



Home Office

Home Office and Police data sharing arrangements on migrant victims and witnesses of crime with insecure immigration status

December 2021

Background

1. In December 2018, Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) notified the Home Office that Liberty and Southall Black Sisters (SBS) had brought the first super-complaint [Police super-complaints - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/police-super-complaints), challenging the sharing of information and data on migrant victims and witnesses of crime. The super-complaint was submitted against both the National Police Chiefs Council (NPCC) and the Home Office and concerned the sharing of victim and witness data to the Home Office by the police for immigration enforcement purposes and a perceived culture of police prioritising immigration enforcement over safeguarding and the investigation of crime.
2. An investigative report, in response to the super-complaint, was jointly undertaken by HMICFRS, the College of Policing (CoP) and the Independent Office for Police Conduct (IOPC). Their 'Safe to Share' Report [Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/92222/safe-to-share-report-on-liberty-and-southall-black-sisters-super-complaint-on-policing-and-immigration-status), published in December 2020, found that victims and witnesses of crime with insecure or uncertain immigration status are fearful that if they report crimes to the police, their information will be shared with the Home Office and enforcement action will be taken against them and/or reported crimes will not be investigated. The report detailed a series of findings and recommendations for the Home Office and policing to consider. The conclusions of the report centred around:
 - the nature of information sharing between policing and the Home Office, in respect of personal data relating to any victims and witnesses of crime who hold insecure immigration status and may be eligible for consideration of potential removal action
 - the implementation of national and local police policies, guidance, training and practice in safeguarding victims and witnesses of crime who have insecure immigration status
 - the risks of potential harm to victims and witnesses arising from information sharing about people who may be considered at a high risk of domestic abuse and, who have an insecure immigration status, within formal and informal multi-agency discussions and
 - the wider risks of possible harm to the public arising from the police supplying victim and witness data to the Home Office for Immigration Enforcement (IE) purposes
3. Recommendation 2 of the 'Safe to Share' Report included a proposal that the Home Office undertake and publish a review into the legal framework and relevant policy underpinning data sharing between the police and Home Office, regarding any migrant victim and witness of crime with insecure immigration status. The recommendation also stated that the review should include consideration of the interim measure outlined in recommendation 1.
4. Section 81(1) of the Domestic Abuse Act 2021 provides that the Secretary of State must review the processing of domestic abuse data carried out by certain public authorities for immigration purposes, prepare and publish a report setting out the findings of that review and lay a copy of the report before Parliament. Section 81(2) of the Domestic Abuse Act 2021 provides that the Secretary of State must have regard to the recommendations of the HMICFRS Report (as defined in section 81(6)) in carrying out the review. Section 81(3) of the Domestic Abuse Act 2021 provided that the original

timeframe for meeting the obligations in section 81(1) was, 30 June 2021. Following representations from the sector, this June deadline was extended by regulations in accordance with section 81(4) to 29 December 2021 to provide further opportunity for stakeholders to fully engage in the review process.

Safe to share' Report recommendations and Response

Recommendation 1

5. In Recommendation 1 of the Safe to Share Report, HMICFRS recommended to Chief Constables that they immediately stop sharing information on domestic abuse victims with IE, as an interim measure, pending the outcome of recommendation 2.
6. The interim measure was not implemented and data sharing continued under National Police Chiefs' Council guidelines [Guidance on Info Sharing with Home Office Website 2020.pdf \(npcc.police.uk\)](https://www.npcc.police.uk/guidance-on-info-sharing-with-home-office-website-2020.pdf) circulated to, and adopted by, police services in England, Wales and Northern Ireland.
7. Since April 2020, IE's National Command and Control Unit (NCCU) has put in place a system to capture information specifically on victims referred by the police. The NCCU advises police officers of possible safeguarding assistance options, in addition to those available to the police and signposting to relevant sections of immigration law to make an application for leave to remain and explaining the option to seek legal advice to regularise stay.

Recommendation 2

8. Recommendation 2 of the Safe to Share Report states that the Home Office should publish a report that sets out its considerations and conclusions and includes an equality impact assessment. An Equality Community Impact Assessment has been published alongside the report.

Recommendation 2 - The Review

9. The purpose of the review was to examine the legal framework and policy considerations submitted by Liberty and Southall Black Sisters concerning the data sharing arrangements between the Home Office and police in respect of migrant victims and witnesses of crime with insecure immigration status. The review addressed wider considerations of public policy raised in the super-complaint as well as those relating to policing and crime, including domestic abuse. Specific consideration was given to:
 - the requirements of the police and IE
 - the role of IE in safeguarding migrant victims and witnesses

- whether current data sharing practices have a detrimental impact on public safety by crime not being reported, due to fears held by victims and witnesses with insecure immigration status that their details will be passed to IE and
 - whether any measures could be taken to effectively address concerns raised
10. The review considered the proposal by Liberty and Southall Black Sisters to install a ‘firewall’ between the police and IE services for all migrant victims and witnesses of crime with insecure immigration status. To note, HMICFRS did not set out what a ‘firewall’ constituted or how it may be implemented.
11. To inform the Review, the Home Office considered written submissions from the sector and ran a series of workshops with representatives from the police, the domestic abuse sector and modern slavery sector. We also engaged with operational colleagues in IE, the Domestic Abuse Commissioner, the Independent Anti-Slavery Commissioner and a police representative from the Netherlands to understand the Dutch data-sharing model, as part of our exploration of international data-sharing examples.
12. The workshops focused on: establishing a shared understanding of a firewall; how a firewall could operate in principle; establishing alternative solutions to a firewall; and any initiatives which could complement existing measures to encourage migrant victims and witnesses to report crimes.
13. Sixteen expert organisations and groups contributed to the review. These were:
- Asian Women’s Resource Centre
 - The Angelou Centre
 - Focus on Labour Exploitation
 - Hestia
 - Imkaan
 - International Organisation of Migration
 - Kalayaan
 - Kanlungan
 - Latin American Women’s Rights Service
 - Liberty
 - Middle Eastern Women and Society Organisation
 - Migrant Help
 - Safety4Sisters
 - Southall Black Sisters
 - Unseen Modern Slavery Helpline
 - The Voice of Domestic Workers

Legal and policy frameworks

14. The police (and certain other public authorities and specified persons) are permitted by section 20 of the Immigration and Asylum Act 1999 to provide information to the Secretary of State for use for immigration purposes. Section 21 of the Immigration and Asylum Act 1999 allows the Secretary of State to share information held in connection

with the exercise of functions under any of the Immigration Acts with certain persons and entities, including a chief officer of police for use for police purposes.

15. The NPCC guidance 'Information sharing with the Home Office where a victim or witness of crime is a suspected immigration offender' sets out the information sharing requirements between the police and the Home Office in relation to migrant victims and witnesses of crime. Currently, the guidance allows the police to share information about a victim or witness's immigration status with IE if it is suspected that they may be an immigration offender. The guidance describes the purposes of sharing information and says that the type of information and when it should be shared should be decided in each case. It also says the police should tell victims/witnesses that they intend to pass their information to the Home Office.
16. The Home Office has published guidance setting out standards of operational practice for data sharing with other enforcement bodies (including the police) [Data-sharing-standards-of-op-practice-v1.pdf \(publishing.service.gov.uk\)](#) and [Partnership-working-v3 0.pdf \(publishing.service.gov.uk\)](#) and the Borders, Immigration and Citizenship Privacy Information Notice sets out IE's legal basis for sharing and processing information <https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship/borders-immigration-and-citizenship-privacy-information-notice>.
17. The Home Office will extend data sharing practices to include British Transport Police and Ministry of Defence Police.

Evidence from Review on data-sharing

18. The Home Office and police are committed to ensuring that all victims of crime, irrespective of their immigration status, should be treated first and foremost as victims and reported crime should be fully investigated. It is recognised that it is neither in the interest of victims, nor the wider public, for any crime to go unreported. We are committed to overcoming any barriers which prevent migrant victims and witnesses from reporting such crimes.
19. The HMICFRS 'Safe to Share' Report acknowledges there are multiple factors that could influence the willingness of migrants to report a crime, irrespective of their immigration status. Barriers to reporting crime include cultural sensitivities, possible mistrust in policing, fear of reprisals from the perpetrator of crime, including domestic abuse, threats to family members overseas and accessibility of services including language barriers.
20. It is recognised that data sharing between the police and Home Office can be a contributing factor influencing the decisions of migrant victims not to report a crime. We understand from the sector that many victims they support have been deterred from seeking help from the police. Perpetrators often use the victim's immigration status to exert fear or control, threatening that immigration action will be taken against the victim if they report their domestic abuse to the police and that the fear of immigration action being taken against them can make victims more reluctant to seek help. In the forthcoming Domestic Abuse Strategy, we will consider how we can continue to ensure that victims with insecure immigration are treated as victims first and foremost.

21. The ability to quickly establish an individual's immigration status can reduce a perpetrator's control of the victim and reduce the risk of enforcement action being taken:
- a female reported to police that she was 14 when she became pregnant with her first child. She stated that her husband had paid someone to change the date of birth on her passport to show that she was older and that he had threatened her with divorce if she left him. The female had left her husband and was worried that she would lose her leave to stay in the UK.
 - the police contacted the Home Office to establish what immigration status she had. It was identified, at the time of the check, that the husband had previously informed the Home Office that he was withdrawing sponsorship as the relationship had broken down and her case was being considered for curtailment and enforcement action. NCCU advised that the female may be entitled to leave under the Domestic Violence Concession and advised her to seek legal advice. She later made an application and was granted leave to remain in the UK under the Domestic Violence Concession
22. The HMICFRS report and sector representatives were clear that they do not believe that data sharing between the police and IE constitutes safeguarding, or that IE have a role to play in safeguarding victims. The sector was concerned that, once police shared information with NCCU, enforcement action could be initiated, and this creates a conflict of interest with the safeguarding needs of victims.
23. Some sector representatives believed that a complete end to the use of police data from victims and witnesses of crime for immigration enforcement purposes was the most appropriate safe reporting mechanism, as it would make victims and witnesses feel confident to approach police to report crimes at an early stage. This would in turn allow the police to hold perpetrators to account and avoid further harm to the victim. More widely, any resulting increase in reporting would help police in accessing information to prevent and detect crime.
24. The sector strongly expressed that, police passing information to IE means that migrant victims fear reporting abuse due to their belief of enforcement action being taken against them, allowing dangerous perpetrators to escape justice, a view which is supported by the Domestic Abuse Commissioner. Some representatives expressed views that perpetrators would feel confident in continuing to abuse if they were aware that the Home Office took enforcement action when information is provided.
25. The sector also made clear that a perception is held by migrant victims and their representatives that the primary motivator for the police and IE in collaborating is to seek enforcement action, rather than focussing on the criminal allegations reported. Sector representatives strongly stated that in all cases where a migrant has been identified as a victim of crime, the priority of the police and IE must be the wellbeing of the victim and investigating the allegations of the criminal activity, to ensure that the perpetrators are brought to justice and re-victimisation is prevented, which we firmly agree with.
26. We heard that where a migrant victim's immigration leave is dependent on their abuser (for example a spousal visa) the applicant may not want to raise the abuse for fear of being deported or be unaware of their options to regularise their stay without specialist immigration advice. The perpetrator could also be using the migrant victim's insecure immigration status to control them by threatening to have them deported or limiting

independence by not informing them of the rights that come with their immigration status.

27. Sharing information can help victims to clarify their immigration status and prevent further abuse:

- police worked with a victim of trafficking, labour exploitation and domestic servitude. The victim stated he was being abused by his brother who had taken his visa and passport. The victim was not aware of their status in the UK which was being used to exert power by his brother. Contact with the Home Office confirmed the victim had status and provided clarity to the victim on his rights in the UK and signposting to the consulate to arrange a replacement passport

28. The sector also emphasised the importance of the police referring victims they encounter to specialist services at the earliest opportunity, to ensure they receive the appropriate support. We discussed the idea of a having one single sector organisation that the police could refer migrant victims to when they encounter them, to ensure a consistent, national approach. The Domestic Abuse Commissioner (DAC) is also supportive of this. This will be considered as part of the medium-term follow-on work to ensure all possible safeguards are in place to avoid unintentional deterrence effects in seeking support from the police.

29. Police representatives outlined several reasons why they believed data-sharing was beneficial. Police may need to contact IE and exchange information as part of an investigation in order to comply with disclosure requirements under the Criminal Procedure and Investigations Act (CPIA) 1996. In accordance with the CPIA Code of Practice and the Attorney General's Guidelines on Disclosure, the officer in charge of a police investigation is not required to make speculative enquiries of third parties, such as IE. There must be some reason to believe that they may have relevant material. That reason may come from information provided to the police by the accused or from other inquiries made or from some other source, but it must be a reasonable line of enquiry in the circumstances of the case. If the investigator or the disclosure officer believes that IE holds material that may be relevant to the investigation, then IE should be told of the investigation and alerted to the need to preserve relevant material.

30. A further challenge outlined by the police was that officers often encounter situations where counter allegations are made, making it difficult to immediately and correctly assess the true victim. Additionally, people can move between being victim, witness and perpetrator across different police investigations. If there are reasonable reasons for doing so, confirming the immigration status of a victim, witness or suspect may assist police to correctly identify vulnerable victims with insecure immigration status and offer appropriate safeguarding support. It may also help to identify suspects with insecure immigration status who may be considered for immigration interventions, including deportation.

'Grace Period' Option

31. During the workshops, we also considered the option of creating a 'grace period,' whereby the police continue to share information with IE, but IE would not act on that information for a specified time period set out in a formal notice. However, the sector was not supportive of this proposal, as they believed it would not work in practice

without the guarantee of specialist support being in place during the 'grace period' time, to allow the victim to regularise their status if needed.

Response

32. The Home Office absolutely has a role to play in safeguarding victims and working collaboratively with the police to this end. Furthermore, we are keen that the sector, as part of the national response, work with us to support victims to feel able to report crimes.
33. Policing and IE both share a commitment to safeguarding any vulnerable individual encountered, with the sharing of information enabling both organisations to perform an active collaborative role in protecting the wellbeing of migrants. Information sharing enables, for example, the police to potentially acquire a fuller understanding of a migrants' particular needs and circumstances. The Home Office may have relevant information and be able to help to protect and support victims and help with an investigation (including establishing the immigration status of the perpetrator), which may assist in determining the most appropriate and effective intervention(s).
34. Information sharing supports eligible migrants in the regularisation of their immigration status and is particularly important in instances where domestic abuse victims are subject to coercive control by their perpetrators, who may have purposefully misled them about their true immigration status or eligibility for leave under UK Immigration Rules.
35. Information sharing can also provide evidence against migrant perpetrators:
 - during an investigation of a domestic abuse perpetrator, police confirmed through checks with the Home Office, that the perpetrator was sponsored by the victim for a spouse visa. The victim had contacted the Home Office to advise that they were no longer in a relationship, however the perpetrator had made an application to stay in the UK based on his children being in the UK. The police obtained a report from social services demonstrating the negative impact of the perpetrator on the family and his lack of contact with the children which was shared with the Home Office for consideration within his application
36. IE is a designated First Responder taking the initial steps to safeguard and protect vulnerable adults and children, identifying potential victims of modern slavery or human trafficking and safeguarding and supporting victims through the National Referral Mechanism (NRM) process. Staff may need to contact the police if evidence of criminality is also identified where further action/investigation is required. Recognised victims can apply for discretionary leave in the UK if they choose to assist in any subsequent prosecution.
37. When evaluating any initiative(s) adopted to encourage reporting of crime, consideration is given to the public interest of enforcing immigration law and supporting the integrity of the UK immigration system. If immigration law is not enforced there would be no incentive to enter the UK legally. If an immigration offence has been, or is suspected as having been, committed by an individual, it is legally right and proper that the offence be investigated, irrespective of immigration status and even if unfortunately, the individual in question is a victim of crime. This does not change the fact that any

person, irrespective of their immigration status, will be afforded the full protection of the law.

38. Any measures introduced to limit or discontinue existing information sharing arrangements may serve to negatively impact upon the ability of law enforcement agencies to investigate crime and bring perpetrators to justice, support any migrant who is a victim of crime and consider the most effective safeguarding measure(s) to be applied.
39. Establishing an individual's immigration status can, at the point of referral, support safeguarding steps and access to support:
 - an Iraqi female reported to police that her husband had assaulted and threatened to kill her and her 2 children. Police contact with the Home Office established that they were all dependants on the husband's asylum application, and they were currently housed together as a family unit in Home Office asylum accommodation.
 - the female was initially reluctant to consider relocating away from where they lived as she did not want to disrupt the children. After discussion with NCCU and police she accepted a move to other accommodation, to prevent the husband being able to contact them and he was placed on police bail with contact restrictions.
 - the HO asylum team arranged for the female and children to be split from husband's application so they could make applications in their own right and be provided with their own financial support package and registration with a GP

Practical implications

40. The referral of information about a migrant victim or witness enables IE to provide information on Home Office systems to assist police and other authorities to establish vulnerabilities and safeguarding needs and to assess whether the migrant may be eligible to qualify for leave under the Immigration Rules or bespoke routes. Securing immigration status may allow eligible migrants access to a range of benefits, including health and housing provisions. There are several bespoke routes available to migrant victims and witnesses of crime, which enable eligible individuals to regularise their status. These include but are not limited to:
 - **the Destitute Domestic Violence Concession** specifically supports migrant victims of domestic abuse who enter the UK on a spousal visa. Migrant victims of domestic abuse on spousal visas can apply for leave to remain without the No Recourse to Public Funds restriction when their relationship has broken down because of domestic abuse, they are destitute, and intend to subsequently lodge an application for indefinite leave to remain as a victim of domestic abuse. These victims may then apply to claim public funds (benefits) for up to three months while their application to settle in the UK is considered
 - **discretionary leave** to remain may also be considered for eligible foreign nationals who have a positive Conclusive Grounds decision from the Single Competent Authority. Leave may be awarded for a time-limited period if the victim is assisting the police with their enquiries; pursuing compensation; or leave is necessary owing to their personal circumstances

- **foreign witnesses** - law enforcement agencies (LEAs) may make a request to the Home Office to allow a foreign national to enter or remain in the UK to give evidence at a trial

Establishing a firewall between police and Immigration Enforcement

41. In order to prevent data-sharing between the police and IE, the sector (and HMICFRS) advocated for a 'firewall' to be established. The sector stated that a firewall is the complete end to the use of police data from victims and witnesses of crime for immigration enforcement purposes.
42. The HMICFRS 'Safe to Share' Report recognised that a complete firewall preventing all communication between the police service and the Home Office on migrant victims of crime could undermine the public interest and the interests of bringing to justice individuals breaking the law. It also highlighted that there was no widely agreed definition of 'firewall' in this context, in terms of what it means in detail and in practice.
43. The University of Oxford ("Safe reporting of crime for victims and witnesses with irregular migration status in the United States and Europe: Research highlights and learnings for the EU Victims Strategy' pg. 3) [Microsoft Word - Safe reporting project - Research Highlights and Learnings for the EU Victims Strategy - Final.docx \(ox.ac.uk\)](#) describes firewalls as *'measures that strictly separate immigration enforcement activities from public service provision, criminal justice or labour law enforcement, to ensure that irregular migrants are not discouraged from accessing essential services and/or reporting crime.'*
44. Research of 'firewall protection' policies conducted by the European Journal of Migration and Law (EMIL) found that these types of policies typically contain one or more of the following three components:
 - 'don't ask'—preventing municipal employees from inquiring about the person's immigration status
 - 'don't tell'—preventing municipal employees from sharing information about a person's immigration status with immigration authorities and
 - 'don't enforce'—preventing municipal employees from arresting or detaining someone on account of their immigration status

Evidence from Review

45. During the workshops and in written submissions, the sector provided a summary of case studies that were considered against various firewall models. Two models were primarily discussed:
 - a complete firewall between the police and IE with no time limit
 - a time limited firewall between the police and IE, which involves the resumption of the transference of data after a particular period of time
46. Throughout the workshops, the sector has advocated that a complete (a combination of 'don't ask'/'don't tell'/'don't enforce' type) firewall between police and immigration is the only way in which to support victims to report crime and provide assurance that immigration enforcement action does not take primacy over any investigation.

47. The purpose of this would make victims and witnesses feel confident in approaching the police to report crimes; improve reporting rates amongst victims and witnesses of crime with insecure immigration status; encourage victims and witnesses to report crime at an early stage (thus avoiding further harm and victimisations) and enable them to receive legal advice to regularise their status and access support from organisations with expertise in safeguarding.
48. The sector provided several case studies which demonstrated how perpetrators use a victim's immigration status to exert fear and control, e.g., threatening to cancel a spousal visa or threatening deportation if the victim reported to the police. In some of the case studies, the perpetrator contacted IE directly to report a separation. It was accepted in these circumstances a 'firewall' would not prevent a perpetrator contacting IE directly. In cases where police did share information with IE, even though no enforcement action was taken, the threat or suggestion that it could happen significantly impacted victims' mental health.
49. It was accepted that during an investigation the victim's immigration status would become relevant and known and it would need to be clarified. Proving immigration status is a gateway to accessing services and there is often an immediate need for this to safeguard victims. It was the sector's experience that migrant victims want to regularise their stay, but many do not have access to the necessary support and funding to do this in a specified time period and access to specialist immigration advice could take months.

Time limited firewall

50. The workshops discussed the option of a firewall being limited to a certain period of time, although no consensus was reached on what time period may be appropriate.
51. The sector considered that time limited data sharing could be a suitable option if there was a long enough time limit in place in order for victims to regularise their status if needed (although they stressed a complete firewall would be preferable). However, the availability of specialist services, which are not always readily accessible, along with the availability of quality legal advice and legal aid, would make this option difficult to pursue. There was also considerable variation in the time taken for applications to regularise status, from several months to up to two years.

International examples

52. The Dutch Free in Free out: Exploring Dutch Firewall Protections for Irregular Migrant Victims of Crime European Journal of Migration and Law 22 (2020) 427–455 [EMIL_022_03_innerwork.indb \(core.ac.uk\)](#) policy is the only international example of a firewall model that was identified. Sector representatives felt that the 'Free in free out' model demonstrates that Dutch police prioritise safeguarding victims over immigration enforcement and gives confidence to victims to come forward.
53. It is a national policy that instructs police officers not to investigate the identity of migrants who report a crime and do not have documentation to identify themselves. The policy allows migrants with irregular status to report a crime and guarantees that they can leave police stations freely without being arrested or detained. After reporting a crime, the migrant victim may be subject to removal at any time if they come into

contact with immigration authorities and are found to have no status. The policy does not provide migrant victims with any rights of residency or benefits beyond those already available under Dutch law for certain victims of crime.

54. The 'free in, free out' policy is a largely informal arrangement not formally codified in national law and despite its nation-wide implementation, it continues to be plagued by local-level inconsistencies. There is a considerable degree of disparity in awareness existing among police, particularly between urban and rural localities. Although the policy was generally seen as a positive practice, there remains a lack of confidence and trust in the ability of the policy to really ensure the possibility to safely report crime or if the policy (introduced in 2015) has increased crime reporting since the policy is not actively monitored or evaluated, and there has been no systematic empirical examination by scholars.

Response

55. We fully recognise that perpetrators of crimes such as domestic abuse can often use the victim's immigration status to exert power and control, which can be a form of coercive or controlling behaviour. Examples of this include threatening that immigration action will be taken against them if they report to the police; deliberately withholding immigration documents from the victim; purposefully mismanaging a victim's immigration status/application; or threatening to no longer provide support for their stay in the UK.
56. Whilst sector groups stated they can assist migrant victims to establish what their status may be through discussion with them, the victim may not have all the information and documents or have been misled by the perpetrator. The Home Office can definitively state what an individual's immigration status is and what access they have to services and benefits. This can provide crucial information for the victim to assist them when dealing with other authorities and seeking legal advice.
57. The NPCC guidance on sharing data with the Home Office where a victim or witness of crime is a suspected immigration offender, provides discretion for police to decide when to share information with IE. The guidance requires officers to take a proportionate approach when considering the appropriateness and timeliness of sharing information, emphasising the need in some instances to prioritise immediate measures to protect the victim/witness over sharing information. Information should be shared accordingly once that need for immediate protective measures no longer applies.
58. However, we recognise that this guidance may not be being applied consistently across all police forces and that even the threat of immigration action can be harmful for victims.
59. Police Officers make real time (telephone) referrals to NCCU. Since April 2020 NCCU has put in place a system to capture information specifically on victims referred by the police. The NCCU advises police officers of possible safeguarding assistance options, in addition to those available to the police and signposting to relevant sections of immigration law to make an application for leave to remain and explaining the option to seek legal advice to regularise stay.

60. During the period April 2020 to March 2021 the police referred 211 migrant victims of domestic abuse. An analysis of these referrals has found that at the point of referral 30 victims had leave to remain, 22 were EU, Switzerland, Norway, Iceland and Liechtenstein nationals and 12 were confirmed as British Citizens.
61. Since being referred 1 victim made a voluntary departure and 92 victims have made an application to regularise their stay, of which 39 of these were made within one month of the referral. As of October 2021, 56 applications had been granted, 26 applications were awaiting a decision, 2 had been refused, 8 had been rejected and 35 victims, with no status or leave to remain, had yet to submit an application. No victims had been detained (upon or since referral) or removed.
62. We recognise that despite the data demonstrating that no victims were detained or removed during this time period, it is the threat of this happening that can cause reluctance to report to the police. The sector expressed concern that notifications from the Home Office can cause harm and distress to victims who, at the point of being notified, might become afraid and less likely to seek help due to feeling there is a lack of protection. This subsequently leaves victims at the risk of further abuse and/or exploitation.
63. A time limited firewall would be beneficial in allowing the police to resume data-sharing with IE after a specified period of time and therefore was an option that we believe could be considered. However, the police highlighted that there would be very significant practical difficulties for policing in implementing a time-limited firewall. There is no current mechanism in place to automatically delay and then share information with another agency. Creating a system-initiated delay in all the different crime and intelligence systems used by all UK police services (including British Transport Police and MOD Police) would be expensive and would lead to the inevitable question of whether the goal of increased confidence in reporting could be achieved in a more cost-effective manner. If all UK police services instead operated a manual system that would lead to inevitable inconsistencies in approach and execution to the point of complete impracticability. It is almost certain that forces using a manual system would have increased risks of human error and mistakes in sharing information with IE.
64. Often the information required by police services from IE is time critical for example, for an impending prosecution. A time-limited firewall would therefore still result in police officers being unable to obtain information from IE when needed. Another practical issue from implementing a time-limited firewall is whether the time limit is linked to the information or the person. If it is linked to the information obtained on a certain date then at the point it was shared with IE, policing may have subsequent relevant information that alters the impact of the original information to be shared, for example, when they have left the UK.
65. If the (time limit) date is linked to a person, there are potential issues for the purpose and relevance of when the data is shared. Examples of this are:
- whether all police information accumulated during the time period being shared with IE
 - where the date is linked to a person record or an information record, what effect there would be of being linked to crime, as a suspect, prior to the end of the time limit have on the decision to limit the information being shared and

- if being a suspect to a crime did cancel the firewall time limit, at what stage should the firewall end i.e., upon being linked as a suspect; upon arrest; upon charge; or upon conviction

66. Any time limited firewall may breach UK General Data Protection Regulations (UK GDPR), Article 5. Data sharing must be for a lawful purpose, proportionate, necessary and accurate. Delaying the data sharing would not meet those requirements. For policing to delay data sharing, they would have to be certain of the lawful basis on which they were storing the data, have a legitimate reason to transfer the data at any sets point and would have to ensure that any data was accurate at the time of sharing. Any delay would reduce the lawful basis of data storage and increase the chance of data inaccuracy.
67. It is possible that someone who was an immigration offender at the time the data was collected will have regularised their status, so no longer be an offender at the point the information was shared. The police would not know this without data sharing with IE or the individual updating them. For any data to be shared it would need to be done promptly to meet UK GDPR. Any time limited firewall would be a new process and would require a data protection impact assessment to be completed.
68. For the reasons outlined above we do not accept that establishing a complete or time limited firewall between the police and the Home Office would be operable or proportionate. Furthermore, neither approaches would provide a clear commitment to no enforcement action being taken while migrant victims address immediate needs for information required to access services, support and advice, with resultant delays prolonging uncertainty for victims.

Alternative proposal to establishing a firewall

69. Considering all the above, the Home Office will introduce an IE Migrant Victims Protocol for migrant victims of crime that have been referred to IE from the police. As part of this we will further commit to a medium-term piece of work to identify safeguards to mitigate the deterrence effect of data sharing. The protocol will set out that no immigration enforcement action will be taken against that victim while investigation and prosecution proceedings are ongoing, and the victim is receiving support and advice to make an application to regularise their stay. We will seek to operationalise this using dedicated officers who are trained to receive referrals from police, provide information and signposting at the point of the referral from police and keep contact with the individual on the progress of support and advice being received.
70. The protocol will set out what information and signposting IE could offer to migrant victims to help them regularise their stay and thereby reduce the threat of coercion and control by their perpetrators. It will give greater transparency to migrant victims on how their data will be shared and the steps IE will take to engage with victims prior to casework and enforcement decisions being made taken. This would afford migrant victims the opportunity to access relevant support and take steps to regularise their stay without fear of any enforcement action being taken. This protocol will be supported with guidance and training. IE will work with the NPCC in its design and communication to officers and promote awareness of the protocol through a range of outreach

activities, existing community engagement partnerships and government information channels.

71. We would be keen to work with the sector to discuss in further detail how this protocol would work in practice. We would also like to work with the sector to disseminate the protocol to communities they work with and victims they meet and reinforce the message that any reporting of crime will not lead to adverse consequences with regards to the individual's immigration status. We note that sector representatives are apprehensive that the victims they work with may be wary of them providing information about the protocol and do not want to undermine the trusted relationships they have with victims. We would strongly welcome the involvement of the sector in ensuring that this proposal is workable and achieves the desired aims and we have committed to ongoing engagement and discussion with the sector, the DAC and the Independent Anti-Slavery Commissioner to continue to identify safeguards that can be put in place to mitigate the deterrence effect of data sharing.
72. This proposal fully acknowledges that immigration enforcement action should not be taken against vulnerable victims of crime and that even the threat of such action can be detrimental to the victim. However, for the reasons outlined above, we believe that the onus should lie on IE and not the police to ensure that this does not happen. We believe that whilst we have not agreed with the sector's solution of implementing a complete firewall between the police and Home Office, this alternative proposal still achieves the same aims of ensuring that migrant victims can feel safe in the knowledge that they can report to the police and that power is removed from perpetrators.
73. We propose that vulnerable victims of crime who will benefit from the protocol should include those victims whose immigration status is made insecure as a result of having to end the relationship upon which their status is dependent, due to the crime being committed against them, (e.g., domestic abuse victims). Some groups should be excluded from benefitting from this protocol, including but not limited to serious foreign national offenders. We will seek to define this in guidance.

Conclusions

74. The submission of the super-complaint has highlighted the need to continually review and improve upon existing practices to provide confidence and assurances that any allegation(s) of crime will be given full and proper consideration by the police irrespective of the victim's immigration status. We fully acknowledge the concerns raised around the current data sharing arrangements and wider issues around supporting migrant victims and witnesses with insecure status to regularise their stay if appropriate.
75. It is clear from representations made that IE's role in protecting migrants is not widely understood. Greater transparency of IE's activities and initiatives adopted would help build greater trust and confidence in law enforcements response to migrant victims of crime.
76. The Home Office is committed to supporting the reporting of crime affecting anyone and this includes migrants who are without immigration status. Current data sharing practices between the police and the Home Office are essential in protecting those

most vulnerable and enforcing the UK's immigration laws. Proposals to cease or delay data sharing between the police and the Home Office on migrant victims and witnesses of crime with irregular immigration status would be harmful to both the safeguarding of those victims and witnesses and the public interest.

77. Both the police and IE share a commitment to safeguard the individuals it encounters and protect the public from individuals who are considered to pose a risk of harm to communities. We support the police's approach to treating someone who reports a crime first and foremost as a victim, prior to any referral to IE. The introduction of the IE Migrant Victim Protocol provides assurance that migrant victims have relief from immigration enforcement while they receive the support they need.
78. As part of this review, the Home Office has considered complementary measures that would provide migrant victims and witnesses of crime greater confidence and trust in the way the police and IE respond to the reporting of crime by that group.
79. Law enforcement agencies (including police and IE) are able to make requests to the Home Office for a foreign national to enter the UK, for their stay to be extended or for their removal to be deferred for the purpose of giving evidence. As such we believe this provides an alternative mechanism to a firewall for migrant witnesses.
80. The initiatives detailed below aim to use collaborative partnerships to improve access to existing mechanisms and to encourage migrants with irregular immigration status to report all crimes.
81. The police and IE will develop and implement a comprehensive stakeholder and outreach engagement programme designed to promote reporting of crime amongst migrants with irregular immigration status. A key component of this work will focus on building trust and confidence in IE and police activities in supporting migrant victims. It is clear from discussions that there are perceptions about law enforcement's role in prioritising enforcement action over investigations into criminality, which need to be addressed through sustained and positive outreach with migrant groups and communities.
82. It is essential that IE's role is clearly understood amongst communities affected, particularly in relation to safeguarding vulnerable individuals and supporting migrants to regularise their immigration status. Greater transparency of IE's activities when encountering a victim of crime will help instil confidence. Only through sustained community engagement will IE address the misperceptions and educate communities about the routes to regularising immigration status. IE's outreach work will be particularly important in raising awareness amongst domestic abuse victims, who are vulnerable to misinformation from their perpetrators. The Home Office would welcome the support of victims and support groups in reaching this often-hidden population.
83. IE will continue to build on its vulnerability strategy and ensure that staff are given the correct tools and mechanisms to respond effectively to migrant victims of crime. Victims and survivors' groups have a wealth of experience in supporting migrant victims that IE are determined to draw upon. IE's vulnerability team will seek to work alongside third sector organisations with direct experience in supporting vulnerable migrants of crime to deliver tailored training packages to staff on identifying vulnerable migrants and responding using the appropriate safeguards.
84. IE's Vulnerability Strategy was launched in September 2018. Since then, IE has

developed and placed emphasis on training and guidance materials as an essential means of embedding IE's vulnerability strategy within operational areas. Operational guidance is updated to include the mandatory requirements and safeguards required of IE staff to protect vulnerable migrants in the immigration system.

85. IE will explore analytical options to assess the barriers to reporting crimes amongst migrants with irregular immigration status within the UK, to identify further initiatives that could encourage reporting amongst this cohort. Analysis will consider the weight that migrants attach to factors influencing their decision to report allegations of crime to the police. The Home Office would welcome the support of victims' groups in reaching this hidden population to ensure that the analysis is fully representative of migrants affected by crime, to enable the initiatives identified as a result of the analysis to be as effective as possible. Options for this will be explored and developed over the course of 12 months.
86. The Home Office will consider creating (or enhancing where extant) a routine referral pathway between the police and specialist domestic abuse services for all victims of domestic abuse, including those with insecure immigration status, when reporting to the police. This would ensure that the victim has access to a safe space to disclose any abuse and seek support. These specialist services would be able to provide emotional and practical support to victims, including linking victims with independent legal advice. This option would likely require significant funding, which the Home Office are not able to commit to at this stage, but we are keen to take advantage of any multi-year Spending Review to consider options around this.