



ILPA's response to the ICIBI's Call for Evidence on ePassport Gates

Background

ILPA is a professional association founded in 1984, the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with a substantial interest in the law are also members. ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, to act as an information and knowledge resource for members of the immigration law profession and to help ensure a fair and human rights-based immigration and asylum system. ILPA is represented on numerous government, official and non-governmental advisory groups and regularly provides evidence to parliamentary and official enquiries.

Response

This response focuses on short-term students (STS) and Tier 5 migrants who have been granted leave to enter the UK as a visitor after passing through eGates.

When students use eGates and thus enter the UK as a visitor, they are being instructed to travel out of the UK and re-enter as a student. This is expensive, disruptive and disproportionate. In any event, travel restrictions make this an unworkable solution.

The UK Council for International Student Affairs have stated that:

'It has been problematic, stressful and expensive for students to have to leave the UK within 30 days and re-enter the UK in order to obtain a Short-term Student stamp when they have been directed to use the eGates incorrectly. There were at least 20 such students at the member institution's last intake in January 2020 who had to do this.'

Border Force have said that in some cases, it may be possible for the secretariat at port to issue letters varying leave where it can be established that an officer was at fault or there are particular safeguarding issues around child students travelling outside of the UK in order to re-enter. This response is inadequate. Fundamentally, those who use eGates should not be required to re-enter the UK to receive their correct grant of leave. The UK's immigration systems are so complex that those administering them on the ground do not understand them. It is perverse for students to incur additional costs because of the UK immigration system's deficiencies.

Border Force has introduced a system whereby those who enter the UK as Tier 5 creative migrants through ePassport gates can email BFTier5C@homeoffice.gov.uk for a letter varying their leave. We support a move to introduce such a procedure for STS. There should be consistency across visa categories and where a person does not receive the correct grant of leave by a Border Force officer or by passing through eGates, they should be entitled to their correct leave without re-entering the UK at their own expense.

Recommendation: there must be a fair and effective in-country procedure for varying a person's leave after passing through an eGate. Such a procedure should not require a Border Force officer to be at fault or for there to be particular safeguarding issues

We have been informed that the Business Helpdesk, in discussion with policy, have not been aware of the ability to correct Tier 5 migrants' leave after passing through eGates.

Recommendation 1: UKVI teams must understand their powers to correct grants of leave after a person passes through eGates

Members have informed us that Border Force officers are directing students to the ePassport Gates, despite being told that they are STS. We have also been made aware of a number of students who have managed to get their passports stamped, though have only been stamped in as a visitor. Further, members are concerned that airport signage (which explains who should and should not use eGates) is inadequate.

Border Force officers must be trained effectively on who is able to use eGates and informed of the consequences of using them incorrectly, i.e. issuing incorrect grants of leave which may require a student to re-enter the UK at their own expense.

In ILPA's freedom of information request, we asked the Home Office for evidence of the training that Border Force receive. The response contains redactions as to what is considered essential or desirable training for Roving Officers. The Home Office relied on section 31(1)(a) and (e) FOIA to make these redactions, stating that the public interest lies in maintaining the exemption rather than disclosure. This is stated to be because disclosure would "offer hints and tips to criminals on how to circumvent the UK immigration controls". However, it is unclear how disclosure of the training offered to Roving Officers would have such a consequence: why would a list of the *training* Officers receive be relevant to this?

Recommendation 2: Border Force should receive effective training on eGates and the training that they currently receive should be disclosed