



What action is the government taking to tackle overstaying?

Illegal Immigration: MW 488

Summary

1. The number of foreign nationals who need a visa but who the Home Office did not record as departing the UK on time **nearly doubled** from 50,000 in 2016/17 to nearly 92,000 in 2019/20. Additionally, the most recent investigation into the number of visitors from more than 50 countries who do not need a visitor visa to come here for a stay of six months, but who were not recorded as departing on time, found that they could number 250,000 a year. The Home Office (HO) previously rejected a recommendation to improve analysis of this data on what may be the largest tranche of potential overstaying. They have since evaded parliamentary questions aimed at establishing an updated figure. We have serious questions about why the HO has failed to follow recommendations from the independent borders watchdog to analyse and better understand the huge amount of data it possesses on possible overstaying by non-visa national visitors, and on whether effective action is being taken to close this large gap in immigration control, alongside effective enforcement action.

Introduction

2. Prior to Brexit, EEA nationals had free entry to the UK while non-EEA nationals were divided into two groups – those nationalities requiring a visitor visa to come here for a period of up to six months, and those that could visit for that period without prior permission. The latter, referred to as “non visa nationals,” comprised those from about 55 countries, including the USA, Japan and Brazil. This group of countries was the source of nearly ten million passenger admissions for the purpose of a visit in 2017 (nearly 3/4 of all non-EEA visits).

Potential overstaying as suggested by Exit Checks analysis

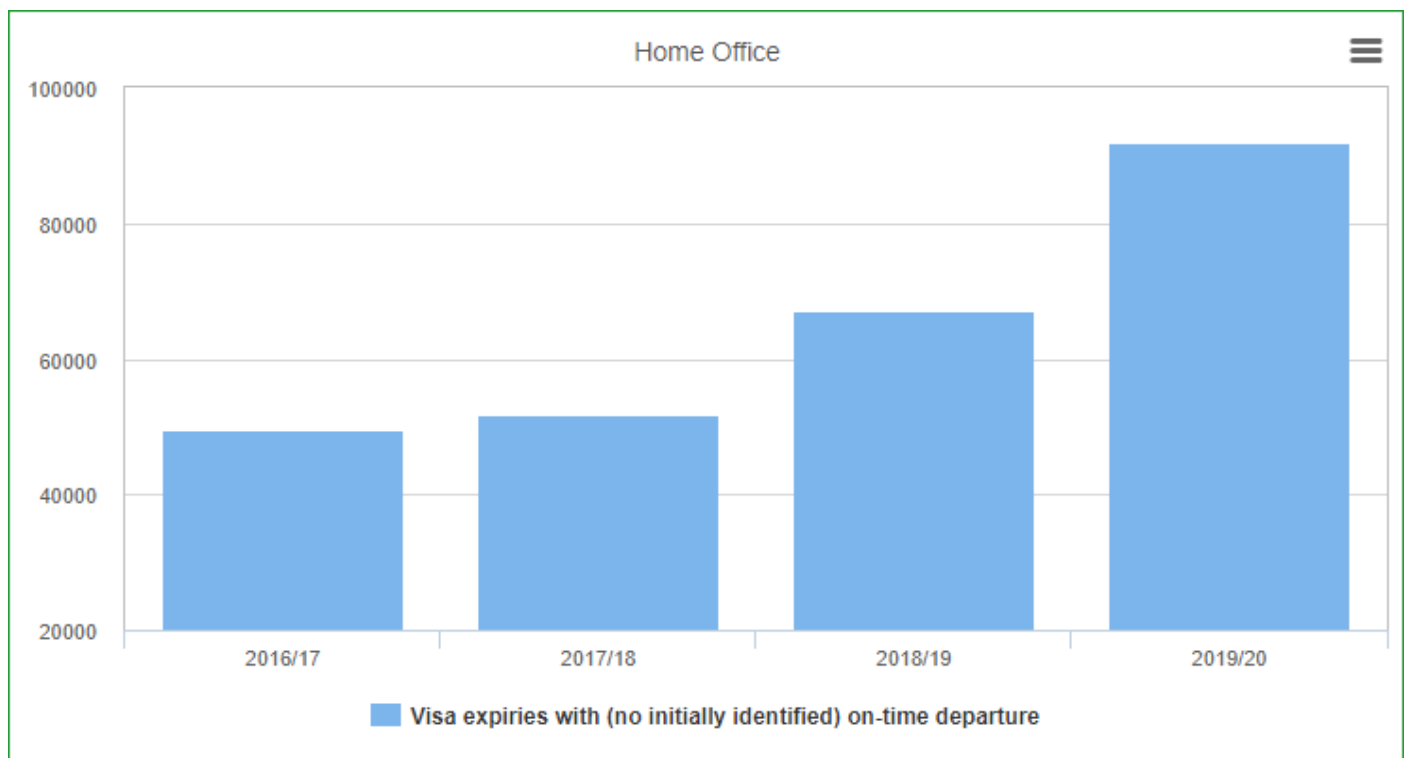
3. Each year the Home Office releases analysis looking at how many non-UK nationals who are here on either longer-term (work, study, family) visas or on visitor visas are not leaving in line with their permission to be here. This does not include “non visa nationals”¹. Such releases are based upon information derived from **Initial Status Analysis (ISA)**, a database that was built as part of the Exit Checks Programme. ISA matches inbound and outbound travel data received via the Home Office’s Semaphore system² with data recorded on other Home Office immigration-related systems. According to the HO, ISA *‘combines data from Home Office systems to build travel histories that consist of an individual’s travel in or out of the country,*

together with data relating to their immigration status, such as periods of leave granted'. To do so, it uses data from visa applications, Advance Passenger Information, biometric details and information derived from passport examinations at the border. Although the Exit Checks Programme closed in 2016, ISA is still used to verify departures.

4. The failure to record departure may not always indicate overstaying but may be due to data matching issues or other anomalies, for example where outward travel is by the Common Travel Area. The HO has also said: *“There is more confidence in data on visa nationals, because more information is held on them through their visa. Therefore, the quality of data matching is believed to be higher for visa nationals and so only data relating to visa nationals is included in this statistical report.”*³ Despite this the Independent Chief Inspector of Borders (ICIBI) described those not recorded as departing as **'probable overstayers'**.⁴

5. The latest Exit Checks analysis suggest that the percentage of visa-expiries with no initially identified departure increased from 3.7% in 2016/17 to 4.8% in 2019/20. The total annual number of visas expiring rose from 1.3 million to just under two million. This suggests that the number of people for whom no departure was recorded rose from just under 50,000 to nearly 92,000 over the past five years. The estimate set out in the bar chart below is partially corroborated by information that was revealed in a 2020 report by the National Audit Office on the topic of immigration enforcement. This said that 60,000 people whose visa had expired may have stayed on in 2018/19.⁵

Figure 1: Visa-expiries with 'no initially identified departure', 2016/17-19/20. Home Office.



6. The figures suggest that the problem of overstaying may be getting worse. If so, it may be linked to a number of deficiencies with immigration enforcement, which have been documented by ourselves, and other bodies such as the House of Commons Public Accounts Select Committee, the National Audit Office, the ICIBI, Policy Exchange and Civitas. Linked to this, there appears to be a growing perception that those who do not follow the rules are decreasingly likely to be obliged to leave or face penalties for knowingly overstaying a visa, which is a criminal offence under the Immigration Act 1971.

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7. The figures above **do not** include potential overstayers who are from 55 or so non-visa countries nor those on long-term visitor visas.

How many non-visa national visits are there in a normal year?

8. A total of 9.6 million non-visa nationals arrived in the UK in 2017 as visitors. They accounted for 73% of the total of 13.4 million non-EEA visitors that year.⁷ Meanwhile, the ICIBI noted in 2018 that there were 10 million visa nationals and non-visa nationals recorded in ISA whose last period of leave expired between 2015 and 2017.⁸

Does the government hold information on potential overstaying by non-visa visitors?

9. In a Parliamentary Answer of 8 February, the Minister stated that the government *'do not currently hold any **existing assured** data relating to the cohort of non-visa national visitors whose permission to be in the UK has expired and there is no record of departure'*.

10. The key word here may be 'assured'. This is because we already know from the ICIBI's March 2018 report on exit checks that data on non-visa nationals was 'ingested' into the ISA database.⁹ Additionally, the HO confirmed this again in August 2020 when it said: "The ISA system *contains data on both visa nationals and non-visa nationals.*"

What is the latest figure on non-visa visitors not recorded as departing on time?

11. The ICIBI report on exit checks, published in 2018, said that the system contained no evidence of departure for **513,088 non-visa nationals, or just over 250,000 per year**, as well as 88,000 visa nationals.

12. ***The government have declined to give their current estimate of the number of non-visa national visitors and those on long-term visit visas who are not recorded as leaving.*** When asked in repeated Parliamentary Questions earlier this year about the current estimated number of non-visa nationals not recorded as leaving¹⁰, the government refused to release a figure. In their most recent Parliamentary Answer, published on 8 February 2021, a Home Office minister referred the questioner to the Exit Checks analysis but, as noted above, this does not contain the relevant information. The answer added the following:

*"To attempt to answer the question from data we hold would require significant technical, analytical and assurance work to establish the accuracy of any data for this cohort held within the immigration system."*¹¹

13. The HO clearly has less confidence about this data than it does in the data it holds on visa nationals. However, that just makes it all the more baffling that the HO has not conducted verification in recent years, particularly since the ICIBI highlighted this issue, and recommended action to address it, back in 2018 (see paragraphs 14 and 17 below).

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Findings by the ICIBI in 2018

14. The ICIBI's report noted the data on non-visa nationals was not routinely used by the Home Office for operational purposes. There was no explanation for this. Also surprising was the revelation by the ICIBI that *'as at 31 March 2017, no attempt had been made to contact any of the 513,088 non-visa nationals for whom ISA had no record of departure'*.

15. This may point to the lack of resources for immigration enforcement or even to a lack of will on the part of the government to truly get to grips with this huge tranche of potential overstaying. It is also possible that the HO has been overwhelmed by the volume of data that it has been collecting. As at March 2017, ISA contained over 161 million data records and over 61 million "identities".

16. The ICIBI's report also revealed that a data gap connected with the Central Reference System - a database of all UK visa applications - created problems when trying to establish the compliance of non-visa nationals.

17. The overarching recommendation of the ICIBI report was that the Home Office should *'re-establish the Exit Checks Programme, with appropriate Programme oversight, governance and documentation, to drive the improvements needed in data quality and completeness and to coordinate and encourage its effective operational use'*. Also included was a recommendation that the Home Office extend ISA data analysis to cover non-visa nationals with no record of departure and also to visa nationals holding long-term (2, 5 and 10-year) visit visas. As the ICIBI noted, a *'significant amount of work remained to be done to get full value'* from the Exit Checks.

Rejection by the HO of the ICIBI's recommendation

18. However, the Home Office **rejected** this recommendation - on the following grounds: *"The Exit Checks Programme closed in May 2016 having delivered its objectives. It was an implementation programme and outbound travel data which was previously not acquired is now processed routinely in line with the scope determined by the Programme."* This may be true as far as it goes, but, as noted above, it appears that data on non-visa nationals - despite being "ingested" into the ISA - has not been used on an operational basis. We would be interested to hear confirmation whether this is the case - one way or the other from the HO.

19. In explaining its rejection of the ICIBI recommendation, the HO noted that it already had a cross-departmental border movements data programme in place (established in November 2017) *'covering the acquisition and exploitation of data about the movement of people and freight into and from the UK which addresses the operational and analytical requirements of the Department, the wider Home Office family, other Government Departments and the Office for National Statistics'*.

20. However, the HO avoided referring to the ICIBI's point about the need to incorporate processing of data on non-visa nationals, appearing to effectively concede that they would not process this data despite it perhaps accounting for 250,000 potential cases per year - and relating to by far the largest tranche of non-EEA visitors each year.

21. What is even more worrying is that, in the Parliamentary Answer from earlier this year, the Minister suggested that work to analyse, verify and use the data on non-visa nationals who were not recorded as departing did not seem to have taken place. This raises serious questions about what - if anything - is being

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done to address this very large potential gap in our borders and whether any enforcement action against non-visa national overstayers is in fact taking place.

Wider failures on border and immigration data

22. This situation has developed in a context that has seen the government increasingly criticised for data gaps on a range of aspects connected with measuring immigration and with failures to deliver key upgrades to digital border systems on-time and on-budget. This means data gaps at a particularly crucial moment - when the UK has left the EU, is bringing online a new immigration system and is in the midst of a global pandemic.

- In December 2020, a report by the NAO lambasted the Home Office over a failure to deliver planned upgrades to digital border systems in line with plans, at the cost of millions to the taxpayer. A planned upgrade to the index to check passengers against the watchlist at passport control was meant to be ready by March 2019. However, by December of that year, six out of the seven pilot ports were using to check **fewer than 20%** of passengers. In March 2020 the programme (called Border Crossing) was suspended again due to 'technical issues' which led to 'system instability'. The NAO also pointed to a **'critical gap in the use of data' which will remain in place until 2023/24 - linked to the failure to upgrade the Semaphore system on-time.**¹²
- The UK is also in the midst of a deep and wide-ranging transition when it comes to measuring immigration, with the suspension of the system that has been in place since the 1960s (the International Passenger Survey) during the Covid pandemic and ongoing work by the ONS to replace it with measurement via administrative data. A press report suggested Britain was 'flying blind' on migration statistics because the monitoring of the number of people arriving and departing had 'fallen apart'.

23. Covid struck during a period in which the government was already facing serious questions over its handling of border and immigration data. It also hit just as the UK was transitioning to a new immigration system with much looser rules as they relate to the citizens of 80% of the world's countries. In light of this, it is a matter of real concern that the government appears to have failed so signally since 2018 to respond satisfactorily to criticism by the independent borders watchdog regarding its handling of data on what may be the largest tranche of potential overstayers.¹³

Conclusion

24. There are serious questions about what the government does with the data it possesses on the largest tranche of potential overstaying - non-visa national visitors, who made nearly ten million visits in 2017. This comes after a great deal of taxpayer money has been spent (much of it wasted) on border data reforms from 2003 onwards. The completion of similar upgrades was deferred yet again in 2019 at the cost of £173 million.¹⁴ The HO should take immediate steps to analyse, verify and then deploy for operational and enforcement purposes the data that it possesses on potential overstaying by non-visa national visitors as well as those here on long-term visit visas. Ministers should also come clean with the public about the scale of this issue and make clear what action they intend to take to address it.

Notes

1. Home Office Exit Checks analysis, 2016 - 2020, URL: <https://www.gov.uk/government/collections/migration-statistics>
2. Semaphore is a 16-year-old system maintained by IBM for analysing advance passenger information provided by carriers. It stores carrier data about passenger movements into and out of the UK and provides an automated matching facility to individuals of interest to the Home Office and UK law enforcement agencies.
3. Home Office statistics on exit checks: user guide, August 2020, URL: <https://www.gov.uk/government/publications/home-office-statistics-on-exit-checks-user-guide/home-office-statistics-on-exit-checks-user-guide>
4. Independent Chief Inspector of Borders and Immigration (ICIBI), 'Inspection of Exit Checks', 2018, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695321/An_inspection_of_exit_checks.pdf
5. National Audit Office, Immigration Enforcement, June 2020, URL: <https://www.nao.org.uk/wp-content/uploads/2020/06/Immigration-enforcement.pdf>
6. Home Office Exit Checks analysis, 2016 - 2020.
7. Home Office visa statistics and admissions tables, URL: <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-june-2019/how-many-people-come-to-the-uk-each-year-including-visitors> & URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/826056/admissions-jun-2019-tables.ods
8. ICIBI report on exit checks, p.20, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695321/An_inspection_of_exit_checks.pdf
9. Figure 2 on page 19 of the ICIBI's report, 2018.
10. Parliamentary answer, 21 January 2021, URL: <https://questions-statements.parliament.uk/written-questions/detail/2021-01-08/hl11926>
11. Parliamentary answer, 8 February 2021, URL: <https://questions-statements.parliament.uk/written-questions/detail/2021-01-25/HL12493>
12. Telegraph, December 2020, URL: <https://www.telegraph.co.uk/news/2020/12/09/e-border-system-spot-terrorists-dangerous-criminals-failed-check/>
13. Mail Online, 5 February 2021, URL: <https://www.dailymail.co.uk/news/article-9226177/Ministers-flying-blind-migrant-statistics-monitoring-fallen-apart-pandemic.html>
14. National Audit Office, Digital Services at the Border, December 2020, URL: <https://www.nao.org.uk/wp-content/uploads/2020/12/Digital-Services-at-the-Border.pdf>