

UK Border Digitalisation – a Commentary on the Current State of Affairs

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Abstract

The commentary focuses on the current process of converting the British immigration procedures into an entirely digital format, as part of a reform brought about by Brexit and in the framework of broader digital strategies in the United Kingdom of Great Britain and Northern Ireland. The British government's ambitious aim is to digitalise the immigration procedures by 2025, further support eGates and eventually enforce a contactless mode of arrival. The policy plan, its execution to date and its reception are analysed briefly. Taking into account that the government is revealing only selected aspects of the complex system rather than all the mechanisms and safeguards, neither British digital sovereignty in this matter nor the scope of protection of personal and meta-data could be fully examined.

The challenges already encountered are set out, with the conclusion being that a human-centred approach is still lacking in the practical employment of the policy. Subsequently, the isolationist or populist concept of protecting the state against any migrant, as a potential threat rather than a potential to be developed for the benefit of the state, is the prevailing mindset. Finally, the current political and economic instability may play a pivotal role in policy implementation and contribute to its ultimate failure.

Keywords

border management, Brexit, contactless border, digital border, digital status, eGates, electronic travel authorisation, European Union Settled Scheme, immigration procedures, United Kingdom of Great Britain and Northern Ireland

1. Background

A multifaceted and wholesale immigration reform was brought about by Brexit. It includes a plan to digitalise the immigration procedures by 2025, support eGates and eventually enforce a contactless mode of arrival (as for the majority of travellers). The digitisation of border control is part of a broader horizontal strategy drafted in the

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policy paper entitled 'Plan for Britain', published on 1 March 2017 [1]. The way the British government envisages the post-Brexit situation makes clear its desire to retain Britain's global role:

“The UK has a proud history of digital innovation: from the earliest days of computing to the development of the World Wide Web, the UK has been a cradle for inventions which have changed the world. And from Ada Lovelace - widely recognised as the first computer programmer - to the pioneers of today's revolution in artificial intelligence, the UK has always been at the forefront of invention.”

The main aim of general digitalisation as a mainstream policy is presented as not only a way to a richer nation but also a more egalitarian one. Whereas, in fact, research and polls reveal that Britain is still a very class-ridden society with titled aristocrats, inherited wealth and privileges [2]. On the one hand mobility is thus an important drive towards greater social equality, which can be enhanced with proper migration management. On the other hand, the current system is definitely not fulfilling expectations, since it requires advanced digital literacy and visa waiting times are worsening as the backlog of applications rises.

The first stage after leaving behind the EU freedom of movement was registration of EU citizens that were settled in the UK prior to Brexit, and at the same time the introduction of the points-based migration system for any newcomers, which was intended to be: fair, firm and skills-driven. The pilot of the first fully digital migration route was already in place as of 2021 – known as the EU Settlement Scheme. The system is currently functioning for almost 7 million applicants and has been slightly adapted on the way due to much higher demand than expected and complications arising from COVID-19.

The migration databases' interconnection with criminal records and the speeding up of procedures are also a must, with the new Electronic Travel Authorisation project planned for launch in 2023. The Home Office assumes that the system will become fully operational by 2024 and that an estimated 30 million non-visa visitors will apply electronically every year to be able to cross the border.

2. Serious delays in visa and passport processing

It is worth noting that currently the Home Office is dealing with certain procedures in premises in the UK, while some services, including biometric data collection, are already outsourced nationally to UK Visa and Citizenship Application Services (Sopra Steria) and worldwide Visa Centres (TLSContact, VFSGlobal).

According to the last update in August 2022 [3] – most of the entry schemes that are to be approached from outside the UK take about 8 weeks until completion, from the initial appointment in a visa centre to the issuance of the final decision. The goal is to have them finished in no more than 3 weeks. Some of the migration routes are even more time-consuming, with an average processing time of 12 weeks for a Hong Kong British National (Overseas) visa or family reunion. The longest procedures take an average of 24 weeks, as in the case of applying to settle in the UK as the spouse, partner or family member of someone who has British citizenship or is settled in the UK.

An applicant generally receives a decision on their UK visa application within 8 weeks (when applying from inside the UK), with the exception of the EU Settlement Scheme, which takes an average of 6 months. Special routes for Ukrainian citizens were criticised for taking months, especially in comparison with the EU's instant activation of the Temporary Protection Directive (Directive 2001/55/EC). Similarly, the UK Passport Office is dealing with a huge backlog when it comes to issuing new documents. The previous timeframe of 3 weeks (before the pandemic) has changed to 4-6 weeks or longer. The majority of passports are issued within 10 weeks [4].

The above examples clearly show that the goals of shrinking visa backlogs are quite ambitious and may not be answered solely by digitalisation. In fact, the expected waiting times are becoming longer and longer, rather than actually decreasing. Moreover, in practice it is difficult to receive any feedback on anticipated processing times in individual cases. This is especially true when there are no deadlines specified for various standard procedures on the part of British institutions. This process has a serious impact on the applicants involved, as their national passports are either retained or else there is no means of entering or exiting the UK throughout the whole immigration procedure (which may result in months or even years of uncertainty). Thus, the possibility of fast-tracking administrative procedures or judicial reviews (i.e. to challenge the legality of decisions or inaction in processing claims) is a proposal *de lege ferenda* (with a view to future law) for all migration routes.

3. Digitalisation process in policy planning and implementation

The UK Government is presenting its policy rollout as an unbridled success, at least on paper. Even the former difficulties in execution due to COVID-19 or the need to add new routes are labelled as an uninterrupted string of successes. The Secretary of State for the Home Office, Priti Patel, published in July 2022 a New Plan for Immigration, in which she specified that: “Since this Government ended freedom of movement, we have implemented a global points-based system which has gone from strength to strength, with visa application numbers above those of pre-pandemic levels.”

Moreover, the document further states boldly that “the changes we have already made enabled us to quickly adapt to meet the needs of those impacted by major international events such as the Covid-19 pandemic and the ongoing Russian invasion of Ukraine. We want to go further, with customers experiencing a slick digital interface akin to their daily interactions with businesses or services” [5]. However, in spite of the pressure to deliver, both the parliamentary opposition and non-governmental organisations see many flaws that contradict this rosy view of affairs. A selection of examples of the most challenging issues in the ongoing digitisation process is provided below.

The commencement of the reform was very unfortunate, with critical failures in data security. Not long after launching the 2025 UK Border Strategy in December 2020 [6], due to a coding error within the Home Office, more than 213,000 fingerprint, DNA and arrest history records were erased from the Police National Computer. The inadvertent destruction of biometric evidence and the shutdown of the visa system software for 2 days caused acute embarrassment to the government and created a serious crisis for the system, if not a threat to public safety itself. Home Secretary Priti Patel attributed the critical situation in both justice and migration systems to a software bug [7].

4. Piloting the Border Crossing BX - EUSS as a digital system

The testing ground for the advanced digitalisation of procedures was primarily the registration system for EU residents – as a consequence of Brexit and based on Part Two of the UK-EU Withdrawal Agreement (European Union Settlement Scheme). The Agreement safeguards the post-Brexit residency rights of EU citizens and their families living in the UK (and vice versa for British citizens living in the EU countries) before the end of the transition period (set as 31 December 2020).

The most recent statistics show 6.7 million applications were received as of 30 June 2022, 91% of which were accounted for by European Economic Area (EEA) nationals, with the highest number of applications from Romanian (1,290,850), Polish (1,159,740) and Italian (594,390) nationals. The applicants could use their smartphones with NFC (Near-Field Communication) technology and the EU Exit: ID Document Check app to complete the identity verification stage of the procedure. The mobile app was used to check that an identity document is genuine and to confirm the bearer [8]. The EUSS was a step towards moving away from physical documents that confirm immigration status

(stamps in passports and Biometric Residence Permits), and replacing such documents with an online immigration status verification system. The result of this procedure is digital – there is no physical proof of the right to a settled or pre-settled status. Therefore, a successful applicant demonstrates their status with share codes. The codes are generated online and may be shared with employers (right to work), landlords (right to rent), authorities (right to claim benefits) and law enforcement (right to remain), alongside the date of birth of the immigrant in question. The share code should be valid for 90 days. This service is designed for those who have UK Visas and Immigration account. By having a UK Visas and Immigration online account and presenting an EU national ID or passport at the border, a right of entry can be proved. An applicant during the procedure should have the same capabilities and rights as the person already granted an official status, and they should be able to prove their rights with an application certificate in PDF form. In theory, it should be a smooth and efficient and user-friendly process, a win-win situation for both administration and applicants.

However, the digital status has many downsides and its users have made numerous complaints about it. The applicants and their concerns are not placed at the forefront of policy [9]. Furthermore, the accessibility of information and transparency of the procedures are not adequately secured. Not only it is difficult for some people (disabled, vulnerable, elderly, technologically excluded or disadvantaged) to rely on virtual rights without any physical backup document [10]. It also creates many stressful circumstances, especially at the airport with carriers having unclear liabilities for passengers that are unable to prove their rights with a traditional document . Not to mention the risk of being exploited by the so-called advice sharks that set up an account, but then make the applicants dependent on their services and unable to regain control over their own accounts and data [11].

5. Next step – Electronic Travel Authorisation, improvement of eGates and contactless border

The introduction of the ETA (Electronic Travel Authorisation), a pre-travel permission system (similar to the American ESTA and European ETIAS), is scheduled to start from 2023. It involves several stages of implementation. Before travelling to the UK without an advance visa or a confirmed immigration status, a non-visa national visitor will have to apply electronically for a special e-permission. The ETA should be automated and basic immigration and criminal records checks performed prior to issuing approval (with complex and adverse decisions being made by trained caseworkers). Apart from securing the border and preventing the arrival of someone that would not obtain entry clearance, it should also give the authorities the tools for thorough and precise tracking of entries and exits. Currently, the data on visas and border crossings are fragmented across disparate systems. The Initial Status Analysis system combines data from several administrative sources. The inclusion of data on EU citizens (with their different statuses) is to be gradually incorporated [12]. Moreover, the pandemic took its toll on the accuracy of data. The travel and tourism statistics are generally published by The Office for National Statistics and are based on the International Passenger Survey. The ETA scheme is due to operate fully by the end of 2024 [13].

When it comes to eGates , there are currently over 270 automated frictionless self-service barriers at 15 air and rail ports. These devices are supervised by the Border Guard and use data stored in a chip of biometric passports, along with a photograph or fingerprint taken at the time of entry, to verify the passport holder's identity. Although the current minimum age to use them is 12 (with an accompanying adult), the plan is to ease travel difficulties by reducing it to 10 years of age [14], which would enable further accelerated passenger flow management. The goal of increasing automation at the border is to eventually test a fully contactless travel experience, with the ability to undergo automated border screening [5]. However, specific solutions for contactless border management have not yet been presented by the Home Office. There are only Digital, Data and Technology principles available [15].

6. Conclusions

The full digitalisation of border control by 2025 is undoubtedly a truly ambitious plan. Though a digital end-to-end journey is the goal of the Home Office, it is nevertheless emphasised that this ought to be achieved without compromising on security, which has always been a top priority. The recent political and economic situation does not provide a seamless framework for such a sweeping reform. The changes in government and serious internal issues make it harder to implement far-reaching changes that require time and stability.

If the Home Office succeeds, it would undeniably put the UK at the forefront of border management. However, the implementation has been far from smooth to date. Technology can certainly help the Home Office staff to be more productive, especially taking into account their current backlogs. Although it provides data and many instruments to adjust migration policy on a fairly timely basis, its flaws are apparent given the delays and technical problems the Home Office is struggling to deal with.

Britain is not aspiring to welcome migrants with open arms, neither those arriving after lengthy and costly visa procedures nor forced migration. Digitalisation has the potential to dehumanise visa and immigration procedures even further. Today's progressively hard-line border policy, in terms of a fortress-like approach to every migrant as a potential over-stayer and exploiter of public funds, is arguably counterproductive. With the British economy in trouble and suffering from labour market shortages, the UK may find it increasingly difficult to attract both global talent and the low-paid workers it needs. A traveller-centred approach, with legal safeguards for the individuals concerned, should not only be an expedient catchphrase but a genuine reform principle underlying the UK's digital border and migration policy.

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