



## Reintroducing exit checks on passengers departing the UK

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Over 100 million passengers travel out of the UK each year, through airports, seaports and international rail terminals.

Paper-based exit (embarkation) checks were abolished in 1994 and 1998, but since the early 2000s successive governments have been working towards introducing technology-based checks on persons departing the country, as part of the e-Borders programme. e-Borders was originally scheduled to be fully implemented by March 2014 but has fallen significantly behind schedule.

The Coalition Agreement included a commitment to reintroduce exit checks by the end of this Parliament in 2015. Home Office Ministers and senior officials continue to express their belief that the deadline will be met. The Government has not described its plans for exit checks in detail, but e-Borders is seen as part of the solution.

e-Borders requires transport carriers to collect passengers' personal information (such as the biographic information held in their passport) and provide this to immigration and law enforcement authorities in advance of travel. Staff in the National Border Targeting Centre use this record of travellers passing through UK ports of entry/exit to conduct security checks on travellers, in order to identify persons of interest to the immigration authorities and police. e-Borders data does not identify the basis on which a person is admitted to the UK, or identify persons whose leave is due to expire.

In addition to using data collected through e-Borders, the Government is proposing giving port and transport provider staff a role in implementing exit checks. The [Immigration Bill](#), which is currently before Parliament, proposes giving third parties powers to collect data and conduct basic checks on persons departing the UK.

This note complements Library Standard Note [SN 5771 The e-Borders programme](#), which contains further information about e-Borders.

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### **1 When were exit checks abolished, and why?**

Paper-based embarkation (‘exit’) controls for passengers departing from the UK were ended in two stages. Checks on persons travelling from sea ports and small airports to the EU (which covered 40 per cent of departing passengers) were abolished in 1994. The remaining checks were abolished in 1998.

The Labour government’s reasons for abolishing the checks were summarised in an answer to a PQ in 1998.<sup>1</sup> It considered that the arrangements were “an inefficient use of resources and (...) contribute little to the integrity of the immigration control.” They were to be replaced by a “targeted, intelligence-led approach” which would make use of technology such as CCTV and liaison between border agencies, port operators and transport carriers.

Over 100 million passengers depart the UK through airports, sea ports and international rail terminals every year.<sup>2</sup>

### **2 Labour’s plans to reintroduce exit checks through e-Borders**

In the early 2000s, the then government began moving towards reintroducing checks on persons departing the UK (albeit using more sophisticated technologies), through the e-Borders programme.

The e-Borders programme was announced in Labour’s [Five Year strategy for immigration and asylum](#), published in February 2005.<sup>3</sup> It included plans for transport carriers to collect detailed information about persons travelling to and from the UK, and share it with immigration and other law enforcement agencies in advance of travel. The authorities would use this advance information to identify perceived immigration/security ‘threats’ and plan appropriate responses. The Five Year plan did not directly refer to exit checks, but stated that “The e-Borders technology will also mean that people’s departure from the country is recorded. This will mean that we will know who has overstayed in the UK, which will help us target our immigration checks.”<sup>4</sup>

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<sup>1</sup> [HC Deb 16 March 1998 c506-7W](#)

<sup>2</sup> Home Office, [Immigration Bill Factsheet: Embarkation Checks \(clause 59 and Schedule 7\)](#), October 2013

<sup>3</sup> HM Government, [Controlling our borders: Making migration work for Britain](#), Cm6472

<sup>4</sup> HM Government, [Controlling our borders: Making migration work for Britain](#), Cm6472, para 63

In 2006, the Labour government confirmed that exit checks would be reintroduced as part of the phased introduction of e-Borders, which was scheduled to take place between 2008 - 2014:

We will progressively reinstate exit—in other words, embarkation—controls in stages, starting with the higher-risk routes and people, identify who overstays and count everyone in and out by 2014.<sup>5</sup>

The Conservative and Liberal Democrat Shadow spokesmen both welcomed the reintroduction of exit checks, which they regarded as long overdue.<sup>6</sup> Other commentators, including think-tanks, stakeholders and successive Home Affairs Committees, had also been calling for exit checks.<sup>7</sup>

A 2006 Home Affairs Committee report identified some of the benefits of conducting exit checks, and urged the then Government to ensure that any overstaying revealed by embarkation checks could be used as the basis for identifying visa overstayers:

446. The danger of re-introducing embarkation controls is that it might encourage people to stay illicitly rather than risk being caught at the border for overstaying. However, if passports were simply scanned in order for the person's record to be marked up, and whatever the result the person was allowed to leave, it should then be apparent if the person had overstayed. This could be used as a ground for refusing any subsequent application to come to the UK; if they never wanted to come back to the UK it would be irrelevant.

447. The next stage would be to use the embarkation checks to identify and trace all those who should have left but have not.

448. We understand that the introduction of e-Borders will effectively mean the reintroduction of embarkation controls. We welcome this development and urge its swift and effective completion. However, the Government must also have a clear strategy for acting on the information collected. Firstly, it must be used in subsequent applications: even scanning the passport so that the database shows the person had left and on time would be immensely valuable to anyone deciding a subsequent application. Secondly, it must be used to identify those who entered the country legitimately but have overstayed their visa without attempting to regularise their position.<sup>8</sup>

### **3 The Government's commitment to reintroduce exit checks by 2015**

The Coalition Agreement included a commitment to reintroduce exit checks by the end of this Parliament (i.e. April/May 2015).<sup>9</sup> The Government has not described its plans in detail, but has consistently said that it is considering how such checks could operate, and how the e-Borders system could help.<sup>10</sup>

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<sup>5</sup> [HC Deb 25 July 2006 c735](#)

<sup>6</sup> [HC Deb 25 July 2006 c739; c742](#)

<sup>7</sup> For example, Open Europe, *Press Release: Why work permits won't work*, 24 October 2006; Immigration Advisory Service, *News & media releases: IAS Chief Executive warns Home Office about need for independent checks*, 13 February 2007; Home Affairs Committee, *Immigration Control*, 23 July 2006, HC775-I, para 442-448

<sup>8</sup> Home Affairs Committee, *Immigration Control*, 23 July 2006, HC775-I

<sup>9</sup> HM Government, *The Coalition: our programme for Government*, May 2010, p21; Home Office, *Business Plan 2012 - 2015*, May 2012, para 4.4

<sup>10</sup> [HC Deb 30 October 2012 c180W](#)

In July 2013 the Deputy Prime Minister reportedly expressed concerns about how long it was taking to reintroduce the checks and cast doubt about whether they would be fully in place by April 2015.<sup>11</sup> Other Government Ministers and senior Home Office officials have consistently reiterated the Government's commitment to exit checks, and their belief that the 2015 deadline will be met.<sup>12</sup>

## 4 How far does the e-Borders system contribute to exit checks?

### 4.1 'Electronic' exit checks, and their limitations

e-Borders requires transport carriers to collect passengers' personal information (such as the biographic information held in their passport) and provide this to the National Border Targeting Centre in advance of travel. In this way, the authorities have a record of travellers passing through UK ports of entry/exit. Staff in the National Border Targeting Centre conduct security checks on travellers, including by comparing passengers' details against information held on other databases, in order to identify persons of interest to the immigration authorities and police.

e-Borders data does not identify the basis on which a person is admitted to the UK, or identify persons whose leave is due to expire. It is not used to trace specific individuals, such as persons who have overstayed or been refused further leave to remain (although some information about them would be captured if they leave the UK on a route covered by e-Borders).<sup>13</sup> So, for example, the Government has not been able to use e-Borders data to analyse rates of compliance with immigration controls:

**Nicholas Soames:** To ask the Secretary of State for the Home Department what assessment she has made of the early results from the e-borders system on the (a) nationality and (b) entry route of those identified as having overstayed their leave to remain.

**Damian Green** [*holding answer 2 July 2012*]: The e-Borders system enables checks to be made on individuals arriving or exiting the UK, but does not collect information specifically on individuals identified as overstayers, except when they leave the UK on certain routes.<sup>14</sup>

In order to identify individuals who have voluntarily left the UK without informing the immigration authorities after receiving an adverse immigration decision, the Home Office conducts data-matching exercises between e-Borders and other immigration databases. These statistics are recorded in Home Office immigration statistics as voluntary departures (data matching) removals.<sup>15</sup>

An inspection report published in October 2013 by the independent Chief Inspector of Borders and Immigration noted that approximately 2,700 cases had been closed by the UK

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<sup>11</sup> Telegraph.co.uk, "[Exit checks at UK borders will not happen by 2015, Nick Clegg admits](#)", 31 July 2013

<sup>12</sup> See, for example, Home Affairs Committee, *The work of the Home Secretary*, 5 July 2013, HC 563-iii, q245; HC Deb 15 July 2013 c750; Home Affairs Committee, *The work of the Permanent Secretary*, 23 August 2013, HC 233-i, q6; Home Affairs Committee, *The work of the Border Force*, oral evidence 8 October 2013, to be published as HC 658-i, q43; q46

<sup>13</sup> HC Deb 17 July cc656-7W

<sup>14</sup> HC Deb 3 July 2012 c547W

<sup>15</sup> HC Deb 10 January 2012 c167W

Border Agency (as then was) between April - November 2012 as a direct result of e-Borders analysis.<sup>16</sup> This work had enabled enforcement activities to be directed at other cases.

However the Chief Inspector warned that remotely collecting travellers' biographic and passport data is only part of what constitutes an exit check. He noted that Border Force was not using e-Borders data to apply other aspects of exit checks:

8.56 (...) In order for e-Borders to be used as the basis for the delivery of the Ministerial commitment to introduce exit checks by 2015, it must be capable of facilitating physical interventions where appropriate. We found that the Police did mount interventions against passengers leaving the UK as a result of information provided by e-Borders. In contrast Border Force was not able to exploit the system to intercept departing passengers because:

- outbound immigration matches were not processed in real time; and
- virtually all outbound commodity matches were deleted without further examination.

8.57 Border Force will need to address these issues and ensure that resources are available to conduct the necessary interventions at ports if e-Borders is to be used as the basis to deliver the commitment to introduce exit checks.<sup>17</sup>

**4.2 The difficulties in achieving full coverage for e-Borders**

Legal and practical difficulties in implementing e-Borders, which have contributed to the project falling considerably behind schedule, also limit the extent to which e-Borders can provide a complete solution to applying exit checks.

The Government now considers that in light of the factors which potentially limit the volume of passenger data that e-Borders can capture, it is not possible to set absolute targets for collection of passenger data.<sup>18</sup>

It was originally anticipated that e-Borders would be collecting details of 95 per cent of passengers and crews by December 2010, and would be fully operational by March 2014 (i.e. covering all international travellers using all ports, including matching their arrivals to their departures).<sup>19</sup> As at March 2013, the proportion of passenger data being collected by e-Borders was as follows:<sup>20</sup>

<b>Figure 6: e-Borders data received as at 04/03/13</b>	
Total Passenger Movements (air, sea, rail)	65%
International Air	80%
EU Air	70%
Non EU Air	100%

<sup>16</sup> Independent Chief Inspector of Borders and Immigration, *'Exporting the Border?' An inspection of e-Borders October 2013 - March 2013*, 9 October 2013  
<sup>17</sup> Independent Chief Inspector of Borders and Immigration, *'Exporting the Border?' An inspection of e-Borders October 2013 - March 2013*, 9 October 2013  
<sup>18</sup> HC Deb 24 April 2013 c943W  
<sup>19</sup> HC Deb 14 January 2010 c1087W  
<sup>20</sup> Independent Chief Inspector of Borders and Immigration, *'Exporting the Border?' An inspection of e-Borders October 2013 - March 2013*, 9 September 2013

Several factors have contributed to the delays, including a dispute with the private sector contractor who was the “prime supplier” for delivery of the e-Borders programme, and some major operational, legal and sector-specific difficulties encountered during implementation of e-Borders.

In particular, there has been uncertainty about whether certain transport sectors will be able to accommodate the e-Borders requirements (particularly the railway and maritime sectors). For example, Eurostar tickets are sold from a large number of stations and outlets, not all of which have the facility to collect and transmit passenger data for e-Borders. Similarly, bookings systems used by ferry companies do not record passengers’ details, since they are concerned with selling deck space rather than individual seats. Only passengers who present as foot passengers are issued with individual tickets, and it would not be possible for the companies to collect their details and pass this on to e-Borders before the passengers presented at check-in. There are also difficulties in aligning e-Borders requirements with practices in the general aviation (e.g. private flights) and general maritime (e.g. leisure craft) sectors.

Furthermore, significant concessions have been necessary in order to ensure that e-Borders is compatible with EU freedom of movement and data protection laws. These have also affected the extent to which e-Borders is able to collect data about journeys to/from the UK. In particular, EU citizens and their family members cannot be compelled to provide passenger data; nor can e-Borders require companies to collect and process passengers’ data if to do so is not in accordance with the domestic law requirements in the Member States where they operate.

## **5 Exit check provisions in the *Immigration Bill* of 2013-14**

Collecting information about persons departing the UK through the e-Borders system appears to be a significant part of the Government’s strategy for implementing exit checks. However the Government has recognised that this approach will not provide a complete solution - particularly in the rail and maritime transport sectors, where the implementation of e-Borders is more problematical (as discussed in section 4 above).

In circumstances where exit checks will need to be conducted at the border, the Government is proposing that they are combined with existing outbound passenger processes, in order to minimise disruption to legitimate travellers.<sup>21</sup> In particular, port and transport provider staff would be given powers to collect data and conduct basic checks on departing travellers.

The power to enable designated third parties to exercise immigration officers’ powers to examine persons departing the UK is reflected in clause 58 and Schedule 7 of the *Immigration Bill* (as introduced), which is currently before Parliament.<sup>22</sup>

Staff designated by the Secretary of State could have powers to establish information including a person’s nationality and identity, whether their entry to the UK was lawful, whether they have complied with conditions attached to their leave to enter/remain in the UK and whether their return to the UK is prohibited or restricted. Persons under examination would be under a duty to provide the designated person with all information in their possession as may be required in the exercise of their functions, and may be required to provide specified documents or declare whether they have/had a document that the

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<sup>21</sup> Home Office, *Immigration Bill Factsheet: Embarkation Checks (clause 59 and Schedule 7)*, October 2013

<sup>22</sup> See Library Research Paper RP 13/59 *Immigration Bill*, p39-41



designated person considers relevant for the examination. Designated persons would have powers to examine and detain a passport or other documentation pending its inspection by an immigration officer as soon as reasonably practicable.

A person's immigration status might not be immediately obvious from a visual inspection of their passport. Developments such as the introduction of biometric residence permits for non-EEA nationals mean that in many cases, primary evidence of immigration status does not take the form of a stamp or visa in a passport.

Speaking during the Bill's Second Reading debate in the Commons, Keith Vaz, Chairman of the Home Affairs Committee, suggested that the Government could take swifter action to reintroduce exit checks:

I say to the Minister, however, that we do not have to wait until 2015; we can have exit checks now. He has not written back to me since his last appearance before the Select Committee, when I asked him to confirm that there were no exit checks on departure. *[Interruption.]* No, the Minister has not. Mr Speaker, when you or I leave the country, the airline has a lot of information on us: it knows how we booked our ticket, sometimes which hotels we are staying in, whom we are travelling with, which seat we are on—we can book our own seats—and so on. When we leave at Heathrow airport, they look at our boarding cards, but they do not check our passports. It would be easy to introduce these checks now, and it would be a big win for the Government—much better than ad vans. They could place immigration officers at departure gates—it would not create any queues—to check people's passports as well as boarding cards. That way, they would know who was going in and out. It is not as brilliant as an e-Borders programme, but it would be the first stage of knowing who has left the country. I hope the Minister will give special attention to that point.<sup>23</sup>

The civil liberties and human rights organisation Liberty is critical of the proposal to reintroduce exit checks (in general), and of the specific proposals to give port and transport carrier staff powers traditionally reserved for immigration officers:

115. Liberty is extremely concerned about proposals to extend sensitive examination powers traditionally reserved for the immigration service and intended to regulate admission to the United Kingdom to carriers and their employees. Liberty does not believe that airport staff engaged in the business of facilitating travel should be required to undertake immigration or police functions nor required to exercise intrusive and coercive powers. Liberty does not see the justification for exit checks. Entry checks are undertaken for the purposes of immigration control. It is difficult to see exit checks for everyone leaving the UK will contribute to this aim nor how it is a proportionate way of pursuing the legitimate aim of preventing and detecting crime. By the same token, exit checks applied to certain routes and destinations will discriminate against certain passengers and likely disproportionately affect certain nationalities and minority groups. Further, alongside broad and vague enabling powers there is insufficient detail set out on the face of the Bill as to how this system would operate in practice. This is another inappropriate piecemeal extension of police-like powers for an unclear purpose. It confuses commercial air travel departure arrangements with immigration control and with the detection of crime. It also places onerous obligations on carrier and port operator staff, at risk of criminal penalty, that is unjustified.<sup>24</sup>

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<sup>23</sup> HC Deb 22 October 2013c182-3

<sup>24</sup> Liberty, *Liberty's Second Reading Briefing on the Immigration Bill in the House of Commons*, October 2013