



## **Equality and Community Impact Assessment (ECIA)**

Data sharing between UK Policing and Home Office Immigration Enforcement in relation to victims of crime and witnesses.

## About this document

Immigration Enforcement (IE) is bound by the [Equality Act 2010](#) in relation to the planning and implementation of all activities. An Equality and Community Impact Assessment (ECIA) seeks to identify the risk of direct and indirect discrimination against any national, ethnic group or other group with protected characteristics as defined within the Equality Act 2010 and their potential impact. This ECIA details how the risks and impact of these proposals may be mitigated or eliminated.

This ECIA has been compiled by the Home Office, Law Enforcement Engagement team in conjunction with:

- Immigration Enforcement policy
- Safeguarding policy
- Domestic Abuse Policy
- Public Sector Equality Duty team
- Government Equality Office
- Office of Children's Champion
- Home Office Legal Advisors (HOLA)
- National Police Chiefs' Council (NPCC)

Further assessments may be annexed or otherwise linked to this document detailing additional factors in relation to other policy proposals.

The ECIA will be reviewed and updated in accordance with emerging issues or further proposed changes.

## Data

Unless otherwise stated, statistical data referred to in this document is derived from Immigration Enforcement's National Command and Control Unit (NCCU) database.

## Terminology

Immigration Enforcement is an operational command under the direct control of the Home Office. IE is responsible for local immigration enforcement activity via Immigration, Compliance and Enforcement (ICE) teams based across the UK and consideration of how best to achieve compliance with the Immigration Rules including whether it is right to pursue administrative removal and deportation action against those that have breached immigration law.

The aim of Immigration Enforcement is to enforce compliance with immigration law by detecting individuals who are in breach of immigration law and who may therefore be liable to administrative removal from the UK under section 10 of the Immigration and Asylum Act 1999 (the 1999 Act).

UK Policing includes the 43 territorial police services, Police Scotland, Police Services Northern Ireland, British Transport Police and Ministry of Defence Police.

# 1. Process

The National Police Chiefs' Council (NPCC) guidance on information sharing between police and IE published June 2020 [Guidance on Info Sharing with Home Office Website 2020.pdf \(npcc.police.uk\)](#) sets out when it is appropriate for the police to share data with Immigration enforcement's National Command and Control Unit (IE NCCU) in pursuit of the police's functions. The police have a discretion on whether to pass information to the IE, and IE also have a discretion on how to use all information it receives, having regard to the circumstances of each case. There is a requirement for the police to record the reasons for sharing such data with IE.

The National Command and Control Unit is a 24/7 team and is the single point of access for policing into IE. NCCU receive data on offenders, voluntary attendees, witnesses and victims. They are responsible for establishing the immigration status of referred individuals, in order to provide to policing any safeguarding information held on our systems, and to enable the police to carry out their first responder duties to the best of their ability having regard to all relevant information held.

NCCU use the data provided, combined with information held on IE databases, to determine what action is appropriate considering all the known circumstances of the individual referred. This includes safeguarding and support as well as determining if an immigration offence has been committed. Information may be passed to ICE teams for further investigation in relation to an immigration offence, case-working teams for awareness when considering applications already made, logged as intelligence or no further action taken due to the status of the individual being referred.

## 1.1 Overarching Objectives

The main objectives of data sharing are to:

- bring immigration offenders within the immigration system as it is in the public interest for their status to be established and resolved
- remove any elements of coercive control from the perpetrators by either establishing that the individual has a valid immigration status or bringing them within the immigration system in an informed way to enable the provision of the relevant safeguarding/support to help them regularise their status
- establish the immigration status of the individual being referred and determine if they are entitled to public funds
- provide police with any vulnerability and safeguarding information held on IE systems which they may be unaware of

## 2. Evidence considered in relation to the Public Sector Equality Duty

### 2.1 Context and background

The Immigration and Asylum Act 1999 permits the Secretary of State to share and receive certain information with some law enforcement partners for certain purposes. The Secretary of State may supply such information to a chief officer of police for use for police purposes, which includes the prevention, detection, investigation or prosecution of criminal offences. The police may share information and material with the Secretary of State for immigration purposes. The meaning of “immigration purposes” includes the administration of immigration control under the immigration acts and the prevention, detection, investigation or prosecution of criminal offences under those acts.

The exchange of this data may be subject to an exemption under the Data Protection Act (DPA) 2018 (at paragraph 4 of Schedule 2). This is one of a number of ‘exemptions’ under the DPA 2018 (others include crime and taxation). The immigration exemption allows certain specified data subject rights under the UK General Data Protection Regulation (UK GDPR) to be restricted in certain limited circumstances (where full compliance would prejudice the maintenance of effective immigration control or the investigation or detection of activities that would undermine the maintenance of effective immigration control).

NCCU started recording victim status as a searchable field in April 2020. Between April 2020 and March 2021 police made 126,453 referrals to the Home Office Immigration Enforcement. Immigration officials use the information received to confirm the migrant's identity and provide confirmation of immigration status to the police and the individual being referred and advise any known vulnerabilities as well as to provide advice on addressing any safeguarding concerns.

Police across the United Kingdom may share data with Immigration Enforcement on migrant victims of crime and witnesses they encounter if they know or suspect that an immigration offence has occurred or as part of investigation of criminal offences. This is in accordance with guidance issued by the NPCC, originally published in September 2018, with the most recent update published in June 2020. Between April 2020 and March 2021 police made a total in 1,336 referrals to IE in relation to victims of crime, this accounted for approximately 1.1% of all referrals made. Prior to April 2020 victims of crime were not recorded as a separate category.

The overarching objectives for the data sharing include:

- **Safeguarding:** It is in the interest of the victims of crime to have their immigration status confirmed, and where uncertain to be guided on how to regularise their status or be made aware of the options for returning to their home country. This can play an integral part in removing any coercive threat related to lack, or perceived lack, of immigration status used by the perpetrator against the victim. Further, IE may hold information on their databases on vulnerabilities, family contacts or other relevant information which the police are unaware of and that, by sharing, may assist policing and immigration in safeguarding the victim

- **Enforcing immigration law:** If immigration law is not enforced there would be no incentive to enter the UK legally. Individuals who lack or appear to lack immigration status should be brought into the immigration system, so that their status can be considered and, resolved, either through regularisation of their stay, or by progressing a return to their home country. Further, Parliament has decided to make it an offence under section 24(1) of the Immigration Act 1971 for persons (other than British and certain commonwealth citizens, who have a “right of abode” in the UK under sections 1 and 2 of the Act) knowingly to enter or remain in the UK without leave to do so

## 2.2 Public Sector Equality Duty

The aim of the [Public Sector Equality Duty](#) (PSED) is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer.

The PSED addresses discrimination, inequality and fairness between people who have protected characteristics and those who do not. The protected characteristics are:

- Age
- Disability
- Pregnancy and maternity
- Race – this includes ethnic or national origins, colour or nationality
- Religion or belief – this includes lack of belief
- Sex
- Gender re-assignment
- Sexual orientation
- Marriage and Civil Partnership

Schedule 3 of the 2010 Act sets out exceptions from the requirement not to discriminate in particular circumstances. Paragraphs 15A (age), 16 (disability), 17 (nationality or national or ethnic origins) and 18 (religion or belief) set out limited exceptions for immigration functions in certain circumstances. It should be noted that these exceptions do not provide a general power to discriminate. A policy must be rational and reasonable, and the discrimination justified in addition to being compliant with the Equality Act, or it could be challenged on public law reasonableness grounds.

Schedule 18 to the 2010 Act sets out exceptions to the public sector equality duty. In relation to the exercise of immigration and nationality functions, s149(1)(b) – a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – does not apply to the protected characteristics of age, race (as far as it relates to nationality or ethnic or national origins) or religion or belief.

The Home Office is committed to working in a way that promotes equality, respects diversity and protects communities. We will treat all those with whom we deal with, with respect, dignity and fairness regardless of age, disability, colour, ethnicity, nationality, race, gender, sexual orientation, religion or belief, marriage and civil partnership. This fundamentally important principle underpins all Home Office policies, processes, training and guidance.

The number of migrants in the UK with irregular status who are victims of crime cannot be known exactly as not all crimes are reported and for those that are not all victims or witnesses are referred to IE. The number of victims of crime referred to IE by policing in the year April 2020 – March 2021 was 1336 and represented 1.1% of all police referrals made during the same period.

Witnesses are not recorded by National Command and Control Unit (NCCU) as a separate category and no information on the number of witnesses referred to NCCU by police is available.

## 2.3 Existing powers and processes relating to immigration enforcement

This assessment concerns the risks and impacts associated with data sharing between police and IE in relation to migrant victims of crime and witnesses.

A migrant victim of crime or witness may

- have entered the UK legally and hold status but be unaware of that status
- may have entered legally but not sought or been prevented from seeking further leave upon expiry of their status
- may have entered the UK illegally

If they are without leave this may mean that they are liable to administrative removal if

- they entered in breach of a deportation order
- they entered using false or fraudulent documentation
- they entered using verbal deception
- they entered the UK Via the Common Travel Area in certain circumstances.
- they entered the UK either clandestinely or by deliberately circumventing UK border controls
- they entered the UK legally but have overstayed their period of leave
- they have failed to comply with conditions attached to their legal status
- they have been refused leave to enter at a port of entry
- they have absconded from immigration bail
- they are a seaman deserter

Administrative removal is not automatic. All individual circumstances are fully considered in deciding whether it is right to proceed with removal action including vulnerability.

## 2.4 Current operational powers and process

Powers to arrest and prosecute illegal entrants or those in breach of the conditions of their leave are described within [Immigration Enforcement General Instructions](#); See: [Coercive powers](#), [Arrest and Restraint](#)

This assessment should be read in conjunction with the following related published a policy guidance:

- [Administrative removal](#)
- [Arrest and restraint](#)
- [Enforcement interviews](#)
- [Foreign witnesses: law enforcement requests to the Home Office](#)

In addition, General Instructions, [Safeguarding and establishing lawful residence](#) provides policy guidance to IE staff about those that claim to, or may otherwise be entitled to, historic rights of residence in and/or citizenship of the UK.

Specific guidance on assessing and managing the needs of vulnerable people encountered during immigration enforcement operations is contained within published General instructions –

- [Identifying people at risk](#)
- [Adults at risk – victims of modern slavery](#)
- [Adults at risk in immigration detention](#)

## 3. Consideration of impact

### 3.1 General issues

The data sharing is intended to only occur when police come to know or believe that the victim or witness has insecure immigration status rather than any specific groups defined by the special characteristics described in the [Equality Act 2010](#). We are however mindful that those referred may include identifiable groups and nationalities. To that extent, there is a risk that some groups with protected characteristic/s may be disproportionately affected. This assessment seeks to identify these instances, consider whether this amounts to direct or indirect discrimination, and consider ways to mitigate or eliminate any discrimination.

#### 3.1.1 Identification of rights to remain

We recognise an identifiable risk that some migrant victims of crime and witnesses who hold ongoing lawful status may be referred because they are themselves unaware of their own immigration status or may believe that they have insecure status. The risk of this referral is mitigated by the benefits to the victim or witness of being informed of their lawful status. For those without lawful status, having confirmation of their status and being able to seek appropriate legal advice is also a benefit.

There may be a variety of reasons why an individual has not already acted to establish their stay. Foremost among our concerns is that the person is vulnerable for various possible reasons; for instance, that they did not have the physical and/or mental capacity to act on their own behalf and may not have had access to necessary care and support. This possibility is discussed in the sections below – particularly that concerning [age related issues](#)

Immigration Enforcement acts in accordance with existing policy guidance in relation to the identification of citizenship and residence rights for those we encounter. The complex history of UK immigration regulations requires that careful note is taken of any evidence or suggestion that the person may have existing rights. Policy guidance is contained in [Safeguarding – establishing lawful residence](#)

Although, as stated above, we are mindful of the need to exercise the greatest care in establishing existing rights of residence, we are alert to the possibility of fraudulent claims and are bound by the requirements of the law to fully investigate those suspicions where they arise. Policy guidance provides officers with instructions on the steps to be taken in relation to possible fraud while being mindful of the need to safeguard against possible impact on those who are vulnerable. Our approach to identifying and dealing with vulnerability is more generally discussed in the following section.

#### 3.1.2 Identifying vulnerability and those at risk

We are committed to ensuring that safeguarding and protecting the vulnerable is at the heart of our person-centred approach.

Vulnerability encompasses a wide spectrum of people and can influence how we interact and respond when we carry out our functions. Many of the people we deal with require immediate and prompt safeguarding interventions because they have been victims or are

subject to exploitation. We have adopted a multi-agency approach to improve our understanding and response to the following:

- modern day slavery / human trafficking
- victims of crime
- domestic abuse
- honour based violence
- forced marriage
- vulnerable to radicalisation
- exploitation
- abuse
- mental health
- physical health
- welfare
- gender based violence
- homeless / homelessness

The relevant legislation includes:

- [Council of Europe Convention on action against trafficking in human beings](#)
- [Section 11 of the Children Act 2004](#)
- [Section 55 of the Borders, Citizenship and Immigration Act 2009](#)
- [The statutory guidance "Every child matters"](#)
- [Modern Slavery Act 2015](#)
- [Section 21 of the Immigration and Asylum Act 1999](#)
- [The Immigration Act 2014](#)
- [The Immigration Act 2016](#)
- [The Domestic Abuse Act 2021](#)

When considering whether it is right to undertake enforcement action, including detaining any individual, the practical effect of our [Adults at Risk in Immigration Detention](#) policy is that many people with protected characteristics do not enter detention or are released from detention if there is evidence of relevant risk factors listed below. However, in some cases, a decision to detain may be necessary, even in respect of someone with protected characteristics; for instance, where they hold no leave, have exhausted avenues for obtaining leave and are not willing to leave voluntarily. This action would be a last resort to enforce removal.

The key indicators of risk identified within the policy guidance are:

- suffering from a mental health condition or impairment (this may include more serious learning difficulties, psychiatric illness or clinical depression, depending on the nature or seriousness of the condition)
- having been a victim of torture
- having been a victim of sexual or gender-based violence, including female genital mutilation
- having been a victim of human trafficking or modern slavery
- suffering from post-traumatic stress disorder, which may or may not be related to one of the above experiences
- being pregnant

- suffering from a serious physical disability
- suffering from other serious physical health conditions or illnesses
- being aged 70 or over
- being a transsexual or intersex person

There is some overlap of these risk indicators with many of the protected characteristics under the [Equality Act 2010](#). These indicators also feature within guidance to Immigration Enforcement officers encountering people during visits and operations which details or links to instructions on identifying and dealing with vulnerable children and adults, see policy guidance in relation to:

- [Identifying people at risk](#)
- [Adults at risk in immigration detention](#)
- [Detention of pregnant women](#)
- [National Referral Mechanism guidance](#)
- [Adults at risk – victims of modern slavery](#)

### **3.1.3 Victims of crime and /or modern slavery**

In addition to the above indicators of vulnerability, Immigration Enforcement acts as a first responder organisation in relation to the [Modern Slavery Act 2015](#) and has a responsibility to:

- identify potential victims of modern slavery and recognise the indicators of modern slavery
- gather information to understand what has happened to them
- refer victims into the National Referral Mechanism

We take note of existing concern expressed by some interest groups that immigration enforcement objectives may act as a deterrent to the reporting of crime. These concerns are mitigated against by the NPCC policy on data sharing with IE and the wider IE consideration of the circumstances of individuals in a holistic manner. Policy and guidance on this will be further clarified and published to provide re-assurance that victims of crime will be treated as victims first and foremost regardless of their immigration status. Outreach work through the sector and IE's community engagement programme will re-affirm this message.

### **3.1.4 Legal representation**

The Home Office recognises the need to allow full and timely access for legal representatives to take effective instructions from victims of crime and provide fairness of opportunity for the preparation of their claims. This is provided for in current policy guidance in relation to the actions to be taken upon initial encounter, ongoing interviews and (where applicable) notices of removal.

## **3.2 Considerations**

The following protected characteristics have been considered in respect of all three limbs except for marriage and civil partnership which is only required to be considered in relation to the first limb of the public sector equality duty:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race (including colour, ethnicity and nationality)
- religion or belief – this includes lack of belief
- sex
- sexual orientation
- marriage and civil partnership

**3A Consideration of limb 1 of the duty: Eliminate discrimination**, harassment, victimisation and any other conduct prohibited by or under the Equality Act.

The impacts on those with protected characteristics under the Equality Act 2010 are assessed below. Mitigation in relation to each of the characteristics is contained within but, also see: [Avoidance of potential discrimination – systemic mitigation](#)

The data sharing process does not directly disadvantage those within these groups. However, there are identifiable indirect consequences to the implementation of the new measures, both relatively positive and negative for some groups in certain circumstances. These are examined in the following sections.

## 3.3 Age

### 3.3.1 Direct Discrimination

The data sharing does not directly discriminate based upon age. The police share data with immigration enforcement in relation to migrant victims of crime and witnesses they encounter if they know or suspect that an immigration offence has occurred or as part of investigation of criminal offences. This is in accordance with NPCC policy and the age of the victim is not a determinant in that decision.

### 3.3.2 Indirect discrimination

Victims of crime of all ages are referred to immigration enforcement by police when they know or suspect that an immigration offence has occurred or as part of investigation of criminal offences. Between April 2020 and March 2021, 1336 victims of crime were referred of which 145 stated their age on encounter to be under 18 (age may be verified or amended subsequently upon formal assessment by the local authority or provision of supporting documentation). The ages referred to NCCU ranged between 2 years and 70 years. However, most cases referred by policing are adults. Adults in 20 – 39 age range made up just over 50% of all victims of crime referred. This is reflected in the migrant population, especially those encountered as immigration offenders.

Being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences is the primary identification criterion, any indirect discrimination on the grounds of age is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public, maintaining an effective immigration control and assisting in safeguarding the individual.

## 3.4 Disability

The [Public Sector Equality Duty](#) (PSED) explicitly recognises that disabled people's needs may be different from those of non-disabled people. Most commonly, this might mean making reasonable adjustments or treating disabled people more favourably than non-disabled people where necessary, to meet their needs. For the purposes of the Equality Act 2010, disability is described as: A physical or mental impairment that has a 'substantial' and 'long-term' negative effect on an individual's ability to carry out normal daily activities.

### 3.4.1 Direct Discrimination

Disability is not a determinant in details being referred to the immigration enforcement by policing there is no direct discrimination in this policy.

### 3.4.2 Indirect discrimination

We acknowledge that some adults are more susceptible to becoming victims of crime, particularly modern slavery, including those persons who are disabled and/or deaf,- this is outlined clearly within the statutory guidance [modern slavery statutory guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk) and [The Underrecognized Victims of Trafficking: Deaf Women | Psychology Today United Kingdom](#) - and that this may also in turn make it more difficult for individuals to describe and account for what has happened to them. It may also make it more difficult for them to understand or describe their immigration status, leading to police having a suspicion that an immigration offence has occurred and referring to NCCU. In such circumstances, quickly and accurately establishing their immigration status to assist in safeguarding individuals by highlighting entitlement to support such as benefits and/or accommodation benefits the victim or witness. Where immigration status is insecure, individuals and any appropriate support agencies can be signposted to relevant pathways to regularise status.

In relation to any enforcement action taken following a referral by policing several policies and instructions work together to ensure that those meeting this Equality Act definition of disability are not directly or indirectly disadvantaged; for instance, relation to Immigration Enforcement operational activity guidance specifies procedures for [Identifying people at risk](#). The guidance includes general advice on awareness and identification of common areas of concern. The [Adults at Risk in Immigration Detention](#) policy sets out that those with a serious physical or mental disability would be regarded as being at risk, and would be detained only if the immigration factors outweigh the risk factors to displace the presumption that individuals at risk should not be detained.

Being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences

is the primary identification criterion, any indirect discrimination on the grounds of disability is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public, maintaining and effective immigration control and assisting in safeguarding the individual.

## 3.5 Pregnancy and maternity

### 3.5.1 Direct Discrimination

The police share data with immigration enforcement in relation to migrant victims of crime and witnesses they encounter if they know or suspect that an immigration offence has occurred or as part of investigation of criminal offences. This is in accordance with NPCC policy. Pregnancy and maternity are not factors in the data sharing.

### 3.5.2 Indirect Discrimination

Pregnancy and maternity are not a protected characteristic in relation to indirect discrimination.

## 3.6 Race

### 3.6.1 Direct Discrimination

The data sharing activity is based upon knowledge or suspicion that an immigration offence has been committed or to assist in the investigation of a crime. Data is not shared based on colour, ethnicity, race or nationality.

### 3.6.2 Indirect Discrimination

We recognise that suspicion that an immigration offence has occurred leading to data sharing may, in part, arise if English is not the individual's first language and we fully recognise and allow for the possibility that they may find it difficult to communicate their circumstances, fears and/or intentions and that this may constitute indirect discrimination. Police and IE officers have access to interpreting services to mitigate against this to ensure that any referrals are appropriate and for reasons set out in NPCC guidance [Guidance on Info Sharing with Home Office Website 2020.pdf \(npcc.police.uk\)](#) It is also acknowledged that (in)ability to speak a particular language is not in itself impacted by colour and is not a direct indicator of race, ethnicity or nationality.

Of the 1336 victims of crime referred to NCCU between April 2020 and March 2021 and comprised 95 different nationalities. Three nationalities made up 38% of all victims of crime referred to NCCU by police during that period: Vietnam (237); Albania (168); and China (109). Of these 84% were victims of modern slavery rather than other crime types. This is reflected in overall referrals to IE by policing and in those identified as immigration offenders. The data sharing is proportionate to achieve the legitimate aims of maintaining an effective immigration control and safeguarding vulnerable victims and witnesses.

Witnesses are not recorded by NCCU as a separate category and no information on the number of witnesses referred to NCCU by police is available.

The reasons for the police suspicion required to consider the referral are not recorded by Home Office but should be recorded by the police officer making the referral in accordance with the NPCC guidance on information sharing between police and IE published June 2020 [Guidance on Info Sharing with Home Office Website 2020.pdf](https://www.npcc.police.uk/guidance-on-info-sharing-with-home-office-website-2020.pdf) ([npcc.police.uk](https://www.npcc.police.uk))

The Home Office does not collect quantitative data regarding colour, ethnicity or race. These are not a characteristic relevant to IE when making decisions on enforcement activity as immigration law does not make any distinction on the basis of colour, ethnicity or race. Nationality is recorded as being relevant to establishing the identity of the individual referred and is relevant in deciding on the appropriateness of any enforcement in conjunction with other factors. Being of any particular nationality, colour, race or ethnicity is not, on its own, a factor in the data sharing decision.

## 3.7 Religion and belief

### 3.7.1 Direct Discrimination

Being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences is the determining factor in whether data is shared, there is no direct discrimination on the grounds of religion or belief.

### 3.7.2 Indirect Discrimination

The Home Office records information relating to the religion declared by an asylum seeker at the point of their asylum screening but does not record religion as a relevant characteristic in non-asylum cases.

Although no data is available relating to the religious affiliation of those victims of crime and witnesses referred in to NCCU by policing nor those found to be in breach of immigration law, there is no reason to suppose people with this protected characteristic are likely to be disproportionately affected. Detection of immigration offenders is highly likely to reflect the religious demographic of the nationalities involved. Referral to IE by the police under the NPCC guidance is also likely to reflect the religious demographic of the nationalities involved in immigration offences. These characteristics are incidental to the issue of whether data is shared or whether immigration offences have been committed. Immigration enforcement action in the context of data sharing is not expected to directly or indirectly interfere in any way with religious practice or precepts and there is no evidence that those of a particular religion are more likely to be disadvantaged.

## 3.8 Sex

### 3.8.1 Direct Discrimination

There is no direct discrimination in relation to data sharing between police and IE based upon sex as the criteria for referral is a victim of crime or witness where the police have

suspicion that an immigration offence has been committed or in relation to investigation of a crime.

Published policy contains no criteria directly relevant to enforcement action including arrest, detention or exclusion from detention on the grounds of sex. Any such arrest and/or detention may in principle be appropriate, according to the particular facts of the case.

### **3.8.2 Indirect Discrimination**

Evidence from referrals of victims of crime to IE shows that different sexes are more likely to be victims of different types of crime. For example, between April 2020 and March 2021, 1336 victims of crime were referred to IE by police. Where the sex of the victim being referred was recorded, 62% (706) were male and 38% (425) were female. The gender of the individual being referred was not recorded in the remaining 194 referrals. In domestic abuse cases males made up approximately a fifth (45) of referrals where gender was recorded with females being four fifths (147), gender was not recorded in 9% of cases. In modern slavery referrals (including human trafficking) referrals males made up approximately two thirds of referrals where gender was recorded (447) with females making up one third (210). Gender was not recorded in 16% of cases. Further in 2019, 10,627 potential victims of modern slavery were referred to the [National Referral Mechanism](#) (NRM); Of the potential victims referred in 2019, one-third (3,391) were female and two-thirds (7,224) were male. Compared to 2018, males have slightly increased as a proportion of all NRM referrals. There is no information available on the gender of witnesses.

Although there is evidence that sex is likely to be a factor in being a victim of particular crime types there is no evidence overall that sex is a factor in being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences. This is the primary identification criterion, and any differential impact on the grounds of sex is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public and assisting in safeguarding the individual. The existing protocols and guidance will mitigate any indirect discrimination.

Sex has no bearing on whether to enforce immigration law and is not a determining factor in operational planning except where sex is associated with one or more other protected characteristics. The central data recorded between January 2018 to June 2020 showed that of 24,821 detected illegal migrants, a total of 2,990 were female (around 12% of the total). During the same period, the number of females who were served with an illegal entrant decision was 12,127. This represented 22% of all those served with an illegal entrant decision during that period.

The largest group of all those detected by Immigration Enforcement in breach of immigration laws are young, adult males. The greater rate of detections and enforcement for this group, and the consistency with which this has been demonstrated over time, makes it highly probable that this reflects the wider demographic of those who are in breach of immigration law.

## **3.9 Gender reassignment**

### **3.9.1 Direct Discrimination**

Under the [Equality Act 2010](#), an individual has the protected characteristic of gender reassignment where they propose to undergo, is undergoing or has undergone a process (or part of a process) to reassign their sex.

The data sharing does not directly discriminate on the basis of gender reassignment as it is not a factor in the decision to share the data. The data sharing activity is based upon knowledge or suspicion that an immigration offence has been committed or to assist in the investigation of a crime.

The Home Office does not collect quantitative data regarding those encountered who propose to, are undergoing or have undergone gender reassignment. The Home Office also does not record central statistics relating to claimants who present gender identity claims or who identify as transsexual. Although no data is available on those subject to the immigration rules, there is no reason to suppose people with this protected characteristic are particularly likely to be affected by the data sharing

### **3.9.2 Indirect discrimination**

Existing policy guidance concerning encounters with individuals in this group emphasises the need to safeguard the privacy and dignity of individuals; see: for instance [search and seizure](#).

We acknowledge that those who proposed to, are undergoing or have undergone gender reassignment may be more susceptible to becoming victims of certain types of crime, such as, but not exclusively, hate crime. As such a migrant victim of crime that shares this characteristic is more likely to be referred to NCCU than someone, materially similar in all other ways, who does not share this characteristic. In those cases, quickly and accurately establishing their immigration status to assist in safeguarding individuals by highlighting entitlement to support such as benefits and/or accommodation benefits the victim or witness. Where immigration status is insecure, individuals and any appropriate support agencies can be signposted to relevant pathways to regularise status.

No data is available relating to gender reassignment for those victims of crime and witnesses referred in to NCCU by policing nor those found to be in breach of immigration law. However, the public sector equality duty is a continuing one and the Home Office will continue to assess any equalities impacts that come into play. Should any adverse consequences come to our attention, the Home Office will consider how best to respond to the findings.

Being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences is the primary identification criterion, any indirect discrimination on the grounds of gender reassignment is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public, maintaining and effective immigration control and assisting in safeguarding the individual.

## **3.10 Sexual orientation**

### **3.10.1 Direct Discrimination**

The data sharing does not directly discriminate on the basis of sexual orientation as it is not a factor in the decision to share the data. The data sharing activity is based upon knowledge or suspicion that an immigration offence has been committed or to assist in the investigation of a crime.

The Home Office does not centrally record statistics on the sexual orientation of those detected in breach of immigration law, detainees. However, statistics are maintained in respect of whether the asylum claim is based (partly or wholly) on sexual orientation via a manual flagging system. This data does not indicate that a claimant identifies as having a particular sexual orientation.

No data is available on the sexual orientation of those referred to IE by policing as victims of crime or witnesses. The Home Office also does not record central statistics relating to claimants who present gender identity claims or who identify as transsexual.

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The Home Office does not centrally record statistics on the sexual orientation of those detected in breach of immigration law, detainees. However, statistics are maintained in respect of whether the asylum claim is based (partly or wholly) on sexual orientation via a manual flagging system. This data does not indicate that a claimant identifies as having a particular sexual orientation.

No data is available on the sexual orientation of those referred to IE by policing as victims of crime or witnesses. The Home Office also does not record central statistics relating to claimants who present gender identity claims or who identify as transsexual.

We acknowledge that sexual orientation may make individuals susceptible to becoming a victim of certain types of crime, such as, but not exclusively, hate crime. As such a migrant victim of crime that shares this characteristic is more likely to be referred to NCCU than someone, materially similar in all other ways, who does not share this characteristic. In those cases, quickly and accurately establishing their immigration status to assist in safeguarding individuals by highlighting entitlement to support such as benefits and/or accommodation benefits the victim or witness. Where immigration status is insecure, individuals and any appropriate support agencies can be signposted to relevant pathways to regularise status.

Being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences is the primary identification criterion. Any differential impact on the grounds of sexual orientation is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public, maintaining effective immigration control and assisting in safeguarding the individual.

## **3.11 Marriage and Civil Partnership**

### **3.11.1 Direct Discrimination**

The data sharing does not directly discriminate on the basis of marriage or civil partnership. Published policy contains no criteria directly relevant to enforcement action

including arrest, detention or exclusion from detention on the grounds of marriage or civil partnership. Any such arrest and/or detention may in principle be appropriate, according to the particular facts of the case.

The Home Office does not centrally record statistics on the marriage or civil partnership status of those victims of crime referred into IE by policing nor of those detected in breach of immigration law.

### **3.11.2 Indirect Discrimination**

It is acknowledged that certain types of crime are more likely, but not exclusively, to be experienced by those in relationships including marriage and civil partnership for example domestic abuse. As such a migrant victim of crime that shares this characteristic is more likely to be referred to NCCU than someone, materially similar in all other ways, who does not share this characteristic. In those cases, quickly and accurately establishing their immigration status to assist in safeguarding individuals by highlighting entitlement to support such as benefits and/or accommodation benefits the victim or witness. Where immigration status is insecure, individuals and any appropriate support agencies can be signposted to relevant pathways to regularise status.

As being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences is the primary identification criterion, any indirect discrimination on the grounds of marriage and civil partnership is not automatically unlawful and can be justified as it is proportionate to achieving the legitimate aim of protecting the public and assisting in safeguarding the individual.

### **3B. Consideration of limb 2: Advance equality of opportunity** between people who share a relevant protected characteristic and people who do not share it.

Under paragraph 2(1) of Schedule 18 to the EA, the requirement under section 149(1)(b) to advance equality of opportunity between those who have a relevant protected characteristic and those who do not, does not have to be considered in relation to the exercise of immigration and nationality functions in respect of age, race, religion or belief, where race relates to nationality or ethnic or national origins.

We value very highly the rich diversity of our community and the historic and continuing contribution made to this country by those that decide to make it their home. The Government recognises the need to promote and preserve the confidence of the many distinct groups within our communities by ensuring that the law is applied equitably and consistently. We seek the cooperation and support of all community groups to maintain the integrity and fair application of laws and regulations designed to protect and help us all.

The Government is mindful that public attitudes to migrants, and to immigration controls in general, vary widely across socio-economic groups, political groups and geographical areas. Whatever the basis of public attitudes, whether positive or negative, the issue has historically been a potential source of community concern. Misunderstanding, poorly

implemented policy, misplaced resentment, and a lack of confidence in lawful controls have the potential to damage counter-racism measures, feed cultural prejudices and to have a toxic effect on community cohesion and belonging.

Knowing and understanding the size and makeup of the communities we serve, together with understanding the identity and entitlements of those within the community are fundamental requirements for administrative planning and the efficient management of and provision of services and benefits.

Access to government services and to employment, housing and education are regulated by various legislation but are all subject to the Equality Act 2010. The Government seeks to safeguard the legitimate processes by which individuals come to the UK to visit, work, study or take up lawful residence and thereby safeguard public confidence that the measures are fair and effective.

The [Equality Act 2010](#) duty to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it does not apply in relation to the exercise of immigration and nationality functions in respect of race (excluding colour), religion or belief and age. However, Immigration Enforcement seeks wherever possible to act and interpret powers fairly and in a way that promotes and enhances community confidence. We seek to act in a way that advances equality and promotes community confidence by applying immigration law fairly, consistently and in a way that addresses potential harm to communities and services as described above. We are mindful of the severe damage that can be done to community relations because a social grouping or section of the community perceives, rightly or wrongly, that it is being targeted disproportionately or without legitimate and proportionate justification. We consider that these risks are best managed by:

- planning and implementing our activities in accordance with the public sector equality duty
- being transparent in the way that our policy and guidance is published and implemented
- regularly assessing and reviewing equality risks as they apply to our strategy and policy
- engaging directly with the community where possible and appropriate to gauge concerns and issues
- engaging with other agencies, charities, interest groups and other bodies as a means of community outreach and to better understand equality issues and factor these into our planning

Immigration Enforcement seeks through assessments, such as this, to identify and where possible eliminate any actual risk of direct or indirect discrimination but also recognises, that even where no discrimination is identified, there is the need to minimise the perception of discrimination that may also harm community confidence. IE seeks to engage with community groups and other bodies as part of ongoing Community Engagement. IE also maintains a communication network comprising a large range of stakeholders and seeks their views.

IE interacts directly with community groups via its National Community Engagement Team, whose officers are selected because of their specialist knowledge and skills in relation to the largest foreign heritage diasporas within the UK. At an operational level, IE

trains its officers in equality and diversity awareness and provides practical guidance and training relating to cultural sensitivities and the sensitivities and needs of all those protected groups listed above. IE is itself an organisation with a diverse workforce where cultural knowledge, language abilities and personal awareness of the needs of the protected groups is highly valued and fully utilised to the benefit of both the organisation and the public.

### **3B.1 Possible impact**

The Government acknowledges the potential negative effect on community confidence of immigration enforcement processes. Although we aim to support communities in the way described, there are identifiable risks that must be addressed, including:

- that the data sharing may be perceived by some community groups as discriminatory
- that the approach may create a perception of 'separateness'

We will fully address these issues in policy guidance to ensure that:

- proper account is taken of all individual circumstances
- action is proportionate and in the public interest

The Government also recognises identifiable benefits to communities by fairly and consistently:

- enforcing, or supporting the enforcement of, regulations in relation to employment, housing and access to services
- identifying and supporting vulnerable adults and children, including victims of crime and witnesses
- restricting opportunities for those set on fraud and deception, including identity fraud and abuse of benefits

By these means we promote equality by undermining those whose actions undermine confidence in lawful regulations, promote division and conflict and have a corrosive effect on community cohesion.

Her Majesty's Inspectorate of Constabularies, Fire and Rescue Services (HMICFRS) undertook an investigation into data sharing between police and IE in relation to migrant victims of crime and witnesses in response to submission of a super-complaint by Liberty and Southall Black Sisters. Their report [Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status \(publishing.service.gov.uk\)](#) published in December 2020 supported the view held within the sector that victims do not come forward to report crime owing to their fear of the authorities, and that fear of enforcement action related to immigration status is a contributing factor for some individuals. This fear may also be used as a tactic by exploiters to prevent victims from reporting their situation to the authorities. This is acknowledged by policing and the Home Office

The primary identification criterion for the data sharing is being a victim of crime or witness encountered by police who come to know or suspect that an immigration offence has occurred or as part of investigation of criminal offences and is not based upon any

protected characteristic. This is supported in published guidance issued by both IE and the NPCC.

To mitigate these concerns, we will seek to further strengthen guidance around the data sharing both within IE and in conjunction with policing. We will review the required mechanisms to be able to publish statistics on referrals of victims of crime and enforcement action. Published guidance and statistics will be promoted and on Gov.uk, through IE's community engagement programme and we would welcome the support of the sector in raising awareness across migrant communities.

**3C. Consideration of limb 3: Foster good relations** between people who share a protected characteristic and persons who do not share it.

It is acknowledged that perception of immigration enforcement processes can have a negative impact on community confidence and community cohesion. This is addressed by pro-active community outreach work through charities and community/ faith groups to dispel the misconceptions by explaining our processes. It is acknowledged that the policy may contribute to the negative perceptions outlined above but it is considered that the benefits to communities, victims and witnesses outweigh the negatives.

## 4. General assessment and mitigation of potential impacts

### 4.1 Potential discrimination: risks and mitigation

#### 4.1.1 Direct discrimination

The data sharing objective applies to all those for whom there are reasonable grounds to suspect that they are in breach of immigration law regardless of whether they have any of the 9 protected characteristics. No evidence of direct discrimination has been identified.

#### 4.1.2 Indirect discrimination

Indirect discrimination happens when there is a policy that applies in the same way for everybody but disadvantages a group of people who share a protected characteristic, and you are disadvantaged as part of this group. If this happens, the person or organisation applying the policy must show that there is an objectively justifiable reason for it.

Indirect discrimination in relation to some protected groups is unavoidable, for instance, the data sharing will have a disproportionately adverse effect on those nationalities that form the largest groups detected and who are suspected of being in breach of immigration law. The existence of identifiably larger national groups is incidental to the policy intention that the law should apply equally and that it will do so whether the proportions of national groups changes in the future. The Home Office has no means of predicting future changes which are dependent on many variables such as changes to socio/political conditions, changes of legal status in other regimes and environmental pressures. Those detected in the UK and who are found to be in breach of immigration

law are a self-selecting cohort and the law is intended to apply to all within it no matter how its demographic may change.

## 4.2 Avoidance of potential discrimination: administrative mitigation

The Home Office seeks to avoid or mitigate discrimination through use of:

- Compliance with statutory regulation: such as [Equality Act 2010](#)
- Systemic measures: such as policy guidance and training
- Continuous assessment: such as provided by policy assessment and operational planning procedures
- Structural measures: such as communication and liaison mechanisms
- Statutory rules and guidance; See: Section 3 – [Identifying vulnerability and those at risk](#)

### 4.2.1 Policy guidance

Immigration Enforcement General Instructions provides policy assurance measures and practical guidance to IE staff in identifying those that claim to, or may otherwise be entitled to, historic rights of residence and/or citizenship. Specific guidance on assessing and managing the needs of these and vulnerable people encountered during immigration enforcement operations is contained within published General instructions – [Identifying people at risk](#) and [Modern slavery: how to identify and support victims - GOV.UK \(www.gov.uk\)](#)

Detailed guidance on understanding and avoiding unlawful discrimination is contained in overarching Home Office guidance to all business areas and IE's General Instructions refers to and links to this guidance. Where appropriate, this is supplemented within IE General Instructions to provide guidance on conducting assessments designed to identify and mitigate the risk of discrimination. Guidance also addresses specific processes and scenarios where a person within a protected group might be treated in a manner that could be perceived as less favourable or discriminatory when compared to an individual from another protected group or not from a protected group.

Clear guidance helps officials make informed, consistent decisions based on evidence. Immigration officers are required to examine and assess each person referred on a case-by-case basis taking account of all the circumstances of each case. The fact that a case contains one or more of the factors set out in the guidance does not necessarily determine the eventual action; enforcement officers are required to maintain a 'dynamic risk assessment', that is, assess and reassess the circumstances of the case considering changing circumstances or new information.

Home Office policy guidance contains details of the steps taken to safeguard the rights of individuals and to mitigate against possible discrimination. For example, Immigration Enforcement General Instructions contains the following:

- [Identifying people at risk](#)
- [Adults at risk in immigration detention](#)
- [Adults at risk – victims of modern slavery](#)

## 4.2.2 Training

All officers dealing with cases involving children or vulnerable adults must undergo checks and training that is proportionate and relevant to their roles and responsibilities.

A key objective of the training provided to Home Office staff is to ensure that they are equipped to identify vulnerabilities or potential vulnerabilities related to gender, age, sexual identity, trafficking (modern slavery) and torture. Our staff are also trained to ensure that those they encounter are treated with respect, dignity and fairness regardless of age, disability, ethnicity, nationality, race, gender, sexual orientation, religion or belief.

IE staff receive mandatory training and periodic refresher training in several relevant areas:

- equality and diversity
- mental health
- keeping children safe
- modern slavery
- integrity and conduct

At an operational level, IE trains its officers in equality, race and diversity awareness and provides practical guidance and training relating to cultural sensitivities and the sensitivities and needs of all those protected groups listed above. IE is itself an organisation with an ethnically diverse workforce where cultural knowledge, language abilities and personal awareness of the needs of the protected groups is highly valued and fully utilised to the benefit of both the organisation and the public.

In line with policy guidance, training also reminds front-line staff of the principle that all asylum claimants are potentially vulnerable and that it is important to ensure that claimants and any other persons encountered are given appropriate help, for example, where there are concerns over their physical and/or mental health and experiences of torture, trafficking, sexual or domestic violence and/or child protection.

Specific training addresses issues of trafficking and modern slavery, servitude and forced or compulsory labour, to assist staff in recognising and properly handling the cases of those who may be victims.

Competent Authority Training (Modern Slavery/Trafficking) is a one-day course for specialist decision-makers trained as competent authorities (CA). It covers the National Referral Mechanism (NRM) from end-to-end and the Single Competent Authority's responsibilities at each stage, including the purpose of the NRM, timescales for decision-making and benefits to victims.

The NRM e-learning course is for all Home Office commands and provides a background to the National Referral Mechanism. There is a separate modern slavery e-learning course for the use of IE and UK Visas and Immigration. The training is mandatory for all in-country staff in those areas.

Vulnerability training is a mandatory course for all IE staff that continues to be rolled out. Frontline staff, including those at NCCU who receive the police referrals undertake a two-day course that covers:

- Vulnerability Matters - Vulnerability Strategy, General Awareness and IE's role, Personal Centred Approach, Professional Curiosity, Perverse Behaviour
- Protecting Vulnerable Children - Inherent Vulnerability of Children, Case Studies on Victoria Climbié & Breck Bednar, Section 55, Children's Act and LA (Local Authority) referral
- Mental Health, Suicide, Self-Harm -Mental Health General Awareness, Suicide Awareness and the Suicide and Self-Harm guidance
- Female Genital Mutilation - Awareness, Types, Indicators, Prevalence, Legislation
- Modern Slavery - Exploitation Types, Indicators and the NRM
- Wider Vulnerability – Domestic Abuse, Forced Marriage, Honour Based Abuse, Substance Misuse, Homelessness, Victims of Crime and Radicalisation/CHANNEL
- Vulnerability Principles and Resources - Principles of use of detention and Adults at Risk background, IE Vulnerability Champions and Vulnerability team, Internal resources and further eLearning
- Further policy guidance for IE staff concerning types of vulnerability and actions to take is contained within IE General Instructions, ['Identifying people at risk'](#)

#### **4.2.3 Continuous assessment**

Immigration Enforcement operational and decision-making processes have embedded within them the requirement to assess and reassess an individual's circumstances and the potential harm they may suffer because of their circumstances and/or the potential harm that they may present to other people. This includes:

- the need to identify and note risks and, where necessary, act to safeguard a vulnerable person
- take account of material changes to an individual's circumstances, for instance
- changes to their level of dependency or those that are dependent upon them
- changes to their health
- the risk that statutory rights may have been misinterpreted or overlooked, such as residual residence rights

Assessment of the harm caused to others is usually undertaken as part of criminal proceedings but may also be noted in other circumstances, for instance, where there is evidence of domestic abuse.

Assessment may take place at any time but is mandatory at key 'control points'. These include:

- initial encounters
- arrest and detention
- as part of the decision to actively try and remove the individual from the UK

In other instances, an assessment of harm is included during operational planning. An assessment of available information is made prior to operational enforcement visits and

is intended to identify risks that the operation may impact the community and/or breach the Equality Act 2010 and the public sector equality duty.

### 4.3 Structural and strategic mitigation

The following internal Home Office structures and mechanisms provide tools, assurance, monitoring and analysis designed wholly or in part to assist and promote compliance with the public sector equality duty:

#### 4.3.1 Home Office strategic mechanisms

Policy Assurance Framework - Measures taken by the Home Office to acknowledge and address discrimination, ensure safeguards and protect communities extend beyond administrative protocols and guidance. The Home Office maintains structures and links to wider government systems and mechanisms designed to identify and mitigate issues and fulfil our public sector equality duty. The Home Office utilises a Policy Assurance Framework (PAF), which is a tool to guide policy makers through what to consider and who to consult when developing or changing policies. The PAF was developed to provide greater assurance on the way in which policy is developed, implemented and evaluated. This framework makes sure the policies we develop meet our aims while also ensuring we are delivering strong, robust and assured policies that meet our obligations under the [Equality Act 2010](#).

Children's Champion - Immigration Enforcement works with the Home Office's 'Office of The Children's Champion' whose role it is to identify the means of safeguarding children affected by Home Office business and ensure that Home Office policy and practice are in accord with wider children's legislation.

The Home Office Community and Stakeholder Engagement Hub - is a central team established to help increase and strengthen engagement with stakeholders and communities. It was formed as part of the response to the Williams Report that examined the issues raised by the 'Windrush crisis'.

The Warning and Reporting Team - works within the Home Office, Migration and Borders System. The team brings operational and other assurance leads together in an Early Warning Working Group to ensure any trends or issues of concern are identified, assessed and investigated as a matter of priority.

#### 4.3.2 Immigration Enforcement mechanisms

IE assurance strategy – Immigration Enforcement operates assurance mechanisms to embed within IE the Home Office framework of assurance standards and principles. The strategy sets out terms of reference, principles and standards. The assurance process highlights key risk areas and identifies gaps and duplications. The process also assesses the professional training required for entry level assurance staff and continual professional and experiential development for supervisory and managerial personnel.

IE community engagement strategy – The Home Office has a national role in promoting the integration of communities and works to coordinate action across central and local government; See: [Integrated Communities Action Plan](#).

Immigration Enforcement has embedded community impact assessment within its operational planning processes and has a strategic objective to break down the barriers between Immigration Enforcement and the community, enabling communities to be effectively informed, engaged, and involved.

In August 2016 the IE National Community Engagement team was established to build relationships and positively engage with communities in the UK that support and sustain illegal migrant populations. Six nationality specific community engagement leads were recruited for Nigeria, China, Albania, Pakistan, India and Bangladesh. The nationality leads are representative of some of the top nationalities encountered as immigration offenders. They work with community groups and have established community-based surgeries where people can come for information and signposting on extending or regularising their stay, or voluntarily departing the UK. Whilst the engagement leads are representative of the communities they support, they are flexible and engage with communities of other nationalities, as well as other non-nationality-based community groups.

Safety Valve Mechanism (SVM) - The Immigration Enforcement Safety Valve Mechanism (SVM) provides additional support to decision makers in cases where they feel that something simply is not right with the action that the relevant policy and guidance is pointing them towards; for instance, that the action would be perverse considering the general principles we follow to act fairly and proportionately. The SVM Team comprises a virtual community of experts from across Immigration Enforcement case working and operational areas who provide advice, monitor trends and work with policy to learn from cases to improve future responses. It provides further safeguards and avenues of advice when people feel discomfort with the decision that they are making. Since the SVM was introduced and embedded within IE processes in December 2018, it has dealt with 558 referrals (to end March 2021).

Means of redress mechanisms - The Home Office also provides various means of redress and complaint for those using the immigration control system. These include [appeals](#) against various decisions, [administrative review](#), and [complaints process](#),

Vulnerability Champions Network – Immigration Enforcement formulated the network in 2018 to:

- ensure a consistent, professional IE wide approach to the identification and management of vulnerable persons throughout their contact with IE processes
- ensure IE provides the environment to feedback within a central, dedicated platform to promote examples of good practice, opportunity for improvement and highlight potential failures in the immigration system
- ensure that IE meets its obligations under Section 55 of the Borders, Citizenship and Immigration Act 2009
- ensure colleagues are supported to recognise vulnerability and implement appropriate safeguarding responses and interventions at the earliest possible opportunity

- develop an active and dynamic feedback loop which ensures trends, changes and improvements can be fed into the vulnerability forum and back out into local and national commands

#### 4.4 Is any adverse impact on groups lawful, justified and proportionate?

Data sharing can impact both protected and non-protected groups. However, we have not identified evidence that the policy will directly discriminate against any protected group.

The activity seeks to achieve a legitimate aim, namely, the protection of the public, the effective enforcement of immigration laws and safeguarding the vulnerable. The action to be taken is proportionate to identify those in breach of immigration laws whilst supporting victims of crime to report to the police.

Those individuals referred to IE by police have their status checked against IE data bases because there is a reason to believe that they have breached immigration laws which could include knowingly entering the UK illegally and/or facilitating the illegal entry of others into the UK. They reason for referral is unconnected to any protected characteristics. The Equality Act 2010 allows that indirect discrimination can be justified if it can be demonstrated that the proposed activity is a proportionate means of achieving a legitimate aim. In this case, the intended action can be objectively justified. The enforcement of immigration laws is, and will continue to be, conducted within a framework of policy and guidance that ensures the actions undertaken are legal, necessary, fair and proportionate.

We are satisfied that the anticipated indirect discrimination is properly mitigated and that any remaining negative effect is outweighed by the benefits to the proper exercise of lawful controls and to the need to safeguard community confidence that immigration controls are applied fairly and proportionately. We consider the indirect discrimination to be lawful but remain mindful that further information may come to light that means it is right to reassess the potential impact and consider further mitigation. This ECIA may therefore be periodically updated to reflect changed circumstances and to take account of advice and representations made during public discussion.

The public sector equality duty is a continuing one and the Home Office will continue to assess any equalities impacts that come into play. Should any adverse consequences come to our attention, the Home Office will consider how best to respond to the findings.

We welcome feedback on this ECIA.

Please send comments to: [NPIEqualities@homeoffice.gov.uk](mailto:NPIEqualities@homeoffice.gov.uk)