



Overarching Equality Impact Assessment [EIA] of the Compliant Environment

Demonstrating Compliance with the Public Sector Equality Duty (PSED)

Due regard must be shown:

- ✓ *Decision-makers must be made aware of their duty to have ‘due regard’ and to the aims of the duty*
- ✓ *Due regard is fulfilled before and at the time a particular policy or operational activity, that will or might affect people with protected characteristics is under consideration, as well as at the time a decision is taken. It is not a box ticking exercise.*
- ✓ *Due regard involves a conscious approach and state of mind. The duty must be exercised with rigour and an open mind.*
- ✓ *The duty cannot be delegated to another body and will always remain on the body subject to it.*
- ✓ *The duty is a continuing one.*
- ✓ *It is good practice for the public body to keep an adequate record showing that they have considered their equality duties and considered relevant questions.*

1. Name and outline of policy, guidance or operational activity

The compliant environment

Background

1. The public expects immigration laws, as approved by Parliament, to be enforced as a matter of fairness to those who abide by the rules and to protect services which are funded by the taxpayer.
2. This requires a holistic approach. It is the UK Government’s position that the UK’s system of immigration control cannot begin and end at the border. Without effective in-country controls to regulate access to work, benefits and services, there will continue to be incentives for individuals who hold no permission to enter and remain in the UK irregularly.
3. Therefore, in common with other comparable countries¹, the UK has in place a framework of laws, policies and administrative arrangements to ensure access to work, benefits and services is only available to those who are lawfully present in the UK and have the right access to them.
4. The compliant environment (CE) is the term used to describe the combination of laws and processes that regulate access to work, benefits, and services in the UK.

¹ <https://www.gov.uk/government/publications/a-review-of-external-evidence-of-the-compliant-environment-literature-synthesis-of-external-evidence-and-best-use-of-international-examples>

5. The Home Office has developed safeguards to protect everyone who follows the UK's rules and minimise the risk that anyone with a legal right to be here is wrongly penalised by the compliant environment measures

What is the scope of the compliant environment?

6. The measures which make up the compliant environment framework are focused around the following six workstreams:
 - **Work** – to ensure only those who are legally entitled to work in the UK can access employment; this includes checks on the use of alcohol and taxi licences;
 - **Housing** – to prevent illegal migrants and overstayers from accessing the private rental sector [England only];
 - **Public Funds** –to prevent those who are ineligible from accessing mainstream support and benefits, including social housing and homelessness assistance;
 - **Health** – to charge upfront for non-urgent healthcare, recovering costs for emergency treatment, refusing immigration applications where NHS debt is outstanding;
 - **Banking** – to prevent people deemed as disqualified due to lack of lawful status from accessing current accounts; and
 - **Driving** – to restrict access to UK driving licences from people deemed as disqualified due to lack of lawful status.

A timeline showing when each of the measures which make up the compliant environment framework was introduced can be found at Annex A.

7. The application of the compliant environment measures varies throughout the UK. For instance, the Right to Rent Scheme applies in England only. Health is also devolved and some services which are chargeable differ between the devolved nations.

What is the aim of the compliant environment?

8. The compliant environment as a framework has multiple aims. Including supporting the broader Government framework to enable the legitimate movement of people and goods to support economic prosperity. The compliant environment measures aim to:
 - Deter and prevent immigration offending, acting as a deterrent for those considering coming to, or remaining in, the UK unlawfully;
 - Secure compliance with and help to enforce UK immigration laws;

- Protect UK taxpayer funded; and
- Protect vulnerable migrants from the risk of exploitation.

Who does the compliant environment affect?

9. The compliant environment framework is designed to:
 - Distinguish between those who are present in the UK with lawful status and those who are here irregularly; and,
 - Ensure where an individual holds lawful status that includes the right to access work, benefits or services they are able to do so.
10. This means that the experiences of individuals that are impacted by the compliant environment measures they interact with.
11. In some areas, such as employment and private rented housing, everyone is subject to checks, including British and Irish citizens who must present evidence of their nationality to allow them access to work or rented housing in the UK. In other areas, such as banking and driving, restrictions are only imposed on individuals who are known to be present in the UK irregularly.
12. Some compliant environment measures also distinguish between temporary and permanent migrants in the UK. For instance, public funds restrictions are applied to most temporary migrants and to those who do not have 'lawful status'. Similarly, restrictions on access to free secondary health care are applied to those temporary migrants who have not paid the Immigration Health Surcharge (or benefit from a relevant exemption), e.g. short-term visitors and those present irregularly.

How does the compliant environment work?

13. The Home Office holds overall responsibility for the compliant environment framework as well as the policy for each of the six measures, however other government departments and third parties also directly administer the measures.
14. To affect some measures, the Home Office shares data of disqualified persons. For example, data is shared with the Driver and Vehicle Licencing Authority and the Driver and Vehicle Agency (in Northern Ireland) to ensure that known irregular migrants, because of their lack of permission to be in the UK, do not hold a driving licence and with the banking sector to restrict access to current accounts.
15. Other measures rely on the checker making an assessment of the applicant's eligibility. For example, employers or landlords who are required to check an individual's right to work or rent by viewing evidence of their immigration status. In some cases, unless those conducting the checks can show they did so correctly, these measures

include penalties for those found to be employing or renting to someone without the entitlement to do so. These measures also include criminal sanctions for the most serious offenders who are breaking the law.

The purpose of this Equality Impact Assessment

16. Following the Windrush scandal, Wendy Williams submitted the Windrush Lessons Learned Review to the Home Secretary on 18 March 2020. The review made thirty specific recommendations, of which Recommendation 7 stated: *The Home Secretary should commission officials to undertake a full review and evaluation of the hostile/compliant environment policy and measures – individually and cumulatively. This should include assessing whether they are effective and proportionate in meeting their stated aim, given the risks inherent in the policy set out in this report, and its impact on British citizens and migrants with status, with reference to equality law and particularly the public sector equality duty. This review must be carried out scrupulously, designed in partnership with external experts and published in a timely way.*
 17. The Home Secretary accepted the findings in the Windrush Lessons Learned Review on 23 June 2020.
 18. In undertaking the full review and evaluation of the compliant environment in response to Recommendation 7, the Home Office will apply consideration of the Public Sector Equality Duty cumulatively for all six workstreams and will not set out in this document the specific differential impacts for the workstreams individually identified.
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2. The Public Sector Equality Duty

1. The public sector equality duty under section 149 of the Equality Act 2010 requires public bodies to have due regard to the need to:
 - i. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
 - iii. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2. The equality duty covers the following nine protected characteristics: age; disability; gender reassignment; marital and civil partnership status (this protected characteristic is only required to be considered in relation to the limb (i) of the Public Sector Equality Duty); pregnancy and maternity; race (including ethnic or national origins, colour, or nationality); religion or belief; sex; and sexual orientation.

3. Schedule 18 to the 2010 Act sets out exceptions to the equality duty. In relation to the exercise of immigration and nationality functions, section 149 (1)(b) – 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 (insofar it relates to nationality or ethnic or national origins) or religion or belief.
4. Schedules 3 and 23 to the Equality Act 2010 permit the authorisation of discrimination in relation to age, nationality, disability, ethnic or national origins, or place or duration of residence in certain circumstances. This includes where the discrimination is authorised by the Immigration Rules. For example, the points-based system which replaced the former work permit arrangements can discriminate on the basis of nationality in determining whether migrants from outside the European Economic Area and Switzerland should be given permission to work in the United Kingdom and the NHS can charge some people who are not ordinarily resident in the United Kingdom for hospital treatment”.
5. However, although those provisions of the Equality Act 2010 mean that direct discrimination in such circumstances is lawful, we have still considered the justification for any such discrimination. This EIA therefore goes further than required by the public sector equality duty and considers all the proposals - regardless of whether any discrimination would be rendered lawful by operation of the Equality Act 2010 - through the framework of that Act.
6. Although the Equality Act 2010 does provide for some exceptions and permit some types of discrimination, colour (in so far as it is considered under the protected characteristic of race) is not exempt.
7. The Home Office must eliminate unlawful discrimination, harassment or victimisation in line with the Equality Act 2010. Consideration of and mitigations against these elements is reflected in the policy specific equality impact assessments (EIAs) for all the compliant environment measures.
8. For example, under limb 1 of the 2022 EIA for right to work/right to rent checks, indirect discrimination has been identified on the basis of age. The mitigating paragraph states:

For those who find it difficult to use online services we will continue to develop the necessary support systems to ensure no users will be disadvantaged. Where there is a requirement for additional support the Home Office provides a dedicated contact centre, the Resolution Centre. This service offers phone support seven days a week, to support customers through the digital journey where they need additional help. Where the customer is unable to access the online service, or is unable to navigate it even with assistance, the Resolution Centre (RC) will have the capability to share the customers immigration status information with a third party on their behalf. This may be by providing the individual with the share code they need to provide to the third party, by sharing the code directly with the third party on the

individual's behalf, or otherwise facilitating a check of their immigration status.

The RC will offer support to all users interacting with their immigration status online and can be contacted by telephone.

The RC will also provide advice and support to employers and landlords where they experience difficulties with the online services in advance of this policy proposal being introduced. Guidance is also published for employers and landlords including advice on carrying out online checks.

We will increase our communications regarding accessing and checking immigration status information online. We will ensure individuals and those who need to check status are aware of how to do so and how to access the support available to those who may find it difficult to do so.

We are developing an extensive package of communications to ensure individuals, employers, landlords and other third parties are fully aware of the move to digital and how to check a person's immigration status.

A lead-in time of six months (April 2022) to introduce this change allows for sufficient opportunity to deliver communications in advance. This will be undertaken via stakeholders, direct communications and digital media channels.

The mitigations we have put in place will limit any indirect discrimination on the basis of age. Taking the mitigations into account, we consider that any limited indirect discrimination is objectively justified in relation to the importance of the public policy objective of increasing the security and ease of use of immigration services.

3. Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

1. To produce this overarching EIA demonstrating due regard for the Public Sector Equality Duty, officials have studied a range of evidence from both government and independent sources. Where the evidence contributes directly to the assessment it is referenced in the body of the document. Looking at evidence not directly contributing to the assessment contextualises the broader impacts of the compliant environment framework as well as the measures contained within and helps understanding the bigger picture.
2. This EIA uses as its baseline the UK population as a whole. This is because:
 - The quantity and quality of data which can be used as part of the Public Sector Equality Duty consideration is much higher for the UK population as a whole than it is for the migrant (both lawful and

irregular) population. This means by baselining against the UK population we have been able to consider any differential impact caused by the compliant environment framework across all of the protected characteristics more thoroughly than reliance on solely migrant population data would have allowed for;

- Although the six workstreams which make up the compliant environment do not apply to everyone consistently, the widest reaching measures affect the entire population, as they require British and Irish citizens to present evidence of their nationality. This means that there is an impact on the protected characteristics across the whole of the UK population and not just migrants. We therefore consider it right that the baseline should reflect the broad nature of the policy to ensure any wide-ranging impact is fully identified;
 - Where overall UK data is readily available we will use that to inform the analysis. For the purposes of expediency where information is broken down by Devolved Administration, we will analyse the data from England and Wales which has the greatest population numbers and can be confidently used to reflect the most common scenarios; and,
 - It is noted that members of the Windrush generation were previously impacted by the compliant environment. Considering measures within the compliant environment framework affect the whole UK population, assessing the impact on this basis is a step towards ensuring the mistakes previously made are not repeated.
3. We have also drawn on data contained within a Home Office Analysis and Insight report, that sets out the findings from analysis of internal Home Office data and presents an overview of how the department plans to evaluate the compliant environment going forward. The report will also be used to inform our Public Sector Equality Duty considerations. The report can be found here:
<https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes>.
 4. The Home Office has also used socio-economic data in respect of several of the protected characteristics to help consider whether the overarching compliant environment measures results in differential impacts. However, there are various ways of defining income and wealth in the United Kingdom. There are also limitations on data sources and information available. In addition, socio-economic disadvantages can be multiple and intersectional. We have found that what the socio-economic data does not tell us is how income is linked to individuals or the numbers of people households, how income is distributed in households and where income comes from. The definition of wealth is also much more than just about money. We would need more nuanced data on income, lifestyle (how money is spent) and assets to conduct any further consideration. Without further data we cannot confidently make any further broad assumptions.

5. The summary of evidence listed below includes data from the Office of National Statistics as well external independent bodies.
- [What is the problem? | webelong.org.uk](https://www.webelong.org.uk)
 - [Living longer and old-age dependency – what does the future hold? - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/ageing/articles/livinglongerandoldagedependencywhatdoesthefuturehold/2019-06-24)
 - [Age groups - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.gov.uk/ethnicity-facts-figures)
 - <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerandoldagedependencywhatdoesthefuturehold/2019-06-24>
 - [Disability and employment, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/disabilityandemployment/articles/disabilityandemploymentintheuk)
 - [Population estimates by marital status and living arrangements, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/populationestimatesby maritalstatusandlivingarrangementsenglandandwales)
 - [Pregnancy and ethnic factors influencing births and infant mortality - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/infantmortality/articles/pregnancyandethnicfactorsinfluencingbirthsandinfantmortality)
 - [Household income - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.gov.uk/ethnicity-facts-figures)
 - <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes>
 - <https://irr.org.uk/research/statistics/ethnicity-and-religion/>
 - [Long-term international migrants, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/migrationandimmigration/articles/long-terminternationalmigrantsintheuk)
 - [Data Viewer - Nomis - Official Labour Market Statistics \(nomisweb.co.uk\)](https://nomisweb.co.uk/)
 - [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/communicationsandinternet/articles/internetusersintheuk)
 - <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2020-to-2021/hate-crime-england-and-wales-2020-to-2021>
 - [Summary of latest statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics)
 - <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/methodologies/annualpopulationsurveyapsqmi>
 - [National LGBT Survey: Summary report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/national-lgbt-survey)

- [Sexual orientation, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- <https://www.stonewall.org.uk/lgbt-britain-trans-report>
- [Trans people in the UK \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- [Your rights to housing if you're under 18 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Number of households by age and gross income band, UK: financial year ending 2020 - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- [Number of pensioners living in poverty tops two million | Press release | Age UK](https://www.ageuk.org.uk)
- [UK private rented sector - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- [Disability pay gaps in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- [Disability pay and employment gaps 2020 | TUC](https://www.tuc.org.uk)
- [Disability facts and figures | Disability charity Scope UK](https://www.scopeuk.org.uk)
- [Households below average income: 1994/95 to 2017/18 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Outcomes for disabled people in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- <https://www.ethnicity-facts-figures.service.gov.uk/culture-and-community/transport/driving-licences/latest>
- UK Disability Survey research report, June 2021 - <https://www.gov.uk/government/publications/uk-disability-survey-research-report-june-2021/uk-disability-survey-research-report-june-2021>
- [Pregnancy and maternity discrimination research findings | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)
- <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-maternity-statistics/2019-20>
- [Overview of the UK population - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)
- [Families and households in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

- [Family Resources Survey: financial year 2019 to 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
 - [What Age Do People Really Retire - Retirement Statistics - MoneyUnshackled.com](https://www.moneyunshackled.com)
 - [Sexual orientation, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)
 - <https://www.gov.uk/government/statistics/the-employment-of-disabled-people-2021>
 - <https://www.cia.gov/the-world-factbook/>
 - [RAC Foundation http://www.racfoundation.org/motoring-faqs/mobility](http://www.racfoundation.org/motoring-faqs/mobility)
 - [Third country nationals found to be illegally present - annual data \(rounded\) - Products Datasets - Eurostat \(europa.eu\)](https://ec.europa.eu/eurostat)
 - <https://www.cia.gov/the-world-factbook/countries/india/#people-and-society>
 - <https://www.cia.gov/the-world-factbook/countries/pakistan/#people-and-society>
 - <https://www.cia.gov/the-world-factbook/countries/nigeria/#people-and-society>
 - <https://www.cia.gov/the-world-factbook/countries/bangladesh/#people-and-society>
 - <https://www.cia.gov/the-world-factbook/countries/china/#people-and-society>
 - <https://literacytrust.org.uk/parents-and-families/adult-literacy/>
 - [Driving licence holding and vehicle availability - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
 - <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/language/articles/detailedanalysisenglishlanguageproficiencyinenglandandwales/2013-08-30>
 - <https://www.childrenssociety.org.uk/information/professionals/resources/lifeline-for-all>
 - <https://www.gov.uk/government/statistics/english-housing-survey-2020-to-2021-headline-report>
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3a. Consideration of limb 1 of the duty: Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act.

1. This overarching EIA stands as a living document and will be kept under regular review. Where the Home Office identifies any impact, which has not been recorded below, this document will be updated to reflect the considerations we have undertaken, and any differential impact identified. Likewise, as new data continues to emerge the Home Office will use it to inform our considerations and update this EIA where appropriate.
2. Agents implementing the measures are bound by certain legislative provisions. Employers have obligations under the Equalities Act 2010 (in England, Wales and Scotland) and the Race Relations (NI) Order 1997, as amended, in Northern Ireland. A Code of Practice has been issued under Section 23(1) of the Immigration, Asylum & Nationality Act 2006 to ensure employers do not unlawfully discriminate under these provisions. The Equality and Human Rights Commission and the Equality Commission for Northern Ireland were consulted on the contents of the Code.
3. Employers must also not subject job applicants or employees to harassment under the terms of the 2010 Act and the 1997 Order (UK). Likewise, landlords must also not subject prospective or existing tenants to harassment under the terms of the 2010 Act (England).

Age:

Direct Discrimination:

4. The compliant environment framework (and the measures contained within it) results in a meaningful differential impact in respect of the protected characteristic of age. In particular, the compliant environment measures result in a greater differential impact for individuals aged 16 and over, as they will encounter the overarching compliant environment framework (and the measures contained within it) compared to individuals who are under the age of 16 who will not be affected. Therefore, the measures involve differential treatment on the grounds of age.
5. This is because, in the UK individuals seeking to access benefits and services are generally required to be a certain age (i.e. 18 years of age or older); although some exceptions apply². The same is true for tenancy agreements, with government issued guidance detailing that it is unlikely anyone under the age of 18 would be able to sign a contract of this nature. Likewise, the youngest age an individual can work in the UK is 13 (except for children working in areas such as theatre and television), although, the checks conducted as part of the Right to Work

² There is no age limit on access to healthcare – it is open to all. Likewise, child disability benefits can be accessed by a child and some 16- to 17-year-olds can access benefits. Universal Credit: Eligibility - GOV.UK (www.gov.uk)

Scheme only apply to individuals aged 16 and over. At the same time, where chargeable NHS treatment is received by a child, their parents or legal guardians are liable to pay those charges (NHS charges may apply to those without status, however, treatment that is urgent or immediately necessary will be provided, regardless of ability to pay).

6. As a result of the UK's broader approach, parts of both the legislation and policy underpinning the compliant environment measures specify that checks must be undertaken in relation to 'adults'.
7. The 2011 census³ indicates that of the overall population of England and Wales:
 - 21.3% was aged under 18 years;
 - 29.5% was aged 18 to 39 years;
 - 26.7% was aged 40 to 59 years and;
 - 22.5% was aged 60 years and over.
8. Broadly, this demonstrates that 78% of people are over 18 and could potentially be disproportionately impacted by compliant environment measures. New census data is due for publication in March 2023 and we will review that data to understand whether it provides an updated picture.
9. As part of enforcement activity, the Home Office shares data⁴ with other government departments (OGDs) to identify individuals who were deemed not to have rights or the right to access a particular work, benefit or service. This data sharing is based on the immigration status of adults only (that is persons over the age of 18 years). This supports the broad assumption that individuals over 18 potentially be disproportionately impacted by compliant environment measures.
10. The Home Office has looked at internal management information (MI) data⁵ from past data-sharing activity to understand the impact of the compliant environment on the protected characteristic of age. Noting this is MI only (the Home Office Analysis and Insight report: Developing an evaluation strategy for the compliant environment), indicates broadly 666,422 records were shared with other government departments over the period of November 2014 to March 2018. Those records belonged to a total of 448,800 individuals were deemed not to be entitled to access a particular work, benefit or service due to being in the UK irregularly or having certain conditions on their visa restricting access. Most data shared did not result in any action taken by the Home Office

³ <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest#:~:text=21.3%25%20of%20the%20overall%20population%20of%20England%20and,an d%2022.5%25%20was%20aged%2060%20years%20and%20over>

⁴ Proactive data sharing with OGDs for the purposes of the compliant environment was restricted following Windrush and paused during the Covid pandemic, data sharing with OGDs restarted in September 2021.

⁵ <https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes>

as the information was not matched with OGDs. The actions and numbers impacted is set out in the table below.⁶

Table 1: Summary of data sharing activities and related demographics

Actions	Driving revocations	Benefit revocations	Employer nudge letters
Count of actions	35,583	4,028	28,262
No of individuals	35,556	3,851	27,406
Female	17%	76%	35%
Male	83%	24%	64%
Most common nationalities	Pakistani (28%) Indian (22%) Bangladeshi (11%)	Nigerian (19%) Ghanaian (13%) Jamaican (11%)	Indian (19%) Pakistani (13%) Nigerian (12%)

The summary below indicates the ages of the group most commonly subject to action were between 30 to 39. The detail is broken down further into action categories:

Nudge letters: The most common age group receiving nudge letters were employees aged between 30 to 39 (48%, 13,200), followed by 29% (7,903) aged between 18 and 29. Only 6% (1,511) of nudge letters related to people 50 years old or over.

Benefits revocations: Persons aged 30 to 39 were most commonly subject to benefit revocations (50%, 1,927), followed by 27% (1,031) aged between 40 and 49.

Driving revocations: Persons aged 30 to 39 were most commonly subject to driving license revocations. The 30 to 39 age group made up 44% (15,574) of revocations, followed by 39% (13,946) of revocations from people between 18 and 29 years old. Only 4% (1,430) were 50 years old or over.

- At the same time, the Office for National Statistics (ONS) has observed greater economic activity at older ages between 1992 and 2018. In particular, the growth of economic activity among 50-64-year-olds and those aged 65 years and over population has outpaced the growth in other age groups⁷. This could indicate that older people may increasingly interact with government bodies or continue to work later into life and so may in turn be increasingly directly impacted by compliant environment measures (for example, right to work checks). However, it is hard to draw firm conclusions as despite growing economic activity in this age group it is thought they will still interact with the compliant environment less frequently. Likewise, the growth in economic activity may also represent greater socio-economic circumstances in this age group, meaning they do not need to access

⁶ This is management information (MI). Some numbers are unconfirmed as either data was not available, or it was unclear what age the individual had recorded on the system at the time when data was shared. Percentage numbers are rounded up or down and add up to 100.2%.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerandoldagedependencywhatdoesthefuturehold/2019-06-24>

work, benefits and/or services as often as younger generations. This would therefore suggest they interact less frequently with the compliant environment.

12. Under section 13(2) of the Equality Act, less favourable treatment based on age does not amount to discrimination if it is a proportionate means of achieving a legitimate aim. Differential treatment on the basis of age is therefore permissible if there are objective reasons for it. In respect of the compliant environment framework, the less favourable treatment on grounds of age is the result of broader UK legislation and policies which allow individuals to work; rent private accommodation without parental agreement; access the social security system; drive (or learn to); from the age of 16. Although we treat those aged 18 and under as children, individuals are able to more freely access and interact with the world once they reach the age of 16.
13. This approach is designed to act as a safeguard to ensure that as younger generations age, they are able to have access to the tools necessary to engage with society in a useful and contributory way. As such, the Home Office considers it to be logical for measures designed to ensure that only those lawfully present and with the right to access work, benefits and services align with the age thresholds that broader legislation and policies set out.

Indirect Discrimination:

14. The Home Office also recognises that there is a meaningful, indirect differential impact in respect of the protected characteristic of age.
15. The Home Office is developing a border and immigration system which is digital by default for all migrants, which over time means we will increasingly replace physical and paper-based products for all immigration routes with accessible, easy-to-use online and digital services. Many people already use digital services to access banking, claim benefits or pay taxes. The Home Office is working closely with other government departments, notably the Department of Health and Social Care, the National Health Service, the Department for Work and Pensions and HM Revenue & Customs, to enable people to demonstrate their immigration status and access the services for which they are eligible in the simplest and most secure way possible.
16. However, the compliant environment measures may impact older individuals who may not be able to, or be inclined to, use online processes.
17. However, the ONS⁸ survey of 'Internet users in the UK3' for 2020 found that 54% of adults aged 75 or over were recent internet users, a 7% increase compared to 47% in 2019. This is compared with 85% of those aged 65-74 (up by 2%), and 99.4% of those aged 16-44. In 2019, 7.5% of adults had never used the internet; in 2020, this number was 6.3%,

⁸ <https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2020>

with 1.2% more adults using the internet than the previous year. This represents a steady fall of adults who have never used the internet. A decade ago, almost 20% of adult women and almost 15% of men had never used the internet.

18. Trends suggest this percentage will reduce even further over the next five to 10 years which means that over time the cohort subject to the potential impact will diminish.

Figure 1 ONS survey of internet users 20

Age range	2019	2020	Increase
Aged 16 to 44 years	99%	99%	0%
Aged 45 to 54 years	99%	99%	0%
Aged 55 to 64 years	94%	94%	2%
Aged 65 to 75 years	83%	85%	2%
Aged 75 plus years	47%	54%	7%

19. Although designed to impact on adults, there will be circumstances, however, where one or multiple compliant environment measures could have an indirect impact upon children, for example when parents or guardians are restricted from applying for child-related benefits or are ineligible due to the conditions attached to their immigration status
20. Local authority support may be available where there are specific child related welfare issues⁹.
21. The Home Office has also considered whether socio-economic data in respect of this protected characteristic indicates there is an indirectly differential impact which arises as a result of the compliant environment measures.
22. Data on the correlation between age and gross household income¹⁰ indicates that most people earn between £0 and £72,999. There are smaller numbers of people who earn more and so might be unlikely to be affected by the compliant environment measures as often but as a whole the Home Office considers the spread of earnings to be fairly evenly distributed amongst the population. As a result, it is considered that any differential impact would be extremely limited.

Figure 2 Age and household income

Age in years of household reference person	Less than £37,000	£37,000 to £72,000	£72,000 to £109,999	£110,000 to £145,999	£146,000 or more	All incomes
Aged 16 to 24 years	493	176	31	0	0	700

⁹ Equivalent legislation applies in Scotland, Wales and Northern Ireland.

¹⁰

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/adhocs/13777numberofhouseholdsbyageandgrossincomebandukfinancialyearending2020>

Age in years of household reference person	Less than £37,000	£37,000 to £72,000	£72,000 to £109,999	£110,000 to £145,999	£146,000 or more	All incomes
Aged 25 to 34 years	1,622	1,494	399	83	57	3,655
Aged 35 to 44 years	2,330	1,910	535	196	188	5,159
Aged 45 to 54 years	2,572	2,045	544	184	199	5,543
Aged 55 to 64 years	2,663	1,764	480	102	107	5,115
Aged 65 to 74 years	2,785	1,202	248	75	73	4,384
Aged 75 years and over	3,111	745	64	35	23	3,979
Total	15,576	9,336	2,301	674	647	28,535

23. It is considered that any potential indirect discrimination that may arise is justified as a proportionate means of achieving the legitimate policy aim. Namely, of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation. Likewise, it is considered that there are mitigations in place –especially when safeguarding issues are engaged – to counter the limited impact of any differential treatment. As data emerges the Home Office will use it to inform considerations to update this EIA and mitigate against disproportionate impacts.

Disability:

Direct Discrimination:

24. The overarching compliant environment framework does not differentiate based on whether an individual is disabled or not. As a whole the compliant environment is designed to identify if someone, regardless of whether they have a disability or not, has lawful status in the UK and if they do, whether that status affords them the right to access work, benefits, or services.

25. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework has a meaningful, direct differential impact in respect of the protected characteristic of disability.

Indirect Discrimination:

26. There is limited holistic data to draw evidence from when it comes to the protected characteristic of disability and its prevalence throughout the UK's general and migrant population – not least of all because this is information the Home Office does not routinely request or collect for immigration purposes. The Home Office has therefore used other data sources to inform its consideration of whether the compliant

environment framework creates an indirectly differential impact in respect of this protected characteristic.

27. Drawing on the most recent results of the Family Resources Survey (financial year 2019 to 2020) conducted by the Department for Work and Pensions, 22% of people who responded¹¹ reported a disability. Scaled up to the UK population this could mean 14.1 million people, based on an estimated population of 66.8 million people in 2019.¹² The survey also shows that the percentage of working-age adults who reported a disability was 19%.¹³ According to most recent ONS employment statistics for disabled people¹⁴, 1 in 5 of the working-age population are classed as disabled.
28. With the potential size of the population who are disabled in mind, it is recognised that the overarching compliant environment framework could result in an indirect differential impact in respect of the protected characteristic of disability. The Home Office acknowledges that some individuals who are disabled experience discrimination in everyday life more regularly than those who are not. For example, those with a disability may be subject to loss of employment or housing more frequently.
29. Although not a direct comparator, a good indicator can be seen in data from the Office for National Statistics, which shows that those with a disability are less likely to hold managerial positions or work in professional occupations compared to non-disabled people (27.2% of disabled people work in one of either managerial or professional occupations compared to 34.5% of non-disabled people). Disabled people are also more likely to hold elementary occupations when compared with non-disabled people (12.1% compared to 9.6%)¹⁵.
30. In turn this broader discrimination may mean there is an impact on a person's ability to provide for themselves, as well as any dependants, and require them to either seek new or additional employment, accommodation, or reliance on public funds. As a result of this broader discrimination, it is possible that individuals who are disabled may encounter the compliant environment measures more frequently than those who are not. Meaning they may also be more frequently impacted by the compliant environment as a whole.

¹¹ <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-2019-to-2020/family-resources-survey-financial-year-2019-to-2020#disability-1>

¹²

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/january2021>

¹³ [Family Resources Survey: financial year 2019 to 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/family-resources-survey-financial-year-2019-to-2020)

¹⁴ <https://www.gov.uk/government/statistics/the-employment-of-disabled-people-2021>

¹⁵

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/outcomesfordisabledpeopleintheuk/2020>

31. The Home Office also recognises that individuals with a disability are more likely to be socio–economically disadvantaged when compared to the circumstance of those who are not disabled. Between 2019 and 2020, the proportion of families with at least one disabled member living in poverty after housing costs was 27%, which is higher than the proportion of working age non-disabled people living in poverty (19%)¹⁶. Likewise, the ONS found the employment rate for disabled people was 50.9%, compared to 80.7% for non-disabled people, which is a gap of 29.8%. They also found that individuals with disabilities were significantly less likely to own their own home (40.9%) than non-disabled people (53.4%)¹⁷. The combination of these statistics supports the Home Office’s belief that the compliant environment framework may result in an indirect differential impact for individuals in possession of this protected characteristic.
32. However, it is also believed that any indirect impact will be limited. This is because, in terms of migrants lawfully in the UK, most undergo means testing as part of their application for permission to stay, to ensure that they can support themselves without access to public funds. Likewise, some types of permission to stay also restrict access to employment on the basis the individual is required to have sufficient means for the length of their stay in the UK, or because the individual is sponsored by an employer, meaning they are unable to change jobs without permission and sponsorship from another organisation. The expectation is that disabled migrants with permission to stay in the UK will not be regularly accessing benefits or services as they will have been means tested in the same way as someone without this protected characteristic. Meaning they should not encounter or be impacted by the compliant environment measures frequently.
33. There may be a greater impact on British or Irish citizens who are disabled than on such citizens who are not disabled, because the broader discrimination discussed above may mean they encounter the compliant environment measures more regularly. However, although they may encounter the compliant environment measures more frequently the effect is the same for anyone who regularly changes employment, privately rented accommodation or benefits and services. Moreover, their nationality means they will not be prevented from accessing the work, benefits and services they require, so there is no impact in that respect.
34. It is noted that individual circumstances can change and emerging disabilities and healthcare issues mean some migrants become increasingly impacted by the compliant environment measures if their circumstances change. However, there is limited data to draw on to make firm conclusions when it comes to changes in personal circumstances in this way.

¹⁶ [SN07096.pdf \(Chapter 8, page 42\) \(parliament.uk\)](#)

¹⁷ [Outcomes for disabled people in the UK - Office for National Statistics \(ons.gov.uk\)](#)

35. The Home Office considers any indirect differential impact to be, at least partially, the result of broader discrimination that disabled individuals suffer from. The compliant environment framework is not the cause of nor an aggravating factor in this discrimination, instead the broader discriminatory treatment of disabled individuals may increase how often they encounter or are impacted by the compliant environment measures contained within the framework.
36. The Home Office considers the potential for a slight impact is justifiable as a proportionate means of achieving multiple legitimate aims. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation. The indirectly differential impact identified in respect of individuals with a disability can also be attributed to discrimination that this cohort of individuals are subject to more generally. It is thought that broader discrimination has a knock-on impact, moving this cohort to a place where they are more frequently encounter or are impacted by the compliant environment measures.
37. Finally, in instances where a disabled individual is impacted by the compliant environment measures, they are able to use the processes which are designed to provide recourse for anyone who may be wrongly impacted. As mentioned in paragraph 16, the Home Office is developing a border and immigration system which is digital by default for all migrants. The ONS survey of 'Internet users in the UK' ¹⁸for 2020 found that 81% of adults with a disability have used the internet within the last 3 months, with 15% of adults with a disability never using the internet. This compares to 92% of the overall population who have used the internet in the last 3 months. Individuals with disabilities will not be impacted in the same way, whilst some with cognitive impairment may be more negatively impacted, some with limited mobility may be positively impacted.
38. The reasonable adjustments we have put in place in individual EIAs will limit any indirect discrimination on the basis of disability. For instance; the digital only right to work and rent checks (EIA) references support offered by reporting centres to all users, telephone contact options and advance guidance on policy proposals¹⁹. The Home Office works to ensure that its processes and information available to the public are accessible, including for processes allowing individuals to raise concerns arising from or question decisions made as part of the compliant environment framework.

Gender Reassignment:

Direct Discrimination:

¹⁸ <https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2020>

¹⁹ <https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment/digital-only-right-to-work-and-rent-checks-equality-impact-assessment-accessible#:~:text=Reasonable%20Adjustments,of%20immigration%20services>

39. The overarching compliant environment framework does not differentiate based on whether an individual has or is undergoing gender reassignment. The compliant environment measures are designed to identify whether someone has lawful status in the UK regardless of their gender; and, whether that status affords them the appropriate right to access work, benefits or services.
40. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework has a meaningful, direct differential impact in respect of the protected characteristic of gender reassignment.

Indirect Discrimination:

41. The Home Office does not routinely collect or process data in respect of this protected characteristic for immigration purposes. As such we have been unable to conduct any internal analysis to explore how the protected characteristic of gender reassignment may be impacted by the compliant environment framework.
42. Similarly, there is no accurate data to draw from when it comes to trying to establish how many people in the UK's general or migrant population are transgender. We have therefore used the Government Equalities Office (GEO) 2018 estimation of 200,000-500,000 trans people in the UK²⁰ as a starting point for our consideration of this protected characteristic. We have also used the National LGBT Survey²¹ (July 2017) – an online survey hosted by GEO where 13% of the respondents identified themselves as transgender (or trans), as a starting point to inform our consideration under the Public Sector Equality Duty.
43. Whilst there is also no data to demonstrate how often transgender individuals are discriminated against more broadly, the Home Office has found that there is evidence to suggest those who identify as LGBT are at greater risk than the general population of being victims of crime. Across the general population of England and Wales in year ending March 2021, there were 124,091 hate crimes recorded by the police in England and Wales; of which there were 2,799 transgender hate crimes²². Likewise, Stonewall recently found in their YouGov survey that more than 25% of trans respondents who were in a relationship in the last year had been subject to domestic abuse²³.

²⁰ Government Equalities Office, Trans People in the UK Factsheet (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBT-factsheet.pdf)

²¹ National LGBT Survey: Summary report - GOV.UK (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722314/GEO-LGBT-Survey-Report.pdf)

²² <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2020-to-2021/hate-crime-england-and-wales-2020-to-2021>

²³ <https://www.stonewall.org.uk/lgbt-britain-trans-report>

44. On the basis that individuals who are transgender may be subject to hate crime, homophobic, transphobic or biphobic abuse more frequently than people who do not possess protected characteristics it is reasonable to believe they may also experience discrimination more frequently than those who are not transgender. As with the protected characteristic of disability, discrimination may take the form of transgender individuals losing employment or housing more frequently. This in turn may impact on their ability to provide for themselves; thereby requiring them to seek new employment, accommodation or reliance on public funds.
45. It is therefore possible that individuals who possess this protected characteristic may interact with or be subject to the compliant environment measure proportionally more frequently than those who are not transgender. If this was the case it would represent an indirect differential impact in respect of the protected characteristic of gender reassignment. However, we do not have access to reliable data to evidence this at this time, and so we will continue to keep this under review.
46. The Home Office considers that any indirect differential impact which may result from the compliant environment measures as identified above, may be limited. As set out above, the government estimates that the transgender population of the UK (in 2018) may be between 200,000 and 500,000 people. This is compared with an estimate of an overall population size of 66.8 million people in 2019. Although the figures differ by a year, taking the higher estimate of 500,000 transgender individuals equates to 0.75% of the UK population. In the round this is a small percentage of the overall population, and therefore any indirect differential impact is also likely to be relatively small.
47. The Home Office considers any indirect differential impact, however limited, as justifiable as a proportionate means of achieving multiple legitimate aims. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation. Similarly, the Home Office considers any differential impact to be the result of broader discriminatory treatment that those transgender individuals are victims of. The compliant environment framework does not add to or aggravate this treatment. It is believed that broader discrimination may in fact be behind the higher frequency with which transgender individuals encounter or are impacted by the compliant environment as a whole.

Marriage and Civil Partnership

Direct Discrimination:

48. The overarching compliant environment framework does not differentiate based on whether an individual is married or part of a civil

The second in Stonewall and YouGov's state of the nation LGBT in Britain series focuses on the experiences of more than 800 trans and non-binary people who took part in the research.

partnership. The compliant environment measures are designed to identify whether someone has lawful status in the UK regardless of whether they are married or in a civil partnership; and, whether that status affords them the appropriate right to access work, benefits or services.

49. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework or its component measures have a meaningful, direct differential impact in respect of the protected characteristic of marriage and civil partnership.

Indirect Discrimination:

50. However, the Home Office acknowledges there may be a meaningful indirect differential impact in respect of the protected characteristic of marriage and civil partnership. According to the ONS, in 2019 'married' and 'civil partnered' were statistically the most common marital status. Accounting for just over half (50.4%) of the population aged 16 years and over in the UK²⁴; the equivalent of an estimated 33.6 million people. It is therefore recognised that individuals who are married or in a civil partnership are marginally more likely to be impacted indirectly by the compliant environment when compared to an individual who is either: single; cohabiting or has another type of marital status.
51. This differential impact, however small, is not caused by or as a result of the compliant environment, but rather by broader human demographics. Likewise, it is also not believed to be disproportionate given only slightly more than half the UK adult population is married or in a civil partnership. The Home Office considers the slight impact justifiable as a proportionate means of achieving multiple legitimate aims. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation.

Pregnancy and Maternity:

Direct Discrimination:

52. The overarching compliant environment framework does not differentiate based on whether an individual is pregnant or a mother. The compliant environment measures are designed to identify whether someone regardless of whether they are pregnant or a mother has lawful status in the UK; and, whether that status affords them the appropriate right to access work, benefits or services.
53. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework or the measures with have a meaningful, direct differential impact in respect of the protected characteristic of marriage and civil partnership.

²⁴ [Population estimates by marital status and living arrangements, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/population-and-demography/population/population-estimates-by-marital-status-and-living-arrangements-england-and-wales)

Indirect Discrimination:

54. The Home Office does not routinely collect or process data in respect of this protected characteristic for immigration purposes. As such we have been unable to conduct any internal analysis to explore how the protected characteristic of pregnancy and maternity may be impacted by the compliant environment.
55. However, the Home Office acknowledges that it is possible that those who are pregnant or mothers, may experience discrimination more broadly in other areas, such as loss of employment or housing which may impact on their ability to provide for themselves and require them to either seek new employment, accommodation or reliance on public funds.
56. Research jointly conducted by the then Department for Business, Innovation and Skills (BIS) and the Equality and Human Rights Commission (EHRC) found that out of a sample of 3,254 mothers, 11% reported that they were either dismissed; made compulsorily redundant where others in their workplace were not; or treated so poorly they felt they had to leave their job. If scaled up to the general population at the time of publication in 2016 this could mean as many as 54,000 mothers a year²⁵ finding themselves in similar positions. The same research also found that 77% of mothers said they had a negative or possibly discriminatory experience during pregnancy; maternity leave; and/or, on return from maternity leave. When scaled against the UK population at the time of publication (2016), this equates to 390,000 mothers²⁶. If this figure is contrasted against data from the ONS, which shows there were 712,680 live births in the UK in 2019²⁷, this could represent 55%²⁸ of people protected by the characteristic of pregnancy or maternity experiencing some kind of discrimination in the workplace alone. The Home Office has also considered the relative costs of maternity treatments and the potential frequency of healthcare needs during pregnancy, which means that an individual who has irregular status and shares this protected characteristic may be at an increased likelihood of accruing debts to the NHS which would meet or exceed the threshold. The cost of maternity treatment is raised as a barrier to pregnant women seeking appropriate antenatal, perinatal and postnatal care. However, maternity treatment is the only service explicitly classed as being 'immediately necessary' in the Charging Regulations, meaning it cannot be withheld even if the patient has no means to pay.
57. Taking the results of the research conducted by BIS and the EHRC as evidence of discrimination may also indicate that these individuals

²⁵ <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>

²⁶ This figure can be found in the Summary of Key Findings document here:

<https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings>

²⁷

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/january2021>

²⁸ Round to the nearest percentage point from 54.72%

interact with the compliant environment measures more frequently; on the basis they have to seek new employment during or post maternity, which may result in an indirectly differential impact in respect of this protected characteristic. However, the Home Office does not have access to any population wide data to evidence this at this time, so we will continue to keep this under review and assess any differential impact should data become available as part of new data collection to support the monitoring and evaluation of the compliant environment.

58. The Home Office considers the potential for a slight impact is justifiable as a proportionate means of achieving multiple legitimate aims. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation. The indirectly differential impact identified in respect of individuals who are either pregnant or mothers can also be attributed to discrimination that this cohort of individuals are subject to more generally. It is thought that broader discrimination has a knock-on impact, moving this cohort to a place where they are more frequently encounter or are impacted by the compliant environment measures.

Race (including Nationality, Ethnic or National Origins, Colour):

Direct Discrimination:

59. The Home Office recognises that the overarching compliant environment framework results in a meaningful differential impact in respect of the protected characteristic of race (specifically nationality). As set out at the start of this EIA, the compliant environment aims to: deter immigration offending, including discouraging those who may be thinking of coming to the UK unlawfully from doing so; secure compliance with and support the enforcement of the UK's immigration laws; protect taxpayers' money; and protect vulnerable migrants from the risk of exploitation.
60. The aims of the policy and their fulfilment mean that the compliant environment framework and the measures within are designed to largely focus on individuals who are third-country national migrants (both regularised and irregular) in the UK rather than British or Irish citizens, In some areas, such as employment and private rented housing, everyone is subject to checks, including British and Irish citizens. In other areas, such as banking and driving, restrictions are only imposed on individuals who are known to be present in the UK irregularly.
61. This does mean that third-country migrants in the UK may interact with and be impacted by the compliant environment framework more so than British or Irish citizens, thereby causing a directly differential impact.
62. It is considered that this directly differential impact is the result of the broader way in which immigration control in the UK is managed and is not directly as a result of the compliant environment itself.

63. This is because at a high-level, the UK's immigration system differentiates between those: who do not require permission to enter and stay (that is British and Irish²⁹ citizens); and, third-country national migrants who do. In respect of third-country nationals, the immigration system also provides for conditions to be attached to any limited or temporary permission to stay that they are given – these conditions can include restrictions relating to work, access to public funds, and so on. Similarly, the immigration system criminalises migrants who either enter the UK without permission; remain longer than any limited permission allows; or, breach a condition associated with their permission to be in the UK. This approach and the powers which enable its operation are set out in legislation. They stem from the Immigration Act 1971 but have been built on substantially by numerous pieces of succeeding legislation; including pieces of legislation which restrict the rights and activities that migrants whose status has become irregular can utilise.
64. As stated above, certain exemptions in Schedules 3 and 23 to the Equalities Act 2010 permit direct discrimination on the basis of nationality, ethnic or national origins, place of ordinary residence and duration of presence or residence. These powers to differentiate in respect of third-country migrants are rational and enshrined in primary and secondary legislation, which has been subject to both Ministerial agreement as well as Parliamentary Scrutiny. However, we have gone further than required by the public sector equality duty and considered the justification for any such discrimination.
65. The operation of the compliant environment framework, and the resulting directly differential impact, is consistent with the overall approach the UK takes to immigration control. As a result, the Home Office also considers the compliant environment framework to be a proportionate means of achieving legitimate aim, rational, fair and reasonable because it is based on the existing framework and legislation underpinning immigration control in the UK.
66. Turning to look at decisions made under the compliant environment framework, it should be noted that nationality alone would not be the reason why an individual is affected by the measures. Decisions to prevent access to work, benefits and/or services are taken on the basis of someone's immigration status in the UK; primarily whether they have permission to be in the UK or not, and whether any permission provides them the appropriate right they are seeking to access. Thus, although there is a link between nationality and immigration status, the Home Office does not consider decisions made under the compliant environment measures to have directly differential impact in respect of this protected characteristic.

²⁹ British and Irish citizens have long enjoyed a special status in each respective state since the 1920s. The Immigration and Social Security Co-ordination Act 2020 protects this position and means Irish Citizens will continue to be treated more favourably than any other third-country nationality; for example, being unilaterally entitled to access public funds. This agreement extends existing bilateral agreements between the UK and Ireland.

67. To mitigate against any potential discrimination, harassment or victimisation, the Secretary of State has issued a code of practice specifying what an employer should or should not do to ensure that, while avoiding liability to a penalty and the commission of an offence under the above provisions, the employer also avoids contravening the Equality Act 2010 (c 15), so far as relating to race. They are:

- A 'Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working'. This was brought into force on 6 April 2022 by SI 2007/3290, art 12 (substituted by SI 2022/242).
- A separate 'Code of practice for landlords: Avoiding unlawful discrimination when conducting 'right to rent' checks in the private rented residential sector' gives further advice on how to operate checking processes that are non-discriminatory and in accordance with statutory equalities duties.
- Taxi licensing guidance (publishing.service.gov.uk) – also refers to the employers guide.

Indirect Discrimination:

68. In addition to the directly differential impact identified above, the Home Office also recognises that the compliant environment framework results in an indirectly differential impact in respect of nationality and colour.

69. Internal data³⁰ generated to inform evaluation of the compliant environment measures as part of the HOAI report shows that certain nationalities may be more frequently impacted by the compliant environment measures than others. As can be seen in the table below, Indian, Pakistani, and Nigerian nationals were the top three most common affected nationalities when it came to data-sharing with other government departments to regulate access to work, benefits and/or services under the compliant environment framework. These three nationalities accounted for over a third of the temporary migrant population impacted by data sharing. Bangladeshi and Chinese nationals were also found to be in the top five nationalities of data shared, but as the table demonstrates the volumes are much lower.

Figure 3: Most common nationalities present within the data share with other government departments pre Windrush.

Nationality	Count of Individuals	% Share
Indian	74,353	16.6%
Pakistani	57,824	12.9%

³⁰ <https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes>

Nigerian	39,960	8.9%
Bangladeshi	33,127	7.4%
Chinese	27,782	6.1%

70. To better contextualise the findings above, Eurostat data indicates that the top five nationalities most commonly “found to be illegally present” in the UK in 2019 are:

Figure 4: Nationalities most commonly found to be illegally present in the UK 2019³¹

Nationality	Count of Individuals	% Share
Albanian	4,175	18.7
Indian	2,190	13.3
Pakistani	1,865	8.4
Brazilian	1,730	7.8
Chinese	1,595	7.2

71. The data in *figure 3* only accounts for a part of the compliant environment measures (i.e. data-sharing measures which do not make up all six work streams), and so any finding of indirectly differential treatment is limited at this time. The Home Office would need to collate more data across all six measures which make up the compliant environment framework to assess these initial findings in more detail; consideration of how that can be achieved is underway. Nevertheless, it would initially appear that data indicates migrants impacted by the compliant environment are more likely to be from one of a select number of nationalities rather than a wide-range, and may also be more likely to be of South-East Asian or black ethnicity.

72. The reasons for these nationalities’ prevalence in the data is not immediately clear, although irregular migratory patterns to the UK and the number of irregular migrants from specific countries who choose to come to the UK without legal permits or who subsequently overstay may be a factor. The top nationalities in data share also have some of the highest number of visa applications and those volumes will naturally be reflected in the data share.

73. In addition to nationality, we think the data above shows there is also an indirect differential impact when it comes to colour. We note that of the top five nationalities impacted most are identifiable as being from/of

³¹ [Third country nationals found to be illegally present - annual data \(rounded\) \[MIGR_EIPRE__custom_1985020\]](#)

brown or black heritage and all five are visibly not white. This means that the internal data suggests some of the compliant environment measures may disproportionately impact on people of colour.

74. As set out in paragraph 67/pg26 the Secretary of State has issued guidance to mitigate against potential discrimination, harassment or victimisation.
75. In addition, the Home Office has considered whether the primary use of English as part of the compliant environment measures means the system may be complex for navigate for non-native English speakers; it is recognised this may be the case. In 2013, English was the main language for 92 per cent (49.8 million) of usual residents aged three and over. Of the remaining eight per cent (4.2 million), who had a different main language, the majority (3.3 million) could speak English well or very well³². Also, many UK migration routes are subject to an English language requirement – meaning migrants are required to and assessed against their ability to speak English before being given permission which limits language difficulties to some extent and helps lower the level of indirect discrimination. It is possible that a proportion of the population may struggle when they interact with the compliant environment measures if English is not their primary language. However, the advent of smartphones and translation technology provides a means to mitigate against and overcome this risk.
76. As well as language, the Home Office has considered whether adults with poor literacy skills may be impacted by the compliant environment measures. There are statistics available for adult literacy levels in England (2012), Scotland (2009), Wales (2010) and Northern Ireland (2012) but each nation has a different definition of basic literacy skills, so country comparisons are not possible. For the purpose of this EIA, 1 in 6 (16.4% / 7.1 million people) adults in England have very poor literacy skills³³. Adults with poor literacy skills can be locked out of the job market and as a result may need to access services and benefits. Conversely this could mean that adults with poor literacy skills do not access benefits and services as they are unable to do so. There is not enough data to draw a meaningful conclusion either way. However, the Home Office has an overall objective to write its guidance products in plain English to make information more accessible.
77. The Home Office has also considered whether socio-economic data³⁴ in respect of this protected characteristic, alongside the compliant

³²<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/language/articles/detailedanalysisenglishlanguageproficiencyinenglandandwales/2013-08-30>

³³ <https://literacytrust.org.uk/parents-and-families/adult-literacy/>

³⁴ <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/socioeconomic-status/latest>

environment measures, indicates there may be an indirectly differential impact. Data and statistics that we have been able to collate as part of this consideration suggests that the socio-economic position of different ethnicities in the UK is very complex. Ethnic groups experience unequal wealth distribution in different ways.

78. Data that we have been able to gather includes ethnic groups reliance on benefits; household income; and home ownership. In respect of reliance on benefits, the data shows that in the three-years to March 2021³⁵, 51% of families in the UK received a type of state support, such as the State Pension or Child Benefit. White British families were the most likely to receive state support (51%), and families from the Chinese ethnic group were the least likely to (25%). Likewise, White British families were also the most likely to receive non-income related benefits, such as the State Pension (51%). In comparison, families from the Black and Bangladeshi (24%) ethnic groups were the most likely to receive income-related benefits, such as help with the cost of housing.
79. In terms of household income, in the three years to March 2021 45% of households in the UK had a weekly income of below £600 before tax, 25% had a weekly income of between £600 and £999, 23% had a weekly income of between £1000 and £1999 and 7% had a weekly income of over £2000.³⁶ In contrast, 54% of households identifying as ethnically Black had a weekly income of less than £600, compared to 32% of those identifying as Indian. 14% of those identifying as Indian, compared to 3% of those identifying as Bangladeshi, had a weekly income of over £2000.
80. Additionally, when it comes to home ownership, according to the ONS,³⁷ between 2016 and 2018 63% of households owned their own homes. Looking at the detail of this figure, and from the perspective of ethnicity it can be seen that 68% of White British households owned their own homes, compared with 40% Black Caribbean households. Only 20% of Black African households owned their homes. The ethnicity most likely to own their own home was those identifying as Indian (74%). Only 17% of those identifying as Arab were homeowners, making them the ethnicity least likely to own a home. In comparison with White British ownership, there was also, generally, lower ownership among Asian ethnic groups; the exception to this being 74% of those identifying as Indian owning their own home. There were also lower percentages of ownership among those identifying as of Arab and mixed ethnicity.
81. The English Housing Survey (2016-2018) carried out an analysis of the ethnic groups of private renters. The White Other group were most

³⁵ <https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/benefits/state-support/latest>

³⁶ <https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/pay-and-income/household-income/latest>

³⁷ <https://www.ethnicity-facts-figures.service.gov.uk/housing/owning-and-renting/home-ownership/latest>

likely to rent privately, with 59% of those in this category saying they did so. The ethnic groups least likely to rent privately were those in the White British and Indian categories (16%)³⁸.

82. The data set out above therefore suggests that there may also be an indirectly differential impact in respect of ethnicity. Although the area is complex and limited by available data, our consideration thus far may suggest that non-white ethnic groups, and in particular those identifying as part of the black ethnic group, may more frequently interact with and be affected by the compliant environment measures. On the basis that lower socio-economic indicators may mean certain ethnic groups interact more frequently with the compliant environment measures and the measures contained within.
83. However, the reasons for apparent lower socio-economic status among ethnic groups is complex and the result of a wide range of factors. It is not considered to be as a result of the operation of the compliant environment alone.
84. Likewise, the indirect differential impacts identified in the preceding paragraphs are considered to be justified as a proportionate means of achieving the legitimate policy aim. Namely, of the compliant environment framework protecting taxpayer funded services; and protecting vulnerable migrants from exploitation. They are also considered to be the result of the approach to immigration control that the UK operates more broadly, as well as migration trends, both historic and current.

Religion or Belief:

Direct Discrimination:

85. The overarching compliant environment framework does not differentiate based on an individual's religion or belief. The compliant environment and the measures within are designed to identify whether someone, regardless of their religion or belief, has lawful status in the UK; and, whether that status affords them the appropriate right to access work, benefits or services.
86. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework has a meaningful, direct differential impact in respect of the protected characteristic of religion or belief.

Indirect Discrimination:

87. The Home Office does not routinely collect or process data in respect of this protected characteristic for immigration purposes. As such we have been unable to conduct any internal analysis to explore how the protected characteristic of religion or belief may be impacted by the compliant environment measures.

³⁸ [Renting from a private landlord - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.service.gov.uk/ethnicity-facts-figures)

88. Nevertheless, the Home Office has used external data to inform our consideration. As a result, we recognise that there may be an indirect differential impact in respect of this protected characteristic. Like internal data, there is also a lack of external data which looks at migrants in the UK and their respective religious or general beliefs. We have therefore utilised data from the 2011 census to inform our considerations.
89. Data from the 2011 Census³⁹ shows that 59.3 per cent of the population of England and Wales identified as Christian. The second largest religious group was of Muslims (2.7 million people, 4.8 per cent of the population). 14.1 million people (25.1%) also reported that they had no religion. These findings suggest that those identifying as Christians may more frequently interact with and be impacted by the compliant environment measures.
90. Conversely, the Home Office considers that this broad finding may hide a more nuanced picture. More detailed ONS data from the 2011 census⁴⁰ also provides a breakdown of ethnic group and religion. Such data shows that close to 31 million individuals identified themselves as both of white ethnicity and Christian as part of the census; as the census covers the whole UK population it is likely a large proportion of these responses were from British or Irish citizens, who would not be the focus of some of the measures within the compliant environment framework.
91. The more detailed data also shows that of the 2,706,066 Muslims in England and Wales, the vast majority (2,495,446) identified as Asian, Black or mixed, multiple ethnicities. This means that 210,620 identified as White. Of the 816,633 Hindus in England and Wales, 804,607 identified as Asian, Black or mixed, multiple ethnicities. This means that 12,026 Hindus identified as White. Of the 423,158 Sikhs in England and Wales, 415,698 Sikhs identified as Asian, Black or mixed, multiple ethnicities. This means that 7,460 identified as White. Without better understanding of how these ethnicity and religious affiliations link to migrants in the UK, it is hard to draw any firm conclusions from this data. However, it may be plausible that there is a link between the impact of the compliant environment measures as a whole and religion where that religion is linked to specific Asian, Black or mixed multiple ethnicities.
92. In addition, the Home Office also recognises that there may be an indirect differential impact in respect of this protected characteristic,

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<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/articles/religioninenglandandwales2011/2012-12-11>

40

<https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/ethnicityandreligionbyage>

following on from and on the basis of the indirect differential impact identified under the protected characteristic of nationality/ethnicity.

93. As set out above in the protected characteristic of Race, operation of the compliant environment measures seems to result in an indirect differential impact for nationals of India, Pakistan, Nigeria, as well as Bangladesh and China on a smaller scale. The Home Office has therefore considered whether the prevalence for these nationalities to be affected by the compliant environment measures also results in an indirect differential impact under the protected characteristic of religion of belief. Using as our source the CIA's The World Factbook⁴¹, we have considered the religious make-up of these five countries to identify whether their prevalence in decisions being made under the compliant environment framework does amount to an indirect differential impact.
94. Statistics produced and published as part of The World Factbook show: India is predominately Hindu (79.8% of the population) with Islam also having a large share of the population (14.2%)⁴²; Pakistan is overwhelmingly Muslim (96.5%)⁴³; Nigeria is largely Muslim (53.5%) with almost as many Christians (45.9% - although split between other Christian (35.3%) and Roman Catholic (10.6%))⁴⁴; Bangladesh is largely Muslim (88.4%)⁴⁵; and China is mixed with folk religion⁴⁶ (21.9%) and Buddhist (18.3%) making up large proportions of the population, but with 51.8% of people also being unaffiliated with any religion⁴⁷.
95. We can therefore draw a conclusion that the prevalence for certain nationalities to be impacted by the compliant environment framework may also result in an indirect differential impact in respect of the protected characteristic of religion or belief. Specifically, it seems that the indirect differential impact when it comes to nationals of India, Pakistan and Nigeria also creates an indirect differential impact for this protected characteristic. In that as nationals of certain countries are more frequently impacted, and those countries are predominately made up of followers of certain religions (i.e. in this instance Islam), it means followers of that religion seem to be impacted by the compliant environment measures more frequently than others.
96. Although there may be an indirect differential impact on people as a result of religion or belief, the Home Office considers this is outweighed

⁴¹ <https://www.cia.gov/the-world-factbook/>

⁴² <https://www.cia.gov/the-world-factbook/countries/india/#people-and-society>

⁴³ <https://www.cia.gov/the-world-factbook/countries/pakistan/#people-and-society>

⁴⁴ <https://www.cia.gov/the-world-factbook/countries/nigeria/#people-and-society>

⁴⁵ <https://www.cia.gov/the-world-factbook/countries/bangladesh/#people-and-society>

⁴⁶ a set of spiritual beliefs and practices particular to a community and not affiliated with any major religion or religious institution

⁴⁷ <https://www.cia.gov/the-world-factbook/countries/china/#people-and-society>

by operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation and is therefore justifiable as a proportionate means of achieving multiple legitimate aims. As with the indirect differential impact in respect of race, this indirect differential impact is also partially informed by migratory trends to the UK which is outside of the scope of the compliant environment measures, but does result in an impact nonetheless.

Sex:

Direct Discrimination:

97. The overarching compliant environment framework does not differentiate based on an individual's sex. The compliant environment and the measures within are designed to identify whether someone, regardless of their sex, has lawful status in the UK; and, whether that status affords them the appropriate right to access work, benefits or services.
98. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework has a meaningful, direct differential impact in respect of the protected characteristic of sex⁴⁸.

Indirect Discrimination:

99. It is acknowledged that the compliant environment measures may have an indirect differential impact in respect of this protected characteristic.
100. In mid-2019 the UK population reached⁴⁹ 66,800,000 people, of whom 12,625,200 were children. The estimated adult population was therefore 54,174,800. In the 2011 census, women and girls made up 51% of the population of England and Wales, and men and boys made up 49% and most ethnic groups had roughly the same male and female populations⁵⁰. The ratio between males and females in the UK has remained fairly constant since 1953, narrowing marginally from 1994 to date. That being the case, the Home Office assumes, for the purpose of this EIA, that those ratios will be reflected in the current adult population. Extrapolating the general UK population, although the margin is small, could initially indicate that women may be subject to the compliant environment measures more frequently than men and this may result in an indirect differential impact.

⁴⁸<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

⁴⁹

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/overviewoftheukpopulation/january2021>

⁵⁰ <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/male-and-female-populations/latest>

Moreover, on average women earn less than men in equivalent employment. The gap between men and women's pay was 15.4% in 2021.⁵¹ This pay difference could mean that women are more likely to access services and benefits and are therefore exposed to the compliant environment more frequently than men. A Children's Society Report⁵² that the Home Office has considered also states that single parents, particularly mothers, can face a disproportionate risk of poverty due to the lack of income that one parent can bring in, greater reliance on paid childcare, or inability to work and provide childcare simultaneously, and therefore more in need of welfare support. More specific impacts have been considered in detailed equality impact assessments looking at individual measures thereby supporting the conclusion that the compliant environment measures may indirectly impact on women more than men.

101. The Home Office has also considered socio economic data in respect of the protected characteristic of sex and the impact of the compliant environment framework. The ONS found that, keeping other factors constant, between April 2018 and March 2020, women were estimated to have £101,000 less wealth than men. In 2020, the ONS also found that on average, men and women are equally likely to have a private pension, but, based on data between April 2018 and March 2020, that the median female pension is worth £31,500 less than the median male pension.
102. This data indicates women are lower on the socio – economic scale, and therefore may be more indirectly impacted by the compliant environment measures through interacting with and being impacted by the compliant environment measures more frequently than men.
103. However, in contrast, Eurostat data on third country nationals found to be illegally present in the UK indicates that in the years 2017, 2018 and 2019 females represented only 29%, 23% and 21% of that cohort respectively⁵³.
104. The Eurostat data, along with other emerging evidence suggests that the compliant environment framework may in fact have a greater indirect differential impact on men than on women. Using data generated for the purposes of evaluating the compliant environment as part of an Home Office Analysis and Insight report⁵⁴ (referenced in paragraph 69) the table below demonstrates that of the 448,800 individuals identified on Home Office systems as appearing to have no rights to reside in the UK, or to have certain conditions on their visas restricting their access to work, benefits or services, and had their details shared between 2014 and 2018 were 66.8% were male. This

⁵¹ [Gender pay gap in the UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-work/pay-and-earnings/gender-pay-gap-in-the-uk)

⁵² <https://www.childrensociety.org.uk/information/professionals/resources/lifeline-for-all>

⁵³ [Third country nationals found to be illegally present - annual data \(rounded\) \[MIGR_EIPRE__custom_1984956\]](#)

⁵⁴ <https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes>

indicates that men are more likely to be impacted by the compliant environment measures than women.

Figure 5: Sex of unique individuals within the data share with other government departments

Sex	Count of Individuals	% Share
Female	147,856	32.9%
Male	299,964	66.8%
Unknown	980	0.2%

105. Publicly available data, such as statistics from the ONS, also indicates that men are more likely than women to be impacted by the compliant environment framework. For example, more men than women are in employment⁵⁵ and as such men may be more impacted by the some of the compliant environment measures, such as needing to demonstrate the right to work. Likewise, of the 35.6 million people holding a full car driving licence in England, 18.3 million are men, and 17.6 million are women⁵⁶. These statistics show that potentially more men than women could encounter and be subject to the compliant environment measures. These findings support those of the internal data, and therefore point towards a greater, indirect differential impact for men.
106. Although the operation of the compliant environment framework may result in an indirect differential impact in respect of the protected characteristic of sex, the Home Office considers this is outweighed by the legitimate aims of the compliant environment. Namely, of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation and is therefore justifiable as a proportionate means of achieving multiple legitimate aims. Any indirect differential impact is also considered to be the result of migratory trends to the UK – which indicate there may be a prevalence for men instead of women to migrant, both lawfully and irregularly.

Sexual Orientation:

Direct Discrimination:

107. The overarching compliant environment framework does not differentiate based on an individual's sexual orientation. The compliant environment and the measures within are designed to identify whether someone, regardless of their sexual orientation, has lawful status in the UK; and, whether that status affords them the appropriate right to access work, benefits or services.
108. As such, the Home Office has not, at this present time, identified anything that would indicate the overall compliant environment framework has a meaningful, direct differential impact in respect of the protected characteristic of sexual orientation.

⁵⁵ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes>

⁵⁶ [Driving licence holding and vehicle availability - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Indirect Discrimination:

109. The Home Office does not routinely collect or process data in respect of this protected characteristic for immigration purposes. As such we have been unable to conduct any internal analysis to explore how the protected characteristic of sexual orientation may be impacted by the compliant environment framework. Instead, to ensure thorough consideration of our public sector equality duty, the Home Office has used other data sources to inform its consideration of whether the compliant environment measures creates an indirectly differential impact in respect of this protected characteristic.
110. Statistics from the ONS show that in 2019, 93.7% of the UK population aged 16 years and over identified as heterosexual; and 2.7% identified as lesbian, gay or bisexual⁵⁷. The same statistics also found that younger people (those aged 16 to 24 years) were more likely to identify as lesbian, gay, or bisexual; 6.6% of all 16 to 24-year olds⁵⁸.
111. As a result, the Home Office acknowledges that there may be an indirectly differential impact in respect of the protected characteristic of sexual orientation. Specifically, on the basis that heterosexual individuals are more likely to be impacted by the compliant environment framework – owing to the larger proportion of the population who identify their sexual orientation in this way. However, this impact is not caused by or as a result of the compliant environment, but rather by broader human demographics.
112. The Home Office therefore considers any impact in respect of this protected characteristic justifiable as a proportionate means of achieving multiple legitimate aims. Namely of operating and enforcing a fair immigration system; protecting taxpayer funded services; and protecting vulnerable migrants from exploitation.

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

This limb of the duty involves having due regard, in particular, to the need to:

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and,

⁵⁷

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

⁵⁸

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Schedule 18 to the 2010 Act sets out exceptions to the equality duty. In relation to the exercise of immigration and nationality functions, section 149 (1)(b) – 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 (which includes nationality, ethnic or national origins) or religion or belief.

Age

1. The compliant environment broadly applies to everyone aged 18 and over. The Home Office recognises that individuals who are aged 16 and over may interact more frequently with the compliant environment measures in comparison to those who are not of working age or the age of majority. The compliant environment therefore neither promotes nor diminishes equality of opportunity for individuals aged 18 or over. We would not seek to promote equality of opportunity for those under 18 as the compliant environment measures may not apply directly to that age range.

Disability:

2. The compliant environment measures are not designed to impact individuals on the basis of the protected characteristic of disability as the measures apply to everyone. However, the Home Office recognises that it is possible that individuals who are disabled face more significant challenges and discrimination than those who are not, and as a result disabled individuals may engage more frequently with the compliant environment in comparison to those without a disability. Therefore, it could be perceived the policy could indirectly diminish equality of opportunity for individuals with the protected characteristic of disability. The reasonable adjustments we have put in place in individual EIAs limit any disadvantages on the basis of disability.

Gender Reassignment:

3. The compliant environment measures are not designed to impact on individuals at any stage in the transition process from proposing to reassign their gender, to undergoing a process to reassign their gender, or having completed. The compliant environment framework applies to everyone regardless of this characteristic. However, should a visa expire during the medical journey, the NHS Trust may take the view that procedures should only continue if they were deemed necessary. If an individual becomes chargeable for healthcare the trust may withhold further treatment unless the applicant pays upfront if the treatment is not deemed necessary/urgent. For instance, cancer treatment would continue regardless of payment but elective procedures would be less likely to continue. Although gender reassignment is deemed an elective procedure at commencement, individual health care authorities may deem the continuance of gender reassignment surgery as necessary to the patient's mental health. Therefore, the compliant environment neither promotes nor diminished equality of opportunity in this area.

Maternity and Pregnancy:

4. The compliant environment measures are not designed to impact individuals on the basis of maternity or pregnancy, as the policy applies to everyone regardless of this characteristic. The compliant environment therefore neither promotes nor diminishes equality of opportunity in this area.

Race:

5. As set out at the start of this EIA, the compliant environment is designed to distinguish between those who are present in the UK with lawful status versus those who are here irregularly; and, ensure where an individual holds lawful status, it affords them the right to access the work, benefits or services they are attempting to utilise. In some cases this focusses on migrants only but it can impact on the settled population too.
6. Whilst the Home Office does not consider this focus on migrants to impact on the obligation to advance equality of opportunity, we understand it could be perceived in that way. Ministerial Authorisation was obtained for the Windrush Compensation Scheme which permitted/permits more favourable treatment of certain Commonwealth citizens, their children and grandchildren on the basis of nationality. This is an example of lawful discrimination to further a positive impact for a group with a protected characteristic.

Religion or Belief:

7. The compliant environment measures are not designed to impact on individuals on the basis of their religion or belief, as the policies apply to everyone regardless of this characteristic. The compliant environment therefore neither promotes nor diminishes equality of opportunity in this area.

Sex:

8. Compliant environment measures are not designed to impact on individuals on the basis of their sex as the measures apply to everyone regardless of this characteristic. The compliant environment neither promotes nor diminishes equality of opportunity in this area.

Sexual Orientation:

9. The compliant environment measures are not designed to impact on individuals on the basis of sexual orientation as the policies apply to everyone regardless of this characteristic. The compliant environment therefore neither promotes nor diminishes equality of opportunity in this area.

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

1. *This limb of the duty is about having due regard to the need to foster good relations between persons who share a relevant protected characteristic and*

persons who do not share it. This means, in particular, to have due regard to the need to:

- a. Tackle prejudice, and,
- b. Promote understanding.

Age

2. There is no distinction between people who share this protected characteristic and persons who do not share it. The compliant environment applies to everyone aged 18 and over. As a result, it is considered that the policy has an overall neutral affect in respect of fostering good relations between people who share a protected characteristic and persons who do not share it.
3. The Home Office recognises that wider UK legislation and policy means that in practice only those aged 16 years old and over are affected by the compliant environment although as already discussed (in para 13 – 15, limb 1) this will not always be case and younger dependants may be indirectly impacted. Likewise, the Department also recognises that older generations are less likely to engage with some of the measures which make up the broader policy. As a result, there is a possibility that good relations may not be fostered between those of working age (who it is thought are more likely to interact with the compliant environment) and those who are outside of that age bracket (i.e. younger and older generations including parents with dependant children). However, the Home Office does not consider that this would affect inter-generational relations significantly.

Disability

4. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. As a result, it is considered that the policy has an overall neutral effect in respect of fostering good relations between people who share a protected characteristic and persons who do not share it.
5. The Home Office acknowledges (in limb 1, para 23) that individuals who are disabled may experience discrimination in everyday life more regularly than those who are not; or example, those with a disability may be subject to loss of employment or housing more frequently. Where this wider discrimination occurs between people who share the protected characteristic of disability and those who do not, good relations will be difficult to foster. Compounded by the compliant environment measures this may affect relations between those who share the protected characteristic of disability and those who do not. The reasonable adjustments we have put in place in individual EIAs should limit any resentment and help to foster good relations between those who share the protected characteristic of disability and those who do not.

Gender Reassignment

6. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. However, as acknowledged in Limb 1

those who are transitioning or have transitioned may be discriminated against in other areas – for example, in employment or housing. As a result, it may be the case that people who share this protected characteristic interact with the compliant environment more frequently than those who do not.

7. The Home Office considers that this could create a situation whereby people who share this protected characteristic feel unfairly impacted upon or discriminated against compared to those who do not share it – because of the increased frequency with which they may have to interact with compliant environment measures. Therefore, it is considered that there may be a slightly negative overall affect in respect of fostering good relations between people who share this protected characteristic and persons who do not share it.

Maternity and Pregnancy

8. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. However, as recognised those who are pregnant or mothers may be discriminated against in other areas, such as through the loss of employment or housing which may in turn then impact on their ability to provide for themselves and require them to either seek new employment, accommodation or reliance on public funds. Any such broader discrimination may in turn mean that these individuals interact with the compliant environment more frequently.
9. The Home Office considers that this could create a situation whereby people who share this protected characteristic feel unfairly impacted upon or discriminated against compared to those who do not share it – because of the increased frequency with which they may have to interact with compliant environment measures. Therefore, it is considered that there may be a slightly negative overall affect in respect of fostering good relations between people who share this protected characteristic and persons who do not share it.

Race

10. The compliant environment largely, although not wholly, focuses on the status and rights of migrants in the UK – both regularised and irregular. Although some of the workstreams which make up the broader policy also require checks to be undertaken to identify British or Irish nationality there is, as acknowledged above, a differential impact on third-country migrants in the UK.
11. As a result, it is possible that such differential treatment is detrimental to the obligation to foster good relations. The public generally support the compliant environment policies⁵⁹, however as the cohort of people subject to compliant environment measures is defined by migration patterns and therefore race and ethnicity it is possible that relations between the wider public and people subject to the compliant

⁵⁹ <https://yougov.co.uk/topics/politics/articles-reports/2018/04/27/where-public-stands-immigration>

environment measures could be strained, where ethnicity is directly linked to nationality.

12. Since the Windrush scandal, further safeguards have been introduced to reduce the risk of any individual with leave to remain in the UK being impacted by the compliant environment measures. A list of safeguards can be found on page 46.

Religion or Belief

13. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. It is recognised that the indirect differential impact identified above, whereby followers of Islam may be unduly affected as a result of the indirect impact under the protected characteristic, may impact the obligation to foster good relations.
14. Whilst it is recognised there may be a small impact in respect of the obligation to foster good relations, overall it is considered that the policy has an overall neutral affect in respect of fostering good relations between people who share this protected characteristic and persons who do not share it.

Sex

15. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. It is recognised that the indirect differential impact identified above, whereby men appear to interact with or be affected by the compliant environment more so than women, may impact the obligation to foster good relations.
16. However overall, it is considered that it has an overall neutral affect in respect of fostering good relations between people who share this protected characteristic and persons who do not share it.

Sexual Orientation

17. There is no distinction between people who share this protected characteristic and persons who do not share it as the compliant environment applies to everyone. As a result, it is considered that it has an overall neutral affect in respect of fostering good relations between people who share this protected characteristic and persons who do not share it.

4. Summary of foreseeable impacts of policy proposal, guidance or operational activity on people who share protected characteristics

Protected Characteristic Group	Potential for Positive or Negative Impact?	Explanation	Action to address negative impact
Age	Potential negative	<p>Individuals seeking to access work, benefits and services are generally required to be at the very least in the older teenager age bracket (that is. 16 and upwards). As compliant environment checks apply to adults and children 16 or over. This means that there is a meaningful differential impact for older generations who are of working age who will more frequently encounter the measures which make up the compliant environment when compared against younger individuals.</p> <p>The average retirement age for males and females has increased⁶⁰. Older generations may also be more likely to own their properties compared to younger generations⁶¹. It is plausible that older generations who are either near or are of non-working age may come into contact with the compliant environment less often than younger generations because older generations are more likely to no longer be working or own property, instead of renting.</p> <p>There will be circumstances when the overarching compliant environment framework</p>	<p>As this data continues to emerge the Home Office will use it to inform its consideration and update this Equality Impact Assessment.</p> <p>Families, for example, those on a family/Art 8 route can apply to have their NRPF condition lifted regardless of immigration status. If there are child welfare issues local authorities can provide support under s17 Children Act 1989.</p> <p>Local authorities can also provide accommodation and financial support to people when general safeguarding duties are engaged.</p> <p>The safeguards include but are not limited to:</p> <ul style="list-style-type: none"> Establishing a Chief Caseworker Unit in UKVI in June 2018, to ensure that decision makers have a clear escalation route where they have a concern or require specialist guidance. Developing and rolling out “Face behind the Case” training. This bespoke training encourages and supports Home Office staff to take the time to understand an individual applicant’s circumstances in order to make more pragmatic decisions.

⁶⁰ <https://moneyunshackled.com/2021/01/what-age-do-people-really-retire-retirement-statistics/>

⁶¹ <https://www.statista.com/statistics/321065/uk-england-home-owners-age-groups/>

		indirectly impacts on children under the age of 18, when safeguarding issues arise for instance when an adult is impacted by the compliant environment measures and is unable to access benefits or services the lack of which will impact on the welfare of the child.	<ul style="list-style-type: none"> Establishing the Safety Valve Mechanism in Immigration Enforcement, which provides decision makers with access to a network of experts. An improved customer contact and resolution service for those who feel they have been impacted by compliant environment measures in error.
Disability	Potential negative	The compliant environment does not impact on individuals on the basis of the protected characteristic of disability as it applies to everyone. However, the Home Office recognises that it is possible that individuals who are disabled may face more significant challenges and discrimination than those who are not	The reasonable adjustments put in place in individual Equality Impact Assessments could limit any disadvantages on the basis of disability.
Gender Reassignment	Neutral	The Home Office does not envision any direct impact in respect of this protected characteristic because the compliant environment measures apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated by the overarching policy.	The Home Office considers that any indirect differential impact which may result from the compliant environment measures however limited, is justifiable as a proportionate means of achieving multiple legitimate aims.
Marriage and Civil Partnership	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the compliant environment measures apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated by the overarching policy.	Not applicable
Race	Potential negative	It is acknowledged that the compliant environment is specifically targeted at certain nationalities (i.e. third-country nationals who are not British or Irish citizens).	The Government will continue to authorise differential treatment on the grounds of nationality in three ways as a necessary and justified part of operating an immigration the system for the UK:

		<p>This means that there is an impact in respect of the protected characteristic of race, as non-British and Irish nationalities will be affected more frequently by the compliant environment policy. This could also impact on the obligation to foster good relations.</p> <p>As the people who will be impacted by compliant environment measures is defined by migration patterns and therefore race and ethnicity it is possible that relations between the wider public and people subject to the compliant environment measures could be strained, where ethnicity is directly linked to nationality. The Home Office will continue to keep this under review.</p>	<ul style="list-style-type: none"> • Irish citizens will continue to be treated differently from other nationalities; • Distinctions will sometimes be made between nationalities on the basis of international agreements; and, • Distinctions will sometimes be made between nationalities on the basis of objective evidence about compliance and security risk.
Religion or Belief	Potential negative	<p>The Home Office does not envision any direct impact in respect of this protected characteristic because the compliant environment measures apply to everyone. Therefore, there should be no difference in how individuals who share this protected characteristic are treated by the overarching policy.</p> <p>However the potential for indirect discrimination and a potentially negative impact on fostering good relations has been noted.</p>	As this data continues to emerge the Home Office will use it to inform its consideration and update this Equality Impact Assessment.
Sex	Potential negative	There is emerging evidence to suggest that the compliant environment may impact or affect different sexes differently.	As this data continues to emerge the Home Office will use it to inform its consideration and update this Equality Impact Assessment.
Sexual Orientation	Neutral	The Home Office does not envision any impact in respect of this protected characteristic because the compliant environment measures apply to everyone. Therefore, there should be	Not applicable

		no difference in how individuals who share this protected characteristic are treated by the overarching policy.	
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5. In light of the overall policy objective, are there any ways to avoid or mitigate any of the negative impacts that you have identified above?

In response to the Windrush scandal the Home Office has committed to undertake a full evaluation and review of the compliant environment. This process is currently underway and will be delivered in continuous stages, but it will take some time to fully conclude. Therefore, in parallel, the Department has proactively worked to put in place additional policy-based as well as operational safeguards to better protect those who are lawfully present in the UK and who hold permission to access work, services and/or benefits. These safeguards also mitigate the risk of unintended consequences and offer avenues allowing those who believe they have been incorrectly impacted by the measures to contact the Department.

The safeguards include but are not limited to:

- Establishing a Chief Caseworker Unit in UKVI in June 2018, to ensure that decision makers have a clear escalation route where they have a concern or require specialist guidance.
- Developing and rolling out “Face behind the Case” training. This bespoke training encourages and supports Home Office staff to take the time to understand an individual applicant’s circumstances in order to make more pragmatic decisions.
- Establishing the Safety Valve Mechanism in Immigration Enforcement, which provides decision makers with access to a network of experts.
- New safeguards to our data sharing processes, which enhances the existing specification of cases to be shared for bulk data sharing with other government departments.
- An improved customer contact and resolution service for those who feel they have been impacted by compliant environment measures in error.

The findings from the ongoing evaluation and review process are still emerging, however as this is the case, they are being used to consider the Home Office’s statutory obligations under the Public Sector Equality Duty. As new information comes to light the Department will continue to consider any negative impacts of the compliant environment policy, as well as how those negative impacts can be mitigated and updated this EIS accordingly.

In line with Home Office values we are committed to reviewing the EIAs of all the compliant environment measures to ensure our policies are fair and do not present barriers disadvantage any groups with protected characteristics.

At the same time, the Home Office is developing a communications approach to better communicate the scope of, as well as the changes being made to the compliant environment policy. It is believed that doing so will help to clarify and educate the public as well as migrants as to the scope of the policy, its impacts and how they can seek redress if they believe they have been wrongly affected.

6. Review date

This overarching equality impact assessment will continue to be kept under review as further data and evidence around the cumulative impact of the compliant environment measures becomes available. The earliest review will follow the publication of the 2021 census data (full publication in March 2023) but not before September 2023.

7. Declaration

I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

SCS sign off:

Name/Title: Rebecca Nugent

Directorate/Unit: Compliant Environment Enforcement Unit

Date: November 2022

Date sent to PSED Team:

21 November 2022

Annex A: Timeline of policies to restrict access to benefits and services in the UK

