



## Equality Impact Assessment [EIA]

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. Resumption of data-sharing and the operation of the financial restrictions set out in the Immigration Acts 2014 and 2016

This assessment has been undertaken in advance of proposals to resume data-sharing with the financial sector, where banks and building societies (firms) offer UK current accounts. It seeks to identify potential impacts upon persons with protected characteristics as defined in equalities legislation.

Previous assessments at other stages of the life of these measures are annexed aside.

### Introduction

The primary purpose of immigration control is to protect national security and the economic wellbeing of a nation. It is important the public has confidence in the government’s ability to ensure only those who have permission to be in the UK, can enter and remain here.

On 13 December 2022, Prime Minister Rishi Sunak made a speech to the House of Commons on illegal migration. Within this, the Prime Minister said the following regarding those without permission to stay in the UK operating UK bank accounts.

*“And it’s frankly absurd that today illegal migrants can get bank accounts which help them live and work here. So we will re-start data-sharing to stop this.”* ([PM statement on illegal migration: 13 December 2022 - GOV.UK \(www.gov.uk\)](#))

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Under the Immigration Acts 2014 and 2016, access to bank and building society accounts is restricted for those without permission to stay in the UK and the Secretary of State considers a current account should not be provided by a bank or building society.

The restrictions set out in these measures have been held in abeyance since 2019. The data-sharing measures were rightly paused in the wake of the Windrush scandal whilst additional safeguards were put in place. Since then, significant advances in the Home Office's digital agenda have been made, building additional layers of assurance and safeguards into the data-sharing arrangements. The sharing of data on illegal migrants and overstayers with banks and building societies will resume on 06 April 2023. The measures are not new, but their resumption is the first time they have been given proper effect since 2018.

The measures in place to deter illegal immigration and protect its finite resources and opportunities for those lawfully in the UK are in common with many other high immigration destination countries.

For example, the EU has also ensured that unlawful migrants do not benefit from other measures, such as [‘Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features’](#).

### **Access to financial services**

Making it more difficult for unlawful migrants to access financial services is part of the UK's wider set of restrictions on migrant access to work, benefits and services. Having access to a current account can assist in the partaking of illegal employment, obtaining credit, and accessing other resources, such as mobile phones. It can help those without permission to be in the UK to gain a foothold in civic and social society, regardless of their immigration status. Identifying an unlawful migrant's current account may also provide evidence of illegal working. It could facilitate prosecution for that offence and enable the wages to be seized as proceeds of crime.

There was no specific rule to stop unlawful migrants from opening an account in the UK until the Immigration Act 2014 ('the 2014 Act') came into force. The 2014 Act created a requirement upon firms to ensure they did not offer a current account to a 'disqualified person'. A person is liable to be disqualified from opening a current account if they are physically present in the UK and require permission to enter or remain under the Immigration Act 1971, but do not have it. This could be because they never had such permission (for example, they entered illegally), overstayed after their permission expired or was revoked, exhausted all appeal rights, or are subject to a deportation or exclusion order.

This measure under the 2014 Act also applies where individuals are seeking to become a signatory or beneficiary on an existing account. Firms must treat

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this addition as an account opening and check the customer against the disqualified person list. If the customer is a match on the disqualified person list, then they must not be added to the account.

The Immigration Act 2016 ('the 2016 Act') created a requirement upon firms to check existing current accounts on a quarterly basis; identify any held by a disqualified person; and report these to the Home Office. The Home Office may then instruct that the account should remain open because the account holder has been granted permission to stay, has submitted an application yet to be decided (and therefore holds section 3C leave), be closed or, subject to obtaining a court order, frozen.

[Immigration status checks: guidance for banks and building societies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/immigration-status-checks-guidance-for-banks-and-building-societies)

When seeking a freezing order from a court, the Home Office can apply to allow for the account holder to access funds sufficient to cover essential living costs.

*Freezing orders will not be limited to current accounts but may include any account which the disqualified person holds with the bank or building society provided notice has been given to the Secretary of State following an immigration check. The Secretary of State will have discretion as to which accounts are included in the application for a freezing order and the court will have discretion as to which accounts it includes in any order (512, page 54 [Explanatory Notes, Immigration Act 2016, Chapter 19 \(legislation.gov.uk\)](#))*

The courts also have discretion to allow for the holders of frozen accounts to access sufficient funds. If a court decides to approve or deny an application to freeze an account, the account holder and Home Office have respective rights of appeal.

Firms themselves are not mandated by law to notify a customer if their account has been frozen. That decision will come from a court.

Under the 2016 Act, the Secretary of State must issue a code of practice which:

- specifies the factors that the Secretary of State will consider when deciding whether to apply for a freezing order
- outlines the arrangements for keeping a freezing order under review for the purpose of deciding whether to apply for its variation or discharge
- specifies the factors that the Secretary of State will consider when deciding whether to make such an application

[Immigration Act 2014 code of practice: freezing orders \(bank accounts measures\)](#)

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The Secretary of State is obligated under the Immigration Act 2016 to review this code. It may be revised and re-issued following a review. The last review was conducted in 2017. However, the code of practice may not be reissued unless a draft has been laid before parliament and brought into force through regulation.

Where a firm refuses to open, or closes, a current account under the banking measures, the firm will provide information to the customer explaining why they have been refused (where it is lawful to do so without breaching other legislation, such as money laundering regulations). This information may be ingested into firms' letters or in the form of a leaflet prepared by the Home Office, but the wording used must remain the same. The leaflet explains how the customer can contact the Home Office if they believe that they have been mistakenly affected by these measures. The leaflet also provides customers with information on how to contact the Home Office, including the Voluntary Returns Service, should they wish to return to their country of origin.

Should the customer have been erroneously on the disqualified persons list, the Home Office will be able to correct any error in real time, so that the person's details will be immediately removed from the data which is shared with the firms.

#### [Current account closed or refused based on immigration status](#)

#### **Data-sharing to restrict unlawful migrants' access to financial services**

The 2014 and 2016 Acts require the Home Office to share with banks and building societies details of persons disqualified from holding current accounts due to their unlawful immigration status. This data is shared with banks and building societies via an anti-fraud organisation (or, alternatively, a data matching authority) specified in legislation.

In 2018, data-sharing with banks and building societies was restricted as a precautionary measure as the issues came to light in relation to the Windrush generation. Data-sharing was further restricted in December 2019 to undertake a review of the existing arrangements and future operational requirements.

Since this time, additional safeguards have been introduced to further reduce the risk of any individual with permission to stay in the UK being impacted by our data-sharing.

#### **Exceptions and discretion available to the Home Office**

Migrants who have made an immigration application or have an outstanding appeal against that application, are excluded from data-sharing. Those applying to stay in the UK on protection or humanitarian grounds, such as those seeking asylum, are also excluded from data-sharing.

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The Home Office can exercise discretion in determining which cohorts are included when sharing data with banks and building societies. This ensures the measures are targeted effectively to those individuals who meet the definition of being a disqualified person. For example, an age restriction was applied in 2018, with data shared only on those who were born on or after 01 January 1989. This ensured no members of the Windrush generation would be impacted until further permanent safeguards were in place.

### Current account closed or refused based on immigration status

The Home Office has enhanced the complaints service, including absorbing the banking measures into the now established Routes to Redress process. The Routes to Redress process provides customers with a response to their complaint within a service level agreement of five days. If an individual believes they have been incorrectly or disproportionately refused access to a current account, they can contact the Home Office by email, in writing, or by telephone. Contact details are provided on GOV.UK, and on leaflets circulated by firms once access to a current account is denied. The complaints service provides a further opportunity for the Home Office to consider exercising discretion on a case-by-case basis.

## **2. Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.**

The public sector equality duty under section 149 of the Equality Act 2010 requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The equality duty covers the following nine protected characteristics: age; disability; gender reassignment; marital and civil partnership status; pregnancy and maternity; race (including ethnic or national origins, colour or nationality); religion or belief; sex; and sexual orientation.

Although the protected characteristic of marriage and civil partnership is only required to be considered in relation to the first limb of the Public Sector Equality Duty (in the context of employment), we have considered this protected characteristic against all three limbs. This EIA therefore goes further than that which is required by the Public Sector Equality Duty.

### **Legislative framework**

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The measures are provided for in the Immigration Acts 2014 and 2016. Secondary legislation deals with the specified body that would facilitate data-sharing and exceptions to these measures as they relate to corporate accounts. Regulations provide for the oversight of the operation of these measures by firms through the Financial Conduct Authority.

[The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(legislation.gov.uk\)](#)

[The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(legislation.gov.uk\)](#)

[The Immigration Act 2014 \(Bank Accounts\) \(Prohibition on Opening Current Accounts for Disqualified Persons\) Order 2014 \(legislation.gov.uk\)](#)

[The Immigration Act 2014 \(Bank Accounts\) \(Amendment\) Order 2014 \(legislation.gov.uk\)](#)

[The Immigration Act 2014 \(Current Accounts\) \(Compliance &c\) Regulations 2016 \(legislation.gov.uk\)](#)

[The Immigration Act 2014 \(Current Accounts\) \(Excluded Accounts and Notification Requirements\) Regulations 2016 \(legislation.gov.uk\)](#)

## **Profile and characteristics of the illegal migrant population**

The very nature of illegal immigration means that it is difficult to establish a true picture of the unlawful population at any given time (and patterns will change with external factors).

[Measuring illegal migration: our current view - Office for National Statistics \(ons.gov.uk\)](#)

As a proxy, we have considered the composition of records shared with HMRC (HM Revenue and Customs) in January and February 2023. These related to people known to have entered the UK illegally or who had been refused an extension of stay, made the subject of a deportation or exclusion order, and had exhausted all appeal rights.

Breakdown by age:

<b>Age</b>	<b>Cases shared with HMRC</b>
<b>18-30</b>	2,964
<b>31-40</b>	8,023
<b>41-50</b>	6,484
<b>51-60</b>	3,241

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<b>60+</b>	1,669
<b>Total</b>	22,381

Top Nine Nationalities:

<b>Nationality</b>	<b>Total</b>
<b>India</b>	3,926
<b>Bangladesh</b>	2,629
<b>Pakistan</b>	2,507
<b>China</b>	1,700
<b>Nigeria</b>	1,677
<b>Ghana</b>	1,081
<b>Albania</b>	1,033
<b>Iraq</b>	734
<b>Algeria</b>	378

Breakdown by Gender:

<b>Gender</b>	<b>Shared data with HMRC</b>
<b>Male – with the title Mr/Master</b>	16,264
<b>Female – with the title Miss/Mrs/Ms</b>	4,887
<b>No title added – blank</b>	1,202
<b>Title Dr</b>	13

These snapshot figures should be treated as indicative only. The range of nationalities represent the pattern of immigration into the UK and breaches of immigration law within the UK at a given time.

The list of the top nine nationalities above will include people who arrived into the UK clandestinely or by using deception. Others will have arrived with permission and then remained here after that permission ended. It is noteworthy, however, that India, Pakistan, China and Nigeria have historically been high source countries for people arriving lawfully and remaining beyond their permission<sup>1</sup>, with these countries generally falling top by volumes. This is particularly relevant in the context of the 2016 Act, as these measures require firms to screen existing current accounts against the disqualified person list, which may include some of those who came in lawfully but no longer have permission to stay in the UK.

Visa issues by country since 2011 and up to 2021 can be found at [Immigration statistics data tables, year ending June 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/immigration-statistics-data-tables-year-ending-june-2021). Using this link, the data table 'Entry clearance visas summary tables, year ending June 2021' table on excel tab 'vis\_06' shows the numbers of visas by country of nationality in 2021. The top nationalities applying for

<sup>1</sup> [Immigration system statistics quarterly release - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/immigration-system-statistics-quarterly-release)  
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permission to come to the UK largely correspond with the nationalities identified in the snapshot above. Statistics on returns by nationality over the same period can be found on the same page under 'Returns summary tables, year ending June 2021'.

### **Other factors associated with the operation of these measures**

Although the restrictions set out in these measures have been held in abeyance since 2019, they have nevertheless been attributed, anecdotally, with the difficulties that some persons have had in securing or maintaining banking services in the UK. Possible other factors:

#### *Anti-money laundering regulations*

Firms providing financial services must be alive to the risk of money laundering. As such, they are required to establish the identity and address of a customer through 'Know Your Customer' checks. Increasingly, migrants to the UK, who are here for purposes other than a short visit, will be able to use a digital service (View and Prove) to share their immigration status (eVisa) and, thus, their identity as known to the Home Office is shared with firms. However, those who have been provided with physical documentation from the Home Office, rather than an eVisa, can continue to use this for identity checking purposes. The increased use of digital services will lessen the risk that arises from lost, stolen, or damaged documents. The Home Office has published guidance to assist firms in using the digital service. However, the Home Office is in a transition period with the digital service, and as such this is not yet available to everyone.

<https://www.gov.uk/government/publications/biometric-residence-documents-information-for-financial-providers>

#### *Credit and risk ratings and continuous assessment*

Firms will often seek to establish the potential risk in providing a service to a new customer, through credit and risk ratings, and assessments. Established customers may face periodic reassessments and some may face what is termed as 'de-risking,' where a firm ceases the contractual relationship in order to avoid a risk of losing capital or facing reputational damage, regardless of their immigration status.

#### *Financial exclusion*

There can be several reasons for people finding themselves excluded from formal banking and other financial services, regardless of their immigration status. These can include those on low incomes who may appear unprofitable for a firm, those with outstanding debts, incomplete credit histories and those who are assessed as being a risk of potential loss to a firm. The government has made significant progress in tackling the incidence of financial exclusion in the UK and reports regularly on the scale of financial exclusion.

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[Financial Inclusion Report 2021/22 - GOV.UK \(www.gov.uk\)](#)

There are many factors that can play a part in a person facing financial exclusion. These factors are generally related to poverty, deprivation, long term unemployment and mental capacity.

Other factors can include the costs of accessing services and credit, accessibility, and cultural factors. Some people do not trust financial institutions; others may prefer the perceived control of the cash economy. Some may come from families with little previous experience of accessing banking services.

For migrants, a number of these factors may come into play. World Bank statistics from 2020 suggested over of a third of the global adult population were unbanked. Language difficulties and unfamiliarity with society in the UK may also play a part and some people may be concerned with any services that involve receiving or paying interest for religious reasons.

[Where are the Financially Excluded? | Center for Financial Inclusion](#)

[Financial Inclusion Overview \(worldbank.org\)](#)

[UFA Home \(worldbank.org\)](#)

[Understanding and combating 'financial exclusion' | JRF](#)

[Financial Exclusion - follow-up - Committees - UK Parliament](#)

*Unlawful migrants*

Migrants who remain in the UK without permission, often work in the shadow and cash economy, they may live peripatetic lifestyles and try to avoid leaving any footprints that might draw attention from the authorities. Many will use other means of managing their finances.

### **3a. Consideration of limb 1 of the duty: Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act.**

Section 29 of the Equality Act 2010, which relates to the provision of services, sets out that a service-provider must not discriminate against a person requiring the service by not providing the person with the service. Some limited exceptions to this section, in respect of immigration, are set out in Schedule 3 to the 2010 Act, with regard to the protected characteristics of disability, race (nationality) and race (ethnic or national origins) and religion and belief. The effect of these exceptions is that if certain conditions are met, a service-provider will not be discriminating contrary to section 29.

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Paragraph 17 of Schedule 3 to the 2010 Act provides an exception from the prohibition on discrimination against a person in the provision of services or the exercise of public function because of their ethnic or national origins or nationality, in relation to the exercise of immigration functions.

Schedule 23 of the Equality Act 2010 permits direct nationality discrimination and indirect race discrimination on the basis of residency requirements where the discrimination is required by law, Ministerial arrangements or Ministerial conditions.

However, although those provisions of the Equality Act 2010 mean that direct discrimination in such circumstances is lawful, consideration has been given still to 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.

## Age

### Direct Discrimination –

The data shared by the Home Office will include only those who are aged or over the age of 18. Therefore, the measures will discriminate directly on the grounds of age.

Most children do not rely on access to their own bank account, although banking rules do allow children to open an account from the age of eleven. As children will usually live as a family unit, their parents or guardians, however, may be affected by these restrictions. Unaccompanied children will generally be in the care of an appointed guardian, or a local authority and the Home Office manages these cases in line with statutory guidance.

Under section 13(2) of the Equality Act, direct discrimination based on a person's age can be justified if it is a proportionate means of achieving a legitimate aim. In this case, the impact of sharing this data is proportionate to preventing abuse of the Immigration Rules. Inclusion on the list of disqualified persons will depend solely on whether an individual is believed to be in the UK without permission.

### Indirect Discrimination –

In looking at the 'snapshot' above, the majority of those affected by the banking measures are likely to be adults of working age (the largest age cohorts being between 18-50).

The differing impact these measures may have between age groups is proportionate to achieving a legitimate aim. The restrictions target those remaining in the UK without permission for the purpose of preventing and deterring unlawful residence. The data-sharing described in this document is

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required to operate legislation passed by parliament on unlawful migrants' access to current accounts.

## Disability

### Direct Discrimination –

The overarching compliant environment framework does not differentiate based on whether an individual is disabled or not. The banking measures and data-sharing is designed to identify if someone, regardless of whether they have a disability or not, has unlawful status in the UK. As such, the Home Office has not, at this present time, identified anything that would indicate the banking measures have a meaningful, direct differential impact in respect of the protected characteristic of disability.

The Home Office does not routinely seek data on disability. The data shared by the Home Office will not include any details of disability and will relate only to those here without permission.

### Indirect Discrimination –

These measures could have a disproportionate indirect impact on some people with disabilities. For example, someone with a long-term or terminal illness might face difficulty in undertaking the necessary steps to leave the UK. That individual may experience the effect of these measures for a comparatively longer period, than one who is able to leave the UK immediately. However, this potential difference in treatment is proportionate to achieving a legitimate aim, consistent with the explanation provided when considering age.

It is noted that individual circumstances are fluid, and emerging disabilities and healthcare issues mean some migrants become increasingly impacted by the banking 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.

Individuals disqualified from accessing current accounts may make representations by raising a claim for mitigation. This could be because they face legitimate barriers which prevent them from leaving the country – whether because of external circumstances or acute personal vulnerability - and it would not be reasonable to deny them access to a current account. However, it should be noted that only those liable to removal or deportation from the UK are eligible to have their data shared with banks in the first place. They have had the opportunity to attempt to regularise their status in the UK, including by raising any reason why they are exceptionally vulnerable or unable to return to their home country, and have either failed or not attempted to do so. Their details will only be shared once any right of appeal against a refused claim has been exhausted. Help and advice are available to assist them to return home voluntarily. Details of an individual (including an individual who is part of a family with dependent children) will only be

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excluded from sharing following a case-by-case consideration and where exceptional circumstances mean it would be unduly harsh to deny access to banking services

#### Reasonable Adjustments -

The government believes that it is reasonable to expect migrants to be able to support and maintain themselves within the UK and they are generally asked to provide evidence that they have the means to do so before coming to the UK. Any migrant who has arrived here or remains here without permission can have no reasonable expectation that they can work here or seek to establish a settled lifestyle.

Affected migrants will be provided with information on how to contact the Home Office to advise of any mitigating circumstances. They can make such contact by email, in writing or by telephone. The leaflets provided by the firms to affected migrants will be available online, allowing for them to be downloaded, magnified or copied into online translation services.

Migrants who are in the UK without permission can apply to regularise their stay here. Each case will be considered on its own merits and in light of the circumstances pertaining to the individual. This may include taking account of disability in both a decision as to whether the migrant may be allowed to remain here and whether they may also be able to do so without restrictions on seeking benefits or other support.

In some limited numbers, migrants may also be able to obtain support where their needs engage legislation relating to social care.

### Gender Reassignment

#### Direct Discrimination -

The development of banking measures has not and will not be based on the protected characteristic of gender reassignment. The Home Office does not collect data on those who are in the process or have undergone gender reassignment. The policy applies to everyone regardless of this characteristic. No impacts on these grounds have been identified.

#### Indirect Discrimination –

No impacts on these grounds have been identified.

### Marriage and Civil Partnership

#### Direct Discrimination –

The banking measures will be applied to all those who do not have lawful status, regardless of whether they are single, married or in a civil partnership. As such, the Home Office has not, at this present time, identified anything that

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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 –

There may be an indirect impact upon a married couple or a couple in a civil partnership where one is a disqualified person, and the other is not. It will be open, however, to the person who is not disqualified to open an account in their own right. This potential difference in treatment is also proportionate to achieving a legitimate aim, consistent with the explanation provided when considering age.

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 2020 ‘married’ and ‘civil partnered’ were statistically the most common marital status, accounting for just over half (50.6%) of the population aged 16 years and over in the UK<sup>2</sup>. It is, therefore, recognised that individuals who are married or in a civil partnership are marginally more likely to be impacted indirectly by the banking measures when compared to an individual who is either: single; cohabiting or has another type of marital status.

This differential impact, however small, is not caused by or as a result of the banking measures, 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 legitimate aims.

Individuals disqualified from accessing current accounts may make representations by raising a complaint.

## Pregnancy and Maternity

#### Direct Discrimination –

No impacts on these grounds have been identified. The policy applies to everyone regardless of this characteristic.

#### Indirect Discrimination –

Women in the later stages of pregnancy or with a very young baby may fall into the category of those who have no outstanding right of appeal but might face difficulty in undertaking the necessary steps to leave the UK. Those women may experience the effect of these measures for a comparatively longer period than those who are able to leave the UK immediately.

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<sup>2</sup> [Population estimates by marital status and living arrangements, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandlife/birthsdeathsandmarriages/marriageandcivilpartnerships/populationestimatesby maritalstatusandlivingarrangements)

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The potential difference in treatment is proportionate to achieving a legitimate aim, consistent with the explanation provided when considering age. The same safeguards in respect of sharing data and authorising sanctions also apply, minimising the risk of unjust enforcement.

Individuals disqualified from accessing current accounts may make representations by raising a complaint.

## Race

Race includes colour, nationality and national or ethnic origins (section nine of the Equality Act).

Direct Discrimination –

Discrimination on grounds of nationality or national origin is permissible because the measures are provided for by the immigration acts: paragraph 17 of Schedule 3 to the Equality Act 2010.

Race encompasses colour, nationality, and ethnic and national origins. In the exercise of immigration and nationality functions there is an exemption from the Public Sector Equality Duty so far as it relates to nationality and ethnic or national origins. It is likely the measures will have a disproportionate impact on particular nationalities due to the patterns of migration into the UK, including the patterns of immigration offending, but this will be an inevitable consequence of effective immigration control and is within the ambit of permitted action.

No impacts on these grounds have been identified. The restrictions apply in respect of all persons who are remaining in the UK without permission regardless of their race, colour, national or ethnic origins.

Indirect Discrimination –

### Nationality

Overall, no account of nationality is (or should be) made when the details of migrants who are in the UK without leave are shared. However, the Home Office retains discretion to exclude individuals from data-sharing due to pressures relating to critical responses, such as the situations faced by those from Afghanistan or Ukraine.

Despite this, the policy will likely have a differential impact on particular nationalities, because of the patterns of illegal migration. The 'snapshot' above provides an indication of the nationalities likely to comprise the disqualified persons list. Any differential impact would be an incidental result of, and proportionate to achieving, the legitimate aim of immigration control.

### Colour and national or ethnic origins

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Race, colour, national or ethnic origins are not factors in determining a migrant's immigration status in the United Kingdom. In returning to the 'snapshot' above, however, the majority of those affected may be people who are Black or Asian (albeit not all nationals of a given country will be of a certain race, colour or background). This is not, however, a fixed picture and may look quite different at different times. Given the UK's exit from the EU, this picture may change over time.

The potential difference in treatment is proportionate to achieving a legitimate aim, consistent with the explanation provided when considering age.

### Religion or Belief

Direct Discrimination -

No impacts on these grounds have been identified. The policy applies to everyone regardless of this characteristic.

Indirect Discrimination –

Based on the nationalities represented in the 'snapshot,' it may be assumed that Muslims, Hindus, Sikhs will be affected disproportionately by these measures. There are also sizable Christian populations in Asia and Africa.

The potential difference in treatment is proportionate to achieving a legitimate aim, consistent with the explanation provided when considering age. The same safeguards in respect of sharing data and authorising sanctions also apply, minimising the risk of unjust enforcement. Religious belief is not a determinative factor in establishing immigration status.

### Sex

Direct Discrimination –

The development of this process has not been and will not be based on the protected characteristics of sex. The policy applies to everyone regardless of this characteristic. No impacts on these grounds have been identified.

Indirect Discrimination –

As the statistics within the snapshot reflect that more males are known to be in the UK unlawfully than females, it is likely that males will be affected by these measures more. However, difference in treatment on the grounds of sex is a proportionate means of achieving a legitimate aim. The immigration restrictions target those remaining in the UK without permission for the purpose of preventing and deterring unlawful residence, and the statistics show that there are more males present in the UK unlawfully than females. Sex is not a determinative factor in establishing immigration status.

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## Sexual Orientation

Direct Discrimination –

The development of this process has not been and will not be based on the protected characteristics of sex. The policy applies to everyone regardless of this characteristic. No impacts on these grounds have been identified.

Indirect Discrimination –

No impacts on these grounds have been identified.

**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:

- ✓ remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- ✓ 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,
- ✓ 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 Equality Act 2010 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 or religion or belief.

The data-sharing process covered by this assessment is to identify people who are accessing, or seeking to access, current accounts when they are disqualified. Safeguards exist to protect those who are entitled. As such, the measures should not impact individuals who are entitled to hold a current account.

As part of the process detailed in this assessment, the Home Office will consider any representations made by individuals affected. This will be undertaken on a case-by-case basis once a firm has refused or closed access to a current account.

Protected characteristics may play a part in the financial exclusion of some. The government has a strategy to improve upon financial inclusion and has made good progress over the past few years.

## Age

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These measures are not designed to impact on individuals on the basis of their age as the measures apply to everyone regardless of this characteristic. The policy neither promotes nor diminishes equality of opportunity in this area.

### Disability

The Home Office does not routinely seek, or record details of disabilities and these details would not be shared for the purpose of these measures.

In some limited circumstances, a migrant here without permission may be in receipt of support from a local authority. In such circumstances, where a local authority requires migrant to have a current account, the Home Office can consider applying discretion available to it and removing the migrant from the disqualified persons list.

Any migrant here without permission has the option of returning to their home country or otherwise leaving the UK. Support in leaving the UK may be made available from the Home Office or, in some instances, a local authority. A migrant in this position may also seek to regularise their stay in the UK.

### Gender Reassignment

There is no evidence to suggest that any person undergoing or who has undergone gender reassignment will face any different impact than those who have not undergone or are not undergoing gender reassignment.

### Marriage and Civil Partnership

These measures are not designed to impact on individuals on the basis of their marriage or civil partnership as the measures apply to everyone regardless of this characteristic. The policy neither promotes nor diminishes equality of opportunity in this area.

### Pregnancy and Maternity

These 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 measures, therefore, neither promote nor diminish equality of opportunity in this area.

Any migrant here without permission has the option of returning home or otherwise leaving the UK. Support in leaving the UK may be made available from the Home Office or, in some instances, a local authority. A migrant in this position may also seek to regularise their stay in the UK.

### Race

These measures are not designed to impact on individuals on the basis of their race as the measures apply to everyone regardless of this characteristic. The policy neither promotes nor diminishes equality of opportunity in this area.

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## Religion or Belief

These measures are not designed to impact on individuals on the basis of their religion or belief as the measures apply to everyone regardless of this characteristic. The policy neither promotes nor diminishes equality of opportunity in this area.

## Sex

These 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 policy neither promotes nor diminishes equality of opportunity in this area.

## Sexual Orientation

These measures are not designed to impact on individuals on the basis of their sexual orientation as the measures apply to everyone regardless of this characteristic. The policy 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.

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:

- ✓ tackle prejudice, and
- ✓ promote understanding

Negative perceptions of immigration which is uncontrolled can lead to tensions in community relations and cohesion. The scale of immigration has been of significant concern to the UK population over the past decade. Following the UK's exit from the EU and recent pandemic, immigration lessened as a concern for the British public. A British Future report, 'Immigration: a changing debate' stated:

*'The latest Ipsos MORI Issues Index, which measures the issues of greatest concern to the UK public, found that immigration had slid to eighth position as of August 2021. Only 12% of people now regard it as a key issue of concern, but salience has been falling steadily over the last four years.'*

[Immigration: a changing debate - British Future](#)

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In an October 2022 publication from A British Future report “Shifting views: Tracking attitudes to immigration in 2022” notes that immigration has lessened further as a priority concern amongst the British public.

*“The public salience of migration, while not high since shortly after the referendum, has now slipped further down the public’s list. The latest Ipsos Issues Index finds that inflation and prices tops the list of concerns, with 54% of the public seeing this as a key issue. This is followed by the related issue of the economy, important for 36% of people, and then climate change and the NHS. Lack of faith in politics and politicians, following the Partygate scandals but also linked to cost-of-living worries, is also on the list. Other policy issues are eclipsed by these worries and migration only just makes it into the top ten.”*

### [Shifting views: Tracking attitudes to immigration in 2022 - British Future](#)

In general, immigration has been amongst the most contentious of concerns in the UK. Even in recent months, the scale of concern has fluctuated. With the current small boats phenomena, it has recently been reported that more than 40,000 people had made the journey across the English Chanel in 2022 and claimed asylum in the UK. A YouGov report from December 2022 asserts that:

*“Immigration and asylum is a top-three issue for nearly a third of Britons (32%), up ten points since October. Seven in ten Britons (72%) disapprove of the government’s handling of immigration, including a large majority of 2019 Conservative voters (73%)*

*Among those who disapprove of the government’s immigration record, the top reason given is because the government is running the system in an incompetent or chaotic way (73%). Just under half (44%) believe the government is treating people unfairly or cruelly during the process and 42% say they are letting too many people in”*

### [A large majority of Britons disapprove of the government’s handling of immigration | YouGov](#)

While it is noted the general level of hostility towards immigration has softened since 2016, down thirteen points from 70% to 57%, the overall public opinion towards the government’s handling of immigration remains negative. A third of Britons believe that immigration and asylum are one of the top three concerns. Despite this, a February 2023 report from Kings College London recorded that the UK public has among the most positive attitude to legal migration, compared to 17 nations worldwide.

*“Out of 17 countries, people in the UK are the least likely to support strict limits or an outright ban on immigration. This high acceptance of immigration in the UK reflects shifting views on whether UK-born workers should be prioritised over immigrants, as well as the public*

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*becoming increasingly comfortable with having the idea of having immigrants as neighbours.”* [Immigration — The UK in the World Values Survey \(uk-values.org\)](https://www.uk-values.org)

From the results by country<sup>3</sup>, of respondents in the UK, 70% agreed that immigration strengthens cultural diversity, over 62% agreed that it helps fill important jobs in the workforce, only around 30% thought it may lead to increased crime rates and, 60% agreed that the UK gives asylum to political refugees.

Adequate measures in place to restrict access to banking services for those who have no permission to stay in the UK can assist in strengthening community cohesion and fostering good relations between migrants and the general populace.

## Age

There is no distinction between people who share this protected characteristic and persons who do not share it. These measures apply to everyone aged 18 and over. 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.

We are aware that elderly people may be less confident in using or interacting with new technology or the internet. However, technology plays an ever more prominent role in the lives of older people. In June 2020, Ofcom reported that the COVID-19 pandemic accelerated the adoption of online services to keep in touch with friends and family. This trend is particularly noticeable among older internet users; the proportion of online adults aged 65+ who make a least one video-call each week increased from 22% in February 2020 to 61% by May 2020<sup>4</sup>.

Nevertheless, both the Home Office and firms in the financial sector can provide support and advice where an individual is unable to access or uncomfortable using technology. The accessibility of banking services in general is the responsibility of individual firms.

In limited circumstances, where a person is in receipt of support from a local authority, the Home Office can exercise discretion in removing an individual's details from the disqualified persons list.

## Disability

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply to everyone. As a result, it is considered that the policy has an overall neutral effect in respect of fostering

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<sup>3</sup> [WVS Database \(worldvaluessurvey.org\)](https://www.worldvaluessurvey.org)

<sup>4</sup> [Online Nation – 2020 report \(ofcom.org.uk\)](https://www.ofcom.gov.uk)

good relations between people who share a protected characteristic and persons who do not share it.

In limited circumstances, where a person is in receipt of support from a local authority, the Home Office can exercise discretion in removing an individual's details from the disqualified persons list.

### Gender Reassignment

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

### Marriage and Civil Partnership

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

Immigration policy provides support and assistance for anyone who may have suffered domestic violence.

### Pregnancy and Maternity

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

In limited circumstances, where a person is in receipt of support from a local authority, the Home Office can exercise discretion in removing an individual's details from the disqualified persons list.

### Race

These measures focus on the immigration status of migrants in the UK and neither their race, colour, national or ethnic origins.

The nationality of the migrant will be a pertinent factor, though only to the extent that foreign nationals subject to immigration control will be treated differently to British citizens. The extent of this impact will, however, be limited to those who are in the UK, require permission to be here and do not have it. The effect on individuals will be limited to the extent of the legislation passed by Parliament.

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## Religion or Belief

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

## Sex

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

## Sexual Orientation

There is no distinction between people who share this protected characteristic and persons who do not share it as these apply 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.

#### 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
<b>Age</b>	Potential Negative	<p>Data-sharing to fulfil the banking measures discriminates directly on the grounds of age. Only the data relating to individuals of 18 plus years of age (<u>i.e., considered an adult</u>) is shared with banks and building societies.</p> <p>The composition of records shared with HMRC in January and February 2023 suggests the majority of those likely to be affected by the banking measures will be adults of working age (18-50). Indirect discrimination arising from these measures would reflect patterns of immigration into the UK and breaches of immigration law.</p>	<p>Data will not be shared in respect of those who are under the age of 18 and so fall to be treated as children.</p> <p>The differing impact these measures may have between age groups is proportionate to a legitimate aim. The restrictions target those remaining in the UK without permission for the purpose of preventing and deterring unlawful residence. The data-sharing described in this document is required to operate legislation passed by parliament on unlawful migrants' access to current accounts.</p> <p>The nine largest current account providers are legally required to offer fee-free, basic bank accounts.</p>
<b>Disability</b>	Potential Negative	<p>These measures could have a disproportionate impact on some people with disabilities. For example, someone with a long-term or terminal illness might face difficulty in undertaking the necessary steps to leave the UK. That individual may experience the effect of these measures for a comparatively longer period than one who is able to leave the UK immediately.</p>	<p>Individuals disqualified from accessing current accounts may make representations. In those circumstances, there is scope for the Home Office to consider if the case merits further review and whether the decision to refuse a current account opening or close an existing account should be re-considered.</p>

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Protected Characteristic Group	Potential for Positive or Negative Impact?	Explanation	Action to address negative impact
<b>Gender Reassignment</b>	Neutral	Data regarding gender reassignment is not held or shared as part of this data exchange. In addition, no impacts on the grounds of gender reassignment are envisaged because the policy applies to everyone, regardless of this characteristic.	
<b>Marriage and Civil Partnership</b>	Potential Negative	There may be an indirect impact on a married couple or a couple in a civil partnership where one is a disqualified person, and the other is not.	As per the consideration on disability.
<b>Pregnancy and Maternity</b>	Potential Negative	Women in the later stages of pregnancy or with a very young baby may fall into the category of those who have no outstanding right of appeal but might face difficulty in undertaking the necessary steps to leave the UK. Those women may experience the effect of these measures for a comparatively longer period than those who are able to leave the UK immediately.	As per the consideration on disability.

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Protected Characteristic Group	Potential for Positive or Negative Impact?	Explanation	Action to address negative impact
<b>Race</b>	Potential Negative	<p>The policy will likely have an unequal impact on particular nationalities because of the patterns of illegal migration.</p> <p>The majority of those affected may be people who are Black or Asian (albeit not all nationals of a given country will be of a certain race, colour, or background). This is not, however, a fixed picture and may look quite different at different times. Given the UK's exit from the EU, this picture may change in a few years.</p>	As per the consideration of age.
<b>Religion or Belief</b>	Potential Negative	It may be assumed that Muslims, Hindus, and Christians will be affected disproportionately by these measures. This is based on the current snapshot of nationalities we anticipate the measures will affect most.	As per the consideration of age.
<b>Sex</b>	Potential Negative	The 'snapshot' suggests that the most affected by these restrictions will be males.	As per the consideration of age.
<b>Sexual Orientation</b>	Neutral	Data regarding sexual orientation is not held or shared as part of this data exchange. In addition, no impacts on the grounds of sexual orientation are envisaged because the policy applies to everyone, regardless of this characteristic.	

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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?**

Individuals disqualified from accessing current accounts may contact the Home Office by raising a complaint or a case for mitigation. In those circumstances, there is scope for the Home Office to assess if the case merits further review and the decision to refuse a current account opening or close an existing account should be re-considered. Immigration status is also not an immutable characteristic and a person remaining here without permission may seek to regularise their stay or leave the UK.

In instances where a lawful resident of the UK, including a lawfully remaining migrant, has been wrongly identified as a disqualified person, they may contact the Home Office and seek to have the list amended.

## **6. Potential adverse impacts upon family life**

There is the potential that some families may be impacted by these measures. These instances will only arise, however, where the family or a member of the family is in the UK without permission.

Where a family is here without permission, they should either seek to regularise their status or to leave the UK.

Where a family member is here without permission and other members are here lawfully, the lawfully remaining members may seek to open a current account in their own rights.

In instances where an account is frozen, courts can allow access to sufficient funds to cover essential living costs.

## **7. Review date**

April 2024

## **8. 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:** Asylum Protection and Enforcement Directorate/Compliant Environment and Enforcement Unit

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**Lead contact:** Parvaiz Asmat

**Date:** 07 March 2023

For monitoring purposes all completed EIA documents **must** be sent to the [PSED@homeoffice.gov.uk](mailto:PSED@homeoffice.gov.uk)

**Date sent to PSED Team:** 07 March 2023

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