as Bethan Land, Training, Development & Advocacy Manager at migrants' rights organisation Praxis noted, the EU and the Hong Kong cohorts generally have significantly better literacy and digital literacy than many other groups to whom the digital scheme will now be extended.[27]

Despite issues with these schemes, in July 2022, Priti Patel, the former Home Secretary, introduced a new 'digital by default' plan for immigration, which outlined the Government's intention to roll out the e-Visa scheme by December 2024.[28]

Generally, communication about this transition has been poor, beginning late in 2023, meaning that many of the migrants who are set to be impacted remain unaware of these changes. In October 2023, the Home Office published guidelines about how the e-Visa scheme would be rolled out to people with BRP cards, BRC cards, and other physical documents that prove their right to be in the UK.[29] The scheme also includes other policy changes, including making ports responsible for checking the immigration status of everyone who is in possession of an e-Visa.

According to the Home Office fact checker in August 2024, the Home Office stated that it will take steps to allow carriers, including transport operators such as airlines, ferries and international train operators, to automatically access the immigration status of passengers travelling on their services when they present their passport, linked to their UKVI account.[30] This automates the existing routine checks completed whenever a passenger presents their travel documents to travel internationally, but in this case will give the international carriers access to the passengers' data on the Home Office's servers.

The e-Visa scheme will affect around four million people, most of whom are from outside of the UK and EU but have the right to live in the UK. For the purposes of this report, we refer to these people as visa nationals. As this report shows, many of these people are at risk of becoming unable to prove their documented status in Britain from 1 January 2025 because of flaws in the e-Visa's rollout and implementation.

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24   https://www.gov.uk/biometric-residence-permits/print

25   https://assets.publishing.service.gov.uk/media/6239ea8b8fa8f540f6c2320e/220217_To_Whom_it_may_concern_-_English.pdf

26   See also Jablonowski & Hawkins (2024), pp. 259-60

27   Bethan Land – Praxis, https://youtu.be/wbdgiKoHm8s?feature=shared&t=1316 minute: 20:49

28   https://www.gov.uk/government/publications/new-plan-for-immigration-legal-migration-and-border-control-strategy/new-plan-for-immigration-legal-migration-and-border-control-accessible

29   https://www.gov.uk/guidance/online-immigration-status-evisa#full-publication-update-history

30   https://homeoffice.brandworkz.com/BMS/albums/?album=3288&lightboxAccessID=719B15F4-043B-4A3F-9307A735639B6DE8

THE HOSTILE ENVIRONMENT AND WINDRUSH

The e-Visa scheme should be seen in the context of the much criticised 'hostile environment', an approach initiated by the previous government in 2010, which is intended to make life in the UK as difficult as possible for migrants choosing to live there. One of the most notable impacts of the hostile environment was the Windrush scandal, which saw people from Caribbean countries, who had lived in the UK for decades, appallingly mistreated. Thousands were affected, losing their jobs and homes, being denied healthcare, and even being detained and deported. Twenty-three people died without receiving any of the compensation they were due in relation to the error.[31] Although the Windrush scandal has been evaluated extensively, the Home Office's failure to listen to similar concerns about the e-Visa scheme suggests that lessons have not been learnt.

Research by Dr Kuba Jablonowski, lecturer in digital sociology at the University of Bristol and Monique Hawkins of the3million, identifies that real time, live data checks are made each time that an "e-Visa" is accessed.[32] Their reseach also suggests that this design choice has been made in order to ensure that the most recent information is used, and that opportunities to identify people who have been 'incorrectly' issued a Visa or are no longer entitled to it are deprived of its benefits as quickly as possible. A 'static' and stored e-Visa would of course not allow this, for as long as the result was stored. It would seem reasonable to assume that the 'hostile environment' is likely to have informed this deeply problematic and extreme design decision, which in short makes accessing the e-Visa very difficult and prone to various kinds of error. We discuss the full consequences of this choice in detail below.

Additionally, the e-Visa scheme follows the wider Home Office policy of pushing the responsibility for checking immigration status to non-governmental officials, effectively making those people an arm of the state. In other initiatives, this has included compelling landlords, employers and universities to have responsibility for checking immigration status. In the case of the e-Visa scheme, there will be a requirement for international ports and airports to conduct automated immigration status checks. The Home Office hopes that by outsourcing these responsibilities they will stop people from getting on a flight or crossing by boat, effectively shifting out the UK's borders to prevent migrants from even entering the country.

Problems are expected to arise, particularly for newly-arrived individuals and those with legacy documents, who have not encountered these problems in years (see the section on "People with legacy documents" below).

"The e-Visa scheme has the potential to upend the lives of many unsuspecting people. The digital-only system has already created problems for many EU settled-status holders."

"There are important warnings to heed about the potential effect on those with legacy documents and indefinite leave to remain.

"It is vital that safeguards are put in place to prevent a repeat of the Windrush scandal and the Home Office pays due regard to the impact on vulnerable groups of people with a rigid deadline to switch to e-visas. This includes appropriate information and support for all those who will be affected by the switch."

Narmada Thiranagama, UNISON National officer [33]

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31   https://jcwi.org.uk/reportsbriefings/windrush-scandal-explained/

32   Jablonowski & Hawkins (2024) p. 273-74

33   Interview with Open Rights Group, conducted by Dahaba Ali Hussen

THE EUROPEAN UNION SETTLEMENT SCHEME (EUSS)

The European Union Settlement Scheme (EUSS) was established to allow people from the EU, Switzerland, Norway, Iceland or Lichtenstein to apply to remain in the UK after Brexit. The Home Office had a tight deadline to get the processes up and running, which started on 31 December 2020, with a deadline of 30 June 2021. Applicants had no choice but to apply for a digital status.[34]

Most of the decision-making was automated, based on data sharing between different government departments on a triage system. For example, an EU citizen applying for EUSS would fill out the initial application form, and their personal information would be compared to, for example, HMRC data. This would then be approved by a human decision-maker.[35]

It would be up to the Home Office to decide how 'complex' the individual's case was, before assigning them a specific human decision-maker.

Issues with EUSS during rollout

There were many issues with the EUSS scheme during its rollout. There were problems with reaching people in marginalised communities and people who did not have access to smart devices or the Internet. Moreover, the process to View and Prove status is rather complex, and there were glitches with the automated triage system whereby people were being denied their e-Visa based on "gaps in their residence".

Due to issues faced by many applicants, in the autumn of 2020, a House of Lords Immigration Bill amendment called for "physical proof confirming pre-settled status or settled status to all EEA and Swiss nationals and their families who have been granted such status under the EU Settlement Scheme and who request such proof".[36] Unfortunately, this amendment did not pass, resulting in the Lords publishing a motion of regret.[37]

Ongoing issues with EUSS

The EUSS scheme, which paved the way for the transition to the e-Visa scheme, has experienced a number of issues in its implementation that are still impacting people today.

For people who have had their applications approved, there are still technical issues when it comes to accessing their status in order to prove their rights to work, rent and study.[38]

There have been many instances where the server has faced prolonged outages across days – even months – leaving people stranded at the border, unable to access their accounts. Others have faced the issue of entanglement, whereby their data shows alongside somebody else's photo, or other information.[39] Other users have reported that, even once they have logged into the system, their immigration status is not visible or accessible.[40] As noted above, the3million has recorded many such issues in their report.[41]

There is a huge backlog of applications waiting to be reviewed. Recently-published statistics show that this backlog has now risen to over 137,000.[42]

Visa nationals switching to e-Visas will face the same issues but on a wider scale, especially given the additional vulnerabilities within the group, such as lower media literacy and fewer safeguards than EU citizens, who benefit from some protection of their rights through the withdrawal agreement.

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34   https://www.gov.uk/settled-status-eu-citizens-families

35   https://assets.publishing.service.gov.uk/media/61dee79dd3bf7f0549bf7d16/A_further_inspection_of_the_EU_Settlement_Scheme___July_2020_to_March_2021.pdf

36   https://hansard.parliament.uk/Lords/2020-10-05/debates/016cd16a-ddbe-42ee-b96c-27eeb1dc3251/LordsChamber#contribution-21F24B69-CCF1-4E8F-85A9-E63C60E75863

37   https://lordsbusiness.parliament.uk/ItemOfBusiness?itemOfBusinessId=112100&sectionId=38&businessPaperDate=2022-06-07

38   https://the3million.org.uk/proving-status

39   Jablonowski & Hawkins (2024) pp. 269-70

40   Jablonowski & Hawkins (2024) pp. 269, 272-73

41   https://the3million.org.uk/sites/default/files/documents/t3m-proposal-FixingDigitalStatus-22Jul2024.pdf

42   https://the3million.org.uk/sites/default/files/documents/t3m-briefing-HO-First100Days-EUSS-Digitalisation-15Jul2024.pdf

HOW THE E-VISA SCHEME WORKS

The system chosen by the Home Office for the EUSS, and now the e-Visa scheme, is not just a digital-only system, but an online-only system. As explained in the introduction, the e-Visa should not be understood as a digital equivalent of physical immigration papers, which remain constant every time they are viewed and can be viewed offline. Instead, users must be connected to the Internet in order to generate their immigration status in real time, every time they need to prove it.

The full process is long and complex, so to illustrate it we have set out a step-by-step guide with screenshots in the Appendix.

When users enter their details to log into the Government View and Prove system, they are not accessing their status directly, but rather their credentials are being used to search and retrieve dozens of different records held on them across different databases. There are over 90 different platforms and case-work systems where people's immigration data may be held in the UKVI ecosystem, as identified by Jablonowski & Hawkins.[43] View and Prove uses an algorithmic and probabilistic logic to determine which data to extract and which e-records to use when it encounters multiple records, i.e. in instances where people have renewed or changed their immigration status, or appealed an incorrect decision. It is these real-time and opaque automated checks that generate a person's immigration status, which they can then share with an employer, landlord or international carrier.[44]

Making calculations of someone's status on the fly or near to real time through probabilistic matching is deeply problematic. The system is centred on making checks and applications, rather than on an individual's

identity or personal record. Identifiers for these records of checks and applications are unstable and inconsistent, making probabilistic matching necessary and mismatching possible.[45] The system makes it impossible for any individual to be certain that they will get a correct result on any particular occasion. As records are held on each person across numerous servers and databases, there is the potential for incorrect decisions and additional mismatching of data of individuals. Records may be associated with individuals who may share the same name, the same date of birth; any one user may have multiple email addresses, and even multiple reference numbers, depending on how many applications they have made to the Home Office. No single piece of data can be used to accurately identify each individual, thus accounts can conflate the details of two different people. This can result in View and Prove displaying someone else's immigration status at a crucial moment, such as when trying to rent a house or board a plane. Without transparency over how the status is generated, what data is held and where, people using the system have very little agency when trying to prove their rights.[46]

This approach contrasts with the traditional approach of a Visa, where checks are made and a Visa is issued and can be relied on. The problems are of course exacerbated by the fact that the Visa 'calculation' must be accessed via an Internet connection.

▌ ISSUES AND MITIGATIONS

Many of the problems that have been identified may need changes to the architecture of the system, or at the very least some means to create and store a persistent digital result that can be shared, whether kept by the e-Visa holder on a device or on paper. Mitigations for all the scenarios identified do not appear to be in place, nor are they being publicly discussed. While the system remains centred on real time,

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43   https://www.youtube.com/watch?v=VKOFYV9Dvcg ; Jablonowski & Hawkins (2024), p. 260

44   Jablonowski & Hawkins (2024) pp. 261-67

45   Jablonowski & Hawkins (2024) p. 273

46   Jablonowski & Hawkins (2024) pp. 270-73

live re-checking of the system user's status, mitigations are unlikely to be possible.

We are not convinced that a digital-only scheme is possible at this stage. For vulnerable users, such as those who do not have a modern phone, for instance, digital-only e-Visas will exclude people. The appropriate mitigation is to allow and issue paper Visas; these could be a paper front-end to a digital result, such as a printed QR code.

Some people with digital access may also need a paper Visa. We note below that recent devices are needed for the e-Visa due to security requirements, and non-standard devices may also fail Home Office requirements for the app. People with older or non-standard phones may need e paper Visa. It should not be a requirement that everyone must use specific and modern devices.

We are also certain that live checking of status from multiple databases each time a request is made is fraught and unfair. Many of the observed problems could be significantly reduced or eliminated by allowing the e-Visa result to be stored on a device; this would remove problems with live data checks, problems with Internet connections, etc, especially in time-sensitive conditions. A 'static' result would also allow a visa applicant time to challenge and correct an error.

In general, the Home Office should be providing a universally-accessible and robust platform. It is unclear why principles of universality and reliability are not front and centre of the provision of the new means of providing visas.

Both the ICO and the Home Office have a role to play to ensure that mitigations to problems in providing e-Visas and associated processes are in place, and that these are provided over realistic timescales, to prevent damaging problems in the new year. At this stage, it is hard to envisage that the technical issues, such as data integrity problems and software integration problems will be solved in a matter of months.

> **Case Study: Incorrect Expiry Date on Account**
>
> An individual with Leave to Remain until 14 September 2025, discovered that their UKVI account indicated that their visa would expire on 31 December 2024. They are concerned about potential issues with re-entering the UK if they travel between those dates.[47]

PROBLEMS WITH THE ROLLOUT OF THE E-VISA SCHEME

There have been significant flaws in the rollout of the e-Visa scheme, leaving millions of people with just a few months to register for an e-Visa.

To date, all the BRP cards that the Home Office has issued are set to expire on 31 December 2024, even if their holders' leave to remain in the UK extends beyond this date. This means that all BRP holders could face a number of problems if they do not have an online account by January 2025 – from not being able to prove their right to enter the UK or their rights to rent, work and access public funds and services.

The Government's guidelines initially said that people with BRP or BRC cards would start receiving emails from the Home Office in the spring of 2024 inviting them to register for a UKVI account by the end of 2024.

On 15 August, the Home Office updated the e-Visa portal on gov.uk to say that people who have a BRP can now create a UKVI account in order to apply for an e-Visa, meaning that they no longer need to receive an email inviting them to do so.[48] People with other physical documents first need to replace

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47   Submission from anonymised respondent, via the Report it! tool, designed by the3million

48   https://www.gov.uk/guidance/online-immigration-status-evisa#full-publication-update-history

their document with a BRP and then create an UKVI account before their BRP expires. This update does not appear to have been proactively communicated, with the Home Office instead relying on people regularly checking the e-Visa portal or signing up for updates. This has resulted in proportionately few people being aware of the update.

FLAWED PLANNING AND LACK OF MITIGATIONS

The transition to e-Visas will affect millions of migrants, including people who are vulnerable, people with complex mental and physical health conditions, people who are experiencing homelessness, older people, people in care and so on. The application process is complex and there appear to have been no mechanisms put in place to support people with such vulnerabilities.

Immigration systems, by their nature, serve international groups, yet no language alternatives have been provided when applying for an e-Visa. This means the system is unsuitable for those with literacy or language difficulties. There have also been no discernible provisions made for people with mental health challenges, such as those who have survived torture or fled war, or who simply struggle with digital literacy.

Moreover, sufficient legal advice has not been made available for those people needing to transition to e-Visas, after a decade of the budget cutting.[49]

According to Zoe Bantleman, the Legal Director of the Immigration Law Practitioners' Association (ILPA); "There is no backup plan in place or transitional period after the end of this year, and there is no safety net for people who cannot comply or are unable to comply by the end of this year's cut-off date. It's fair to assume that thousands of people will not apply for an e-Visa account in time. It will only be at the moment that a person is likely to urgently need to prove their permission to be in the UK. Their inability to prove their immigration status may result in them losing a home they wish to rent, being passed over for a job or role, being unable to travel or return to the UK to be with family or to return to their home school or job."[50]

The only mitigations in place are an interactive chatbot on the e-Visa page[51] and a helpline, which is only available in English and during UK office hours (9am – 5pm). This is unlikely to be open, therefore, for people flying internationally and needing to access support when they are unable to prove their immigration status. It also cannot help with any technical problems that may occur with e-Visas.

According to the Home Office page, this helpline has been outsourced to a helpline company called "We Are Group"[52] to help people who cannot complete their applications online. We Are Group does not translate its website into any other languages, nor does it seem to offer interpretation services.

49   https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/a-decade-of-cuts-legal-aid-in-tatters

50   Interview with Open Rights Group, conducted by Dahaba Ali Hussen

51   https://ukimmigration-support-webchat.homeoffice.gov.uk/evisa

52   https://www.wearegroup.com/assisted-digital

Case Study: Technical glitches and inexcusable wait-times (submitted by RAMFEL)

After our client received an invitation to create a UKVI account to access his e-Visa, we set up an online account for him on 3 June, with us listed as his advisor. He received an email advising that he can 'now view his immigration status'. However, when trying to view the e-Visa, the client received an error message.

After an hour-long webchat with an 'e-Visa advisor', we were told that they cannot help because they could not see that we were listed as an advisor. We were given an alternative number to call, and after an hour on hold were finally told that there is a technical 'glitch' on the system preventing our client accessing his e-Visa. The official told us that the 'technical e-Visa team' had been notified and asked to 'fix the issue'. We were told the client would receive a text message advising him when to log in again to view his e-Visa. This text message never arrived.

We referred this matter to the Homelessness Escalations Team (HET), as we had no alternative team to communicate with. They emailed us on 27 August stating that the tech team can view the client's e-Visa using his BRP and the technical issue has been resolved.

We have yet to confirm with the client whether he can view his status, but it took nearly three months for this matter to be resolved, and required us engaging the HET, despite this not being their role. Had we not been acting, the client would not have been able to contact the HET independently.[53]

FLAWED COMMUNICATIONS

The government's awareness campaigns about the EUSS included emails, public posters, communications via representatives and community groups and engagement with charities and organisations assisting vulnerable persons. Although this was significant, it was still insufficient for reaching all groups. However, for the e-Visa scheme, the government's only communication has been through limited direct emails sent to eligible visa nationals, asking them to create a UKVI account. The Home Office has had restricted reach with this approach, having failed to engage migrants' rights organisations.

Most visa nationals, especially people who applied for asylum, had some help from a legal advisor to fill out application forms for their visas. Therefore, the Home Office does not have personal contact details for them. The Home Office has been sending emails from a 'NO REPLY UKVI' email address with no specific names or personal details to legal practitioners, instructing them to create UKVI accounts for their visa national clients. Legal practitioners often have hundreds of visa national clients each, so it has proven impossible to get the correct email to the right visa national in time for them to create a UKVI account before the deadline of 31 December 2024.[54]

Even if someone has applied for the e-Visa themselves, the Home Office may not have up-to-date or correct contact details for them. If a visa national was given leave to remain years ago, they would not have received any further contact from the Home Office since securing their BRP or BRC.

Within its communications, there have been examples of errors, including the Home Office wrongfully sending a British citizen a letter asking him to replace his BRP card and create a UKVI account for his e-visa.[55] We have also heard from an ORG supporter

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53   Anonymised case study submitted to ORG by RAMFEL

54   https://ilpa.org.uk/wp-content/uploads/2024/03/ILPA-Letter-to-FBIS-re-email-about-UKVI-account-19.03.24.pdf

55   https://twitter.com/LYoussefian/status/1782737059142086738

who received an invitation to register for a UKVI account even though they had a British passport. This was stressful and confusing for them but also shows how chaotic the rollout of the scheme has been.[56]

PROBLEMS MAKING APPLICATIONS

To navigate the application process, the Home Office requires people to have a recent smartphone, i.e. an iPhone 7 or newer, or an Android with contactless payment facilities.[57] For many visa nationals, asylum seekers and refugees, this is potentially an unfeasible request. Even if the user does have a recent smartphone, we have received reports that there are still issues. For example, if an Android user is running an unofficial operating system variant, the stage in the process whereby users scan the chip in their physical documents cannot be completed.
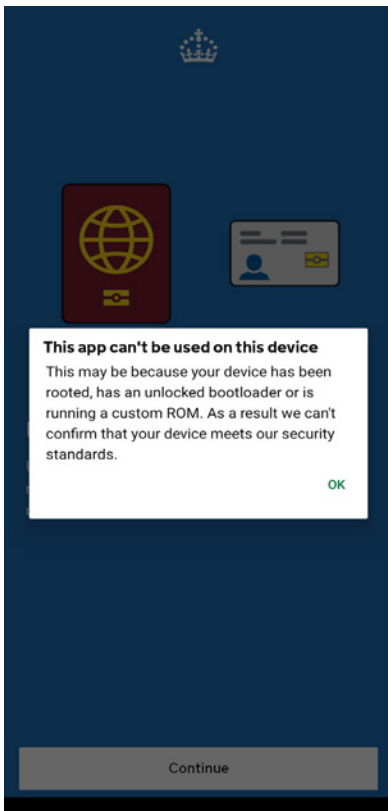
Screenshot from the Home Office UKVI account: terms and conditions

The Home Office also suggests that if people do not have a smartphone themselves, they can borrow one from a friend or family member. This seems a flawed recommendation, in its presumption that friends and family members may be any better off than than the user themselves. It also exposes users, especially women, young people, or individuals with disabilities, to the possibility of exploitation and abuse.

Case Study: Incorrect Visa Information Displayed

An individual set up a new UKVI account and found that the information on their e-Visa account incorrectly listed them as a BN(O) dependent, whereas they are actually a Skilled Worker dependent. The BRP details were correct, but the expiry date shown on the account was outdated. This issue has affected several individuals who have attempted to create and access their UKVI accounts. The individual in this case tried to report the problem to the Home Office, but was referred to the web chatbot, which was unable to resolve the issue.[58]

Case Study: ILR Details Not Updated

A person who was recently granted Indefinite Leave to Remain (ILR) encountered issues when trying to create their UKVI account. They could not log in with their new ILR BRP number and had to use their old one instead. Although the system correctly confirmed their ILR status, attempting to log in with the new ILR BRP number resulted in an error stating that the details did not match those on the system.[59]

As outlined above, there have been countless cases where the details held on the account are incorrect, or where accounts have become entangled, conflating the identities of two different users.

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56   Personal communication to ORG staff

57   https://www.gov.uk/guidance/using-the-uk-immigration-id-check-app

58   Submission from anonymised respondent, via the Report it! tool, designed by the3million

59   Submission from anonymised respondent, via the Report it! tool, designed by the3million

It is worth noting at this juncture that the Home Office states in the terms and conditions for using e-Visas that they take no liability for any problems, disruptions or losses that occur directly or indirectly from using a UKVI account.[60]

Exclusion of liability

The Home Office is not liable for any loss or damage that arises from use of the UKVI account. This includes:

- any direct, indirect, or consequential loss
- any inability to use the UKVI account
- any disruption to access to the UKVI account
- any information that is lost or corrupted while data is being transmitted, processed or downloaded from the UKVI account.

Screenshot from the Home Office UKVI account: terms and conditions

PEOPLE WITH LEGACY DOCUMENTS

There are particular concerns about people who have legacy documents that prove their right to be in the UK. Typically, these are older people who may have been in the UK for decades. According to the Home Office, there are 200,000 people who have legacy documents.[61] Like the people affected by the Windrush scandal in 2018, these are people who unquestionably have the right to remain in the UK, but who may face problems when they are asked to prove it via these proposed methods in such a short time frame.

"People with legacy documents, such as old ILR documents or permanent residency, are unlikely to have regular contact with the Home Office. Since their documents have no time limit, these individuals may not feel the need to apply for a BRP. They may not know about the e-Visa scheme at all. Even if they do know, they will not have a BRP card to link to a UKVI account, and will therefore be excluded from the registration."[62]

"It's just like with the Windrush documents, people with legacy documents may be unable to access essential services because they lack digital proof of their status."[63]

Josephine Whitaker-Yilmaz, Policy and Public Affairs Manager from Praxis

According to the Home Office's plan, people with legacy documents should apply for a BRP card first through a no-time-limit (NTL) application and then apply for their e-Visa.

The NTL application is very long, complicated, and onerous. Many people will struggle to fill one out alone, and it will be difficult even with help as they will have to provide all the addresses they have lived at while in the UK.

60   https://www.gov.uk/government/publications/ukvi-account-terms-and-conditions/ukvi-account-terms-and-conditions

61   https://static1.squarespace.com/static/5d91f87725049149378fce82/t/668eac10101da02f2993d69d/1720626193065/Evisa+briefing_July+2024.pdf

62   Interview with Open Rights Group, conducted by Dahaba Ali Hussen

63   Interview with Open Rights Group, conducted by Dahaba Ali Hussen

Again, concerns have been raised around the lack of a comprehensive communications strategy from the Home Office to ensure that people who are the most vulnerable know that the transition is happening and that their immigration relies on them applying for their e-Visa.

There are fears that the vast majority of the 200,000 people who have their legacy documents will not even be aware of the need to transition until the need is urgent. For example, they may try to access services like the NHS and find they are denied potentially life-saving treatment because they cannot prove their right to remain in the UK. Again, there are parallels with the Windrush scandal, where older and potentially vulnerable individuals are unable to access essential services because they lacked digital proof of their status.

SCENARIOS AND RISKS FOR E-VISA RECIPIENTS

For a visa national to use View and Prove to evidence their status for landlords, employers and educational institutions under the new scheme, they have to access their UKVI accounts. They will need access to a smartphone or computer, access to the relevant email account or phone number, a reliable and secure internet connection and a good phone network in place. Even if all of those requirements are met, they then depend on both the Home Office servers and databases being up and running, as well as on their Home Office records being correct and unaffected by technical errors in the system. A successful immigration status check has many moving parts: if one part fails, then the whole process can, and often does, fail.[64]

Even if the check is successful, it then relies on the third party – the airline agent, employer, landlord - to find the right place to log in and submit the share code to see the person's status. They need to have the right software, website and digital literacy to run the check.

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64   https://the3million.org.uk/sites/default/files/documents/t3m-proposal-FixingDigitalStatus-22Jul2024.pdf

USING AN E-VISA TO GET INTO THE UK

How it is supposed to work

There are further implications to the right to travel and the risks surrounding returning to the UK. Even if every BRP-holder successfully applies for, and obtains, an e-Visa, there are still significant potential problems when people travel in and out of the UK. With the Home Office's new rollout comes a new system for the UK border force and private commercial carriers, which may result in thousands of people being stranded abroad from 1 January 2025.

At the moment, everyone who is a British or Irish citizen or a non-visa national (including EUSS holders) only needs to present proof of their right of entry to the UK at the UK border or the UK-juxtaposed border controls. Visa nationals, by comparison, have a BRP card, BRC card or a vignette in their passports, and when they wish to return to the UK from their travels, they present their physical proof of their visa to the airline, which is enough for them to board the flight and travel to the UK.

It is at the UK border that everyone's right of entry is checked. This may be their passports if they are British or Irish nationals, their BRP cards, or their EUSS status.

Under the current system, if you are a visa or non-visa national and you are experiencing reasonable difficulties with proving your right to re-enter the UK, then you can speak to a UK border official in the UK who can assist you.

In the updated factsheet,[65] published in August 2024 by the Home Office, there are still no guidelines for international ports and airports explaining how they will access and check visa nationals' documents. Yet the Home Office has asked visa nationals to update their information on their UKVI account, and add any passports on which they intend to travel, if these are not already linked to their account. It will be up to the airlines and transport operators to run checks ensuring that the individual in question has the right to travel to the UK.

Likely problems

The new system relies on the interactive Advanced Passenger Information system (iAPI) and the Home Office Atlas database working efficiently, quickly and, most importantly, correctly.

If, for some reason, the system glitches or cannot show someone's correct status, they will be prevented from boarding the plane to the UK and could be stranded abroad.

As we have seen countless times with EUSS holders, there have been plenty of issues around the Home Office database showing the wrong outcome for travellers. For example, if an EUSS holder has filed more than one application before receiving a successful outcome obtaining their full right to remain, the outcome of a previous application may still show. Similar real-life instances have resulted in people being refused reentry to the UK.

If controlling the right to travel falls to the airline, as planned, it will cause a multitude of issues because airlines do not have the same access to information. Whereas a border official can investigate, the airlines cannot because they do not have the same clean data set nor can they produce the same accurate results. The new system shows how the Home Office is pushing the UK border out, making airlines de facto Home Office 'enforcers'.

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65   https://homeoffice.brandworkz.com/BMS/albums/?album=3288&lightboxAccessID=719B15F4-043B-4A3F-9307A735639B6DE8

Case study: Mismatch Between Nationality and Travel Document

A non-EU refugee residing in an EU state, with a UK partner and Leave to Remain in the UK, faced issues when trying to create a UKVI account. They could not link their EU state-issued travel document to their UKVI account due to a mismatch between their nationality and the travel document.

Another case involved individuals with refugee status in the UK who could not link their travel documents to their UKVI accounts. Every time they uploaded the travel document, the account displayed a message stating, "Nationality does not match your account. Nationality we read from this photo." The Home Office's outsourced helpline referred them to an email support service, which then stated that it was not a technical issue.[66]

Case study: Error Messages with BRP Scanning

A refugee with a travel document and ILR, who was not tech-savvy, accidentally deleted an Home Office email instructing them to create an e-Visa account. A family member tried to help by registering through the e-Visa webpage, but when they used the 'UK Immigration ID Check' app to scan the BRP card, they kept receiving a 'Chip not found' error across both iPhone and Android devices. Eventually, they tried to register with the travel document and received an error message stating, "The details don't match our records."[67]

Awaiting disaster after Christmas

We can expect to see extensive disruption after Christmas, when visa nationals who have not successfully registered for an e-Visa try to return to the UK. It could mean that thousands of people are stranded abroad.

A wider problem will emerge when the Home Office rolls out the electronic travel authorisation (ETA), which will soon be a requirement for many travellers. The ETA system forms part of the UK's plan to digitalise the border, and means that those wanting to visit, but who do not require a visa (such as transit passengers), need to apply for an ETA.[68] The Home Office began the ETA plan in November 2023, and while international carriers are still trying to adopt this new change, the Home Office will compound the challenges by rolling out the e-Visa scheme in parallel. The e-Visa scheme shifts the legal liability onto carriers, as well as introducing the requirement to access interactive Advance Passenger Information (iAPI). Carriers will need to check that migrants who require no visa to visit the UK have not been refused an ETA or had one cancelled, and have the appropriate permission to travel (including in electronic form) or risk a £50,000 civil penalty.[69]

This means that international carriers will be dependent on a computer system called interactive Advance Passenger Information (iAPI) to look up an individual's e-Visa and return an 'OK to Board' message. Not all carriers have yet integrated with iAPI, and the system has not been extensively or widely tested. Carriers are currently unwilling to use it to allow people to board, who, for various reasons, are not in possession of a current physical document but who do have an e-Visa. The carriers' unwillingness to engage in the View and Prove process has resulted in people being denied boarding.[70]

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66   Submission from anonymised respondent, via the Report it! tool, designed by the3million

67   Submission from anonymised respondent, via the Report it! tool, designed by the3million

68   https://homeofficemedia.blog.gov.uk/2024/02/01/electronic-travel-authorisation-eta-scheme-factsheet-february-2024/

69   https://www.gov.uk/government/publications/authority-to-carry-scheme-2023/authority-to-carry-scheme-2023-accessible

70   https://the3million.org.uk/mitigate-against-travel-cliff-edge

**Case Study:
No Data on e-Visa Account**

A student received an email instructing them to create an e-Visa account, followed by another email confirming that they could now view their e-Visa details. However, each time they logged into their account, they received a message stating that the system could not display proof of their status. Despite contacting their university and UKVI, the issue remained unresolved for three months, leaving the student fearful of travelling abroad without proof of their right to re-enter the UK.[71]

The expected challenges that people are likely to face in foreign borders on their way to the UK could include:

- Glitches in the Home Office systems: with the complete digitalisation of the immigration system, numerous new systems (ETA, iAPI, e-Visas and View and Prove) must all function seamlessly. Given the potential consequences and impact on the rights of thousands, if not millions, of people, any margin of error could be hugely harmful.[72]

- This system relies heavily on the employees of carriers around the globe, instead of trained and equipped UK border officials. These employees must have an understanding of how to use the software correctly, as well as an awareness of potential pitfalls with the checks.

Mitigations

Statically recorded e-Visas would remove uncertainty and difficulties proving e-Visa status at borders. For those who cannot meet the technical requirements for the app, paper Visas, including identifying codes for registering with online systems, could be supplied.

USING AN E-VISA TO PROVE YOUR RIGHT TO WORK

Employers in the UK face fines of up to £45,000 per worker if they employ someone who does not have the right to work in the UK. While employers are not legally obliged to carry out a right-to-work check, doing so provides them with a 'statutory excuse' if it turns out that one of their employees does not have the right to work.

In August 2024, the Home Office published a factsheet to help employers understand the new changes. Employers who have already run the right-to-work check using the BRP and BRC, which expire on 31 December 2024, are not required to repeat the check unless the employee's permission is due to expire. If the expired BRP or BRC confirm that the individual has settled status (Indefinite Leave to Remain) there is no need to repeat the right-to-work check.[73]

The transition to e-Visas could affect everyone who is trying to prove their right to work, but particularly those people with some of the vulnerabilities described earlier in this report. These changes will affect UK and international recruitment.

Case Study: No Access to Email

A charity reported a case where a non-EU citizen granted ILR in the UK had no access to an email address to create their UKVI account. The individual never attended school in their home country and was unable to proceed despite the charity's attempts to escalate the issue through the Home Office's outsourced helpline.[74]

71   Submission from anonymised respondent, via the Report it! tool, designed by the3million

72   https://ilpa.org.uk/wp-content/uploads/2024/06/ILPA-Open-Letter-on-The-UKs-Transition-to-.eVisas-11.06.2024.pdf

73   https://homeoffice.brandworkz.com/BMS/albums/?album=3288&lightboxAccessID=719B15F4-043B-4A3F-9307A735639B6DE8

74   Submission from anonymised respondent, via the Report it! tool, designed by the3million

Many visa nationals already work in migrant-heavy sectors such as the NHS and social care. If visa nationals cannot transition to e-Visas, they cannot prove their right to work for an employer. In the example of the NHS, this could lead to a crisis that will significantly impact many doctors, nurses and healthcare workers – and the services that these people help to deliver – especially given the high possibility of a backlog of applications.

How it is supposed to work

In the new system, employers will be given a share code generated by the visa national. The employer will use the share code to log into gov.uk and see the visa national's rights through the View and Prove page.

If visa nationals are able to transition but are unable to prove their right to work because of a backlog of applications or a technical glitch, then, although they technically have their right to work in the UK, they will effectively lose it because the employer cannot see their rights.

Sometimes, the employer may be directed to perform a manual right-to-work check, a process which is lengthy and time-consuming.

Likely problems

There are already issues with right-to-work checks, as highlighted by our 'Challenge the Checks' campaign[75] in coalition with Migrant Rights Network and Migrants at Work, and by trade unions, including glitches with share codes and other technical issues.[76] There are also concerns that HR functions, particularly in smaller organisations, are not well trained in the complexities of right-to-work checks. The e-Visa scheme is likely to exacerbate these issues as more people will be forced to prove their right to work digitally.

Again, some people will be more impacted than others, including those who are vulnerable, who are not digitally literate and those whose first language is not English.

These lengthy and time-consuming checks may result in the visa national losing their job or job offer, especially when working in less secure roles such as those found in the gig economy. The changes could also lead to employers discriminating against people who are perceived to be migrants in order to avoid the challenges of proving an employee's status.

Mitigations

Statically recorded e-Visas would remove uncertainty and the difficulties of proving e-Visa status. For those without the technical requirements for the app, paper Visas, including with identifying codes for registering with online systems, could be supplied.

USING AN E-VISA TO PROVE YOUR RIGHT TO RENT

When someone seeks to rent a property in the UK, they are subject to a 'right to rent' check. For British nationals, this usually involves showing the landlord their passport - a relatively straightforward exercise involving a recognisable document. The process for those with digital-only proof of their immigration status is considerably different.

How it is supposed to work

When renting a property, EUSS, BRP and BRC holders currently have to generate a share code through their UKVI account to prove to a landlord that they have the right to live in the UK. As with the Home Office pushing border enforcement out to airlines and other international carriers, the new system uses a group of people, in this case landlords, as enforcers of Home Office policy and the 'hostile environment'.

Known and likely problems

The use of share codes has already presented a whole host of problems, with some people being unable to generate their share codes due to technical glitches.

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75   https://migrantsrights.org.uk/projects/challenge-the-checks/

76   Ibid.

The University of York conducted an extensive survey with YouGov, asking 4,000 landlords about their preferences regarding who they would rent their homes out to. It showed that if someone is choosing between tenants, where one has a British passport and one has a digital ID, 60% of the landlords surveyed were more inclined to opt for the tenant with a British passport.[77] Therefore it appears likely that the e-Visa scheme will entrench and exacerbate this discrimination and potentially create a two-tier system consisting of those with British or Irish passports and those without.

This highlights the fundamental problem with devolving duties to check immigration or Visa compliance to parties with no specific interest in fair decisions. From an equality perspective, any level of complexity or fragility in such a process is likely to produce poor outcomes for those dependent on proving their residency rights, as there is no commercial interest for a landlord to prioritise clients who may encounter difficulties, or to wait for problems to be resolved, unless the property is over-priced, substandard or otherwise unattractive for rental.

Mitigations

It is unclear that it is necessary for rental agreements to require Visa checks. The easiest mitigation would be to remove the requirement. If the government persist with the requirement, then statically recorded e-Visas and paper would remove uncertainty. For those without the technical requirements for the app, paper Visas, including with identifying codes for registering with online systems, could be supplied.

Case Study: Mortgage Application Stalled

An individual created a UKVI account but was unable to view their details, repeatedly receiving a "We Cannot Show Proof of Your Status" message. While in the middle of applying for a mortgage, their bank refused to accept the BRP as proof of status and required an e-Visa. The Home Office Resolution Centre advised them to present an email stating that their spouse visa was valid until 2026, but the bank deemed it non-credible. The Resolution Centre escalated the issue to the technical team but could not provide a timeline for resolution, leaving the individual stuck in their mortgage application process.[78]

77   https://ukconstitutionallaw.org/2023/03/14/jed-meers-joe-tomlinson-alice-welsh-and-charlotte-obrien-rights-on-paper-the-discriminatory-effects-of-digital-immigration-status-on-private-landlord-decisions/

78   Submission from anonymised respondent, via the Report it! tool, designed by the3million

APPENDIX
E-VISA SCHEME: PROCESS FOR APPLYING FOR AN UK VISAS AND IMMIGRATION (UKVI) ACCOUNT

Below are details of the process for applying for an UK Visas and Immigration (UKVI) account which then allows people to present an e-Visa or present their 'digital status'. It should be noted that these are misleading terms. This plan does not replace physical documents with digital equivalents but rather replaces them with an online process heavily reliant on algorithms to generate an individual's status.

It should also be noted that:

All the guidance and applications are provided exclusively in English, which poses a significant barrier for non-English speakers.

The process of signing into the UKVI account to obtain credentials and share codes for use at airports, in job applications, and other scenarios relies on the Biometric Residence Permit (BRP) number. However, with the BRP cards set to expire soon, the Home Office has not provided clear guidance on whether people can continue to use these numbers after their BRPs expire. There is uncertainty about whether individuals will still be able to sign in using their expired BRP numbers.

On August 15, 2024 the Home Office updated its guidance, advising people to keep their expired cards, as they may be needed for future applications to remain in the UK or for personal records. However, this has only added to the confusion, as no clear instructions have been provided on how expired BRPs will function within the digital system.

The entire process is lengthy and complex, even for those who are technologically proficient.

The Home Office continues to update and change its guidance frequently, even as the self-imposed deadline looms less than four months away. This constant revision suggests a lack of a comprehensive and solid plan for the digital transition.

Onboarding process screenshots and explanation of steps

On the 30 October 2023, the Home Office published guidance for the online immigration status (eVisa). The Home Office stated in this guidance that people can't create a UKVI to link their document to their online account unless they receive an email from the Home Office inviting them to do so.

On the 6 August, the Home Office published an update stating that anyone can now create a UKVI without receiving the Home Office email invitation.

STEPS

1 Receiving an email:

2 Once you are on the UVKI account, the page asks you to sign up using one of your documents:

3 We selected the BRP so the following questions relate to the BRP:

Is your biometric residence permit (BRP) valid?

To be valid, the BRP expiry date must be in the future. We only want this information to understand if we can use your BRP to confirm your identity.

- ⦿ Yes
- ◯ No, it expired less than a year ago
- ◯ No, it expired over a year ago

Continue

Have you ever had a biometric residence permit (BRP)?

- ⦿ Yes
- ◯ No
- ◯ I am waiting for my first BRP

Continue

▶ What is a BRP?

4 Once you have confirmed having a BRP, the page asks you to enter your BRP number:

Sign in

What is your biometric residence card or permit number?

ZU1234567

Biometric residence card or permit number
For example, 120382978

Continue

5 You will then be asked to enter both your email and phone number to receive a share code, confirming the BRP belongs to you and assigning your contact details to your UKVI account.

It should be noted that the share code expires within 10 minutes and there are frequently issues with receiving the share code, especially on international phone numbers. The UKVI website doesn't provide any support regarding this issue, other than to re-send the security code. Users can complete their application temporarily without the share code from their mobile phone, but they must provide it later in order to complete and use their UKVI account.

Create account

Check their phone

We have sent a 6-digit security code to:

███████████ Change

You need to use this code within 10 minutes or it will expire.

If they have not received a security code, make sure the phone number is correct.

It may take a few minutes to arrive.

Security code

[   ]

Resend security code

Continue

Their code has not arrived

Create account

Problems getting security codes to their phone

There are different reasons why our text messages may not arrive, for example:

- a temporary problem with the phone network
- poor mobile signal
- the settings on their phone

What they can try:

- check that they have good mobile reception
- make sure they have not enabled flight mode on their phone
- restart their phone
- check that their number is correct - try entering their phone number again

Continue without a code

You can continue without entering the code.

Continue

6 After confirming the share code from both the email address and phone number, you will be given a unique number as a reference number and asked to complete your application in order to confirm your identity.

Link your eVisa to your account

Unique reference number: ████████████

Complete the following tasks to link your eVisa to your account.

1. Identity and contact

Confirm your identity

Confirm your BRP or application number	Cannot start yet
Your location	Cannot start yet
Contact preferences	Cannot start yet

7 At this stage, the page will ask you to complete the application to confirm your identity using the 'UK Immigration: ID Check' app.

In this case, the user will be asked to use a phone (specifically a smartphone), and if they don't have one, the page will ask them to use someone else's phone.

Confirm your identity

You need to confirm your identity using the 'UK Immigration: ID Check' app.

You can use someone else's phone if you need to. The app can be deleted once your identity has been confirmed.

You will need your identity document.

Continue

I have already tried using the app

8 It should also be noted that users are not able to use ANY smartphone; it has to be an iPhone 7 or Android with contactless payment capability.

Check you have the right smartphone

To scan your document, you must use the app on either:

- an iPhone 7, or newer model
- an Android phone that can make contactless payments

▼ Why is this important?

To scan your identity document on the app, the device must work with Near Field Communication (NFC). A smartphone will work with NFC if it can make contactless payments.

If you are unsure, use the guidance on using the app (opens in a new tab) to find out if your device will work.

9 Users need to have a smartphone, and in case they don't, the Home Office advises them to use friends' or family's devices. The page suggests that the process will take 20 minutes, which is an underestimate due to the complexity of the process.

If you do not have the right phone

You can use the app on a friend or family member's phone, it should only take about 20 minutes.

No information will be stored on the device and the app can be deleted once you have completed this step.

You can use the guidance on using the app (opens in a new tab) to help you.
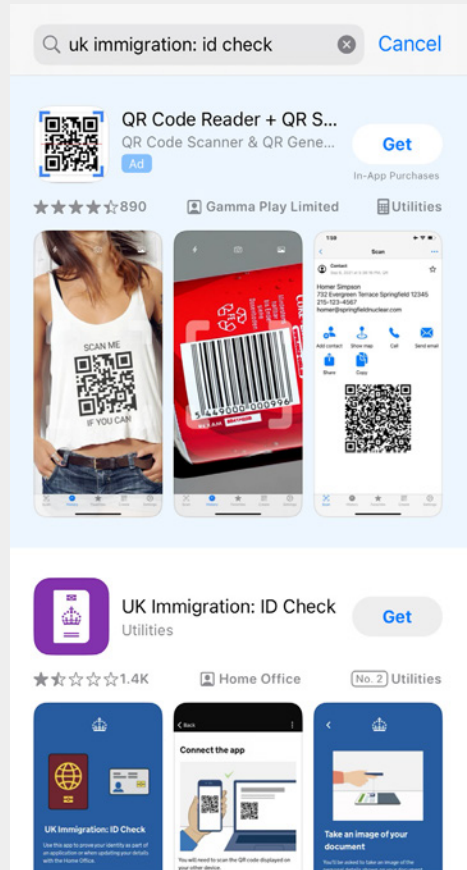
Can you use another phone?

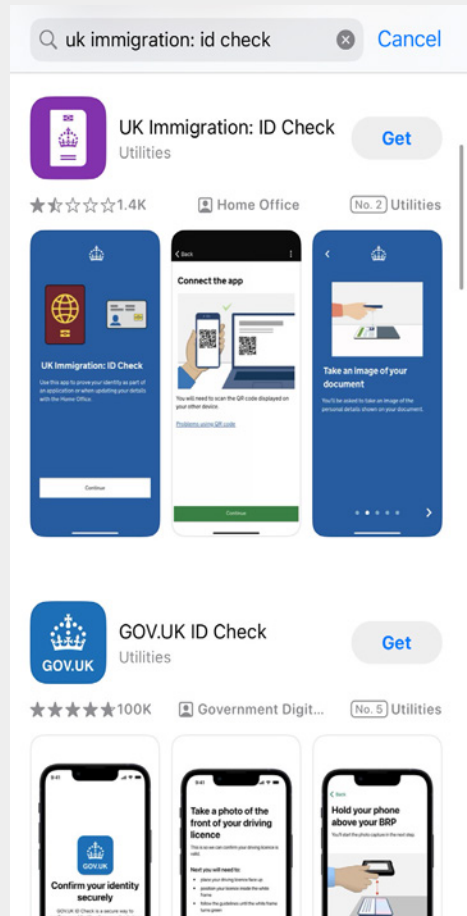◯ Yes, I can use another phone

◯ No

10 This step includes using the smartphone to download the app from the online store.

Once you add the name to the store, many similarly named apps appear, potentially confusing the user and exposing them to malware.
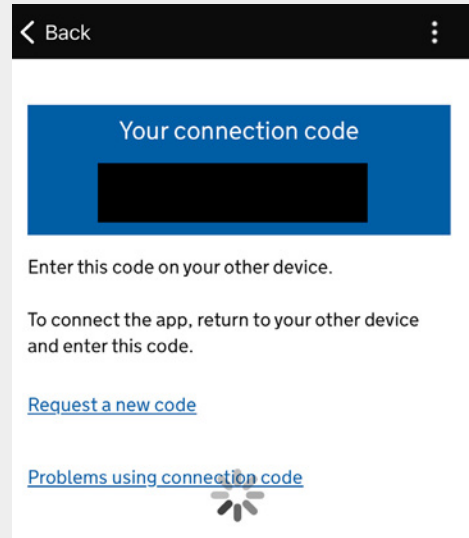
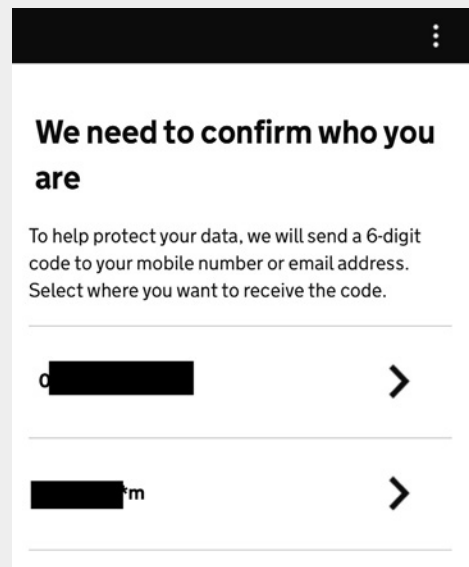**The app rate on the online store is 1.5 stars.**

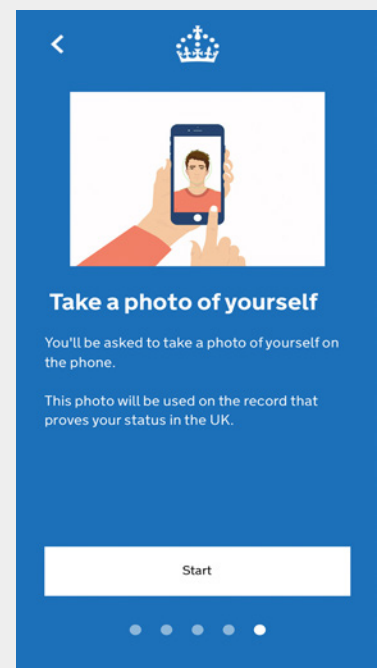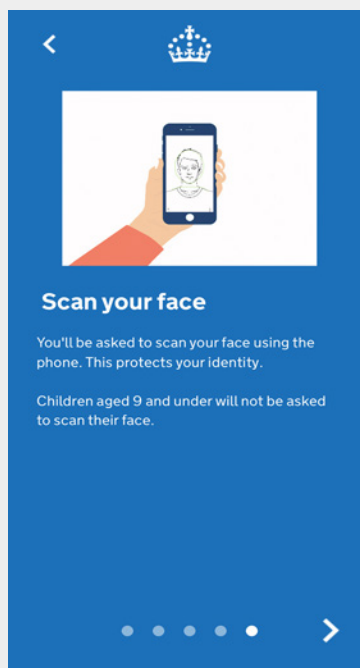**11 The page shows different apps for the Home Office with the same layout:**

12 Once you open the app, having downloaded it, it will ask you to enter a specific code onto the other device you were previously using before moving to the smartphone, sharing the information between the two devices and the network.

‹ Back ⋮

Your connection code

Enter this code on your other device.

To connect the app, return to your other device and enter this code.

Request a new code

Problems using connection code

13 Once you have submitted your connection code, the next page needs you to input the confirmation code to confirm your identity:

⋮

# We need to confirm who you are

To help protect your data, we will send a 6-digit code to your mobile number or email address. Select where you want to receive the code.

›

›

14 The app will then require you to scan your face:

‹

Scan your face

You'll be asked to scan your face using the phone. This protects your identity.

Children aged 9 and under will not be asked to scan their face.

›

‹

Take a photo of yourself

You'll be asked to take a photo of yourself on the phone.

This photo will be used on the record that proves your status in the UK.

Start

15 You will be asked again to choose which document will be used to create the UKVI account:

Which document will you use?

International passport >

Biometric residence permit >

What is a biometric residence permit (BRP)?

You must use your Biometric residence permit (BRP) unless you have an EU, EEA or Swiss passport.

16 In this trial, we chose document. The app asked a photo of the back of the

Take an image of your card

"UK Immigration: ID Check" Would Like to Access the Camera
Scan your travel documents with ease

Don't Allow   Allow

Take a ... s a code

I<XXX123456789<<<<<<<<<<<<<<<
8001010X190101XXX<<<<<<<<<<<<0
ABCDEFG<HIJKLMNOPQRSTU<<<<<<<<

Make sure:
• the code is showing
• the card is on a flat surface
• you are in a well-lit room
• there is no glare on the card

Continue

Take an image of your card

Take an image of the side of your card that has a code like this:

I<XXX123456789<<<<<<<<<<<<<<<
8001010X190101XXX<<<<<<<<<<<<0
ABCDEFG<HIJKLMNOPQRSTU<<<<<<<<

Make sure:
• the code is showing
• the card is on a flat surface
• you are in a well-lit room
• there is no glare on the card

Continue

17 The app then asks you to scan the front side of the card by placing the smartphone over the card, continually moving it until it scans the chip inside the card.

It should be noted that this step is difficult, as the app requires continually movement over the card, but also to stop immediately once the chip is located. If you don't stop immediately when the chip is located, the app will fail to recognise the chip and you have to start this process again.
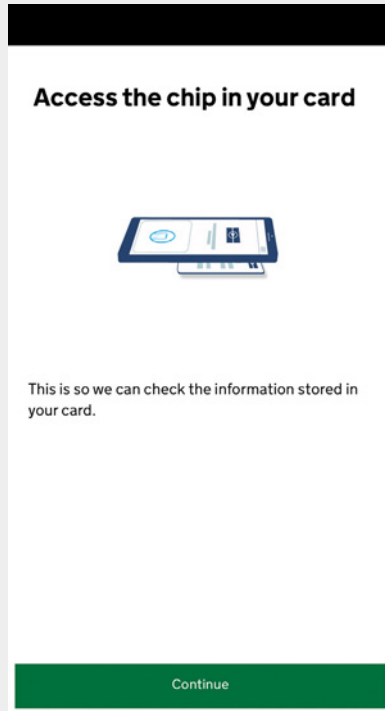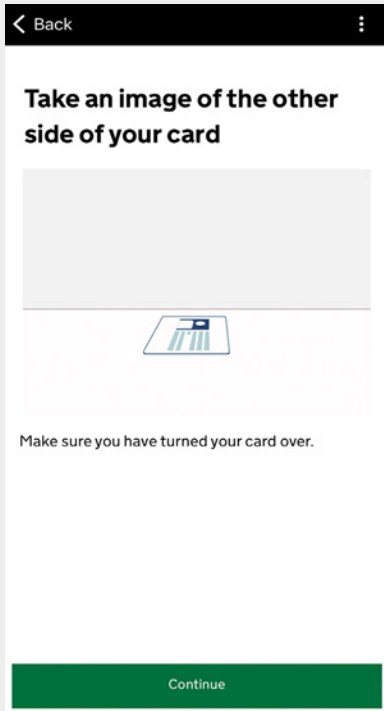

18 In this test, this step alone took 10 minutes; there were many errors and the application was unable to locate the chip on the card.
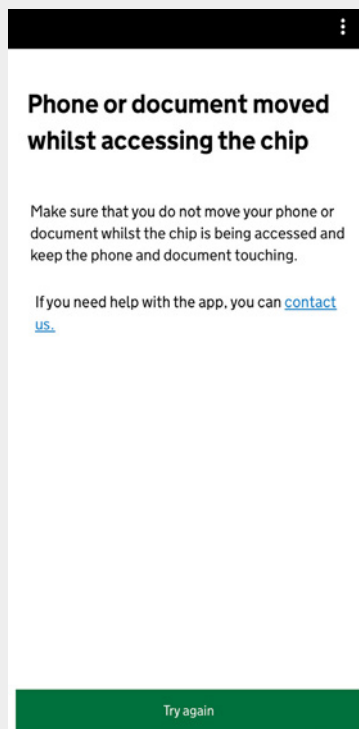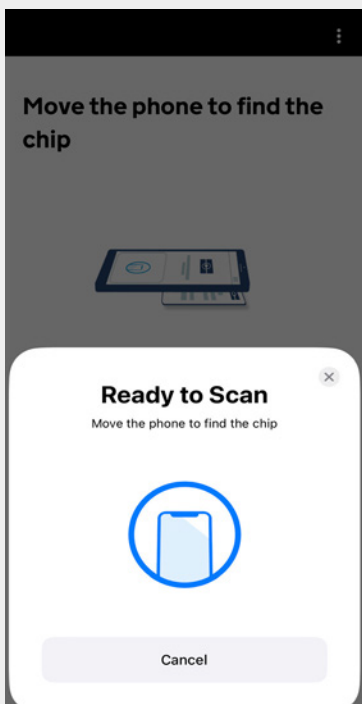
19 If the app can't find the chip over the BRP, you can repeat the process, but at a certain point, the application will ask you if you failed to scan the chip and require you to physically send them the BRP card through the post. It took us ten minutes and five attempts to scan the chip successfully.
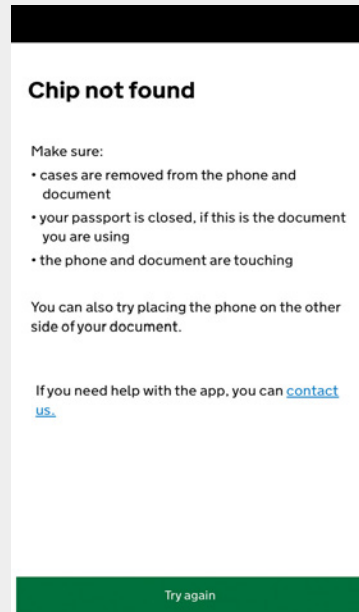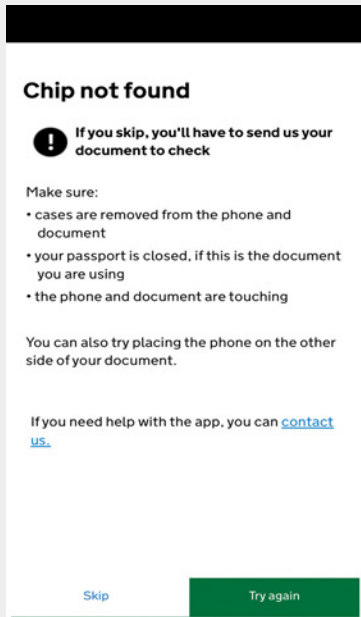

20 Whether you succeeded in scanning the chip or you decided to skip it and send your BRP by post to be verified by the Home Office, the next step will ask you to take a photo of yourself. This photo will be stored on your e-Visa account and will be used to identify you.
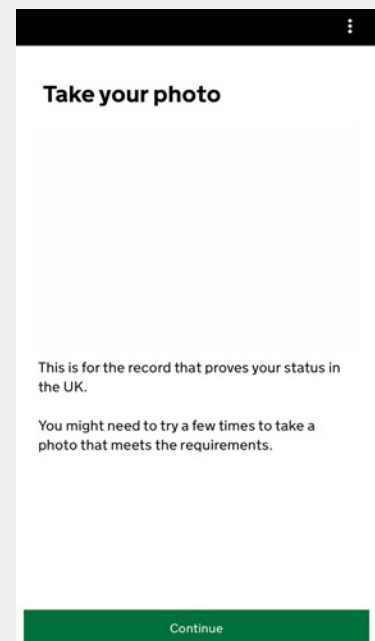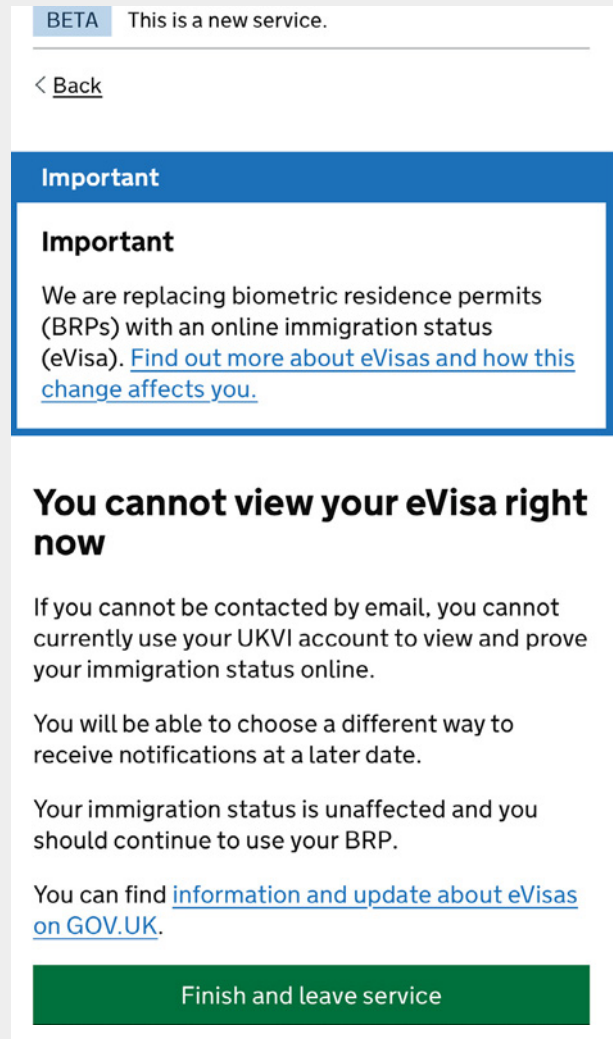
21 Once you finish this step, the process on the app has finished. You should return to the main page of the UKVI account to complete the form for the e-Visa. You will be asked to add your preferred contact email. Then, you will be asked to complete three sets of security questions.
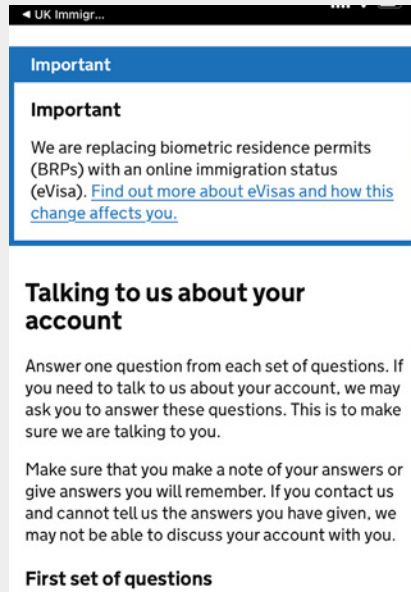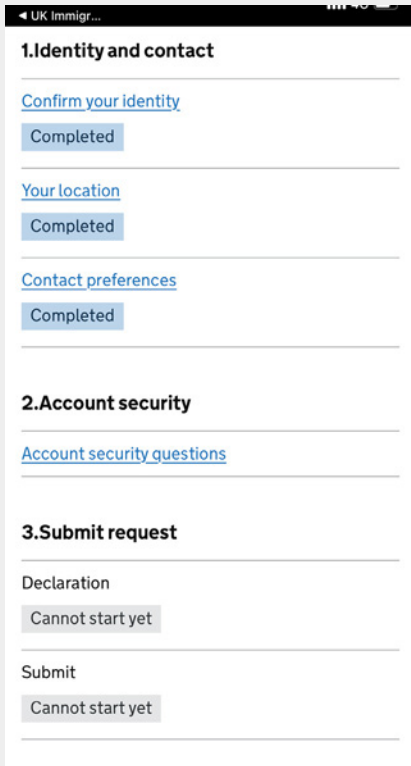
22 After finishing the declaration and submitting the form, you will receive a confirmation that you have applied.
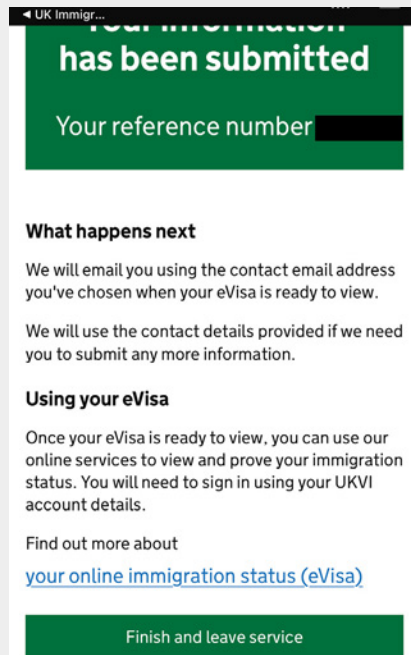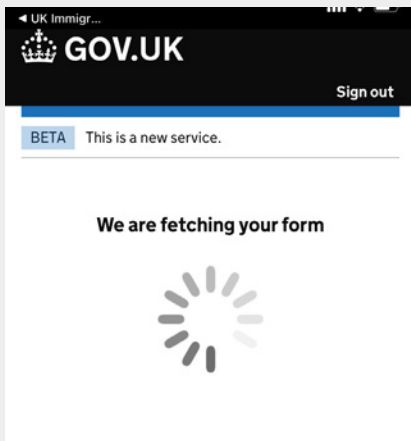
23 In our case, we received an email confirming that our e-Visa is ready. However, when we checked, we were shown a message explaining that we can't view our e-Visa yet!