

By email only

The Rt Hon Yvette Cooper, MP, Home Secretary, and,
The Rt Hon Seema Malhotra, MP, Parliamentary Under-Secretary (Home Office)
2 Marsham Street
London
SW1P 4DF

19 August 2024

Dear Home Secretary and Parliamentary Under-Secretary of State for Immigration and Citizenship,

Grave Concerns Regarding Digital-only Immigration Status

We congratulate you on your positions in the new Government. We are a group of organisations with extensive experience in immigration law, policy, and practice, and look forward to working with you to create a fair and just immigration system that is fit for purpose.

We write in respect of the replacement of physical immigration documents by digital-only proof of status. Our clear view is that this is an inherently poor policy, one which has already caused significant distress and difficulty for the millions of people impacted, and will continue to lead to serious crises once fully implemented due to:

- Error, disruption, or collapse of the digital systems relied upon to prove status;
- Lack of will, capacity, or understanding of third parties, such as landlords and employers, to engage in digital systems, particularly systems which are enduring technological failures; and,
- Inability of vulnerable, marginalised individuals to engage in digital services.

Ultimately, we foresee a scandal with similar impacts upon people as Windrush (insofar as people have status but cannot prove it), on a much larger scale. Therefore, we strongly encourage you to reverse the policy of providing digital-only proof of immigration status, which was clearly ill-thought through and hastily introduced by the previous Government.

If you choose to proceed with the digital-only policy, we will all be left with a crisis on our hands as the parting gift from outgoing Ministers who for years decided not to heed our warnings or adopt our practical suggestions.

The deadline of 31 December 2024, self-imposed by previous Governments for rolling-out digital status, is rapidly approaching. On that date, millions of physical documents evidencing immigration status will expire. We have serious concerns that, after this date, people will face barriers to travelling to the UK, despite their time-limited or indefinite permission to be here, and that in the future the digital-only system will leave them unable to prove their rights in the UK.

As far as we are aware, there are no mitigations being considered with regard to travel disruption, which we foresee undoubtedly occurring for four key reasons:

1. Inaccuracies in Home Office databases, resulting in errors in digital status;
2. Carriers barring people from boarding for fear of having to pay penalties;
3. The concurrent planned roll-out of the Electronic Travel Authorisation (ETA) scheme and the universal 'permission to travel' requirement, meaning individuals with difficulty accessing their eVisa will be expected to show an ETA; and
4. The lack of Home Office awareness of people's most recent passport or travel document details, with each passing day reducing the potential for these details to be provided and linked to the relevant digital status in a timely manner.

This is epitomised by the fact that not all migrants in the UK have a digital status, which they can currently access. Many individuals aware of the change wished to set up and access their digital status and were unable to do so until the public invitation to create an account was released belatedly, on 6 August 2024, less than five months before the impending deadline.

Furthermore, the online system – intended to be relied on by individuals to prove their immigration status – continues to experience numerous technological failures, with little indication that the Home Office is able to resolve these in a timely and adequate manner. Therefore, even those who have been able to take the necessary steps to protect themselves beyond the 31 December deadline might still be unable to prove their rights after that date, through no fault of their own. The lack of any physical back-up document proving the true expiry date or indefinite nature of their immigration status exacerbates this unfairness. These systemic faults place significant strain on frontline support organisations and legal advice services, already overstretched by the legal aid crisis, and we anticipate these burdens only increasing with the roll-out of the prior Government's digitalisation strategy.

Additionally, we foresee considerable issues within the UK, despite the Home Office's indication to stakeholders that it intends for expired Biometric Residence Permits to be able to be used in 2025 to prove status when accessing services in the UK. Clearly, this mitigating measure will cause confusion for status checkers, particularly without a co-ordinated, well-resourced communications strategy. Moreover, as this appears to only be a temporary measure, there would remain a point in the future at which individuals who do not have the ability to access their digital status, whether due to technological failures, digital exclusion, or other individual vulnerabilities, will be left unable to prove their status when vitally needed, such as when accessing jobs, healthcare, or welfare support.

Collectively, we, along with many other organisations in the sector have raised our concerns about the digitalisation of immigration status countless times, in various stakeholder forums and in correspondence with the Home Office (per the attached appendix). Many of the signatory organisations work with individuals who are particularly vulnerable to the impact of a range of immigration measures, controlling or impeding their daily lives, which were created and maintained by previous Governments as part of what is commonly referred to as the 'hostile environment'. These vulnerable groups of individuals include people who:

- are digitally illiterate or otherwise digitally excluded;
- have disabilities or learning difficulties; are young and in care;
- have been, or are currently, victims of abuse or other crimes;
- do not have proficient command of the English language;
- have experienced, or are experiencing, homelessness;
- have mental, physical and/or other health conditions, frequently as a result of having been subjected to torture, trafficking or other abuse;
- have held indefinite leave to remain for many years, who are most likely to be elderly, and may not realise they need to take action.

Little to no assessment seems to have been made of the impact of the transition to digital-only status on these groups, including those with protected characteristics, nor have adequate measures been taken to protect them from being unfairly excluded from opportunities and services by various immigration measures that impinge on access to employment, renting accommodation, healthcare, banking facilities, and other essential services. To date, no policy equality assessment or equalities impact assessment has been published which focuses on the widespread imposition of digital-only status, for all migrants in the UK. The only assessments publicly available which include consideration of digital-only services, in the context of right to work and rent checks and the EUSS, conclude that indirect discrimination, for example against older individuals or people with disabilities who are required to rely on digital-only services to prove their rights, can be justified as a proportionate means to achieving a legitimate aim.¹ In reaching these conclusions, the assessments place undue faith in the Home Office's telephone helpline to mitigate the particular harshness of a digital-only system on certain groups. We know from experience with the EUSS that the helpline operators are powerless to remedy technical issues and that the lines become overwhelmed at peak times. This is utterly inadequate in situations where an individual needs to prove their rights immediately in order to travel or access employment, rental properties, and/or essential services. This Government should learn lessons from the outgoing Government's failures to provide adequate safeguards against indirect discrimination for the EUSS cohort.

Failure to adequately prepare for the transition to digital-only status will not only impact the millions of migrants living in the UK with valid immigration status extending beyond 31 December 2024, but it will also impact employers, education providers, landlords, mortgage lenders, the NHS, government departments such as the Department for Work and Pensions, and international carriers and border forces. Unless immediate action is taken, there is a very real risk that many people could be wrongly rendered destitute, homeless, or otherwise excluded due to their inability to prove their right to live in this country and access the entitlements that come with it (much like the victims of the Windrush scandal). If this occurs, it could dominate the Home Office for the remainder of this Government's term and beyond. It is not too late to make concrete changes to protect the Department and the country from the consequences of the failures of previous administrations.

¹ Home Office, 'EU Settlement Scheme: policy equality statement' (last updated 2 December 2020) <<https://www.gov.uk/government/publications/eu-settlement-scheme-policy-equality-statement>> accessed 7 August 2024; Home Office, 'Right to work and right to rent checks: equality impact assessments' (last updated 16 November 2023) <<https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment>> accessed 7 August 2024.



We do not doubt that you share our grave concerns about the consequences of inadequately planning the implementation of digitalisation in the immigration system. We have developed a number of policy propositions based on our extensive experience for steps which could be taken to reverse the policy, which insists on status being digital-only, and mitigate any negative consequences of the move to a more digital immigration system. Therefore, **we would welcome a meeting with you to discuss this issue at your earliest convenience**, given the deadline for taking steps to mitigate our concerns is rapidly approaching.

We thank you for your time and your consideration of this important matter.

Yours sincerely,

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

Kezia Tobin, Head of Policy and Advocacy, the3million

Kamena Dorling, Director of Policy, Helen Bamber Foundation

Sara Alsherif, Migrant Digital Justice Programme Manager, Open Rights Group

Tanya Goldfarb, Head of Business Immigration Team, Bindmans LLP and ILPA Trustee

Steve Valdez-Symonds, Refugee and Migrant Rights Programme Director, Amnesty International UK

Appendix

Practical Policy Suggestions:

- The3million, 'The EU Settlement Scheme and eVisa cliff-edge: The first 100 days' (policy proposals 7 to 10, inclusive) <<https://the3million.org.uk/eu-settlement-scheme-first-100-days>>

General Concerns of the Sector:

- Amnesty UK letter to UK Visas and Immigration concerning policy to end use of physical documentation as evidence of immigration status, 14 June 2024
(<https://www.amnesty.org.uk/resources/amnesty-uk-letter-uk-visas-and-immigration-concerning-policy-end-use-physical>)
- Amnesty UK letter to Minister on plan to replace physical documentation with digital-only status, June 2021
(<https://www.amnesty.org.uk/resources/amnesty-uk-letter-minister-plan-replace-physical-documentation-digital-only-status>)
- ILPA joint open letter to the Home Office setting out significant concerns over the UK's transition to eVisas, 11 June 2024
(<https://ilpa.org.uk/ilpa-sends-joint-open-letter-to-the-home-office-setting-out-significant-concerns-over-the-uks-transition-to-evisas-11-june-2024/>)
- Praxis Sounds the Alarm Over Home Office's Digital Visa Plans,
(<https://www.praxis.org.uk/news/praxis-sounds-the-alarm-over-home-offices-digital-visa-plans>)

Concerns surrounding the roll-out timeline:

- ILPA letter to FBIS Re: eVisa engagement communications for entry clearance applications, 25 July 2024
(<https://ilpa.org.uk/ilpa-letter-to-fbis-re-evisa-engagement-communications-for-entry-clearance-applications-25-july-2024/>)
- ILPA Letter to the Home Office Re: Delay in Roll-out of 'Public Beta' for Individuals to Create a UKVI Account Without Invitation, 02 July 2024
(<https://ilpa.org.uk/ilpa-letter-to-the-home-office-re-delay-in-rollout-of-public-beta-for-individuals-to-create-a-ukvi-account-without-invitation-02-july-2024/>)
- ILPA Letter to Home Officer Re: 'No Time Limit' applications and other related concerns, 19 March 2024
(<https://ilpa.org.uk/ilpa-letter-to-home-officer-re-no-time-limit-applications-and-other-related-concerns-20-june-2024/>)

- ILPA letter to FBIS in response to emails inviting the creation of a UKVI account, 19 March 2024 (<https://ilpa.org.uk/ilpa-letter-to-fbis-in-response-to-emails-inviting-the-creation-of-a-ukvi-account-19-march-2024/>)

Practical technological issues:

- The3million letter to Home Office and Foreign, Commonwealth and Development Office about digitalisation of UK immigration records and its impact on visa nationals trying to travel home to the UK, 28 March 2024 (<https://the3million.org.uk/publication/2024032801>)
- The3million letter to Home Office about new functionality showing all identity documents linked to a UKVI account, 10 January 2024 (<https://the3million.org.uk/publication/2024011001>)
- The3million letter to Home Office about ongoing problem viewing and proving digital status, and entangled proof of status, 1 August 2023 (<https://the3million.org.uk/publication/2023080101>)
- The3million reply to Home Office addressing their questions to us around alternative solutions to digital-only status, 8 November 2023 (<https://the3million.org.uk/publication/2023110801>)
- The3million, 'Fixing the digital status - summary note of the3million's proposal for a safe and simple proof of rights' 21 June 2023 (<https://the3million.org.uk/publication/2023062102>)
- The3million, Joint letter with 13 other organisations to the Home Office about EUSS digital status after a refusal decision, 7 June 2023 (<https://the3million.org.uk/publication/2023060701>)
- The3million letter to Home Office about entangled immigration statuses, and incomplete set-ups of portal records, 12 August 2022 (<https://the3million.org.uk/publication/2022081202>)
- Written Question UIN 59818, tabled on 10 October 2022 (<https://questions-statements.parliament.uk/written-questions/detail/2022-10-10/59818>)
- The3million, Briefing for House of Lords Motion of Regret 7 Jun 2022 on roll-out of digital-only to nearly all migrants in UK, 31 May 2022 (<https://the3million.org.uk/publication/2022053101>)
- The3million, Briefing on Statutory Instrument which makes right-to-work and right-to-rent digital-only for all, 31 March 2022 (<https://the3million.org.uk/publication/2022033101>)
- The3million, 'Fifth report to the Independent Monitoring Authority (IMA) about the impact of decision-making delays and digital borders on travel', 23 November 2022 (<https://the3million.org.uk/publication/2022112301>)
- The3million, 'Fourth report to the Independent Monitoring Authority (IMA) about the challenges of maintaining digital status', 28 March 2022 (<https://the3million.org.uk/publication/2022032801>)
- The3million, Letter to Home Office minister on 'fixing the digital status' proposal, 8 March 2022 (<https://the3million.org.uk/publication/2022030802>)
- The3million letter to Home Office about the performance of EU Settlement Resolution Centre telephone helpline (<https://the3million.org.uk/publication/2021121301>)

- The3million letter to Home Office about the use of View and Prove by those without identity documents, 30 April 2021 (<https://the3million.org.uk/publication/2021043003>)
- The3million Letter to Home Office about an alternative non-digital version of immigration status, 15 April 2021 (<https://the3million.org.uk/publication/2021041501>)
- The3million, Parliamentary briefing paper on physical backup to digital status, 1 September 2020 (<https://the3million.org.uk/publication/2020090104>)

Press Coverage:

- Henry Dyer, Diane Taylor, Rajeev Syal ‘Home Office immigration database errors hit more than 76,000 people’ The Guardian (14 March 2024)
<<https://www.theguardian.com/uk-news/2024/mar/14/home-office-immigration-database-errors-hit-more-than-76000-people>>
- Chaminda Jayanetti, ‘Cliff edge’ deadline for UK digital visas still leaves 4m at risk of losing rights’ The Guardian (27 July 2024)
<<https://www.theguardian.com/uk-news/article/2024/jul/27/cliff-edge-deadline-for-uk-digital-visas-still-leaves-4m-at-risk-of-losing-rights>>
- Chaminda Jayanetti, ‘Frightening and frustrating’ move to eVisas risks repeat of Windrush scandal, experts warn’ The Observer (29 June 2024)
<<https://www.theguardian.com/uk-news/article/2024/jun/29/frightening-and-frustrating-move-to-evisas-risks-repeat-of-windrush-scandal-experts-warn>>
- Chaminda Jayanetti, ‘Rushed’ deadline for UK digital visas puts millions at risk of losing legal rights’ The Observer (15 June 2024)
<<https://www.theguardian.com/uk-news/article/2024/jun/15/rushed-deadline-for-uk-digital-visas-puts-millions-at-risk-of-losing-legal-rights>>
- Chaminda Jayanetti, ‘Fears of new Windrush as thousands of UK immigrants face ‘cliff edge’ visa change’ The Observer (18 May 2024)
<<https://www.theguardian.com/uk-news/article/2024/may/18/digital-visa-switch-uk-immigrants-december-deadline>>
- Molly Blackall, ‘Home Office ‘ignored’ warnings its eVisa rollout could lock vulnerable out of UK’ The i (11 May 2024)
<<https://inews.co.uk/news/home-office-ignored-evisa-lock-vulnerable-out-3049673>>