

House of Lords Justice and Home Affairs Committee

Call for evidence on Electronic Border Management

<https://committees.parliament.uk/committee/519/justice-and-home-affairs-committee/news/200196/call-for-evidence-launched-on-electronic-border-management/>

Thank you for inviting me to give oral evidence at this enquiry on Tuesday 12 March 2024.

I was asked to set out some further details in written evidence, and I include this under the following headings:

1. Ways in which digital status goes wrong
2. Impact on travellers who do not yet have a confirmed immigration status
3. Creating a secure and cost-effective physical backup that can be used in international travel

1. Ways in which digital status goes wrong


As I set out during my oral evidence, people with a digital status under the UK immigration system do not have a digital document, or any kind of digital credential in the sense of an app on their phone. Instead, whenever they need to prove their status, they need to rely on a multi-step online process involving more than one UK Government website.

Below, I set out each step - with a brief description of what can and does go wrong at each step.

Status holder steps

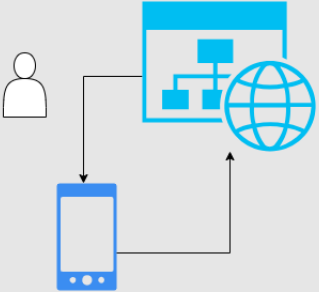
The following diagram shows the steps that the **status holder** needs to take, to first obtain a **share code** (a 9 digit alphanumeric code). This share code needs to be passed to the person or organisation wanting to check the individual's status.

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Step 1 - View & Prove login

Find the correct Government website, enter passport number and date of birth.



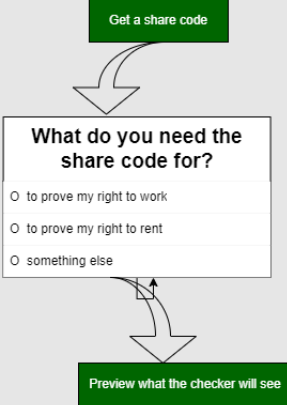
Step 2 - authentication

Receive a security code via email or SMS message, and enter it into the Government website. This is often called 'two-factor authentication'.



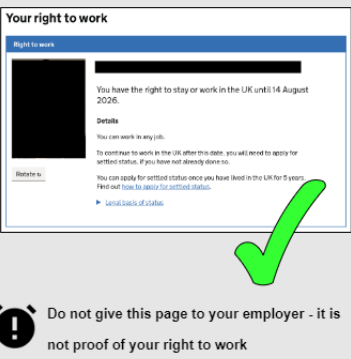
Step 3 - view status

View immigration status, check that it is correct



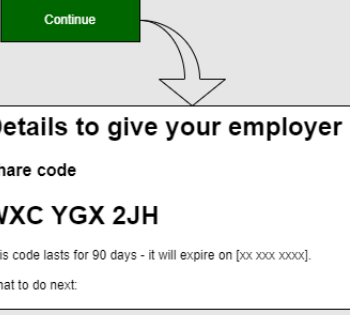
Step 4 - initiate status share

Click the button "Get a share code", provide a reason for getting a share code, and click the button "Preview what the checker will see".



Step 5 - preview status proof

Preview what the status checker will see.



Step 6 - obtain share code

Obtain a share code (9 numbers and letters). Give this to the status checker, along with date of birth, and tell them the correct Government website to enter this into.

Step 1 - View & Prove login

The status holder must go to this website: <https://www.gov.uk/view-prove-immigration-status>, and follow the prompts to enter their passport (or other identity document) number and date of birth.

What goes wrong and prevents people from initiating View & Prove login?

A large number of people, especially including vulnerable cohorts, would struggle to even access the internet and access this website / process. It is estimated that 10.2 million people in the UK lack the most basic digital skills - see <https://www.goodthingsfoundation.org/insights/building-a-digital-nation/>. The

source of the data is from the UK Consumer Digital Index 2023 - the UK's largest study of digital and financial lives: <https://www.lloydsbank.com/banking-with-us/whats-happening/consumer-digital-index.html>.

Owen Parker, Senior Lecturer in the Department of Politics and International Relations at Sheffield University, is conducting research with the Roma Support Group (RSG) entitled "Roma EU Citizens in the UK: Ongoing Issues relating to EUSS". A summary findings document states "2022 RSG survey: around 60% were unaware of digital status; 70-75% did not know how to access/ prove status; only 30% said they didn't need support to access, prove, update status; 88% were relying on local charities to support. 2024 EUSS information sessions: 35% still knew nothing or very little about using status."

Even when people have the required skills and knowledge to access the correct website, there are many occasions, especially those involving travel, where people cannot access the website. This can be if they don't have access to data roaming abroad, if there is poor/no data signal, if there is no free access to WiFi, or if their mobile device has insufficient battery remaining. In some areas of the world, there is an issue accessing UK websites without being in possession of a VPN (Virtual Private Network - which many people will not have or won't know how to set up).

What goes wrong and causes View & Prove login to fail?

For those who can access the website, many still fall at this first hurdle, receiving an error message like "*The details entered don't match our records*". While this of course can happen when someone mis-types their document number or date of birth, we are specifically talking about people who have entered their details correctly yet for whom the Home Office system still returns this error. This typically indicates a structural error in the Home Office database that requires IT intervention to fix - often taking weeks or longer.

Other errors include "*You are already logged in*" - which can be overcome only if the status holder is technically proficient and realises that restarting their browser or deleting cookies can help.

Sometimes the service is down for planned maintenance - which is not forewarned, and it is not clear how long the maintenance will take. People get the message: "*You cannot use this service at the moment. We are doing planned maintenance. Please try again later*"

Sometimes the service is suffering a general, unplanned, outage, so that *anyone* trying to access it receives an error message, such as "*This page isn't working*", or "*You cannot use this service at the moment*".

Step 2 - authentication

The status holder is sent a security code to the telephone number or email address that is linked to their UKVI account, which they must enter into the website to continue to the next step. The linked contact details plus the one-time security code are the 'keys' required to gain access to the status.

What goes wrong and prevents people from authenticating their login?

Many people (for example vulnerable or digitally excluded cohorts) may have had help in applying for status under the EU Settlement Scheme (EUSS), and those helpers may have used their own or their organisation's telephone number and email address to make the application.

This means that the helper has kept hold of the 'keys' to unlock access to the status holder's proof of status, and the helper is therefore needed at the point of wanting to prove status. This can prove

problematic if the helper is not someone the status holder is in close contact with, or was perhaps an organisation that is no longer available. It is even more problematic if the helper was an ‘advice shark’ who now goes on to charge for access to the account.

Other problems can occur even when the status holder holds the keys to their account but has lost them. This can happen if someone has changed both telephone number and email address since the last time they accessed their account. Given that people typically don’t need to prove their status very regularly, it is a very easy oversight to forget to update your UKVI account if you change your phone/email. Less digitally literate people are more vulnerable to not managing an email address, and getting a new phone after loss or theft and not knowing how to keep the same phone number.

Both these situations are ultimately fixable by the Resolution Centre, but still leave the status holder unable to prove their status at the exact point in time when they are suddenly called on to prove it. These points are very often time critical - not least in travel situations.

The summary findings document of Owen Parker of Sheffield University states “*Many Roma do not know about or are struggling to use their digital status, in many cases because they cannot access the details (passport/ID information, email address, phone number) that were used to set up – and are required to access – their account. This can create issues in relation to providing share codes to e.g. employment agencies in a timely fashion (and often results in lost work opportunities).*”

Step 3 - View status

At this point, the status holder should be shown a summary of their status. The website will display information including:

- their name
- their photograph
- and whether there is an expiry date to their right to stay in the UK

The website states in order to prove status, they will need to undertake further steps to get a share code.

What goes wrong and prevents people from reaching a display of their status?

Some people who have already been granted status under the EU Settlement Scheme receive an error message at this step saying “*We cannot find your current status in this service. This is probably because your application is still in progress.*”

Still others, also having received their security code and input it, see an error message “*There’s a problem with this service at the moment.*” Despite this message suggesting there’s a temporary service outage, it can be a permanent error for certain status holders, until their account is rectified by Home Office IT intervention, which can take a long time.

What goes wrong and prevents people from viewing their CORRECT status?

We have had many reports from people who manage to login and reach a screen which displays an immigration status, but where that immigration status is incorrect:

- **The status is incorrect due to multiple applications.** We have correspondence with the Home Office on this at <https://the3million.org.uk/publication/2022112101>. Examples include the status showing:

- a refusal rather than a pending application (where someone has submitted a subsequent application to the EUSS and has been granted a Certificate of Application)
 - a pending application rather than a refusal (the Government's so-called 'backfill exercise' which was the subject of a [Sep 2023 debate](#) arising from the House of Lords' European Affairs Committee report on Citizens' Rights, and which will lead to the DWP taking steps to recover retrospective welfare payments made even though this was due to Home Office error)
 - a refusal rather than a grant of status (where someone's refusal was overturned on appeal, some need to login with a separate Home Office reference number in order to see their grant of status, but the individual is not informed about this so is unlikely to be aware of it. We wrote to the Home Office about this on 16 February 2023, and received a reply on 6 February 2024 which did not properly address this question other than to direct individuals to the Settlement Resolution Centre. The correspondence is available at <https://the3million.org.uk/publication/2024020601>.)
 - a pending application rather than pre-settled status (where someone with pre-settled status has submitted a further EUSS application with the aim of upgrading to settled status)
- **The status is incorrect due to expiry date** updates not being applied properly. We have already seen one case where the pre-settled status was supposed to be extended by 2 years, as per the changes [announced by the Home Office](#) in July 2023 flowing from the [December 2022 High Court judgment](#). However, even though this extension should have taken place 1-2 months before 'expiry', the online status continued to show the original expiry date, and later showed their status as expired. This person was receiving regular NHS treatment for a serious condition, and the NHS said this would become chargeable at that point. It took the individual a lot of effort to persuade the NHS that her status was still valid. The Home Office says that 'behind the scenes' their status has been extended, however to date (over a month after we escalated directly to the Home Office), the status still shows expired and it appears technically difficult to fix.
 - **The status is incorrect due to entanglement.** This is where someone logs in and sees a mixture of their own status and someone else's status. For example they see someone else's photograph, or someone else's name, or someone else's immigration status type and/or expiry date.

We started alerting the Home Office to this serious issue over 19 months ago. All the correspondence is available at <https://the3million.org.uk/publication/2023113001>. The Home Office minimised these problems, saying in November 2022 that "*in rare cases, identity aspects such as name may be incorrectly associated with another individual, thereby entangling them.*" They also suggested that it was extremely unlikely that non-family members would be affected: "*In most cases, this occurs with family members, particularly where identity aspects such as date of birth, country of birth, family name are very similar or the same, (e.g. twins). It is extremely unlikely that non-family members would be affected.*" The Home Office stated that (as of November 2022) there had been no data breaches that had been reported to the ICO since the launch of the EUSS Scheme. The same answer was given in two Parliamentary Questions ([here](#) and [here](#)). We wrote again in August 2023, saying we had seen cases of entangled status where there was no family relationship between the cases.

We have wanted to raise these issues in far more detail through a Digitalisation Status Services Stakeholder Forum (D3SF) that was due to be set up by the Home Office. Although the Home Office told us in the summer of 2022 that it would look into setting up this service, it took until December 2023 to reach a point of drafting Terms of Reference (ToRs) and holding one introductory meeting. The ToRs mandated monthly meetings with the3million and several other key stakeholders. However, shortly after the introductory meeting, the chair announced a change of role within the Home Office and despite many unanswered emails from the3million and other stakeholders, the forum has not been reconvened.

On 14 March 2024, the Guardian published two articles that show the immense scale of these entangled statuses, affecting 76,000 individuals:

- [Home Office immigration database errors hit more than 76,000 people](#)
- [‘Their system is broken’: the people caught up in Home Office IT chaos](#)
- **The status is incorrect because the photograph is missing.** We encountered many people, especially those who had applied to the EU Settlement Scheme early, who can see their details but their photograph is missing. It simply shows a grey square where the photograph should be, with text across it saying “Photo not available”. This renders the status unusable for proof of status, since the checker has a legal duty to match the likeness of the status holder to the photograph. Together with Hongkongers in Britain, who were also receiving a digital-only status, we corresponded with the Home Office on this, which is available at <https://the3million.org.uk/publication/2022112102>. The response included the Home Office admission that this was due to *‘deliberate design choices made during the launch of the EU Settlement Scheme’*. The response also said that the onus was on individuals to contact the Settlement Resolution Centre to ask for their status to be corrected.

Step 4 - Initiate Status Share

When the status holder wants to prove their status to a third party, they need to use the process on the website - which involves pressing the “Get a share code” button, choosing what type of share code is required, and electing to preview what a status checker will see. There are three types of share code - to prove status to a (potential) employer, to prove status to a (potential) landlord, and to prove status for any other purpose.

What goes wrong and prevents people from successfully initiating a status share?

Many people receive an error message at this point saying “There’s a problem with this service at the moment” - even though this will not relate to a systemic outage but rather a problem with that individual status which can persist for months without Home Office IT intervention.

Others receive an error message saying “We cannot show your details”; this is very often correlated with having had a “photo not available” error as described earlier.

We have also seen reports of people receiving more general IT errors such as “This page isn’t working. If the problem continues, contact the site owner”.

Step 5 - Preview status proof

If all preceding steps have worked successfully, the status holder should see a preview of what the employer, landlord or 'other' checker will see, respectively.

There is a clear warning on the page stating "Do not give this page to [...] - it is not proof of your right [...]". The page is merely intended to display a preview of what the checker will see.

What goes wrong in the preview of status proof?

We have encountered a second type of entanglement at this stage. For some individuals, even if the status holder sees their details correctly in the 'View Status' step, the preview unexpectedly shows someone else's photograph, name, status type and/or expiry date. We called this entangled **proof** of status, and wrote to the Home Office about this in August 2023 (<https://the3million.org.uk/publication/2023080101>). The Home Office did not properly engage with our questions (Q14-Q17) on the entangled **proof** of status; it appears they had not understood that this was a different scenario to the earlier reported entangled status.

The response also repeats the Home Office refusal to publish a Data Protection Impact Assessment for View & Prove, saying merely "The DPIA for View & Prove will be published at a later date." It is worth noting that this DPIA has been refused for publication since as early as November 2021, in this [Freedom of Information Request](#). That FOI stated "The Home Office considers the information you have requested to be exempt from disclosure as the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date. The equality impact assessment and any appropriate data protection impact assessments will be published in the future."

Step 6 - Giving the share code to a status checker

If all preceding steps have been successfully completed, the website should now display a nine-character 'share code'. Share codes intended for employers start with 'W', those for landlords start with 'R' and those for other purposes start with 'S', though this is not advertised anywhere.

This share code should be given to the person/entity checking the status.

The three types of status checker need to use the correct websites to check a share code.

- 'W' - Right to work: <https://www.gov.uk/view-right-to-work>
- 'R' - Right to rent: <https://www.gov.uk/view-right-to-rent>
- 'S' - Other purposes: <https://www.gov.uk/check-immigration-status>

In the context of air travel, if an individual wants to prove their status to a carrier (e.g. if currently trying to travel with a national identity card and the carrier insists on proof of status, or in future once ETA is rolled out and the automated interactive API does not return an 'OK to BOARD' message), they need to select 'something else' to obtain a share code starting with 'S'.

What goes wrong in passing the share code to a status checker?

Sometimes people misunderstand the correct type of share code to generate, or they have one share code saved that they give to anyone who asks for it.

If they give an 'R' or an 'S' share code to an employer for example, and the employer inputs it into the correct 'Right to Work' website, they get a generic error message "***There is a problem with this share code. To check this person's immigration status, ask them to give you a new share code.***"

There is a lost opportunity to inform the employer within that displayed message that they should tell the status holder that they had provided a 'right to rent' or 'something else' share code, and explain that they should make sure to provide a 'right to work' share code.

There is of course also room for human error in passing a 9-character alphanumeric string to someone else.

Status checker steps

The website [Using your UK Visas and Immigration account](#) makes clear that people/entities can use a share code to check status, but that some government departments and public authorities can automatically access immigration status information (DWP, DVLA, HMRC, Social Security Scotland, NHS England, NHS Wales and councils using NRPF Connect). In addition to this, Border Force Officers can see status attached to someone's identity document. We set out below the problems that we are aware of in each of these three cases.

- Checking status using a share code
- Checking status via automated access from government departments
- Checking status by Border Force

Checking status using a share code

We see a lack of understanding from many actors including banks and mortgage providers, universities, employers (including state employers, for example local authorities, the NHS), government departments such as the Passport Office, embassies, carriers, foreign immigration controls. Many of these still request a status holder to provide the original decision email, and we have reports from people saying they can no longer trace down that email (from potentially 5 years ago).

Others do not find the correct website to use to check someone's status.

However, even if someone is using the correct website, and has been provided with the correct type of share code that has not expired, we see instances where the status checker receives an error "***There is a problem with this share code***". Sometimes multiple share codes are required before the check finally succeeds, this will obviously only work when the person/entity checking is willing to be patient and retry the process several times.

Checking status via automated access from government departments

The fact that some government departments and public authorities can automatically access someone's immigration status information is advertised as going some way towards helping people who are vulnerable and/or digitally excluded, and would struggle to create share codes (see our correspondence <https://the3million.org.uk/publication/2023121501>, letter from Home Office on 7th June 2023).

However, this automated access relies on a crucial link, which is that the status holder's current identity document is correctly linked to their UKVI account. This is confirmed in the same correspondence chain <https://the3million.org.uk/publication/2023121501>, in the letter from Home Office of 15th December 2023 which says that *"all the APIs require the consumer (i.e. the other Government department using the API) to feed in identity details for the individual whose status they wish to check, which must include an identity document number such as a passport number."*

Given that updating a UKVI account with a new identity document is difficult for someone who is digitally excluded, this automated access does not change the3million's ask for an easier proof of status for this cohort.

Checking status by Border Force

From direct reports to us, and from ICIBI reports, it is apparent that anyone who has had a previous refusal of UK immigration status will have difficulties gaining automated access through the border.

eGates will refer this cohort to Border Force officers - see ["A re-inspection of ePassport gates \(May 2023\)"](#) which states *"A high number of referrals from the gates relate to historic applications for permission to remain in the UK, particularly from EU nationals. While this might be appropriate for those whose applications have been refused, some passengers who have subsequently been granted permission to remain in the UK are still being referred due to out-of-date entries on Home Office systems. This adds to the volume of passengers being diverted to referrals officers"* and *"At an operational level, poor management of Home Office records results in more passengers referred from the ePassport gates than ought to be, clogging up the system. This would appear to be due to inaccurate historical data not being cleansed from records."*

This currently results in people being temporarily detained and delayed while Border Force make enquiries - see [here](#) for an example of coverage in the media about Dahaba Hussen who struggled to board the Eurostar in Paris. The article writes *"She claims a UK Border Force officer she then approached confiscated her passport after he notified her that she would be subject to "further checks" because she had been denied settled status in the past."*

Our concern is that, once the border is 'pushed out' with the implementation of ETA, these situations will translate to denial of boarding. The main reason Ms Hussen was able to board was because Paris is a juxtaposed border, so there was a UK Border Force officer present. This will not be the case when people try to fly back to the UK from airports all around the world.

2. Impact on travellers who do not yet have a confirmed immigration status

I apologise that I did not give a complete answer to this question during the oral hearing.

I understand the question relates to those who have not yet been granted status under the EU Settlement Scheme (EUSS). This includes several following cohorts:

- Family members who are abroad and have applied for an EU Settlement Scheme Family Permit (permission to travel to the UK in order to make an EUSS application once in the UK), and are waiting for a decision

- EU nationals who are abroad and have applied directly to the EUSS from abroad and are waiting for a decision
- EU nationals or family members who are currently in the UK and have applied to the EUSS and are waiting for a decision

The rules on travel / entry to the UK are complex. On our website we have a page dedicated to entry to the UK <https://the3million.org.uk/travel-to-the-uk>, which has two downloadable tables “*Download rights to enter general guidance*” and “*Guidance for advisors*”. These tables set out the many different combinations of circumstances which determine whether someone can enter the UK with a pending application.

Very broadly, the Home Office has said that those with **pending EUSS Family Permit applications** are not allowed to travel to and enter the UK until their application is determined. Some try to enter as visitors but they are at risk of being refused entry by a Border Force officer when questioned about their visit intention.

As regards those with a **pending EUSS application**, i.e. in possession of a Certificate of Application, the Home Office position is that only those who were resident in the UK *before* 31 December 2020 are entitled to enter the UK. People therefore need to have not just their Certificate of Application, but also proof that they were in the UK before the end of the transition period.

These rules are set out in guidance on the Government website at <https://www.gov.uk/government/publications/entering-the-uk-under-the-eu-settlement-scheme-and-eu-settlement-scheme-family-permit>.

We consider it unfair, especially in the light of lengthy delays to EUSS Family Permit and EUSS applications, that people are prevented from travelling to the UK, or trapped in the UK unable to travel out and return. We wrote to the Home Office about this in April 2022, setting out all the ways in which we consider the policy to be inconsistent, unreasonable, and in breach of the Withdrawal Agreement.

However the Home Office reply made clear that they consider Article 18(3) of the Withdrawal Agreement (which states that “*all rights provided for in this Part shall be deemed to apply to the applicant*” while a decision is pending) does not apply to entry to the UK. See our letter and the Home Office reply here: <https://the3million.org.uk/publication/2022081903>. This is still a point of difference between the UK and the EU Commission, which considers that someone holding a Certificate of Application should be able to travel to the UK.

3. Creating a secure and cost-effective physical backup that can be used in international travel

the3million has a proposal on secure, cost-effective proof of status that can be used to check status offline. It is fully ICAO compliant ([ICAO 9303 Part 13](#) on Visible Digital Seals, otherwise known as 2D Barcodes, or QR codes). These ICAO standards were also instrumental in providing e.g. internationally recognised health documents during the Covid pandemic (for example [this ICAO document](#) shows how it was used for proof of testing, proof of vaccination).

We have had some engagement with the Home Office on this proposal (see <https://the3million.org.uk/publication/2023121501> for the whole correspondence chain). A very brief summary of this engagement is as follows:

- June 2021 - we had an online meeting with some officials and explained our proposal, which was received positively.
- June 2021 - March 2022 - MPs, when replying to their constituents who had written about wanting a backup to their digital status, consistently quoted that the Home Office were aware of the3million's proposals and were engaging constructively with them.

Indeed, even in December 2021 the immigration minister [said in the House of Commons](#) *"An app-based solution was helpfully suggested by the3million. Having held my role, the hon. Lady will know the usual sorts of security caveats that we would add, but it is certainly something we will look at."*

- February 2022 - during House of Lords debates on the same bill, a peer said *"The Home Office said it was considering the 3million's proposal but has failed to engage with it since June 2021, which is eight months ago. The Home Office really needs to focus on this. The Minister has consistently said, "Don't just bring me criticisms; bring me solutions"—my noble friend has brought a solution."*
- March 2022 - as a result of the above debate, the Home Office wrote to us, rejecting our proposal (see letter March 3rd, in correspondence chain). Although we replied within a week, counteracting their rejection arguments, we then heard nothing further for over a year. During this time we did raise the proposal whenever the opportunity arose, and various stakeholders including some EU Member States gave support to the proposal.
- June 2023 - an unexpected further letter (see correspondence chain) from the Home Office, in which they acknowledge that a printed proof of status would have value in some situations: *"Based on our own user research, stakeholder engagement, and feedback received, we acknowledge there remain some limited scenarios where people could benefit from a secure, printed document or other "offline token" that enables them to prove their immigration status. The first of these is in the context of travel, and the second is for those who are digitally excluded and do not have additional support or help. We believe these are the only two scenarios in the "digital by default" immigration system in which a fallback to our online services would have value."*
- December 2023 - a further reply (see correspondence) which contradicts their June letter, stating *"We remain committed to a digital system of real-time checks, and we will not compromise on this principle."* and *"We can confirm that offline proof of immigration status will not be required for travel permission checks by airlines and carriers bringing people to the UK."*